the Cold War have given way to an era of detente, cooperation, and negotiation. The evidence marshalled in support of this "new wisdom" is impressive: a series of arms control accords between the two superpowers, the apparent interest of the Soviet Union in the dampening of tension in Europe and elsewhere, and, in the Moscow Summit Conference of 1972, agreement by the United States and the Soviet Union to a Declaration of Principles calling for "peaceful coexistence" and the development of "normal relations based on the principles of sovereignty, equality, noninterference in internal affairs and mutual advantage."

Basic to the thesis that the Cold War has ended is the assumption that the bipolar world of U.S.-Soviet confrontation has been replaced by an international system in which Moscow and Washington find broadening areas of harmony of interest, or at least the possibility of accommodation. To be sure, the world of the 1970s differs in several important respects from the world of the 1950s or even the 1960s. In recent years, both the United States and thhe Soviet Union have faced disintegrative forces in their alliance systems, and the Sino-Soviet alliance of the 1950s has been replaced by deeply-rooted animosity between Peking and Moscow. In Europe and Japan, major new centers of economic power have been built on the ruins of World War II.

Over the past decade, both the Soviet Union and the United States have acquired vast, highly advanced weapons systems of mass destruction; additional powers—Britain, France, and China—have built national nuclear capabilities and many other states now have the technological know-how to produce such weapons. In certain categories of strategic systems, (i.e., launch vehicles, throw-weight, and warhead size) the Soviet Union has achieved a *quantitative* lead over the United States, although the United States retains an advantage in numbers of warheads, deliverable megatonnage, missile accuracy, and new technology, for example in MIRV. As symbolized in the Strategic Arms Limitation Accords of 1972, the Soviet Union has achieved strategic "parity" with the United States. From its position as a clearly inferior power in the 1950s and 1960s, the Soviet Union of the 1970s, with a rapidly expanding modern navy, casts the shadow of its influence into regions of the globe from which Soviet power was historically excluded. At the same time, the United States has entered a period of greater preoccupation with domestic affairs and intense introspection and doubt about the premises which shaped its global policies and interests during the past generation.

In this changed world of the 1970s, the United States and the Soviet Union *have* entered a new period in their relations. If they have found common interest in limited arms control agreements and in negotiations on other issues, Washington and Moscow continue, nevertheless, to compete for influence in Europe and Asia, as well as in the Middle East. Just as the United States seeks to strengthen its links with Peking, the Soviet Union makes a concerted effort to build new relationships with the West European allies of the United States, notably the German Federal Republic. Moreover, the Soviet Union seeks to outflank China by developing new relationships with countries of the Asian rimland, and especially India. The Soviet Union has strengthened its naval presence in the Pacific and Indian Oceans, and Moscow has embarked on a diplomacy designed to enhance Soviet influence around the southern periphery of China and to seek, over time, a new relationship with Japan.

In Europe, the Soviet Union has altered its tactics rather than its overall strategy. As a result of adroit diplomacy in recent years toward the German Federal Republic, the Soviet Union has achieved one of its long-held goals: international recognition of the postwar frontiers of East-Central Europe and the international acceptance of the German Democratic Republic. The *gradual* disengagement of American military power and the neutralization or "Finlandization" of Western Europe remains a Soviet goal. Moscow seeks to avoid any abrupt change in the American relationship which might lead the Europeans to political unity or a major defense effort and the formation of a European nuclear force. The eventual neutralization of Western Europe would ease the Soviet task of communist control in East-Central Europe and strengthen Moscow in its confrontation with China over the next decade. Parenthetically, in this respect, Peking and Moscow interests in Western Europe are opposed: China favors a strong U.S. military presence and a unified Western Europe in order to divert Soviet power from the long Sino-Soviet frontier. Thus, in Western Europe the basic interests of the United States and Soviet Union remain divergent. While the Soviet Union strives to become the dominant power in Europe, the United States seeks to build a partnership with Western Europe capable of developing greater unity and providing more adequately for its own defense.

Over the next decade, American and Soviet interests are likely to continue to diverge in other parts of the globe, for example, in the Middle East. While the Egyptian expulsion of Soviet advisers and technicians in 1972 may have pointed up the limits of Soviet influence in the Arab world, Moscow retains extensive ties with other Arab states, including Iraq and Syria and even Egypt. For the Soviet Union, the importance of the Middle East will grow. Moscow and Washington will continue to seek to prevent tensions in the area from escalating to a direct confrontation between the superpowers. Yet, this may become progressively more difficult either as a result of the growing western dependence on Middle East oil or the continuation of conflict between a strengthened, modernizing Arab world, supported by the Soviet Union, and Israel, backed ultimately by the United States, fighting to retain all or some of the occupied territories acquired in the June 1967 war to achieve "secure boundaries."

Even now, the world demand for oil has enhanced the importance of the Middle East to the West, and, perhaps to a lesser extent, to the Soviet Union. As a result of rapidly rising energy needs, three of the major world power centers—the United States, Western Europe, and Japan—will become more heavily dependent on Middle East oil. Hence the importance to the United States, Western Europe, and Japan, of restricting Soviet influence in the Middle East will increase.

Fundamental to the U.S.-Soviet relationship in the 1970s is the Sino-Soviet conflict. So long as this conflict persists, both Moscow and Peking will seek to prevent each other from strengthening its ties with Washington at the other's expense. This has already conferred upon the United States considerable leverage in its dealings both with the Soviet Union and China. It made possible, together with the Soviet need for U.S. wheat and technology. President Nixon's visit to Moscow in May, 1972, just after the mining of North Vietnamese waters and the intensification of bombing. Conversely, the persistence of the rift makes it possible for the United States to develop with the Soviet Union and China a less hostile relationship than either communist state can develop with the other.

It follows, then, that a major improvement in Sino-Soviet relations would threaten much of the basis for an improved U.S.-Soviet relationship, and in fact would place in jeopardy the structure of an international system based either on a triangular relationship between Moscow, Peking, and Washington or a more multipolar system including as principal actors Western Europe and Japan. The future prospects for an improvement in Soviet-American relations then depend upon the course of Sino-Soviet relations after Breshnev and Mao, both of whom can be expected to depart from the leadership scene before the end of this decade. It also depends upon the continued willingness of the Soviet Union to forego the use of force, nuclear or conventional, to destroy China's nuclear capability before it is adequate to provide a credible second strike against the Soviet Union.

In sum, only if the United States were prepared to redefine its national interests to exclude all regions beyond North America and to acquiesce in a clearly inferior strategic posture *vis-a-vis* the Soviet Union (a prescription that not even some of the severest critics of U.S. globalism have advocated), the prospect for continued U.S.-Soviet competition looms large. Both sides will strive for technological breakthroughs designed to enhance the deterrent value of their strategic forces. Both, for their own reasons, will attempt to exacerbate the tensions within each other's alliance systems and form new relationships with allies of the other. Both will seek to preserve and extend their influence in the Middle East and in other areas of the Third World deemed vital to security. Both will continue to have different, and even divergent conceptions of "peace," differences in the principles for organizing their domestic societies, and differing conceptions of national interest underlying their respective foreign policies. If this is not the "Cold War" of the decade after World War II, it is nevertheless a far more complex form of competition whose outcome will shape the international system as well as the role of the United States in the remaining decades of this century.

SENATE—*Thursday, June 14, 1973*

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

PRAYER

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

God of all power and might, the Maker and Ruler of men and nations, we thank Thee once more for all the sacred sentiments which cluster about the flag of the United States. For all heroes and statesmen who have followed it in the past and brought us to this hour, we give Thee thanks. May our flag be to all the world a sign of service and sacrifice, of justice and brotherhood, of peace and good will. Give us zeal to follow the truth and power to assert what is right. In this moment of history unite our broken, separated, contentious people around this ensign of brotherhood and freedom. May the flag float in majestic silence

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over the hosts of this land in war and in peace, in turbulence and in tranquility, in adversity, and prosperity as a visible symbol of hope for men everywhere. And may the Nation which lifts high this flag ever remain a nation whose God is the Lord.

In the name of the Great Redeemer, we pray. Amen.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Wednesday, June 13, 1973, be dispensed with.

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

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider a nomination on the Executive Calendar.

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

The PRESIDENT pro tempore. The nomination on the Executive Calendar will be stated.

DEPARTMENT OF STATE

The second assistant legislative clerk read the nomination of Graham A. Martin, of North Carolina, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Vietnam.

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

LEGISLATIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate resume the consideration of legislative business.

There being no objection, the Senate resumed the consideration of legislative business.

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.

THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Nos. 193, 194, 197, 198, 199, and through to and including 204.

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

WOODSY OWL

The bill (S. 1585) to prevent the unauthorized manufacture and use of the character "Woodsy Owl," and for other purposes, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 1585

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of Agriculture may, under such arrangements and terms and conditions as he deems suitable, establish and collect use or royalty fees for the manufacture, reproduction, or use of the character and name "Woodsy Owl" and the associated slogan, "Give a Hoot, Don't Pollute", originated by the Forest Service, United States Department of Agriculture, as a symbol for a public service campaign to promote wise use of the environment and programs which foster maintenance and improvement of environmental quality.

SEC. 2. The Secretary of Agriculture shall deposit into a special account all fees collected pursuant to this Act. Such fees are hereby made available for obligation and expenditure for the purpose of furthering the "Woodsy Owl" campaign.

SEC. 3. As used in this Act, the name or character "Woodsy Owl" means the representation of a fanciful owl, who wears slacks (forest green when colored), a belt (brown when colored), and a Robin Hood style hat (forest green when colored) with a feather (red when colored), and who furthers the slogan "Give a Hoot, Don't Pollute", which was originated by the Forest Service, United States Department of Agriculture, as a symbol and slogan for a public service campaign to promote wise use of the environment and programs which foster maintenance and improvement of environmental quality.

SEC. 4. Chapter 33 of title 18 of the United States Code is amended by adding after section 711 a new section to be designated section 711a, as follows:

"§ 711a. 'Woodsy Owl' character, slogan, or name

"As used in this section, the name or character 'Woodsy Owl' means the representation of a fanciful owl, who wears slacks (forest green when colored), a belt (brown when colored), and a Robin Hood style hat (forest green when colored) with a feather (red when colored), and who furthers the slogan 'Give a Hoot, Don't Pollute', which was originated by the Forest Service, United States Department of Agriculture, as a symbol and slogan for a public service campaign to promote wise use of the environment and programs which foster maintenance and improvement of environmental quality.

"Whoever, except as authorized under rules and regulations issued by the Secretary of Agriculture, knowingly manufactures, reproduces, or uses the character 'Woodsy Owl', the associated slogan, 'Give a Hoot, Don't Pollute', the name 'Woodsy Owl', or facsimiles or simulations of such character, slogan, or name in such a manner as suggests the character 'Woodsy Owl' shall be fined not more than $250 or imprisoned not more than six months, or both.

"A violation of this section may be enjoined at the suit of the Attorney General upon complaint by the Secretary of Agriculture."

SEC. 5. The analysis of chapter 33 immediately preceding section 701 of title 18 of the United States Code is amended by adding at the end thereof:

"711a. 'Woodsy Owl' character, slogan, or name.".

AMENDMENT OF REQUIREMENT FOR THREE-JUDGE COURT IN CERTAIN CASES

The Senate proceeded to consider the bill (S. 271) to improve judicial machinery by amending the requirement for a three-judge court in certain cases and for other purposes.

Mr. HRUSKA. Mr. President, I take this occasion to speak in support of S. 271, a bill to amend the requirement for a three-judge court in certain instances, which was introduced by the distinguished chairman of the Subcommittee on Improvements in Judiciary Machinery, Mr. BURDICK. As the ranking Republican on the subcommittee, I welcomed the opportunity to cosponsor this measure and now associate myself with the views of my friend from North Dakota with regard to the bill as reported.

The subject bill would eliminate the requirement of a three-judge court in cases seeking to enjoin the enforcement of State or Federal laws on the grounds of unconstitutionality. The requirement would be retained, however, when required by act of Congress or in a case involving congressional reapportionment or the reapportionment of any statewide legislative body. The bill also clarifies the operations of three-judge panels in those instances where the procedure is retained and guarantees the right of State intervention in suits seeking to enjoin a State law on the ground of unconstitutionality.

Our Federal judicial system is today experiencing a virtual explosion of litigation. It is, therefore, essential that the Congress do all that is prudent to refine and streamline the operations of our courts so as to facilitate the notion that for every wrong there will exist a remedy which can be pursued with deliberate haste. The elimination of the three-judge court requirement in certain anachronistic situations as envisioned by S. 271 is one positive innovation that pursues this goal.

This bill has the support of the Chief Justice, the "Freund Committee," and the judicial conference.

I strongly urge my colleagues to support the pending bill.

The bill was ordered to be engrossed for a third reading, read the 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 section 2281 of title 28, United States Code, is repealed.

SEC. 2. That section 2282 of title 28, United States Code, is repealed.

SEC. 3. That section 2284 of title 28, United States Code, is amended to read as follows:

"§ 2284. Three-judge court; when required; composition; procedure

"(a) A district court of three judges shall be convened when otherwise required by Act of Congress, or when an action is filed challenging the constitutionality of the apportionment of congressional districts or the apportionment of any statewide legislative body.

"(b) In any action required to be heard and determined by a district court of three judges under subsection (a) of this section, the composition and procedure of the court shall be as follows:

"(1) Upon the filing of a request for three judges, the judge to whom the request is presented shall, unless he determines that three judges are not required, immediately notify the chief judge of the circuit, who shall designate two other judges, at least one of whom shall be a circuit judge. The judges so designated, and the judge to whom

the request was presented, shall serve as members of the court to hear and determine the action or proceeding.

"(2) If the action is against a State, or officer or agency thereof, at least five days' notice of hearing of the action shall be given by registered or certified mail to the Governor and attorney general of the State. The hearing shall be given precedence and held at the earliest practicable day.

"(3) A single judge may conduct all proceedings except the trial, and enter all orders permitted by the rules of civil procedures except as provided in this subsection. He may grant a temporary restraining order on a specific finding, based on evidence submitted, that specified irreparable damage will result if the order is not granted, which order, unless previously revoked by the district judge, shall remain in force only until the hearing and determination by the district court of three judges of an application for a preliminary injunction. A single judge shall not appoint a master, or order a reference, or hear and determine any application for a preliminary or permanent injunction or motion to vacate such an injunction, or enter judgment on the merits. Any action of a single judge may be reviewed by the full court at any time before final judgment."

SEC. 4. The analysis of chapter 155 of title 28, United States Code, is amended to read as follows:

"Sec.
"2281. Repealed.
"2282. Repealed.
"2283. Stay of State court proceedings.
"2284. Three judge district court; when required; composition; procedure."

SEC. 5. (a) Section 2403 of title 28, United States Code, is amended—

(1) by inserting the subsection "(a)" immediately before "In" and

(2) by adding at the end thereof the following new subsection:

"(b) In any action, suit, or proceeding in a court of the United States to which a State or any agency, officer, or employee thereof is not a party, wherein the constitutionality of any statute of that State affecting the public interest is drawn in question, the court shall certify such fact to the Attorney General of the State, and shall permit the State to intervene for presentation of evidence, if evidence is otherwise admissible in the case, and for argument on the question of constitutionality. The State shall, subject to the applicable provisions of law, have all the rights of a party and be subject to all liabilities of a party as to court costs to the extent necessary for a proper presentation of the facts and law relating to the question of constitutionality."

(b) The catchline to section 2403 of title 28, United States Code, is amended to read as follows:

"§ 2403. Intervention by United States or a State; constitutional question"

SEC. 6. Item 2403 of the analysis of chapter 161, of title 28, United States Code, is amended to read as follows:

"2403. Intervention by United States or a State; constitutional question."

SEC. 7. This Act shall not apply to any action commenced on or before the date of enactment.

AUTHORIZATION FOR ADDITIONAL PRINTING

The concurrent resolution (S. Con. Res. 29) authorizing the printing of additional copies of Senate hearings on illegal, improper, or unethical activities during the Presidential election of 1972 was considered and agreed to, as follows:

Resolved by the Senate (the House of Representatives concurring), That there be printed for the use of the Select Committee on Presidential Campaign Activities not to exceed five thousand additional copies of all parts of its hearings on illegal, improper, or unethical activities during the Presidential election of 1972.

SEC. 2. The authorization conferred by section 1 of this concurrent resolution shall terminate on February 28, 1974.

EULOGIES TO THE LATE HARRY S TRUMAN

The concurrent resolution (H. Con. Res. 110) providing for the printing, as a House document, of the eulogies and encomiums to the late President of the United States, Harry S Truman was considered and agreed to.

COMPILATION OF THE SOCIAL SECURITY LAWS

The concurrent resolution (H. Con. Res. 200) providing for the printing of the compilation of the social security laws was considered and agreed to.

ADDITIONAL EXPENDITURES BY THE COMMITTEE ON COMMERCE

The Senate proceeded to consider the resolution (S. Res. 108) authorizing additional expenditures by the Committee on Commerce for inquiries and investigations, which had been reported from the Committee on Rules and Administration with an amendment, to strike out all after the word "Resolved" and insert:

That section 2 of Senate Resolution 45, Ninety-third Congress, agreed to March 15, 1973, is amended by striking out "$10,000" and inserting in lieu thereof "$40,000".

The amendment was agreed to.

The resolution, as amended was agreed to.

The title was amended, so as to read: "Resolution increasing the limitation on expenditures by the Committee on Commerce for the procurement of consultants."

THE CAPITOL

The Senate proceeded to consider the concurrent resolution (H. Con. Res. 132) providing for the printing as a House document of a revised edition of "The Capitol," which had been reported from the Committee on Rules and Administration with amendments in line 5, after the word "that," strike out "four hundred and seventy-two" and insert "five hundred and seventy-five;" and, in line 8, after the word "of," where it appears the second time, strike out "Representatives" and insert "Representatives, one hundred and three thousand copies shall be for the use of the Senate,".

The amendments were agreed to.

The concurrent resolution, as amended, was agreed to.

RESOLUTION PASSED OVER

The resolution, Senate Resolution 67, calling on the President to promote negotiations for a comprehensive Test Ban Treaty was announced as next in order.

Mr. MANSFIELD. Over, Mr. President.

The PRESIDENT pro tempore. The resolution will be passed over.

GRATUITY

The resolution (S. Res. 127) to pay a gratuity to Josephine S. Ellis, was considered and agreed to, as follows:

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

GRATUITY

The resolution (S. Res. 126) to pay a gratuity to Jocile D. Johnson, was considered and agreed to, as follows:

Resolved, That the Secretary of the Senate hereby is authorized and directed to pay, from the contingent fund of the Senate, to Jocile D. Johnson, stepdaughter of Earl P. Agnor, an employee of the Senate at the time of his death, a sum equal to eight months' compensation at the rate he was receiving by law at the time of his death, said sum to be considered inclusive of funeral expenses and all other allowances.

THE PRESIDENT'S ADDRESS ON INFLATION CONTROLS

Mr. GRIFFIN. Mr. President, last night the President of the United States, in a nationwide radio and television address, announced positive and decisive steps to deal with the problem of inflation. I know that everyone in the country, even those who may disagree with the President, hopes that these steps and the phase IV controls, which are to be developed in the next 60 days, will be effective in meeting the challenge of inflation.

Mr. President, I ask unanimous consent that the President's address be printed in the RECORD.

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

REMARKS OF THE PRESIDENT ON THE NATION'S ECONOMY ON NATIONWIDE RADIO AND TELEVISION

Good evening.

I want to talk to you tonight about some strong actions that I have ordered today with regard to the American economy—actions which will be important to you in terms of the wages you earn and the prices you pay.

But first, since we have been hearing so much about what is wrong with our economy over the past few months, let us look at some of the things that are right about the American economy. We can be proud that the American is by far the freest, the strongest, and the most productive economy in the world. It gives us the highest standard of living in the world. We are in the middle of one of the biggest, strongest booms in our history. More Americans have jobs today than ever before. The average worker is earning more today than ever before. Your income buys more today than ever before.

In August, 1971, I announced the New Economic Policy. Since then, the Nation's output has increased by a phenomenal 11½ percent—a more rapid growth than in any

comparable period in the last 21 years. Four and a half million new civilian jobs have been created and that is more than in any comparable period in our whole history. At the same time, real per capita disposable income—that means what you have left to spend after taxes and after inflation—has risen by 7½ percent in that period. This means that, in terms of what your money will actually buy, in the past year and a half your annual income has increased by the equivalent of four weeks' pay. Now, when we consider these facts, we can see that in terms of jobs, of income, of growth, we are enjoying one of the best periods in our history.

We have every reason to be optimistic about the future. But there is one great problem that rightly concerns every one of us and that is, as you know, rising prices, and especially rising food prices. By the end of last year, we had brought the rate of inflation in the United States down to three and four-tenths percent. That gives us the best record in 1972 of any industrial country in the world. But now prices are going up at unacceptably high rates.

The greatest part of this increase is due to rising food prices. This has been caused in large measure by increased demand at home and abroad, by crop failures abroad and as many people in various areas of the country know, by some of the worst weather for crops and livestock that we have ever experienced. But whatever the reasons, every American family is confronted with a real and pressing problem of higher prices. And I have decided that the time has come to take strong and effective action to deal with that problem.

Effective immediately, therefore, I am ordering a freeze on prices. This freeze will hold prices at levels no higher than those charged during the first eight days of June. It will cover all prices paid by consumers. The only prices not covered will be those of unprocessed agricultural products at the farm levels, and rents.

Wages, interest and dividends will remain under their present control systems during the freeze. Now, the reason I decided not to freeze wages is that the wage settlements reached under the rules of Phase III have not been a significant cause of the increase in prices. And as long as wage settlements continue to be responsible and non-inflationary, a wage freeze will not be imposed.

The freeze will last for a maximum of 60 days. This time will be used to develop and put into place a new and more effective system of controls which will follow the freeze. This new Phase IV of controls will be designed to contain the forces that have sent prices so rapidly upward in the past few months. It will involve tighter standards, more mandatory compliance procedures than under Phase III. It will recognize the need for wages and prices to be treated consistently with one another.

In addition to food prices, I have received reports from various parts of the country of many instances of sharp increases in the price of gasoline. And therefore, I have specifically directed the Cost of Living Council to develop new Phase IV measures that will stabilize both the prices at the retail level of food and the price of gasoline at your service station.

In announcing these actions, there is one point I want to emphasize to every one of you listening tonight. The Phase IV that follows the freeze will not be designed to get us permanently into a controlled economy. On the contrary, it will be designed as a better way to get us out of a controlled economy, to return as quickly as possible to the free market system.

We are not going to put the American economy into a straitjacket. We are not going to control the boom in a way that would lead to abuse. We are not going to follow the advice of those who have proposed actions that would lead inevitably to a permanent system of price and wage controls, and also rationing.

Such actions would bring good headlines tomorrow, and bad headaches six months from now for every American family in terms of rationing, black markets, and eventually a recession that would mean more unemployment.

It is your prosperity that is at stake. It is your job that is at stake.

The actions I have directed today are designed to deal with the rise in the cost of living without jeopardizing your prosperity or your job.

Because the key to curbing food prices lies in increasing supplies, I am not freezing the price of unprocessed agricultural products at the farm level. This would reduce supplies instead of increasing them. It would eventually result in even higher prices for the foods you buy at the supermarket.

Beginning in 1972, we embarked on a comprehensive new program for increasing food supplies. Among many other measures, this has included opening up 40 million more acres for crop production. In the months ahead, as these new crops are harvested, they will help hold prices down. But unfortunately this is not yet helping in terms of the prices you pay at the supermarket today or the prices you will be paying tomorrow.

One of the major reasons for the rise in food prices at home is that there is now an unprecedented demand abroad for the products of America's farms. Over the long run, increased food exports will be a vital factor in raising farm income, in improving our balance of payments, in supporting America's position of leadership in the world. In the short term, however, when we have shortages and sharply rising prices of food here at home, I have made this basic decision: In allocating the products of America's farms between markets abroad and those in the United States, we must put the American consumer first.

Therefore, I have decided that a new system for export controls on food products is needed—a system designed to hold the price of animal feedstuffs and other grains in the American market to levels that will make it possible to produce meat and eggs and milk at prices you can afford.

I shall ask the Congress, on an urgent basis, to give me the new and more flexible authority needed to impose such a system. In exercising such authority, this will be my policy: We will keep the export commitments we have made as a nation. We shall also consult with other countries to seek their cooperation in resolving the worldwide problem of rising food prices. But we will not let foreign sales price meat and eggs off the American table.

I have also taken another action today to stop the rise in the cost of living. I have ordered the Internal Revenue Service to begin immediately a thoroughgoing audit of the books of companies that have raised their prices more than 1½ percent above the January ceiling.

The purpose of the audit will be to find out whether these increases were justified by rising costs. If they were not, the prices will be rolled back.

The battle against inflation is everybody's business. I have told you what the Administration will do. There is also a vital role for the Congress, as I explained to the Congressional leaders just a few moments ago.

The most important single thing the Congress can do in holding down the cost of living is to hold down the cost of government. For my part, I shall continue to veto spending bills that we cannot afford, no matter how noble sounding their names may be. If these budget-busters become law, the money would come out of your pocket—in higher prices, higher taxes, or both.

There are several specific recommendations I have already made to the Congress that will be important in holding down prices in the future. I again urge quick action on all of these proposals.

Congress should give the President authority to reduce tariffs in selected cases in order to increase supplies of scarce goods and thereby hold down their prices. This action will help on such scarce items as meat, plywood and zinc. And in particular, the tariff we now have on imported meat should be removed.

Congress should provide authority to dispose of more surplus commodities now held in Government stockpiles.

Congress should let us go ahead quickly with the Alaska pipeline so that we can combat the shortage of oil and gasoline we otherwise will have. I will also soon send to the Congress a major new set of proposals on energy, spelling out new actions I believe are necessary to help us meet our energy needs and thereby lessen pressures on fuel prices.

In its consideration of new farm legislation, it is vital that the Congress put high production ahead of high prices, so that farm prosperity will not be at the cost of higher prices for the consumer. If the Congress sends me a farm bill, or any other bill, that I consider inflationary, I shall veto that bill.

Beyond what the Administration can do, beyond what the Congress can do, there is a great deal you can do. The next 60 days can decide the question of whether we shall have a continuing inflation that leads to a recession or whether we deal responsibly with our present problems and so go forward with a vigorous prosperity and a swift return to a free market.

You can help, by giving your Senators and Congressmen your support when they make the difficult decisions to hold back on unnecessary Government spending.

You can help, by saying no to those who would impose a permanent system of controls on this great, productive economy of ours which is the wonder of the world.

Let there be no mistake: If our economy is to remain dynamic, we must never slip into the temptation of imagining that in the long run, controls can substitute for a free economy or permit us to escape the need for discipline in fiscal and monetary policy. We must not let controls become a narcotic—we must not become addicted.

There are all sorts of seemingly simple gimmicks that would give the appearance or offer the promise of controlling inflation, but that would carry a dangerous risk of bringing on a recession, and that would not be effective in controlling inflation. Rigid, permanent controls always look better on paper than they do in practice.

We must never go down that road which would lead us to economic disaster.

We have a great deal to be thankful for as Americans tonight. We are the best-clothed, best-fed, best-housed people in the world; we are the envy of every nation in that respect.

This year, for the first time in 12 years, we are at peace in Vietnam and our courageous prisoners of war have returned to their homes. This year, for the first time in a generation, no American is being drafted into the Armed Forces. This year, we find our prospects brighter than at any time in the modern era for a lasting peace and for the abundant prosperity such a peace can make possible.

Next Monday, I will meet at the summit here in Washington with General Secretary Brezhnev of the Soviet Union. Based on the months of preparatory work that has been done for this meeting, and based on the extensive consultation and correspondence we have had, much of it quite recently, I can

confidently predict tonight that out of our meetings will come major new progress toward reducing both the burden of arms and the danger of war; and toward a better and more rewarding relationship between the world's two most powerful nations.

Today in America, we have a magnificent opportunity. We hold the future—our future—in our hands. By standing together, by working together, by joining in bold yet sensible policies to meet our temporary problems without sacrificing our lasting strengths, we can achieve what America has not had since President Eisenhower was in this office: full prosperity without war and without inflation. This is a great goal, and working together, we can and we will achieve that goal.

Thank you and good evening.

Mr. MANSFIELD. Mr. President, I wish to join in the remarks just made by the distinguished acting minority leader. I am pleased that the President has, in effect, given a shock treatment in announcing what he intends to do. I hope that the psychological as well as the practical effect will be what we all hope for, because it is high time that something be done in a matter of this nature to cope with the inflationary trend. I hope that that will be the result.

I commend the President for talking to the Nation yesterday and laying his views before the people for consideration.

ORDER OF BUSINESS

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

THE PRESIDENT AND THE WATERGATE SCANDAL

Mr. CURTIS. Mr. President, it is my purpose today to talk about the Watergate affair. I am doing this on my own initiative. I am doing it because my sense of justice compels me to speak out.

I would not defend the people who are responsible and who took part in Watergate. I do think that it is being vastly overplayed. It was wrong but it should not be blown out of proportion. It was a stupid act and in violation of law. It does not constitute a betrayal of our country, nor a pilfering of the Treasury. No elected official was involved.

The Watergate scandal has been a cross to bear for President Richard Nixon, and he is totally innocent of any wrongdoing. He did not plot it. He did not condone it, and the facts were withheld from him for too long after it happened. Our President is an honest and honorable man. I believe in him, and I want the whole world to know it.

President Nixon on the 30th day of April 1973, made a clear-cut statement in reference to Watergate. In making this report to the Nation he said that he had found himself accused of involvement in activities he had never heard of until he read about them in the newspapers. I wish to quote verbatim from what the President said:

1. I had no prior knowledge of the Watergate operation.

2. I took no part in, nor was I aware of, any subsequent efforts that may have been made to cover up Watergate.

3. At no time did I authorize any offer of Executive clemency for the Watergate defendants, nor did I know of any such offer.

4. I did not know, until the time of my own investigation, of any effort to provide the Watergate defendants with funds.

5. At no time did I attempt, nor did I authorize others to attempt, to implicate the CIA in the Watergate matter.

6. It was not until the time of my own investigation that I learned of the break-in at the office of Mr. Ellsberg's psychiatrist, and I specifically authorized the furnishing of this information to Judge Byrne.

7. I neither authorized nor encouraged subordinates to engage in illegal or improper campaign tactics. I have specifically stated that Executive privilege will not be invoked as to any testimony concerning possible criminal conduct or discussions of possible criminal conduct, in the matters under investigation. I want the public to learn the truth about Watergate, and those guilty of any illegal actions brought to justice.

The President spoke in plain and unmistakable language; yet, in spite of this forthright statement, the nitpickers and a few publicity-seeking politicians want to place him on the grill. There are those who were unable to "get Nixon" last November and they want to do it now.

Watergate has brought into being a determined and militant coalition, whose object is not justice but rather to get Nixon. These include: First, the Nixon-haters; second, a group of politico-sadists, of the type who enjoyed their efforts to destroy L. B. J. over the war issue; third, a small segment of newsmen who prefer political propaganda over objective reporting; fourth, a few extreme partisans whose sense of justice is numbered by their desire for political gain; and fifth, those politicians who are willing to exploit any issue for personal publicity.

We are however, a government of law. Stability of the Government and ordinary justice demand that the judicial processes and the rules of evidence be faithfully followed. Hearsay, rumor, gossip, partial truths, innuendos, suspicions, and imaginations buoyed by self-interest have no place in the American system of justice, and to indulge in such is not in the public interest. We must not lose sight of the fact that evidence to be relied upon must be sworn to under oath and be admissible in a court of law.

Anyone who follows the news on Watergate is fully aware of the fact that the public is being fed much that must be classified as hearsay, rumor, gossip, partial truths, innuendos, suspicions, and imaginations buoyed by self-interest. To give credence to these busybodies will make a mockery of justice.

The offer of immunity to a wrongdoer who has violated the law may place before him a greater temptation than he can bear. To dangle before a law violator the promise that he may go scot-free if he involves someone else can be an obstruction of justice as wrong in its consequences as any conspiracy to obstruct justice which is perpetrated by actual law violators themselves.

The Federal statute dealing with the granting of immunity was enacted for the purpose of dealing with organized crime. It is my opinion that it has no place in proceedings with matters such as the Watergate affair.

The immunity statute was submitted to Congress as an aid to combat organized crime. That was the purpose for which Congress enacted the statute. Its use should be confined to matters involved in organized crime. It was enacted as a part of the Organized Crime Control Act of 1970. The statement of findings and purpose contained in the act says—

It is the purpose of this Act to seek the eradication of organized crime in the United States by strengthening the legal tools in the evidence-gathering process.

The committee report confirms the fact that this immunity statute was intended to deal with organized crime. The report says:

Under Federal law, the case-by-case limitation on the power to grant immunity has, however, constituted a major impediment to the effective investigation of organized crime.

It is quite significant that when President Nixon sent his message to Congress on April 23, 1969, on the subject of organized crime, he said:

With this new law, Government should be better able to gather evidence to strike at the leadership of organized crime and not just the rank and file.

Mr. President, I believe that the Senate could at this time do well to look at the record of the senior Senator from Arkansas, the Honorable JOHN MCCLELLAN, who has perhaps conducted more investigations than any other person in the history of the Senate. Senator MCCLELLAN, as chairman of the Select Committee on Labor-Management Relations and as chairman of the Subcommittee of Government Operations on Permanent Investigations, has built an impressive record. His investigations were fair. He always cooperated with the minority members of his committee, and the list of wrongdoers exposed by the McClellan investigations who have ended up behind bars is a long and impressive one.

It was my privilege to serve under Chairman MCCLELLAN on both of the above-mentioned committees. During the years that I served there, the committees did not use a system of granting immunity, yet those investigations were very successful. The procedure of offering immunity to witnesses who themselves are violators of the law is a most dangerous procedure. The success over many years of the McClellan committees without using immunity as a weapon proves that for good investigators, it is not necessary.

The facts will show that Chairman MCCLELLAN has conducted investigations involving 106 subjects, 3,204 witnesses, lasting 805 days and consuming 2,729 hours. Yet in only one instance did Chairman MCCLELLAN use the immunity statute. With the exception of this one instance, the chairman or the committee members never had hearing witnesses who had previously been granted immunity. I wish to tell you about that one investigation where immunity was used. In 1971, during 19 days of hearings ranging from June 8 through August 4, the Senate Permanent Subcommittee on Investigations did utilize the provisions of title II of the Organized Crime Control Act of 1970 and sought from the U.S.

District Court for the District of Columbia an order, in effect, of immunity for five potential witnesses. The court did issue the order.

What do you suppose was the subject of that investigation where Chairman McCLELLAN used the immunity statute? The subject was "organized crime and stolen securities."

When those hearings opened in April 1972, Senator McCLELLAN said:

> The immunity provisions of the Organized Crime Control Act of 1970 were fundamental to the success of the hearings of the Senate Permanent Subcommittee on Investigations in 1971, during the investigation of the role of organized crime in the field of stolen securities.

The American people have a sense of justice and a sense of fair play. When all the facts are known, they will not approve the using of a legal weapon intended for organized crime in an investigation such as the Watergate.

Another thing which stands out in my memory in the work of the McClellan committees is that those committees always cooperated with the courts and with the prosecutors. The McClellan committees did not make it a practice to go ahead when the facts were presented showing that the material involved and the personalities involved were in the process of being tried, or about to be tried, in a criminal court. It is true that the Congress and the courts are coordinate branches and neither one can order the other around. Yet it is important that we cooperate and that we so conduct ourselves as not to hinder the mission that either branch of the Government has to perform.

Mr. President, I am familiar with another investigation which presents quite a contrast to the Watergate affair, including a contrast in the amount of attention given the two incidents by the newspapers. I refer to the Bobby Baker case conducted by the Senate Committee on Rules and Administration. As the ranking minority member of that committee, I was involved in the investigation from beginning to end and I am familiar with the facts.

Bobby Baker was the fair-haired boy of some of the people then around here. He operated by using the name of the majority leader, Lyndon Johnson, whose title later became Vice President and then President. Bobby Baker came to Washington as a page boy. In his first financial statement he claimed a net worth of $11,000. Not too many years later, he filed a financial report in which he said his net worth was $2,300,000. It was accumulated wrongfully under the very dome of the Capitol.

The Baker case was investigated by the Senate Rules Committee. There were six Democrats on that committee and three Republicans. Some of the Democrats indulged in coverups—blocking the investigation, refusing to call witnesses, and doing everything possible to prevent the truth from coming out. We needed the testimony of a White House official whose name was Walter Jenkins. Sworn testimony concerning these unlawful transactions involved him and we needed his testimony. We never did get it. That is the record of a Democratic-controlled Senate—to refuse to call one witness who is an employee of the White House. For months and months every effort to call Walter Jenkins was voted down by a straight party vote. Finally, we succeeded in getting him subpoenaed. He did not appear—instead two psychiatrists appeared. They testified behind closed doors. Those of us on the minority side questioned those psychiatrists for 1 full day. Those doctors contended that to call Walter Jenkins would cause his death, yet at the very same time he was attending inaugural functions, traveling to the Caribbean islands, and playing golf.

Mr. President, after the psychiatrists finished their testimony and the cross-examination was over, a motion was made by me that we call Walter Jenkins to testify. It was voted down by a straight party vote. I then made a motion that the testimony of these two psychiatrists be made public so that the public would know of their testimony and the reasons why the Democrats voted against calling Walter Jenkins. That motion was defeated on a straight party vote. Thus the publishing of the testimony of the two psychiatrists and the taking of the testimony of Walter Jenkins have been blocked to this very day.

We had a number of fights on the Senate floor over the Bobby Baker case. There were some Democrats who were determined that it should be a total cover-up. Their efforts to cover-up exceeded anything that had ever happened before or has happened since.

The Bobby Baker case had been brought to light by that diligent and stalwart Senator from Delaware, The Honorable John Williams, yet Democrats on the committee actually prepared a committee report, expecting to ram it through the committee, which made John Williams the villain, branded his allegations as unworthy of belief, and which utterly distorted the facts. It was John Williams alone who smoked them out on that phony report, and as a result it was never issued. There has never been a cover-up and a falsification of the facts on such a large scale as was carried out in this Bobby Baker case.

There was nothing original about the Watergate happenings. It was not the first time that files have been searched around Washington. At the height of the Bobby Baker investigation, a telephone call came to my residence one night. I was not home. The caller stated his purpose in calling was to get the word to Senator CURTIS that the files in the Pentagon were being gone through at night in an effort to get critical and damaging information on Don Reynolds, an important witness. The caller further said that it was being done in an effort to find something that would prove that Don Reynolds was an unstable person and not worthy of belief. Since I was not there, the caller was asked to make his report also to Senator John Williams.

The Billie Sol Estes investigation was another classic. Much could be said about it. The employee of the Department of Agriculture who first took a position against Billie Sol Estes was found dead, having been shot several times in the back. Yet there was a coroner's verdict that he died by suicide. Billie Sol Estes had a long record of accumulating vast sums of money by reason of favoritism and unlawful acts on the part of employees and officials of the Department of Agriculture.

The distinguished Senator from South Dakota, Karl Mundt, and I were very much involved in the investigation. The information came to us that the Department of Agriculture was dispatching a crew of men to search various warehouses to go back in the records to the time when Senator Mundt and I first came to Congress on January 3, 1939, to examine every letter we had written to the Department of Agriculture to see if we had ever made an inappropriate request.

An investigation was made and it was found that these files were examined for that purpose. The Department admitted they never found anything damaging concerning either Senator Mundt or myself. I do not allege that that search was made at night or that there was an unlawful entry, but I do allege that the taxpayers' money was used for the search in an effort to dig up facts to protect the guilty and smear the innocent.

I think that in the interest of justice the time has come for us to take a realistic view of the Watergate case and a realistic view of all the efforts to smear the President.

I have been in a few political campaigns myself. In all my political campaigns there were things that happened which I did not know about. Yet the responsibilties that I have with my job and the size of my campaign are so insignificant compared to that of the President. Less than 1 percent of the population of the United States lives in Nebraska—about seven-tenths of 1 percent, I believe. My job is many times less important. The President of the United States must carry the burdens of our foreign policy. President Nixon was involved in winding down a war that he did not start and getting our prisoners home. He was involved in all of our foreign policy matters around the globe. He was taking bold and decisive action relating to the future peace of the world and the economic prosperity of our country.

I would like to call the attention of the Senate to some of the world happenings that were taking place at the time of Watergate and in the months that followed; 1972 and the early months of 1973 were historic times. The President of the United States was involved in many things of worldwide importance. It was in late February 1972 that President Nixon visited the People's Republic of China. Millions of Americans watched his performance on television. The preparation and the planning and the work that went into that trip for his superb presentation were all-absorbing.

Another very historic trip was when President Nixon visited the U.S.S.R. for talks with its leaders. Documents were signed on such diverse topics as environmental protection, public health, cooperation in science and technology, limita-

tion of anti-ballistic-missile systems and strategic defense arms. The meeting ended with the signing of a joint declaration and communique. This trip was in the last part of May, but just prior thereto the President found it necessary to make the decision to mine North Vietnam's ports in an effort to bring the war to a close.

There were troubles bobbing up all over the world that demanded the attention of the President. They ranged all the way from fishing boat problems to the tragic deaths at the Olympics.

At the very time of the Watergate break-in, President Echeverria of Mexico was making his first official visit to Washington for talks with President Nixon and other officials. This visiting President addressed the Congress and his discussions with the President involved narcotics, migrant workers, and the waters of the Colorado River.

Early in July, President Nixon announced a huge sale of wheat and feed grains to the U.S.S.R., and by September the announcement was made by the People's Republic of China of buying a huge amount of wheat and airplanes.

All during this time President Nixon was pursuing his quest for peace, with the countless conferences and the dispatching of Dr. Kissinger here and there. Peace would seem near and then more trouble would arise. The President had to assume the responsibility of ordering bombing just as the Christmas season was approaching in 1972. This was a tough soul-searching and lonely decision for the President, but the returned POW's have told how important it proved to be.

Anyone who knows the President knows that his one consuming passion was the establishing of peace. I dare say he had it on his mind all of his waking hours, and it was on January 23, 1973, that he could make a happy announcement. The cease-fire went into effect on January 28. All during these months of 1972 and 1973 there were constant problems that needed ironing out with the Congress, not the least of which were the many amendments, resolutions, and actions taken to restrict and oppose the President's actions in Vietnam.

The President kept pressing on, and on Monday, February 12, the first prisoners of war were released and 27 of our boys returned home. More POW's were released on February 18, and again on March 4, and again on March 5. Four hundred ninety-nine prisoners were released on March 8 and 799 on March 9. The Communists would delay the release of prisoners, and on March 12, this country had to announce that its troop withdrawals were being halted. The next day and the following day more prisoners were released. Additional prisoners were released on March 16 and again on March 22 and March 27. It was not until March 29 that the final POW's were released.

Few people will ever know the burdens that have been carried by Richard Nixon. He has been a peacemaker in the Middle East with considerable success. All during his years and months in bringing the Vietnam war to a close, he was hammered by his critics, insulted by some, and on several occasions angry citizens marched on Washington. It is no wonder that such a man had to trust his campaign to subordinates.

Patriots everywhere have been thrilled at the return of our prisoners of war from Southeast Asia. It has been an inspiration to citizens of all ages to see these dedicated men who have given so much not only return to this country, but to hear them express their love of country and their willingness to serve and sacrifice for the United States of America. It is a striking and emphatic example of greatness in our time.

Every time I read about the return of a single POW, or I viewed his return on the television, I was moved to say a prayer of thanksgiving for President Richard Nixon, President. Nixon came into office after on unpopular war, which he did not start, had dragged along for 7 or 8 years with no end in sight. The temptation and the pressures were there to forsake all principle and to abandon these brave prisoners of war by walking away from Vietnam and taking the easy way out. We are grateful to President Nixon for ending the war. We are grateful to him for bringing an honorable peace. We are grateful to him for the return of our prisoners of war. We are grateful to him for his continuing efforts in behalf of our men missing in action. We are grateful to President Nixon for maintaining the good name of the United States of America. We shudder to think what would be our situation if President Nixon's most extreme war critics had determined our national policy.

For one thing, our prisoners of war would be rotting in confinement in Southeast Asia.

Mr. President, we are grateful, and thousands—yes, millions—of people all over the land are grateful for the fact that for the first time in 20 years young men are not having to answer the draft calls, because we have had a successful peacemaker in the White House.

Is this any time to throw rocks at this great and good man, to join in a smear and in an effort to "get" the President, when there is not one word of sworn statement involved here?

President Nixon will go down in history as a great and courageous leader long after all of his critics have been forgotten.

It is regrettable that the committee to investigate the Presidential campaign is not investigating all recent Presidential campaigns, because some interesting facts concerning voting and counting irregularities could be presented in reference to the election of each of our last three Democrat Presidents.

Mr. President, I ask unanimous consent to include at the conclusion of my remarks an article by Kevin Phillips entitled, "Let He Who Has Never Stolen An Election Cast the First Stone."

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

(See exhibit 1.)

Mr. CURTIS. Mr. President, I believe in President Richard Nixon. I respect his honesty and his honor and for that reason I rely upon his statement of noninvolvement or knowledge of the Watergate happening. I believe that those who wittingly, or unwittingly, are aiding and abetting that coalition who are out to get Nixon are doing a disservice not only to a good and great man, but to the United States of America.

EXHIBIT 1

LET HE WHO HAS NEVER STOLEN AN ELECTION CAST THE FIRST STONE

(By Kevin Phillips)

We hear it said by Democratic politicians, especially those in range of television cameras, that the Watergate episode is an unspeakable and unprecedented attempt to destroy our political process.

Hypocritical hyperbole like this is one reason that people beyond Washington, while properly disgusted, are not yet decisively influenced by the sabotage affair. Talk about the "menace of Watergatism" comes cheaply from a party whose last three presidents of the United States owe pivotal career success to clear-cut election fraud.

Few journalists describing the current imbroglio have bothered to remember the attacks on the political process mounted by the aides and allies of Harry S. Truman, John F. Kennedy, and Lyndon B. Johnson.

Truman could never have become president if he had not scraped victory out of the 1934 Missouri Senate primary with the help of 50,000 fraudulent votes from Boss Tom Pendergast's Kansas City machine.

LBJ needed kindred help in the 1948 Texas Senate primary: With most of the vote counted, he was trailing, and then—presto—stuffed ballots arrived from Box 13 in the town of Alice.

As for John Kennedy, his 1960 election won by just 110,000 votes, was marked by major fraud in the close states of Illinois, Texas, and Missouri. The New York Herald Tribune ran a postelection series documenting this chicanery until requested to stop by the defeated GOP nominee—Richard Nixon, it happens—who did not want to see the presidency of the United States dragged through the courts in election-fraud cases.

Therefore, to balance the indefatigable press coverage of the Watergate, it might be useful to review the way in which the last three Democratic presidents seem to have climbed to their august circumstances via stolen elections. What greater demeaning could there be of the political process . . . surely not sending a squad of stumblefoots to bug the Democratic National Committee?

Eleven years before he became president, Harry Truman first sought federal office in the 1934 Missouri Democratic Senate primary. Before running, according to his daughter Margaret's recent book, HST asked his mentor, Kansas City Boss Tom Pendergast, to commit him 98 per cent support from the county machine.

Come primary day, he did even better, almost 99 per cent—137,529 votes for Truman, 1,525 for his opponent, enough for a narrow, statewide victory.

A few years later, Pendergast was hauled into federal court, and his army of 50,000 Jackson County Democratic floaters, gravestones, and ghost voters was demobilized. But not before it had launched a future president on his way. When HST asked for 98 per cent backing in the 1934 primary, he knew what he was requesting.

After John F. Kennedy's hairbreadth victory in 1960, New York Herald Tribune reporter Earl Mazo began a series on Democratic fraud in the key states of Illinois, Texas, and Missouri.

Without questionable Democratic success in those states, Kennedy would have been defeated, the Republican nominee Richard Nixon would have been the narrow victor.

Mazo claimed that in Texas, where the

Democratic margin was 46,000 "a minimum of 100,000 votes officially tallied for the Kennedy-Johnson ticket were simply nonexistent."

In Chicago, he reported that irregularities were documented by "mountains of affidavits by poll watchers and disgruntled voters."

Thanks to those irregularities, Kennedy carried Illinois by 8,000 votes. In 1968, when the state went for Richard Nixon by 235,000 votes, columnist Murray Kempton wryly observed that there must be something in Mayor Richard Daley's code that prevented him from stealing the presidency from the same man twice.

And then there was Lyndon B. Johnson. His link to fraud—aside from any 1960 role—came in Texas' tightly fought 1948 Democratic Senate primary. With most of the votes counted, LBJ trailed. Then came Box 13 from the town of Alice.

Here's the description from Harvey Katz's 1972 book, "Shadow on the Alamo": "The ballots in the delayed box were weighted heavily in Johnson's favor, and he emerged the winner. Later investigation revealed that 203 ballots had been added to Box 13 after the polls closed. All but one of those ballots were for Lyndon Johnson."

Johnson won the election by only 87 votes. He later tried to appoint the Washington attorney who handled the election case, Abe Fortas, as chief justice of the United States.

None of this can excuse the Watergate venture—and the President will make a grave political mistake if he does not root out its foolish perpetrators.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum, and I ask unanimous consent that the time be charged against the time allotted to the distinguished assistant Republican leader.

The PRESIDING OFFICER (Mr. HASKELL). Without objection, it is so ordered. 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.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I am authorized by the distinguished assistant Republican leader to ask unanimous consent that as much time as the distinguished senior Senator from Virginia (Mr. HARRY F. BYRD, JR.) may need be transferred from the time of the Senator from Michigan (Mr. GRIFFIN) to the Senator from Virginia without prejudice to the Senator from Minnesota (Mr. HUMPHREY) whose order is next in line.

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

GENERAL HAIG IN THE WHITE HOUSE

Mr. HARRY F. BYRD, JR. Mr. President, to some, President Nixon can do nothing right; everything he does is wrong in the eyes of the liberal press and many liberal Congressmen. They even want to determine who his personal assistants shall be.

Some seek to make much out of the fact that the President has chosen Gen. Alexander Haig as his Administrative Assistant in the White House—and that General Haig has chosen a retired Army officer as his assistant.

General Haig, at 48, is a four-star general and Deputy Chief of Staff of the Army. President Nixon has come to rely heavily on the managerial talents of General Haig to run the White House, and the general agreed to retire from the Army to be in a position to devote full time to the President.

Yet he has been condemned by some who seem to feel that a person with a military background should not hold an important position at the White House.

The anti-Nixon people seem to me to be going to extremes.

The President—any President—has a most difficult job. He is entitled to select as his key subordinates those in whom he has confidence and with whom he can work in harmony.

I can see no reason that a retired military officer should be prevented from serving the President in a civilian capacity. President Eisenhower chose Maj. Gen. Wilton B. Persons as his top White House administrator. President Roosevelt utilized Maj. Gen. Edwin A "Pat" Watson, a Virginian, in a position roughly comparable to that of General Haig.

In addition, President Roosevelt had Adm. William D. Leahy as one of his top advisers, and President Truman relied heavily on Gen. George C. Marshall and used him in various civilian positions, although the Leahy and Marshall examples are not exact parallels to General Haig.

Despite the views of some Congressmen and some newspapers, I feel that the military profession is an honorable one and that it has among its members men of dedication and ability whose services can and should be utilized by the President if he feels in need of such capabilities.

I might say that the Senate of the United States is using the capabilities of an able and outstanding and dedicated former career Army officer, Col. Stan Kimmitt, as Secretary to the Democratic majority in the Senate.

With General Haig's retirement from the Army, one would think that the carping and criticism would cease. But not so. There seems to be so much anti-military sentiment and anti-Nixon sentiment among certain groups that nothing will please them.

Fairminded Americans are not likely to react favorably to this kind of attack on the military and on the President.

QUORUM CALL

Mr. HARRY F. BYRD, JR. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time be charged to that of the distinguished minority whip.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

Under the previous order, the Senator from Minnesota is recognized for 15 minutes.

AGRICULTURE FACES A CRISIS

Mr. HUMPHREY. Mr. President, on the date of June 1, 1973, I wrote a letter to the Secretary of Agriculture, Hon Earl Butz, addressing myself to several matters that are of great concern to the American economy. In that letter, I made recommendations that I hoped the Department would carry out as rapidly as possible.

First of all, I suggested an intensive and continuing monitoring of the commodity markets. "The speculation that is taking place on commodities in recent weeks," I said, "is not healthy, and I respectfully urge the Department to look into any possibility of market manipulation."

The Department of Agriculture has been very reluctant to oversee what appears to be a considerable amount of speculative activity in the commodity markets due to scarce supplies and the uncertain forecasts as to crop conditions for this year.

In the meantime, the user of those commodities is paying an exorbitant price, and the whole agricultural price structure is in disarray.

Second, I noted in my letter to the Secretary of Agriculture that he had called attention to the possible shortage of storage facilities for the upcoming crop. The Secretary made mention of this in a meeting at Des Moines, Iowa, about 2 weeks ago. I, therefore, suggested to the Secretary of Agriculture that the Department undertake at once a nationwide survey of storage capacity, in order to determine what storage will be available for the 1973 crops and what additional storage, if any, will be necessary. I asked that such a survey be instituted as rapidly as possible because the crops are now coming in from the fields of Texas, Oklahoma, and the southern areas of our country.

If there is a shortage of storage space, it will not only be the farmers who will suffer; it will also be the urban dwellers, who will have their food prices go right through the ceiling.

Mr. President, I am going to speak day after day in the Senate until someone gets with it. Food prices are going up and up and up, and will continue to go up until the Government of the United States quits playing the numbers game with crop predictions, because food prices are related to several factors: the availability of storage, the availability of credit, the availability of transport, and the availability of fuel, as each of those items relates to the agricultural economy, and no amount of public addresses or radio or television speeches such as the President made last night is going to alleviate the problem.

I know what will happen: One of these

days there will be a headline as big as for a declaration of war in the Washington Post or the New York Times about skyrocketing food prices. They always come in on the slow freight. Is it not about time the Government and the media began to tell the American people the truth about what is happening in the food-producing areas of this country?

What is happening is as evident as the nose on your face: The inability of farmers to get transportation to move a crop, the inability of farmers to have adequate storage to store a crop, the unwillingness of the terminal operators to extend credit to country elevators so that the farmers can have the credit to move their crop, and the lack of adequate fuel supplies for tractors for the planting, the plowing, the harvesting, the transport, and the drying of crops.

If there is any one subject that I feel some competence in, it is this area, and I am shocked to find that the Department of Agriculture continues to relate its statistical information to last year, which has no relationship to the facts of this year.

So I have asked the Secretary of Agriculture to take a look at the commodity market speculation. Some people are making a windfall and other people are being taken to the cleaners. I have asked the Secretary of Agriculture to look at the storage capacity, because without storage capacity we are going to be in trouble, and the time to do it is now. In fact, it should have been done months ago.

Third, I said in my letter to the Secretary of Agriculture that the fuel shortage will inevitably affect the producers of food and fiber either at the time of planting, at harvest, or, in the instance of corn and soybeans, for drying facilities. There simply must be a firm and mandatory fuel allocation program that places agriculture in the highest priority.

I then reminded the Secretary that in his Des Moines statement, he emphasized the transportation difficulties. I suggested to the Secretary, therefore, that he present to the committees of Congress as rapidly as possible his assessment of the boxcar and hopper car shortage, and any proposals the Secretary or the Department might have to remedy that situation.

Mr. President, I want again to sound the alarm that as surely as we are gathered in this Senate session today, unless there are definite decisions made in this Government relating to the availability of fuel supplies for the agricultural sector, we are going to have a terrible crisis in food supply for the consumers of the Nation. We are not going to be able to fulfill our export requirements. If there is a continued shortage of hopper cars and boxcars, we are not going to be able to move our crop. If there is a shortage of diesel fuel, we are not going to have fuel for the locomotives to move the crop. If there is a shortage of storage space, the terminal operators who extend credit to country elevators for the purpose of limited storage of the crop as it is being harvested will not make that credit available.

There are a number of factors that go into the complex integrated structure of the agricultural economy, and all of those factors are being ignored or at least being given a back-of-the-hand treatment. We have got to have some decisions in the Government.

Today is the final day of the hearings before the Oil Policy Committee, and I want to say again on the floor of the Senate that unless we have mandatory fuel allocations for agriculture at a priority level, the American people are going to have an increase in food prices that no amount of price control can affect, because you cannot make food out of price controls.

Food comes out of production from the soil. It comes from beef cattle and from pigs. And today the American farmer is selling suckling pigs. The American farmer is getting rid of his cattle. The American farmer is facing a difficult time in the marketing of his crops, and we are going to have more and more trouble and higher and higher prices.

So today, on this 14th day of June, I place in this RECORD my prediction that unless action is taken to provide fuel allocation, to provide credit, to assure transport, and to assure adequate storage, the beef prices, the egg prices, the poultry prices, the vegetable prices, the potato prices, and the prices of every commodity that the housewife and the American family need will go up and up and up, and Mr. Nixon's price control program will have no effect; because what good does it do to have price controls if you have no food, or if you have an inadequate supply? We will have black-marketing and profiteering, and the answer to the problem is not merely to tell the farmers to produce—they are going to produce, with 40 million more acres in production—but to have a structure that makes possible the processing and the transportation of that production.

THE LATEST NIXON "FREEZE"

Mr. President, last night the President announced changes in his economic program. This new action comes on top of what we call phase III which, from the beginning, was a disaster, a mistake, untimely, and, regrettably, a very costly error.

Since 1969, the American economy has been subject to flip-flop, to program changes of the Nixon administration. Inflation has run rampant. Unemployment has jumped to its highest levels in a decade. Interest rates are at their highest levels in 100 years. Trade deficits are at their highest level since 1883.

We have seen the cost of living going up week after week. Controls have been imposed. They have been removed and they have been reimposed. There has been a series of phases and freezes and promises and propaganda. In short, there has been no consistent economic stabilization program. None has been forthcoming from the administration. As a result, the American working family over the past 4½ years has suffered under the weight of a Nixon inflation tax, double the devaluation of the dollar, at least officially two devaluations, and a third as a result of speculation, and an unprecedented drop in the past 6 months of the real wage purchasing power of the American worker.

Last evening, the President said that the American worker had more income to spend than any time since the past 7 years. Well, Mr. President, the amount of money one has is not so important. What is important is what does that money buy? The American dollar overseas buys less. The American dollar at home buys less. It is now worth 77 cents in terms of 1967 purchasing power. Regardless of what the President may have said in his radio and television address last night, the purchasing power of the weekly paycheck American workers now buys less than it bought in the same period of 1972.

People on fixed incomes, pensioners, those on social security, the poor, the low-income groups in this country, all have suffered an unbearable burden.

President Nixon says he does not want any tax increase. Well, Mr. President, the fact is that we have had a tax increase on the working families of this country—what has been happening to the rents they have to pay, to the cost of the homes they would like to buy, to the interest rates they will have to pay, and on the food prices they are now paying, as well as all the other items. This is the Nixon inflation tax and, might I add that it is not food prices only that have been going up, but nonindustrial prices as well; lumber up 30 percent; petroleum products up 20 percent, just to name a few. I have been saying, as chairman of the Consumer Economics Subcommittee of the Joint Economic Committee for better than 6 months that phase III was not working. Dr. Stein, the Chairman of the Council of Economic Advisers, comes before the committee, week after week, and he tells us all is well. He looks us right in the eye and says that the program is a success. He tells us that the administration will be able to hold inflation at an annual rate of 2½ percent.

Mr. President, that is sheer, unadulterated, nonsense. Last night, the President of the United States had to openly admit that it was.

I was interested in noting that the President finally discovered what every American family has known for a long time, that gasoline prices have gone up. Anyone who buys gasoline for his car knows that, unless he fills up his gas tank with Government gasoline.

The President says that food prices are going up. I should say that they are. Rents have been going up, too, I might add, which are not going to a part of the new controls.

Dividends are also going up. Corporate profits have gone up, after taxes, 32 percent. At the very time that wages of average working men and women are being held down, prices have gone up. Executive salaries are up 13½ percent. I repeat, corporate profits after taxes on the average are up 32 percent.

Is it any wonder that the economy is out of balance?

Is it any wonder that people are upset?

However, I do want to say to the President that I was pleased, at long last—delayed as it was—that the price freeze was

put into effect on certain commodities for 60 days. That is long overdue.

I was also happy to hear that the President says they will look into some possibilities of a rollback. That is long overdue, too.

But, I want to make it equally clear that the message of last evening still does not lay out for us a program. What it amounts to is a temporary pain reliever in certain areas. We will still have the headache but maybe we will not have a backache. Some parts will be controlled temporarily but other parts will not be.

The President's message also saw fit, once again, to pit the country against Congress. What happened? The President of the United States said, "You have got to watch that Congress. They are spenders. If Congress does not quit spending, we cannot control inflation." The President is looking for a scapegoat.

Well, Mr. President, may I say to the President that this Senate adopted a spending ceiling lower than what the President asked for. We will appropriate less than what he asked for, but we will have an argument about what it is we will appropriate.

He wants to appropriate more money for the military. He wants to appropriate more money for military assistance, and for foreign assistance. Congress thinks it should appropriate less in those areas and begin to take care of the American people.

What else did the President say last night?

The straw man he sets up to manipulate his political lines is like a Don Quixote of the 20th century. He says that there are Members of Congress who want permanent controls. I have heard no Member of Congress asking for permanent controls. What we have asked for are timely controls before things become uncontrollable. Every Member of Congress that has ever made a study of the economic situation knows that controls are not the answer, that they only provide a time frame in which to work out some answers.

President Nixon saw fit, once again, to talk about our prisoners of war. What that had to do with prices, I do not know.

He saw fit, once more, to slap Congress around as if Congress were the wastrels and the spenders. He saw fit to accuse Congress of wanting permanent controls, which he knows is not true.

What the President did not see fit to do was to recognize, when he repealed phase II and moved into phase III, that he was putting the economy in trouble, that the dollar was again in trouble, that the international financiers had lost confidence in our economy, that the working man has had his wages eroded, that the pensioners have suffered under inflation, and that our economy is out of balance.

I hope and pray that we can find some way to get our ship of state back on an even keel, but that will not come about by just accusing. That will not come about by providing halfway measures.

The PRESIDING OFFICER (Mr. CLARK). The time of the Senator from Minnesota has expired.

Mr. HUMPHREY. Mr. President, I ask unanimous consent that the letter I wrote to Secretary Butz on June 1, and an article published in the press relating to an analysis of the President's economic message be printed in the RECORD.

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

JUNE 1, 1973.

The Honorable EARL L. BUTZ,
Secretary of Agriculture, Department of Agriculture, Washington, D.C.

DEAR MR. SECRETARY: I have read with considerable interest your statement in Des Moines on Thursday, May 30. I am prompted to make four recommendations which I hope the Department will carry out forthwith.

1. An intensive and continuing monitoring of the commodity markets. The speculation that is taking place on commodities in recent weeks is not healthy, and I respectfully urge the Department to look into any possibility of market manipulation.

2. You mentioned the possibility of the shortage of storage facilities for the upcoming crop. I therefore recommend that the Department undertake at once a nationwide survey of the storage capacity in order to determine what storage will be available for the 1973 crops. I would further recommend on the completion of the survey that the Department take whatever action is necessary, including recommendations to the Congress, to assure adequate storage capacity.

3. The fuel shortage inevitably will affect the producers of food and fiber either at a time of planting, at harvest, or in the instance of corn and soybeans for drying facilities. There simply must be a firm and mandatory fuel allocation for agriculture.

4. In your Des Moines statement you emphasize the transportation difficulties. Therefore, I recommend that you present to the appropriate committees of the Congress as rapidly as possible your assessment of the boxcar and hopper car shortage and any proposals that you have to remedy that shortage.

It is vitally important that action on these matters be undertaken at once.

I await your reply.

Sincerely,

HUBERT H. HUMPHREY.

PRESIDENT'S NEW PRICE FREEZE: A DESPERATE DOSE OF OLD MEDICINE

(By Edward Cowan)

WASHINGTON, June 13.—In clamping a 60-day freeze on virtually all prices, President Nixon appears to be recycling the same anti-inflation medicine he prescribed for the economy in August, 1971.

Now as then, there is a note of desperation to the President's action—perhaps even greater now because Mr. Nixon is turning to more controls although he and his advisers have repeatedly said they are trying to steer toward a less regulated economy.

Exactly six weeks ago, Mr. Nixon argued at length against a freeze. It "would cause shortages," he said.

How then, do the President and his advisers explain a freeze? What do they expect it to accomplish?

"A freeze provides a kind of shock treatment reducing inflationary expectations," the White House said in the background material distributed tonight. "Second, it will provide the time necessary to consult with labor, management and consumer representatives on the shape of the post-freeze program."

Those were also the reasons Mr. Nixon imposed a 90-day freeze on prices and wages on Aug. 15, 1971. It gave his Administration time to devise the regulations of Phase 2, which began Nov. 14, 1971, and ended Jan. 11, 1973. Combined with other measures, it also signalled with stunning impact a determination to curb inflation and reinvigorate a sluggish economy.

Even Democrats and skeptics acknowledged that Phase 2 had been effective to some extent—that it had slowed the rate of wage and price inflation.

Obviously, however, that does not mean that Phase 4—to start at the end of the new 60-day freeze—will work. Conditions are different.

In 1971, there was a good deal of unused productive capacity in the economy. Now there is relatively little slack in manufacturing or in agriculture.

The Administration is counting on the restraining effect of a tightening credit policy and a Federal budget that is moving from large deficit to balance to curb the upward trend of domestic demand.

Meanwhile, foreign demand has proved to be a far greater inflationary force than the Administration expected it to be six months ago. One reason is that two devaluations of the dollar, in December, 1971, and in February-March, 1973, plus its further depreciation in foreign exchange trading, have made United States goods much cheaper for foreigners.

CUTS IN EXPORTS URGED

Washington cannot tell foreigners not to buy, but it can tell Americans not to export commodities needed at home, especially fiber and food. So, Mr. Nixon, who expressed anew tonight his abhorrence of controls—"We must not let controls become a narcotic and we must not become addicted"—is asking Congress for authority to restrict exports.

Among the crops experiencing strong export demand have been wheat, rice, barley, corn and soybeans. The huge Soviet wheat deal of 1972 lifted expected exports for the 1972–73 shipping year to 1.15 billion bushels, or 48 per cent of the total stock available.

George P. Shultz, Secretary of the Treasury and chairman of the Cost of Living Council, was asked tonight in the East Room of the White House whether Phase 3 had been a failure.

Mr. Shultz chuckled and replied that "everyone thinks that Phase 3 was a failure, so let's not argue about that." He added that some good things could be said about Phase 3, but clearly he was not disposed to make too much of them.

From its inception on Jan. 11, Phase 3 has failed to command much respect. The principal criticism from the outset was that the Administration had moved prematurely, before the fires of inflation had been extinguished. Moreover, there was doubt that business would voluntarily comply with standards that had been mandatory under Phase 2.

Phase 3, which began with mandatory pricing rules, such as getting prior approval for increases, continued only for the food, health and construction sectors. The rest of the economy was supposed to practice what Mr. Nixon first called "voluntary cooperation," a phrase Secretary Shultz later changed to the more emphatic "self-administration."

By the end of March, the Administration had reluctantly added a rule to regulate pricing by the 23 biggest oil companies. On March 29 it slapped ceilings on wholesale and retail meat prices.

Early in May, in a further tacit admission that Phase 3 was not proving effective, the Administration reintroduced a limited form of prior approval for price increases by some 600 corporations with sales of $250-million a year or more.

The Cost of Living Council was also faulted for failing to roll back excessive Phase 3 price increases. The council issued its first Phase 3 challenge to an increase, for zinc, only yesterday.

One reason the Administration was eager to change from Phase 2 to Phase 3 was its

desire to re-enlist the formal support of organized labor for the economic stabilization program. Four of five labor members quit the old Pay Board in April, 1972, during Phase 2. Labor felt strongly that mandatory pay guidelines made a mockery of collective bargaining.

This part of the Administration's strategy appears to have been more successful, George Meany, president of the American Federation of Labor and Congress of Industrial Organizations, and other labor leaders continue to sit on the labor-management advisory committee of the Cost of Living Council.

More important from an economic viewpoint, the largest contracts signed so far this year—in the railroad, electrical equipment, longshore, rubber, construction and apparel fields—are regarded by many analysts as moderate in comparison to the large wage increases negotiated in 1970–71 before the August, 1971, freeze.

Officially, farm prices are exempt from the 60-day freeze. However, Washington is trying to sit on them indirectly by putting ceilings on what may be charged by processors, wholesalers and retailers.

Price increases not in effect by June 8, even if announced prospectively, may not be put into effect under the terms of the Executive order.

Strictly speaking, "freeze" is a misnomer for Mr. Nixon's action. As the White House took pains to point out, sellers are free to reduce prices. However, a traditional argument against ceilings is that "the ceiling becomes the floor"—an argument that has been heard more than once during the life of this Administration.

Consumers presumably will find in the President's action some respite, if temporary, from inflation. Employers who must put wage increases into effect in the next few weeks and who had counted on compensatory price increases may find the situation onerous. So will any companies that get caught in the intensified price-controls enforcement effort the President promised.

Mr. Shultz and John T. Dunlop, director of the Cost of Living Council, have said repeatedly that the trouble with a freeze is that it does not solve anything. Except to the extent that it alters inflationary psychology, it deals with symptoms, not causes.

For two months, then, Mr. Nixon's cure for inflation presumably will work—or appear to work. However, the second time around a freeze is likely to be less effective in dispelling inflationary psychology than it was when novel.

That would appear to put more of a burden on controls—of prices and, if Congress acquiesces, of exports. Mr. Nixon said again tonight that he was against "rigid, permanent" controls. As someone else said, the long run is a succession of short runs.

ORDER OF BUSINESS

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

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

TRANSACTION OF ROUTINE MORNING BUSINESS

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

Is there further morning business?

ORDER FOR ADJOURNMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, when the Senate completes its business today, it stand in adjournment until 10 a.m. tomorrow.

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

(The above order was subsequently modified to provide for the Senate to convene at 11 a.m. tomorrow.)

ORDER FOR TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, after the two leaders or their designees have been recognized under the standing order tomorrow, there be a period for the transaction of routine morning business for not to exceed 15 minutes, with statements therein limited to 3 minutes.

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

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.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. ROBERT C. BYRD, from the Committee on Rules and Administration, with amendments:

S. 343. A bill to designate the Tuesday next after the first Monday in October as the day for Federal elections (Rept. No. 93–217).

By Mr. LONG, from the Committee on Finance, with an amendment:

S. 1636. A bill to amend the International Economic Policy Act of 1972 (Rept. No. 93–218), by unanimous consent; and the Committee on Foreign Relations authorized to report by June 22, 1973.

Mr. LONG. Mr. President, I ask unanimous consent to file a committee report on S. 1636, and ask that the Committee on Foreign Relations have until the end of next week to report on this same bill.

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

By Mr. EAGLETON, from the Committee on the District of Columbia, with an amendment:

S. 1435. A bill to provide an elected Mayor and City Council for the District of Columbia, and for other purposes (Rept. No. 93–219).

By Mr. ROBERT C. BYRD (for Mr. FULBRIGHT), from the Committee on Foreign Relations, without amendment:

S. 440. A bill to make rules governing the use of the Armed Forces of the United States in the absence of a declaration of war by the Congress (Rept. No. 93–220), together with supplemental views.

EXECUTIVE REPORTS OF COMMITTEES

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

By Mr. TOWER, from the Committee on Armed Services:

Arthur I. Mendolia, of Delaware, to be an Assistant Secretary of Defense.

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

By Mr. GOLDWATER, from the Committee on Armed Services:

Terence E. McClary, of Massachusetts, to be an Assistant Secretary of Defense.

The above nomination was reported with the recommendation that the nomination be confirmed, subject to the nominees commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

By Mr. SCOTT of Virginia, from the Committee on Armed Services:

Charles E. Odegaard, of Washington, to be a member of the Board of Regents of the Uniformed Services University of the Health Sciences;

Joseph D. Matarazzo, of Oregon, to be a member of the Board of Regents of the Uniformed Services University of the Health Sciences; and

Alfred A. Marquez, of California, to be a member of the Board of Regents of the Uniformed Services University of the Health Sciences.

By Mr. HARRY F. BYRD, JR., from the Committee on Armed Services:

Malcolm R. Currie of California, to be Director of Defense Research and Engineering.

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

By Mr. THURMOND, from the Committee on Armed Services:

Jack L. Bowers, of California, to be an Assitant Secretary of the Navy.

The above nomination was reported with the recommendation that the nomination 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. THURMOND. Mr. President, as in executive session, from the Committee on Armed Services, I report favorably the nomination of Brig. Gen. Edward R. Fry for appointment in the Reserve of the Air Force—Air National Guard—to be major general and Samuel Jaskilka and sundry other officers for permanent appointments in the Marine Corps in the grades of brigadier general and major general, and ask that these names be placed on the Executive Calendar.

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

Mr. THURMOND. Mr. President, in addition, there are 2,645 for appointment or promotion in the Marine Corps, Navy, and Air Force all in the grade of colonel and below. Since these names have already appeared in the CONGRESSIONAL

RECORD, in order to save the expense of printing on the Executive Calendar, I ask unanimous consent that they be ordered to lie on the Secretary's desk for the information of any Senator.

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

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

Samuel Jaskilka, and sundry other officers, for permanent appointment in the Marine Corps;

Richard Mulberry, and sundry other officers, for permanent appointment in the Marine Corps Reserve;

Steven A. Klein, and sundry other midshipmen (Naval Academy), for permanent assignment in the Navy;

Richard L. Frymire, for appointment in the Reserve of the Air Force;

Leslie D. Abram, and sundry other officers, for appointment in the Regular Air Force; and

George B. Aaron, and sundry other officers, for promotion in the U.S. Air Force.

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

Kenneth B. Keating, of New York, to be Ambassador Extraordinary and Plenipotentiary to Israel.

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

By Mr. LONG, from the Committee on Finance:

James S. Dwight, Jr., of California, to be Administrator of the Social and Rehabilitation Service;

William A. Morrill, of Virginia, to be an Assistant Secretary of Health, Education, and Welfare;

Lewis M. Helm, of Maryland, to be an Assistant Secretary of Health, Education, and Welfare; and

George M. Moore, of Maryland, to be a member of the U.S. Tariff Commission.

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.

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. HATFIELD:

S. 1996. A bill to authorize programs to restore the quality and productivity of the Nation's forest lands; to provide forestry incentives to encourage better forest resource management by non-Federal forest landowners; to expand and strengthen forest related research, education and technical assistance; to establish a special receipts account as the source of additional investment capital needed to improve forest resource management on Federal lands; to establish an advisory board to provide advice and counsel on forestry; to enhance the quality of environmental resources; and for other purposes. Referred to the Committee on Agriculture and Forestry.

By Mr. MOSS:

S. 1997. A bill to authorize the Secretary of Housing and Urban Development to encourage and assist in the development on a demonstration basis of several carefully planned projects to meet the special health care and related needs of elderly persons in a campus-type setting. Referred to the Committee on Banking, Housing and Urban Affairs.

By Mr. SCHWEIKER:

S. 1998. A bill to amend the Community Mental Health Centers Act to provide for the extension thereof, and for other purposes. Referred to the Committee on Labor and Public Welfare.

By Mr. HUMPHREY (for himself and Mr. MONDALE):

S. 1999. A bill to confer pensionable status on veterans involved in the Brownsville, Tex., incident of August 13, 1906, and to require the Administrator of Veterans' Affairs to make certain compensatory payments to such veterans and their heirs. Referred to the Committee on Veterans' Affairs.

By Mr. STEVENS:

S. 2000. A bill for the relief of Maria Refugio Tafolla de Eakes. Referred to the Committee on the Judiciary.

By Mr. DOMENICI:

S. 2001. A bill to redesignate the Alamogordo Dam and Reservoir, New Mexico, as Sumner Dam and Lake Sumner, respectively. Referred to the Committee on Interior and Insular Affairs.

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

S. 2002. A bill to further amend the Economic Stabilization Act of 1970, as amended, to authorize the President to prohibit or curtail the exportation of articles, commodities, or products from the United States, and for other purposes. Referred to the Committee on Banking, Housing and Urban Affairs.

By Mr. PERCY (for himself, Mr. RIBICOFF, and Mr. JAVITS):

S. 2003. A bill to extend the period within which the President may transmit to the Congress plans for the reorganization of agencies of the executive branch of the Government, and for other purposes. Referred to the Committee on Government Operations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HATFIELD:

S. 1996. A bill to authorize programs to restore the quality and productivity of the Nation's forest lands; to provide forestry incentives to encourage better forest resource management by non-Federal forest landowners; to expand and strengthen forest related research, education and technical assistance; to establish a special receipts account as the source of additional investment capital needed to improve forest resource management on Federal lands; to establish an advisory board to provide advice and counsel on forestry; to enhance the quality of environmental resources; and for other purposes. Referred to the Committee on Agriculture and Forestry.

AMERICAN FORESTRY ACT OF 1973

Mr. HATFIELD. Mr. President, today I introduce a revised bill which is premised upon the fact that the Nation's forest lands are one of its most valuable resource heritages, benefiting present and future generations of American people. It proposes that all forest lands in the United States, both public and private, be managed at levels which will provide for the economic well-being, security, the general health and welfare of a growing Nation living within a desirable environment.

On January 27, 1971, I introduced a bill which I believed would overcome some very serious and mounting problems in National Forestry. Subsequently, public hearings on the bill were held in Atlanta, Syracuse, Portland, and Washington, D.C. The testimony made it quite clear that a comprehensive approach to realine forestry programs was needed and that the 1971 bill should be revised. After much careful study and analysis of this bill, the American Forestry Act of 1973 was prepared.

The 1973 bill provides for intensified and diversified forest management—intensified in terms of providing increased timber supplies so as to meet the Nation's growing necessities; diversified in terms of multiple use and environmental contributions of forest resources that are so essential and desired by our society. The bill includes expanded and strengthened programs in research, education and technical assistance, and also an advisory board to provide professional advice and counsel on forest resources.

Forestry incentives for private lands are proposed on a graduated scale basis to motivate participation by over 4 million small nonindustrial woodland owners who control some 300 million acres of some of the Nation's finest forest-producing lands. Federal forest management will be upgraded also by providing a special receipts account to furnish additional funding which is necessary for more intensive sustained yield management, more esthetic and amenities through balanced multiple use management, and the general enhancement of environmental quality.

The American Forestry Act of 1973 is urgent national legislation. Homes are not being built because of severe shortages in timber supplies. Short supplies also have resulted in violent upward adjustments in lumber and plywood prices since termination of phase II price controls last January, and even though seasonal fluctuations in price occur and new economic controls may be imposed, the only real and lasting solution is increased productivity. Former Forestry Chief Edward P. Cliff has repeatedly stated that production of softwoods, the homebuilding material, can be doubled.

At the same time, we are not building needed recreational facilities, reforesting denuded lands, protecting wildlife habitat and watersheds, enhancing environmental quality, or taking the many other essential steps which the American people rightfully expect, and which must be a critical component of any proper forest management program.

At a later time, cosponsors will be added to this bill.

Mr. President, the American Forestry Act of 1973 responds to the demands by the American people—now and in the future. From hearings and public reaction, the bill has been revised in several crucial ways to fully protect environmental values while enhancing the use and productivity of our forests. I am hopeful that the 93d Congress will act promptly and favorably upon this proposal.

By Mr. MOSS:

S. 1997. A bill to authorize the Secretary of Housing and Urban Development to encourage and assist in the development on a demonstration basis of

several carefully planned projects to meet the special health-care and related needs of elderly persons in a campus-type setting. Referred to the Committee on Banking, Housing and Urban Affairs.

CAMPUSES FOR THE ELDERLY

Mr. MOSS. Mr. President, I introduce, for appropriate reference, a bill to authorize the Secretary of the Department of Housing and Urban Development to encourage and assist in the development, on a demonstration basis, of several carefully planned projects to meet the special health care and related needs of elderly persons in a campus-type setting.

This bill sets up a design contest for comprehensive health care and housing projects which I call "campuses for the elderly," and authorizes the Secretary of Housing and Urban Development to choose the three best entries for funding.

Each design must include:

Skilled nursing facility (as defined by Medicaid-Medicare regs.) for 120 people;

Congregate living facilities—housing with central dining for those who cannot or do not want to cook their own meals—as defined in the 1970 Housing Act—for at least 100 people;

A rest home with nursing supervision for 100 people;

Apartment living—regular apartment units such as those built under section 202 of the Housing Act—for 100 or more; and

A community center which could be used by residents of the campus and to provide services to the outside community of the elderly.

I stress that these demonstration projects must provide much more than housing, they must provide services as well. These services should be made available to the general community on an outreach basis as well as to the prospective tenants of the facility. Some of the services which might be provided include: home delivered meals, employment, transportation, home care services, counseling, legal and notary assistance, and telephone reassurance in addition to health care.

Perhaps some thought might be given to providing an outreach clinic or diagnostic center in conjunction with the senior center to give elders in the community an alternative to the hospital emergency room where many go for care after office hours. The campus should provide or be close to shopping facilities. Appropriate recreation such as a theater, swimming pool, gym, bowling alley should be available. There should be generous meeting rooms and common areas.

In short this "campus" should be designed to meet the total needs of the elderly in one self-contained unit. Residential and nursing units should be designed for the elderly with consideration of their special needs.

My bill calls upon private enterprise to develop innovative approaches. Following the "Operation Breakthrough" example, the best projects will receive funding in the form of interest subsidy payments with mortgage amounts as determined by the Secretary.

These completed projects would be evaluated by a nine-man committee of which three shall be Members of the Congress appointed jointly by the President of the Senate and the Speaker of the House. Six members of the committee will be appointed by the Secretary of HUD of which three shall be members of the medical profession and three shall be administrators of health care facilities. This committee shall have a life of 6 months and is limited to a total expenditure of $70,000. The committee shall prepare a report to the Congress on the effectiveness of the new "campuses" and their suitability to meeting the needs of the elderly.

There are some interesting examples of the campus concept springing up across the Nation. One such example is at Syracuse University, where a project being built on the college campus is providing an excellent opportunity for the elderly to make use of the university's facilities. Likewise the students benefit from their association with older Americans.

In Philadelphia, the Philadelphia Geriatric Center has purchased several row-houses which have been rehabilitated to house several elderly with appropriate supportive and medical services to form its own campus.

Paul de Preaux, administrator of the Avery Nursing Home and Church Homes, Inc., Hartford, Conn., has been the strongest proponent of the idea promoted by this bill. The facilities of Church Homes, Inc., now come very close to implementing this campus concept. To Paul de Preaux, the "campus" is the answer to the fragmentation of care which marks our present system. When individuals become ill they are removed from their homes to the hospital. With different needs they are placed in a nursing home. As their needs change they are returned home, or back to the hospital. With each move there is an inevitable shock and trauma. Some of this shock and trauma can be eliminated if an individual is given a sense of continuity. In a campus setting he could move from residential housing to the nursing home and back again and still be in touch with friends, and continue to be invested with a sense of community and belonging.

Other advocates of the elderly, such as Mrs. Daphne Krause, executive director of the Minneapolis Age and Opportunity Center, have seen the wisdom of the campus concept. Mrs. Krause is endeavoring to build such a facility in Minneapolis to go along with the services she already provides through MAO. I share her belief that we must address the problems of the elderly in their totality rather than looking at them in isolation.

This bill—as S. 2935—received favorable response in the last Congress. I hope it is possible to have the new measure enacted swiftly this session.

Mr. President, I ask unanimous consent to have printed in the RECORD at this point a February 24, 1970, article which tells of the success of the Syracuse University project.

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

CAMPUS WITH A FADING GENERATION GAP

(By Judy Klemesrud)

SYRACUSE.—Some students at Syracuse University are finding they can trust—and actually be friends with—people over 30. And in this case the people are way over 30. In fact, their average age is 70.3.

They all live within a few yards of each other in a futuristic-looking new housing complex, known around the campus at "St. Mary's" because a cemetery by that name once stood there.

"We really have a lot in common," Alan Graham, a bearded blond, 20-year-old zoology student from Wilmington, Del., said Sunday afternoon during a George Washington's birthday party attended by 300 students and old people.

"NATURAL ALLIES"

"Neither of us has much money," he went on, "and it's not supposed to be right for either of us to have sex. They have trouble getting jobs, and so do we. They've been rejected by their sons and daughters, and we're feeling some of this rejection by society and our parents.

"When you get right down to it," he said, "we're natural allies."

The housing complex, which has been occupied for about a year, is located on the western edge of the campus, in the heart of Syracuse's black ghetto. It is composed of four buildings

¶A public housing project for the elderly called Toomey-Abbot Towers, a 24-story building housing 400 people who are 62 or over.

¶Boland Hall, a university dormitory housing 300 undergraduate women on eight floors.

¶Brewtser Hall, a 12-story dormitory housing 450 undergraduate men.

¶Brockway Hall, a three-story student services center where both the young and the old gather to use such facilities as a library, snack bar, bookstore and cafeteria.

And in between the four buildings is a large concrete patio area with benches, where the two age groups can meet and mingle in warm weather.

"It's unique; as far as we know there's nothing like it in the country," said Thomas Carlsen, assistant dean of the School of Social Work. "We view it, frankly, as a built-in laboratory."

He was not exaggerating. The School of Social Work has assigned two full-time staffers to the housing project, and in the last six months projects and programs for the young and old have sprung up like daffodils in the spring. Terms like "intergenerational coalition" are being bandied about, and students are writing papers ("Life After Death—or Death After Life?") inspired by their visits with the elderly.

And it's all with the blessings of the Syracuse Housing Authority, whose executive director, William McGarry, has given the School of Social Work carte blanche as far as programs for the aging are concerned.

Does he think the elderly will feel like guinea pigs?

"Maybe so," he replied in his office directly across the street from Toomey-Abbot Towers. "But being guinea pigs means they're getting attention, and that's the one thing they need."

ID CARDS LIKE STUDENTS

The latest joint adventure—the George Washington's birthday party—was the best attended so far. There was a reason: The old people were presented with special identification cards that entitled them to use all Syracuse University facilities, and to pay the same discount prices that students pay.

The card was designed by John E. Spencer, a 68-year-old resident of Toomey-Abbott Towers whose wife, Marjorie, works as a volunteer in the student library in Brockway Hall.

"He hates old people, and I'm not so crazy about them, either," Mrs. Spencer said shortly before the party. "When you get with older people, there's nothing to do. So many of them just think about the past."

The students and the elderly also get together for a Sunday night dinner program and a Wednesday night free movie. They mingle at concerts and plays in Brockway Hall and at religious services in Toomey-Abbott Towers.

"One thing this does is break down stereotypes on both sides," said Bruce Thompson, 24, the School of Social Work employe assigned to the housing project. "Our people find out that all young kids aren't necessarily pot heads. And the students learn that a woman who looks like an old crank may be an interesting person."

Another program in the works is called "Adoptive Grandparents," and through it a student would "adopt" an older person for the school year. It is the brainchild of Dr. Philip Steckler, who runs a day care branch of the Syracuse Psychiatric Hospital in Toomey-Abbott Towers.

STUDENT VOLUNTEERS

Several students are responsible for distributing Government surplus foods to the elderly. Others have volunteered to clean apartments and do other household chores for the old people in exchange for such services as ironed shirts or shortened skirts.

"This is one place where there's no generation gap," said Mrs. Zoa Newcomb, a 65-year-old widow, as she played bridge with three men students Sunday afternoon in Brockway Hall. "You're not a young person or an old person at the bridge table—you're just a bridge player."

The "St. Mary's" complex grew out of a compromise between the city and the university in the early 1960's. Both parties had been locked in a dispute over which should use the land for housing. (The remains in the cemetery had been moved to another graveyard.)

The dispute was quickly solved when a third party, the Veterans Administration, entered the picture saying it wanted the land for a new wing for one of its buildings. The city and the university compromised: half the land would be used for housing the elderly; the other half for housing students.

Not all of the residents have been excited about mixing with another generation. Some apathetic students refer to Toomey-Abbott Towers as "Wrinkly World." And some of the elderly—especially a group of older men—call out "dirty beatnik" whenever a bearded student strolls by.

But for the most part, the experiment seems to be working.

"Sometimes you just need somebody older to talk to," said Kathleen Maleszyk, 21, of Lynn, Mass., a pert brunette who is a senior in aerospace engineering. "They can give us advice with wisdom—something that kids our age cannot."

By Mr. SCHWEIKER:

S. 1998. A bill to amend the Community Mental Health Centers Act to provide for the extension thereof, and for other purposes. Referred to the Committee on Labor and Public Welfare.

Mr. SCHWEIKER. Mr. President, the authority contained in the Community Mental Health Centers Act for the continuation of this program and the funding of new community mental health centers expires June 30, 1973. The administration has not sought extension of that authority and is seeking funds in its budget request for fiscal year 1974 only to complete its commitment to existing centers. Thus, no new centers will receive any Federal support.

Although the Senate has already passed a bill which included an extension of this authority for 1 year without substantive change, I introduce today the Community Mental Health Centers Extension Act of 1973 which makes major changes in the program by amendments to the Community Mental Health Centers Act. The bill will extend the program for 3 years, change construction grants to facility grants for renovation or acquisition of existing facilities, and provide funding for operating costs in lieu of staffing grants. Also, the measure strengthens the requirement for evaluation of programs both by HEW and the centers themselves.

Although the bill retains the current provisions of the act making a distinction in the Federal share of moneys to centers in poverty areas, it would begin such Federal share at a higher level, and at a significantly lower level, and require that the additional funds for a center serving a poverty area be used for the poverty population being served in that area. I am confident that the Congress will decide to not only continue the community mental health centers program but to expand it, make funds available for initiating new centers and new services within existing centers, and assure a monitoring of the performance of federally supported centers to insure their responsiveness to community needs and national goals relating to community mental health care. This bill can be the basis for such a decision.

Mr. President, the community mental health center is a health services delivery system already federally funded in nearly 500 communities in which approximately 35 percent of the Nation's population lives. It embodies many of the attributes held in highest regard by the administration. Yet, the administration proposes to discontinue further Federal support. In my judgment this would be a serious mistake.

The community mental health center system stresses comprehensiveness by including within a single system all of the related services available to serve the population for which it is responsible. The services contained in the system are coordinated in a manner which enables a patient to move freely and easily from one service to another as needed without the duplication of effort and cost present when services are unrelated and uncoordinated. The program is designed to serve the total population of its designated geographic area. The funds allocated go almost entirely into services for the persons in need. Very little money is used for the support of a bureaucracy.

A noteworthy characteristic is the high degree of local responsibility with the controls and direction provided by local volunteer boards.

The community mental health centers program, which was to be initiated in each catchment or population area with Federal funding on a diminishing basis has moved steadily toward ultimate support by State and local government and private sources. Only about 30 percent of the money invested annually in operating the community mental health center program now comes from Federal funds. Forty-four percent comes from local and State government; 20 percent comes from patient fees and forms of insurance.

The program is not one which was developed and put together hastily in response to a crisis, but evolved out of 10 years of thoughtful deliberations with extensive community planning at State and local levels. The planning process was initiated during the Eisenhower administration, the crucial legislation was adopted during the Kennedy administration, and the program has had the continued support of each administration since.

The system is designed to be compatible with any proposed comprehensive plan for total health care delivery and thus might be joined as an already operating component. For example, the Senate-passed HMO bill, S. 14, provides for mental health services utilizing existing community mental health centers on a priority basis. Despite commonly held false assumptions, mental health services are demonstrably insurable within a plan of National Health Insurance.

Community mental health centers encourage community care with a minimum of institutional confinement which means that to the extent possible, the patient is responsible for the fulfillment of his own treatment plan while continuing as a self-reliant, tax-paying member of the community. These centers have already played a major role in the reduction of State hospital census by a dramatic 36 percent in the last 5 years, in closing a number of State hospitals in several States and in making a sharp reduction in the amount of funds expended in the construction of new institutions.

The center system places major attention on the development of a preventive approach with better and more efficient utilization of limited professional manpower. It has been suggested that the program was intended to be a demonstration and because it has been demonstrated to be successful and effective it should therefore be picked up by funding from other sources. The problem lies in the definition of "demonstration." It is clear that those who wrote the original legislation did not intend that Federal support would continue undiminished and forever. Funding grants were to be for a term of 8 years and provision was made for diminishing Federal participation during that 8-year period.

Thus, Federal funding was to serve a pump priming purpose. It was also to demonstrate to each community the merits of the program and the capability of each community to pick up gradually the financing of its own center. Congress set as its goal that a mental health center should be established in as many catchment areas as necessary to serve the total population of the country. It was not the intent of Congress when the initial legislation was enacted to assist a few favored communities to have centers and then to leave to chance the spread of the program elsewhere.

It has also been suggested that the program will be funded through national

health insurance. Unfortunately, national health insurance does not yet exist nor does it seem imminent. In addition, it must be recognized that even if national health insurance supports continuation of an existing community mental health center, it would not, as a fee-for-service mechanism, provide the funding for consultation services, which are a major component of the preventive function. Nor would insurance provide funding for the initiation of new and needed centers where they no not already exist. Futhermore, there unfortunately remains some uncertainty at this time whether mental health coverage will be included in national health insurance legislation.

Can the program be supported and centers be initiated through revenue sharing? Without debating what may prove to be the eventual virtues of the revenue-sharing approach to Federal participation in local programs, there seems to be a disregard for reality in proposing this solution. There is no evidence that revenue sharing will be so effective immediately that each of the many programs which apparently are expected to derive their support from this source will each receive its equitable and essential share without interruption of service and irreparable damage.

Neither can anyone be confident about the prospects of equitable consideration in the intense competition which will take place not only between established programs but also with those which may be devised in response to State and local pressures. Doubts arise concerning revenue sharing as a solution because of the tendency on the part of State and local governments to use the funds shared with them for one-time capital expenditures rather than for programs involving long-term financial commitments. Then, there are indications that all the programs which are supposedly to be supported by revenue sharing are going to have to be financed with what appears to be less dollars than are currently available through present funding arrangements.

It has been pointed out that the Federal grant program for community health centers has resulted in an inequitable distribution of services with certain States and communities receiving a disproportionate amount of the funds available. It is true that some States were better prepared to move ahead than others and have attained more rapid and complete coverage of the population of their States. It hardly makes sense, however, that those States which have been confronted with greater difficulty in getting underway should be deprived of assistance simply because the funds have been inequitably distributed up to now. To take such a position is to perpetuate the inequity.

Mr. President, there are valid reasons why there should be a continuation of the Federal presence in a program to resolve the general and far-reaching problem of mental illness. Mental illness in its various manifestations is so pervasive in breadth and impact that the Nation cannot afford to let an aggressive program become merely a matter of State option.

I am deeply concerned about an approach to financing which does not provide for a continuing Federal regulating relationship. Though a substantial part of center funding may come from other sources and though program control and management may be local, uniform standards of practice and performance established by the Federal Government are highly desirable.

Historically, the care of the mentally ill has represented such a heavy burden on the resources of State government that the picture was one of shocking neglect. It was not until the Federal Government took positive action to correct the appalling situation that conditions began to change and hope at last arose for the future. There is inadequate evidence that the States are yet able to accept again full responsilbility for this health problem, which is unique in terms of the number of persons affected and the range of services required. To force State government to assume too soon the entire burden which many States carried so badly in the past is to risk a return to the scandalous waste of human resources from which our Nation has just now begun to emerge.

Mr. President, my proposal makes several basic recommendations which are consistent, I believe, with administration goals and realistic in terms of the future of the community mental health center program and its development to meet the goals the Congress initially set for it:

First, that Federal funding continue for the purpose of assuring the initiation of a community mental health center in each of the 1,500 catchment areas required to encompass the total national population. Presently, there are 493 centers federally funded and a small number financed in other ways. This means there are at least 900 catchment areas for which centers must still be planned and initial funding secured. Continued Federal participation should at least make available an initial 8-year staffing grant for the support of a properly designed and approved mental health center in every catchment area still unserved by such a center. June 30, 1980, should be regarded as the target date for comprehensive national coverage with initiation staffing grants.

Second, that a ceiling be placed on the amount which can be allocated to any one center in order to avoid giving undue advantage to those having unusual grant-writing skills and in order to provide for an equitable distribution of available dollars to all catchment areas.

Third, that there be a continuation of preferential funding for centers serving poverty areas with the requirement that the additional dollars allocated to such preferential funding be used for the provision of services to the poverty population.

And finally, that long-term funding beyond the initial 8-year grant period be available to finance consultation and other preventive services not normally reimbursable from other sources. Preferential funding should also be available to support such services in poverty populations.

Mr. President, I ask that the bill and a section-by-section analysis of it be printed at this point in the RECORD.

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

S. 1998

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 "Community Mental Health Centers Extension Act of 1973".

FINDINGS

SEC. 2. (a) The Congress hereby finds that—

(1) community care is the most effective and humane form of care for the majority of mentally-ill and mentally-retarded individuals;

(2) there is currently a shortage and maldistribution of quality community mental health care resources in the United States;

(3) the federally funded community mental health centers have had a major impact on the improvement of care by: fostering coordination and cooperation between various agencies resulting in a decrease in overlapping services and more efficient utilization of available resources, bringing comprehensive community care to all in need within a specific geographic area regardless of ability to pay, and by developing a system of care which insures continuity of care for all patients.

(b) The Congress further declares that the obligation for insuring the expansion of the community mental health center concept in the United States and the provision of comprehensive community care to all in need, rests with the Federal Government, and declares further that Federal funds should continue to be made available for the purposes of initiating new community mental health centers and new services within existing centers, and for the monitoring of the performance of all federally-funded centers to insure their responsiveness to community needs and national goals relating to community mental health care.

AMENDMENTS TO THE COMMUNITY MENTAL HEALTH CENTERS ACT

SEC. 3. (a) Section 201 of the Community Mental Health Centers Act (42 U.S.C. 2681) is amended to read as follows:

"SEC. 201. There are authorized to be appropriated for grants for facilities of public and other nonprofit community mental health centers under this title $15,000,000 for the fiscal year ending June 30, 1973; $15,000,000 for the fiscal year ending June 30, 1975; and $15,000,000 for the fiscal year ending June 30, 1976."

(b) (1) Section 202 (b) of such Act is amended by striking in the first sentence the words "a project for the construction of a community mental health center" and inserting in lieu thereof "acquisition and renovation of a community mental health center facility".

(2) The second sentence of such section is amended by striking the words "construction of the center" and inserting in lieu thereof the words "the center facility".

(c) Section 204(a)(4) of such Act is amended by striking the words "construction of community mental health centers" and inserting in lieu thereof the words "acquisition and renovation of community mental health center facilities".

(d) Section 204(a)(8) of such Act is amended by striking the word "construction" and inserting in lieu thereof "facility".

(e) Section 205(a) of such Act is amended by striking the word "construction" and inserting in lieu thereof the words "the acquisition or renovation of a community mental health center facility".

(f) Section 205(a)(4) of such Act is

amended by striking the words "construction of the".

(g) The third sentence of section 205(a) is amended by striking the words "of the cost of construction".

(m) Section 207 of such Act is amended to read as follows:

"SEC. 207. No grant may be made under any provision of the Public Health Service Act for any fiscal year for any project described in this title unless the Secretary determines that funds are not available under this title to make a grant for such project."

(i) The title of Part A, of such Act is amended to read "PART A—GRANTS FOR FACILITIES".

SEC. 4. (a) The heading for part B of the Community Mental Health Centers Act is amended to read as follows:

"PART B—GRANTS FOR PORTION OF THE COSTS OF OPERATION OF CENTERS"

(b)(1) Section 220(a) of such Act is amended by striking the words "compensation of professional and technical personnel for the initial operation" and by inserting in lieu thereof the words "compensation for operational costs for the operation of new community mental health centers or of new services in community mental health centers".

(2) Section 220(a) of such Act is further amended by adding at the end thereof immediately before the period the words "such as services for children and the elderly".

(3) Section 220(b) of such Act is amended to read as follows:

"(b) (1) Grants under this section for costs for any center may be made only for the period beginning with the first day of the first month for which such a grant is made and ending with the close of eight years after such first day; and except as provided in paragraph (2), such grants with respect to any center may not exceed 70 per centum of such costs for the first year after such first day, 60 per centum of such costs for the second year after such first day, 50 per centum of such costs for the third year after such first day, 40 per centum of such costs for the fourth year after such first day, 30 per centum of such costs for the fifth year after such first day, 20 per centum of such costs for the sixth year after such first day, 15 per centum of such costs for the seventh year after such first day, and 10 per centum of such costs for the eighth year after such first day.

"(2) In the case of any center providing services for persons in an area designated by the Secretary as an urban or rural poverty area, grants under this section for such costs may not exceed 90 per centum of such costs for the first year after such first day, 80 per centum of such costs for the second year after such first day, 70 per centum of such costs for the third year after such first day, 60 per centum of such costs for the fourth year after such first day, 45 per centum of such costs for the fifth year after such first day, 25 per centum of such costs for the sixth year after such first day, 15 per centum of such costs for the seventh year after such first day, and 10 per centum of such costs for the eighth year after such first day.

(c) Section 221(a) of such Act is amended by—

(1) striking the word "and" at the end of paragraph (4);

(2) striking the period at the end of paragraph (5) and inserting in lieu thereof a semicolon; and

(3) by adding after paragraph (5) the following new paragraphs:

"(6) the services to be provided by the center are made available to any health maintenance organization serving residents within the catchment area for such center;

"(7) such center has made adequate arrangements to secure all available third party payments for its services;

"(8) such center has established an evaluation program, either directly or by contract;

"(9) such center has a program whereby it screens, and where practicable, provides treatment for, persons within its catchment area who may otherwise be admitted to a State mental hospital; and

"(10) such center has a program for the followup care of persons within its catchment area who are discharged from a State mental hospital."

(d) Section 221(b) is repealed.

(e) Section 221(c) is redesignated as section 221(b) and is further amended by striking the word "and" after "1974" and by inserting before the period at the end thereof the following: "and $20,000,000 for the fiscal year ending June 30, 1976".

(f) Section 221 is further amended by adding at the end thereof the following new subsections:

"(c) Where an application for a grant under this part for a community mental health center is made, such application may not be approved unless the application provides or is supported by assurances that the applicant—

"(1) will provide in that fiscal year, either directly or through affiliation agreements, a program of comprehensive specialized services for the mental health of children. Such services must provide a full range of diagnostic, treatment, liaison and followup services (as prescribed by the Secretary) for all children and their families in the area in need of such services; and

"(2) will make available consultation and education for personnel of all schools, probation departments, and other community agencies serving children in such area;

"(d) If an application for a grant under this part for a community mental health center is made, such application may not be approved unless such application provides or is supported by assurances that the applicant—

"(1) will provide in that fiscal year, either directly or through affiliation agreements, a program of comprehensive specialized services for the mental health care of the elderly. Such services must provide a full range of diagnostic, treatment, liaison and follow-up services (as prescribed by the Secretary) for all elderly persons residing in the area in need of such services; and

"(2) will make available consultation and education for personnel of other community agencies serving the aged in such area;

"(e)(1) Where the Secretary determines that it is feasible for an applicant to provide a program for the prevention and treatment of alcoholism or drug abuse in the area to be served by the applicant and that the need for such a program is of a magnitude that would warrant the provision of such a program by the center, an application for assistance under this part may not be approved unless it contains or is supported by assurances satisfactory to the Secretary that the applicant will provide either directly or through affiliation with other public or private non-profit agencies such programs in such fiscal year; or

"(2) Where the Secretary determines that it is feasible for the applicant to assist the Federal government in treatment and rehabilitation programs for alcoholics and drug abusers in the area to be served by the applicant, an application for assistance under this part may not be approved unless it contains or is supported by assurances satisfactory to the Secretary that the center will enter into agreements with departments or agencies of the government under which agreements the center may be used (to the maximum extent practicable) in the treatment and rehabilitation programs provided by such departments or agencies.

"(f) Any community mental health center which has received approval but not the funding of its application for assistance under this Act prior to June 30, 1973, shall be given a priority with regard to assistance applied for after such date under the provisions of this part."

(g) Section 224(a) of such Act is amended to read as follows:

"SEC. 224. (a) There are hereby authorized to be appropriated to enable the Secretary to make grants to community mental health centers to cover a portion of the costs of operating expenses, under the provisions of this part, $90,000,000 for the fiscal year ending June 30, 1974; $100,000,000 for the fiscal year ending June 30, 1975; and $110,000,000 for the fiscal year ending June 30, 1976. For the fiscal year 1974, and succeeding fiscal years, there are hereby authorized to be appropriated such sums as may be necessary to make grants to such centers which have previously received a grant under this part and are eligible for such a grant for the year for which sums are being appropriated under this sentence.

(h) Section 224 of such Act is further amended by adding at the end thereof the following new subsections:

"(c) No less than 1 per centum of the amount appropriated pursuant to subsection (a) for any fiscal year shall be available to the Secretary for evaluation of programs authorized under this Act. Each community mental health center shall spend no less than 1 per centum of a grant received under subsection (a) for evaluation of its programs' effectiveness in serving the needs of its catchment area community, and reviewing the services provided by the center.

"(d) Except for Community Mental Health Centers which have received assistance under this part prior to June 30, 1973 (for which the level of assistance shall remain unchanged), assistance under this part—

"(2) to centers serving a rural or urban poverty area shall not exceed the lesser of (A) the product of the number of persons served by such center multiplied by $21 or (B) $2,500,000; or

"(2) to centers serving a rural or urban poverty area shall not exceed the lesser of (A) the product of the number of persons served by such center multiplied by $28 or (B) $3,300,000.

"(e) In making grants to community mental health centers under subsection (d)(2) of this section, the Secretary shall require assurances that such funds shall be equitably used to serve such poverty area.".

(i) Part B of such Act is further amended by adding at the end thereof the following new sections:

"GRANTS FOR CONSULTATION AND EDUCATION SERVICES

"SEC. 225. (a) The Secretary shall, beginning in the ninth year after the first year after a grant has been made under this title, make grants to Community Mental Health Centers for the costs of consultation services not to exceed—

"(1) 10 per centum of the total operating costs of such center divided by the number of years the center has been in operation in a nonpoverty area, and

"(2) 20 per centum of the total operating costs of such center divided by the number of years the center has been in operation in an urban or rural poverty area.

"(b) There are authoized to be appropriated to carry out the purposes of this section such sums as may be necessary."

PROTECTION OF PERSONAL RIGHTS OF ALCOHOLICS, NARCOTIC ADDICTS, AND OTHER PERSONS WITH DRUG ABUSE AND DRUG DEPENDENCE PROBLEMS

"SEC. 226. In making grants to carry out the purposes of this part, the Secretary shall take such steps as may be necessary to assure

that no individual shall be made the subject of any research which is carried out (in whole or in part) with funds provided from appropriations under this part unless such individual explicitly agrees to become a subject of such research.

"APPROVAL BY NATIONAL ADVISORY MENTAL HEALTH COUNCIL

"SEC. 227. Grants made under this title for the cost of acquisition and renovation of facilities and for the cost of compensation for operational costs may be made only upon recommendation of the National Advisory Mental Health Council established by section 217(a) of the Public Health Service Act. Grants under section 221(c) of this title for such costs may be made only upon recommendation of the National Advisory Council on Alcohol Abuse and Alcoholism.".

REPEAL

SEC. 5. Parts C, D, E, and F of the Community Mental Health Centers Act are repealed.

SECTION-BY-SECTION ANALYSIS OF THE COMMUNITY MENTAL HEALTH CENTERS EXTENSION ACT OF 1973

FINDINGS OF CONGRESS

Section 2(a) is a declaration of Congressional findings regarding community mental health care:

(1) community care is the most effective and humane form of care for the majority of mentally-ill and mentally-retarded individuals;

(2) there is currently a shortage and maldistribution of quality community mental health care resources in the United States;

(3) the federally funded community mental health centers have had a major impact on the improvement of care by: fostering coordination and cooperation between various agencies resulting in a decrease in overlapping services and more efficient utilization of available resources, bringing comprehensive community care to all in need within a specific geographic area regardless of ability to pay, and by developing a system of care which ensures continuity of care for all patients.

Section 2(b) is a further declaration of Congress that the obligation for ensuring the expansion of the community mental health center concept in the United States and the provision of comprehensive community care to all in need, rests with the Federal Government, and further, that Federal funds should continue to be made available for the purpose of initiating new community mental health centers and new services within existing centers, and for the monitoring of the performance of all federally-funded centers to ensure their responsiveness to community needs and national goals relating to community mental health care.

AMENDMENTS TO THE COMMUNITY MENTAL HEALTH CENTERS ACT

Authorizations for Community Mental Health Center Facilities

Section 3(a) extends the authorizations for grants for community mental health center facilities through June 30, 1976. (Present authority expires June 30, 1973). The level of authorization for each year is $15,000,000.

Grants for Acquisition and Renovation

Section 3(b) changes the grants for *construction* of centers to grants for *"acquisition and renovation"* of community mental health center facilities.

Grants for Operational Costs of Centers

Section 4(a) changes the title of Part B of the Community Mental Health Centers Act from "Grants for Initial Cost of Professional and Technical Personnel of Centers" to "Grants for Portion of the Costs of Operation of Centers".

Section 4(b)(1) makes various technical changes to establish the new program of grants for "compensation of operational costs" of centers.

Services for Children and the Elderly

Section 4(b)(2) states that grants for "operation of the centers" may be used for services for children and the elderly. (This Act would repeal the present grant program for children's mental health services.)

Changes in Matching Formula for Operational Grants

Section 4(b)(3) revises the maximum Federal matching available to any center for operational grants. The awarding of a grant would still incur a Federal obligation for a period of eight years. The following changes in the Federal matching formula would be made:

[In percent]

	Nonpoverty grants		Poverty grants	
	Present law	Proposed change	Present law	Proposed change
1st year	75	70	90	90
2d year	75	60	90	80
3d year	60	50	80	70
4th year	45	40	75	60
5th year	30	30	75	45
6th year	30	20	70	25
7th year	30	15	70	15
8th year	30	10	70	10

Additional Requirements for Operational Grants

Section 4(c) adds certain new requirements for those centers receiving operational grants:

(1) the services to be provided by the center must be made available to any health maintenance organization serving residents within the catchment area for the center;

(2) the center must have made adequate arrangements to secure all available third party payments for its services;

(3) the center must have established an evaluation program, either directly or by contract;

(4) the center must have a program whereby it screens, and where practicable, provides treatment for, persons within its catchment area who may otherwise be admitted to a State mental hospital; and

(5) the center must have a program for the follow-up care of persons within its catchment area who are discharged from a State mental hospital.

Section 4(d) is a technical amendment which repeals a section relating to expiration of authority on June 30, 1973.

Programs for drug addicts and other persons with Drug Abuse problems

Section 4(e) authorizes $20,000,000 for FY 1976 to aid those centers which are required to provide:

(1) a treatment and rehabilitation program for drug addicts and other persons with drug abuse problems or (2) assistance to the Federal government in treatment and rehabilitation programs to persons in the area served by the center. (Authorizations for this purpose were provided through FY 1975 by P.L. 92-255.)

Section 4(f) adds the following new provisions to the Community Mental Health Centers Act:

Mental Health Services for children and the elderly

Applicants for operational grants must assure that comprehensive specialized services will be provided for both children and the elderly. The applicant must also assure the availability of consultation and education to personnel of other community agencies serving children and the elderly.

Services for alcoholics and drug abusers

Applicants for operational grants must provide assurance that, when determined necessary, the center will (1) provide a program for the prevention and treatment of alcoholism or drug abuse or (2) assist the Federal government in treatment and rehabilitation programs for alcoholics and drug abusers.

Priority of approved applications for grants

Any community mental health center which has an approved but unfunded staffing application prior to June 30, 1973, will be given priority when applying for a grant for operational costs.

Authorizations for grants and operating expenses

Section 4(g) authorizes the following amounts to be appropriated for grants to centers to cover a portion of the costs of operating expenses:

Fiscal year 1974	$90,000,000
Fiscal year 1975	100,000,000
Fiscal year 1976	110,000,000

Such sums as are necessary are authorized to satisfy the eight year commitment to centers which have received a grant for operational expenses.

Section 4(h) adds the following new provisions:

Evaluation programs

No less than one percent of the amount appropriated for grants for operational expenses shall be available for evaluation of programs authorized by the Community Mental Health Centers Act. (Present law provides that the Secretary may use not more than one percent of the appropriations under any provision of the Community Mental Health Centers Act for evaluation.) In addition, each community is required to spend no less than one percent of a grant for operational expenses for evaluation of its programs' effectiveness in serving the needs of its catchment area community, and reviewing the services provided by the center.

Capitation formula for operational grants

The amount of the grants for operational expenses—

(1) to centers not serving a rural or urban poverty area shall not exceed the lesser of (a) the product of the number of persons served by such center multiplied by $21 or (b) $2,500,000; or

(2) to centers serving a rural or urban poverty area shall not exceed the lesser of (a) the product of the number of persons served by such center multiplied by $28 or (b) $3,300,000. *However,* the level of assistance for community mental health centers which received staffing assistance prior to June 30, 1973, shall remain unchanged.

Equitable use of funds

When making grants to centers in poverty areas, the Secretary is to require assurances that the funds will be used equitably to serve the poverty area.

Section 4(i) adds the following new provisions

Consultation and education services

Beginning in the ninth year after a grant has been made under the Community Mental Health Centers Act, the Secretary is to make grants to community mental health centers for the costs of consultation not to exceed—

(1) 10 percent of the total operating costs of such center divided by the number of years the center has been in operation in a nonpoverty area, and

(2) 20 percent of the total operating costs of such center divided by the number of years the center has been in operation in an urban poverty area. Such sums as are necessary to carry out these provisions are authorized.

(Present law, Section 264 of the CMHC Act authorizes $5,000 for the fiscal years 1971 through 1973 for consultation grants and such sums as necessary for continuation grants.)

Protection of personal rights of alcoholics, narcotic addicts, and other persons with drug abuse and drug dependence problems

The Secretary is to take such steps as necessary in making grants for operational expenses, to assure that no individual shall be made the subject of any research which is carried out with funds provided from appropriations for operational grants unless such individual explicitly agrees to become a subject of research.

Approval by National Advisory Mental Health Council

Grants made for the cost of acquisition and renovation of facilities and for operational expenses may be made only upon recommendation of the National Advisory Mental Health Council established by the Public Health Service Act. Where centers are required to provide services for alcoholics, grants may be made only upon recommendation of the National Advisory Council on Alcohol Abuse and Alcoholism. (These provisions are presently contained in the Community Mental Health Centers Act.)

Repeal of certain sections

Section 5 repeals the following parts of the Community Mental Health Centers Act:

Part C—Alcoholism.

Part D—Narcotic Addiction, Drug Abuse, and Drug Dependence Prevention and Rehabilitation.

Part E—General Provisions.

Part F—Mental Health of Children.

By Mr. HUMPHREY (for himself and Mr. MONDALE):

S. 1999. A bill to confer pensionable status on veterans involved in the Brownsville, Texas incident of August 13, 1906, and to require the Administrator of Veterans' Affairs to make certain compensatory payments to such veterans and their heirs. Referred to the Committee on Veterans' Affairs.

BROWNSVILLE INCIDENT SURVIVORS AND FAMILIES

Mr. HUMPHREY. Mr. President, I introduce today a bill to provide just compensation for the Brownsville incident survivors and families.

In this day of disillusionment with our institutions, we in government have a duty to demonstrate that we can admit an error and can correct a terrible wrong.

The wrong I am talking about is the so-called Brownsville incident, a shocking and flagrant case of injustice.

The incident, as you are aware, stemmed from a shooting in the border town of Brownsville, Tex., on a hot, steamy night in August, 1906. Five of 20 soldiers of the all-black 25th Infantry Regiment stationed outside the town were said to be involved in the disturbance. Without, according to them, a hearing, President Theodore Roosevelt summarily removed from the Army all 167 soldiers of the regiment in Brownsville based upon their failure to inform on the alleged guilt of the actual participants in the disturbance.

These men were punished for a crime for which they were never formally charged, never formally tried, and never convicted. Not only were they summarily removed from the Army, but they, and I quote from the orders, were also "forever debarred from reenlisting in the Army or Navy of the United States, as well as from employment in any civil capacity under the government."

On September 22, 1972—66 years after this shocking decision—mainly through congressional pressure, the Secretary of the Army cleared the soldiers' records and termed their removal a gross injustice. Yet, in clearing the soldiers' records, the Army specifically stated that—

No back pay, allowances, benefits or privileges shall accrue by reason of the issuance of this order to any heirs or descendents.

This is not justice. In my opinion, justice demands that the survivors and the surviving families of this tragic incident be awarded the past benefits to which they would have been entitled if they had not been dismissed.

I believe justice also requires that these men and their families be provided reasonable compensation for the economic deprivation and personal suffering that they undoubtedly have been made to endure through the discharge without honor.

I have personal knowledge of the deprivation suffered by one of the Brownsville veterans. He is 87-year-old Dorsie Willis, a constituent of mine from Minneapolis, Minn. I had the privilege of meeting with Mr. Willis today, and heard firsthand from him about the Brownsville incident. Mr. Willis is a fine, outstanding citizen. He is well respected in Minnesota. Yet, his life is a poignant example of the irrepable harm done to him because of this tragic Army decision 67 years ago. Mr. Willis told me he had wanted to stay in the Army, make it his career, but because of his unjust discharge he has been forced to spend his life shining shoes in a bank building in Minneapolis, being unable to find other work.

Mr. President, it is reasonable to assume that, in nearly every other case, this unjustified action by the Department of the Army and the President destroyed for these men and their families the hope and opportunity of a better life.

This Nation owes these men and their families an apology in fact and deed, not just in words.

Since last fall I have been in touch with Congressman HAWKINS—whom I thank and congratulate for his leadership in this matter—Congressman FRASER, Senator VANCE HARTKE, chairman of the Senate Veterans' Affairs Committee, Senator MONDALE, and others, to seek just compensation for Mr. Willis and the other survivors and families.

My bill provides pension benefits to the many of these men who undoubtedly would have been entitled to them in varying degrees had they not been improperly separated from the military service.

In addition, it provides a reasonable sum in compensation for mental pain and suffering, and the many social hardships which the discharge without honor undoubtedly caused these men and their families.

The legislation would provide for, first, a lump sum payment of $40,000 as compensation for each surviving veteran and/or his surviving immediate family members as a group and, second, the past benefits to which they would have been entitled based upon mandated qualification under the veterans' benefits and pension laws.

Some concern is expressed that this legislative approach would establish an undesirable precedent. A Veterans Administration report argues that such a bill would set unfortunate precedents and would be "discriminatory" in favor of the Brownsville soldiers and against other veterans.

I disagree with this. The Brownsville incident is a unique case of mass punishment. Even the Department of the Army has admitted to that. Further, in my opinion, even if one assumes that the bill does set a precedent, if such a tragic case were ever to reoccur, the Government would be just as obligated in that case, as in this, to provide a legal remedy. So, if this does establish a precedent, it's a highly desirable one.

In my opinion this bill provides a remedy that approaches adequacy, and even this compensation doesn't compensate these people for the grievous injustices which resulted from Government action through no fault of their own. It was the Government that injured these men, and it is up to the Government to correct that injustice.

It has been contended that there may be adequate administrative remedies already authorized under existing law. Section 1552 of Title 10, United States Code, does provide the Secretary of the Army authority, acting through a Civilian Board for the Correction of Military Records, to correct records and rectify errors, where, in the Secretary's judgment, he deems it necessary to remove an injustice. It also grants him authority to pay claims for loss of military related pay and allowance.

But the Secretary's authority does not extend to benefits under laws administered by the Veterans' Administration.

To receive the benefits of section 1552 a claimant must file a request within 3 years after the error or injustice is discovered. The Secretary may, however, excuse failure to file during this period if such action would serve the ends of justice.

The administrative remedy provided by section 1552 is fraught with uncertainty.

The Secretary has no authority, for example, to compensate anyone for mental pain and suffering, social hardships associated with loss of reputation or other damages not related to military status; and, as I have previously stated, he has no jurisdiction over the payment of veterans' pensions and other similar benefits within the jurisdiction of this committee and the Veterans' Administration. Further, to prosecute a claim under section 1552, a person would need legal assistance, and the time required to process a claim might take as long as 18 months or 2 years within the Department of the Army. Consideration also has to be given to the fact that the claimant has the burden of proving his claim, and

in this case, there may be serious difficulties encountered in establishing the facts, finding the records, obtaining witnesses and the like. Even if all of these difficulties are overcome, no one can say whether or not the Secretary will approve the claim. He could, for example, take the position that the claim was not filed in a timely manner.

In that event, an appeal could be taken through the Federal courts. This, of course, would also be time consuming, expensive, and no one can say whether or not it would be successful.

Even if all of these pitfalls were overcome and a claim were successfully prosecuted, the amount of recovery would be pitifully small. For example, if Dorsie Willis were to recover pay and allowances for the balance of his 4 years enlistment—3 years—he would receive the paltry sum of $540, not including interest. This is because privates in the Army received only $15 per month in pay and allowances prior to 1922.

In summary, there is nothing covered by section 1552 which would provide even the minimum compensation proposed in my bill. No remedy exists under existing law for loss of veterans' pensions, mental suffering, humiliation, loss of employment and the innumerable other indignities and hardships which were the fate of the Brownsville soldiers as a result of the Government's arbitrary and socking action.

For these reasons, I will be urging the House and Senate Veterans' Affairs Committees to consider and favorably report this legislation as soon as possible.

We have received this morning a copy of a report from the Secretary of the Army which endorses, in general, compensation for the surviving members of the Brownsville incident or their widows, through legislation. Such legislation, the Army suggests, would provide for payment from appropriations currently available to the Department of Defense for military retired pay.

I will be looking into this possibility carefully, but this suggestion does not appear to provide an adequate and just resolution of this matter.

I strongly believe this bill I have introduced today or comparable action are needed to make sure that the victims of this shameful chapter of American history and their families receive compensation for the years of economic hardship, denial of opportunity, and personal anguish they have endured.

By Mr. DOMENICI:

S. 2001. A bill to redesignate the Alamogordo Dam and Reservoir, N. Mex., as Sumner Dam and Lake Sumner, respectively. Referred to the Committee on Interior and Insular Affairs.

Mr. DOMENICI. Mr. President, today, I am introducing a bill designed to change the name of Alamogordo Lake near Fort Sumner, N. Mex., to Lake Sumner. Our action is needed on this matter because Federal funds were used in constructing the dam and reservoir. I believe our passing this bill would eliminate a great deal of confusion that has resulted from that lake being named Alamogordo while there is a town 160 miles away that is also named Alamogordo. I have heard of numerous instances in which fishermen have driven to Alamogordo—the town—to fish in Alamogordo Lake, only to find they were 160 miles from their destination. I ask that we pass favorably on this measure to rename Lake Alamogordo to Lake Sumner and Alamogordo Dam to Sumner Dam.

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

S. 2002. A bill to further amend the Economic Stabilization Act of 1970, as amended, to authorize the President to prohibit or curtail the exportation of articles, commodities or products from the United States, and for other purposes. Referred to the Committee on Banking, Housing and Urban Affairs.

Mr. TOWER. Mr. President, I introduce for Senator SPARKMAN and myself a bill to further amend the Economic Stabilization Act of 1970, as amended, to authorize the President to prohibit or curtail the exportation of articles, commodities or products from the United States, and for other purposes. I ask unanimous consent that the bill and an explanatory statement concerning the bill be printed in the RECORD at this point.

There being no objection, the text of the bill and the explanatory statement were ordered to be printed in the RECORD, as follows:

S. 2002

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled. That section 203 of the Economic Stabilization Act of 1970, as amended, is further amended by adding at the end thereof the following new subsection:

"(k) Notwithstanding any other provision of law, the President is authorized by orders and regulations, whenever he determines such action to be appropriate to stabilize prices, rents, wages and salaries, to prohibit or curtail in such manner and upon such conditions as he deems appropriate for such purposes, the exportation from the United States, its territories and possessions, of any articles, commodities or products. In prescribing orders and regulations under this subsection, the President may allocate exports, amounts or quotas on such basis as he determines to be in the national interest, including allocation on a country, regional, or other geographical basis so as to prevent undue distortion of world trade."

STATEMENT OF PURPOSE AND NEED

The unrestrained exportation of certain articles, commodities, and products can lead to disruption of the Economic Stabilization Program that was initially established on August 15, 1971, by President Nixon under the Economic Stabilization Act of 1970. Legislative authority is needed to expressly allow the President to combat such disruptive exports. Specifically, the legislation would authorize the President by orders and regulations, whenever he determines such action to be appropriate to stabilize prices, rents, wages and salaries, to prohibit or curtail in such manner and upon such conditions as he deems appropriate for such purposes, the exportation from the United States, its territories and possessions, of any articles, commodities or products. In prescribing orders and regulations under the legislation, the President may allocate exports, amounts or quotas on such basis as he determines to be in the national interest, including allocation on a country, regional or other geographical basis so as to prevent undue distortion of world trade. The duration of this authority to prohibit or curtail exports would coincide with that of the Economic Stabilization Program, i.e., it would expire at midnight, April 30, 1974.

Mr. TOWER. Mr. President, I would like to announce that hearings by the Committee on Banking, Housing and Urban Affairs on this bill will commence at 10 a.m. on June 25, 1973, in room 5302, Dirksen Building. Anyone wishing to testify or present a statement on his matter should contact Mr. Reginald Barnes at 202–225–7391, room 5300, Dirksen Building, Washington, D.C.

This is legislation that the President called for in his television address last evening, designed to allow him to develop his phase IV and provide for vigorous supplies for domestic consumption when the occasion demands that exports be curtailed.

By Mr. PERCY (for himself, Mr. RIBICOFF, and Mr. JAVITS).

S. 2003. A bill to extend the period within which the President may transmit to the Congress plans for the reorganization of agencies of the executive branch of the Government, and for other purposes. Referred to the Committee on Government Operations.

EXTENSION OF REORGANIZATION ACT

Mr. PERCY. Mr. President, I introduce for appropriate reference a bill to extend the period within which the President may transmit to the Congress plans for the reorganization of agencies of the executive branch of the Government.

The Office of Management and Budget, on behalf of the administration, has transmitted to the Congress a bill to extend the Reorganization Act for 4 years, until April 1, 1977.

My bill would also extend the act for 4 years, but would add a significant new provision that would give the Congress an opportunity to examine and comment on a proposed reorganization plan 30 days prior to its formal submission. By airing a proposed reorganization plan in advance, both the executive and legislative branches would become aware of any potential problems posed by the plan, and appropriate modifications could be made by the Executive before the plan was submitted formally. As has been the practice under the Reorganization Act, no amendments could be made to the plan once it was formally transmitted.

I believe that this change in procedure, permitting the Congress 30 days advance notice and consultation, is needed to strengthen congressional consideration of reorganization plans. I am assured that the administration will support this change.

I do not believe that any further strengthening of Congress role in the reorganization plan process is either necessary or desirable. The value of the traditional resolution-of-disapproval procedure is that reorganizations, which are managerial but not substantive in nature can be handled expeditiously without doing violence either to congressional

prerogatives or to the separation of powers concept.

I am recommending that the act be extended for 4 years instead of the customary 2 years, because I believe that basic reorganization procedure has proven to be effective over time. Since 1949, 93 reorganization plans have been submitted of which 73 have been accepted, 19 rejected, and 1 nullified.

I am pleased that the distinguished chairman of the Subcommittee on Reorganization, Research, and International Organizations (Mr. RIBICOFF) has joined me as principal cosponsor of this bill.

Mr. President, the bill has four major provisions. It would:

First. Extend the Reorganization Act for 4 years, until April 1, 1977.

Second. Add a requirement, as I have mentioned, for advance notice to Congress 30 days prior to formal submission of a plan, to allow time for consultation and modification.

Third. Delete the restriction in present law that only one plan may be transmitted in any 30-day period. This limitation causes scheduling difficulties for the executive branch and is made unnecessary by the new advance notification provision.

Fourth. Delete the provision of present law that requires a showing and an itemization of savings resulting from each reorganization. This requirement has led to expectations that dollar savings would be the principal accomplishment of reorganization actions. Experience has shown that the greatest benefits have been more effective and efficient Government, and better service to the public, rather than significant dollar savings.

Mr. President, I believe that renewal of the reorganization authority is needed, and I urge prompt enactment of this bill. I ask unanimous consent that the bill be printed in the Record at this point.

The PRESIDING OFFICER. Without objection it is so ordered.

S. 2003

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 903 (b) of title 5, United States Code, is amended to read as follows:

"(b) The President shall have a reorganization plan delivered to both Houses on the same day and to each House while it is in session. In his message transmitting a reorganization plan, the President shall specify with respect to each abolition of a function included in the plan the statutory authority for the exercise of the function."

(b) Section 903 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(c) In order to provide an opportunity to receive and consider proposed modifications and amendments, the President shall send to the President of the Senate and the Speaker of the House of Representatives, not less than thirty days prior to transmittal of a plan, notice of the proposed reorganization and shall include a statement of the purposes and substance of the proposed reorganization."

(c) Section 905 (b) of title 5, United States Code, is amended by striking out "April 1, 1973" and inserting in lieu thereof "April 1, 1977".

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 557

At the request of Mr. SCHWEIKER, the Senator from Pennsylvania (Mr. SCOTT) was added as a cosponsor of S. 557, to provide that U.S. Flag Day shall be a legal public holiday.

S. 973

At the request of Mr. HOLLINGS, the Senator from Alaska (Mr. STEVENS) was added as a cosponsor of S. 973, to amend section 2414 of title 28, United States Code, to provide for the recovery of attorney's fees and expenses in certain actions brought by or against the United States.

S. 1006

At the request of Mr. DOMINICK, the Senator from Texas (Mr. TOWER) was added as a cosponsor of S. 1006, to amend the Public Health Service Act to extend the provisions of section 601 thereof, and for other purposes.

S. 1349

At the request of Mr. CHURCH (for Mr. ABOUREZK) the Senator from Illinois (Mr. STEVENSON) was added as a cosponsor of S. 1349, to require the Secretary of Agriculture to carry out all rural housing programs of the Farmers Home Administration.

S. 1483

At the request of Mr. INOUYE, the Senator from Oklahoma (Mr. BELLMON) was added as a cosponsor of S. 1483, to amend the Export Trade Act.

S. 1637

At the request of Mr. BAYH, the Senator from Minnesota (Mr. HUMPHREY) was added as a cosponsor of S. 1637, to discourage the use of painful devices in the trapping of animals and birds.

S. 1828

At the request of Mr. ROBERT C. BYRD, the Senator from Wyoming (Mr. MCGEE) was added as a cosponsor of S. 1828, requiring confirmation by the Senator of the Mine Enforcement and Safety Administrator.

S. 1844

At the request of Mr. CHURCH (for Mr. ABOUREZK) the Senator from Tennessee (Mr. BAKER), the Senator from Indiana (Mr. BAYH), the Senator from Nevada (Mr. BIBLE), the Senator from Missouri (Mr. EAGLETON), the Senator from North Carolina (Mr. ERVIN), the Senator from Hawaii (Mr. FONG), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Hawaii (Mr. INOUYE), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Minnesota (Mr. MONDALE), the Senator from Illinois (Mr. STEVENSON), the Senator from California (Mr. TUNNEY), and the Senator from New Jersey (Mr. WILLIAMS) were added as cosponsors of S. 1844, to provide for the establishment of an American Folklife Center in the Library of Congress.

S. 1868

At the request of Mr. HUMPHREY, the the Senator from Connecticut (Mr. RIBICOFF) was added as a cosponsor to S. 1868 a bill to amend the United Nations Participation Act of 1945 to halt the importation of Rhodesian chrome and to restore the United States to its position as a law-abiding member of the international community.

S. 1870

At the request of Mr. BEALL, the Senator from Maryland (Mr. MATHIAS) was added as a cosponsor of S. 1870, to amend the Communications Act of 1934 to provide that licenses for the operation of a broadcasting station shall be issued for a term of not to exceed 5 years.

SENATE JOINT RESOLUTION 121

At the request of Mr. GOLDWATER, the Senator from New Mexico (Mr. DOMENICI) was added as a cosponsor of Senate Joint Resolution 121, authorizing the President to proclaim September 28, 1973 as "National Indian Day."

SENATE CONCURRENT RESOLUTION 31—SUBMISSION OF A CONCURRENT RESOLUTION EXPRESSING THE SENSE OF CONGRESS AGAINST INCREASES IN THE PRICE OF NATURAL GAS

(Referred to the Committee on Commerce.)

Mr. MOSS. Mr. President, the President's energy message called for an end to the system under which the FPC, through its regulatory process, sets ceiling prices based on the costs of production, but the staff of FPC challenged this premise. While it is essential that we step up exploration and development of gas reserves, I am not convinced that simply increasing the price will have that effect. Private investments in exploration and development did not increase substantially with the last price raise. We have an obligation to the consumer that his cost of living not increase without something in return for his money.

We are all aware of the energy crisis and of shortages developing this summer all across the land, but the FPC approval of increases of 73 percent above previously determined ceilings is intolerable in light of the uncertainty now existing and the lack of available factual data. We need a moratorium on any price increase above the price of natural gas in effect on June 1, 1973, until such time as studies now in progress are completed.

I am, therefore, submitting a concurrent resolution holding the price of natural gas at ceilings in effect on June 1, 1973, until January 1, 1974, when ongoing studies will have been completed.

We have an obligation to the consumer that we cannot shirk.

The concurrent resolution reads as follows:

S. CON. RES. 31

Resolved by the Senate (the House of Representatives concurring),

Whereas the price of natural gas directly affects the cost of living incurred by all American citizens; and

Whereas the Federal Power Commission is required by the Natural Gas Act to prescribe just and reasonable rates on the basis of cost for natural gas; and

Whereas the Supreme Court has declared

that the Federal Power Commission is obliged to "afford consumers a complete permanent and effective bond of protection from excessive rates and charges"; and

Whereas the Federal Power Commission has recently approved selective increases of 73 percent above previously determined area rate ceilings in the price of natural gas, resulting in an estimated rate of return of 27.5 percent, almost doubling the previously established reasonable rate of return, and adding a severe economic burden on a large number of consumers; and

Whereas the legitimacy of such increases is challenged as tantamount to "deregulation" of producer rates in contravention of law; and

Whereas the Congress has under active review the question of whether or not a legitimate shortage in the available supply of natural gas exists whether or not such shortage is price induced or price curative; and

Whereas the Federal Trade Commission has a similar study in progress; and

Whereas the results of these studies and inquiries are essential to determining what shall constitute just and reasonable prices and rates of return: Now, therefore, be it *Resolved by the Senate (the House of Representatives concurring)*, That it is the sense of the Congress that, inasmuch as there is at present inadequate information as to the available supply of natural gas, and since such needed information will become available by January 1, 1974, that, prior to January 1, 1974, it will be contrary to the public interest for the Federal Power Commission to permit increases in the price of natural gas above the administratively determined area rate ceilings in effect on June 1, 1973, provided that the Commission may prior to January 1, 1974, consider and approve petitions for special relief from such rates, pursuant to Section 154109(f) of the Commissioner's regulations in instances where, based on evidentiary record the Commission finds such relief to be cost justified.

GRANTS OF RIGHTS-OF-WAY ACROSS CERTAIN FEDERAL LANDS—AMENDMENTS

AMENDMENT NO. 224

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

Mr. HASKELL. Mr. President, the court's decision in the case of the Wilderness Society et al. against Rogers C. B. Morton, et al., gives the Congress an opportunity to make a decision as to the most desirable way to transport the North Slope oil from Alaska to the lower 48 States.

The North Slope oil is a national resource and represents approximately one-fifth of our Nation's proven resources. The recent fuel shortages which have plagued our Nation are ample evidence that we must determine the best use of this resource for the Nation as a whole.

Two basic routes have been proposed—one a trans-Alaska route, the other a trans-Canada route. S. 1081, if adopted, without amendment, would represent a decision by the Senate to transport the oil over the trans-Alaska route.

A careful look at the events which have brought us thus far reveals the following:

First. No independent agency has assessed the relative economic benefits and liabilities of the two routes.

Second. No independent agency has assessed the relative environmental benefits and risks of the two routes.

Third. No independent agency has ever examined the oil needs of the lower 48 States on a regional basis to determine where the oil can best be used.

Fourth. No independent agency has ever conducted official negotiations with the Canadian Government to determine if a trans-Canada route would be desirable or acceptable.

Mr. President, the Senate of the United States is being asked to put its seal of approval on a decision—made by the oil companies—as to the transportation route for this oil. The importance and magnitude of the oil resource obligates Congress to secure the basic information and make the decision.

I am not suggesting that we should delay the delivery of the North Slope oil to the oil hungry regions in the lower 48 States. In fact I believe the course set forth in the amendment I am submitting today to S. 1081 will result in a faster go-ahead than is possible without the amendment.

The pipeline has been subject to agonizing delays in the courts of the United States. The first mention of the 25-foot width limitation for rights-of-way across Federal lands, for example, came in a conclusion of law from the U.S. District Court over 3 years ago—April 28, 1970.

If the Congress accepts its responsibility to make this vital decision the court delays would be eliminated. Since the Congress would be making the decision the procedural requirements of the National Environmental Policy Act which must be followed by administrative agencies and departments would not apply. If we pass S. 1081 in its present form, litigation will unquestionably be renewed and will continue to delay the delivery of this oil.

Those who favor the trans-Alaska route should favor my amendment. If they are confident their route is in the best interest of the Nation as a whole and can withstand careful scrutiny they should join in the amendment. Similarly those who favor the trans-Canada route would have an opportunity to prove their case.

Right now we do not have the information on which to make a decision. This is admitted in the Department of the Interior's environmental impact statement on the trans-Alaska route which states:

Data does not exist to definitely state the relative efficiencies of TAPS (Trans-Alaska Pipeline System) and MacKenzie Valley Pipeline System.

We have an obligation to secure the information and to make a decision.

I ask unanimous consent that the text of my amendment be printed at this point in the RECORD.

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

AMENDMENT NO. 224

Beginning on page 32, line 14 strike through page 35, line 23, and insert in lieu thereof the following:

TITLE II—DELIVERY OF NORTH SLOPE OIL FROM ALASKA

SEC. 201. (a) The Congress hereby finds that facilitating the early delivery of oil resources available on the North Slope of Alaska to domestic markets in the 48 coterminous states is in the national interest.

(b) The Congress declares that it is the purpose of this title to secure information necessary to determine the most desirable route over which to transport that oil and to provide for a decision by the Congress based on that information as to which route shall be followed.

SEC. 202. (a) Notwithstanding any other provision of this Act, the Secretary may not grant or issue a right-of-way to transport oil by pipeline from the North Slope of Alaska to the Alaskan coast for a twelve complete month period after the enactment of this Act.

(b) (1) The Comptroller General of the United States shall study the economic aspects of delivery of oil from the North Slope of Alaska (i) by pipeline to the Alaskan coast and by tanker fleet south to any other port of the United States, and (ii) by pipeline to the border between the State of Alaska and Canada, then through Canada to the forty-eight coterminous States.

(2) The Director of the National Science Foundation, wherever possible in cooperation with governmental agencies, universities or research institutions in Canada, shall study the environmental aspects of delivery oil from the North Slope of Alaska (i) by pipeline to the Alaskan coast and by tanker fleet south to any other port of the United States, and (ii) by pipeline to the border between the State of Alaska and Canada, then through Canada to the forty-eight coterminous States.

(3) The Comptroller General and the Director shall each report to the Congress the results of his study no later than nine months from the date of enactment of this Act.

(c) (1) The President of the United States is authorized and requested, utilizing the services of the Secretary and the Secretary of State, to enter into negotiations with the appropriate officials of the Government of Canada to ascertain within nine months of the date of enactment of this Act the feasibility of construction, operation, and maintenance of pipelines or other transportation systems across Canadian territory for the transport of oil from Alaska's North Slope to markets in the coterminous forty-eight States.

(2) For purposes of determining such feasibility and as a result of the negotiations authorized under clause (2), the President, within nine months of the date of enactment of this Act, shall submit to the Congress his findings on:

(A) the estimated feasible date for commencement and completion of such pipelines or other transportation systems;

(B) the quantity of oil from the North Slope of Alaska for which the Government of Canada would guarantee transit;

(C) the willingness of the Government of Canada to permit the construction of such pipelines or other transportation systems;

(D) the need for understandings, agreements or treaties to protect the interests of the Governments of Canada and the United States and any party involved with construction, operation, and maintenance of such pipelines or other transportation systems;

(E) the possible ownership and financing of the Canadian sector of such pipelines or other transportation systems;

(F) the desirability of undertaking joint studies and investigations designed to insure protection of the environment, reduce legal and regulatory uncertainty, and insure that the energy requirements of the people of Canada and of the United States are adequately met; and

(G) any other negotations which he may deem relevant to the national interests of the Governments of Canada and the United States.

(d) (1) Within three months of the submission of the reports of the President, the

Comptroller General of the United States, and the Director of the National Science Foundation, or prior to one year from the date of enactment of this Act, whichever is earlier, Congress shall, upon consideration of those studies, enact legislation directing the Secretary of the Interior to issue a certain right-of-way or certain rights-of-way for the transportation of crude oil from the North Slope of Alaska to the coast of Alaska for further transit to the ports of the coterminous forty-eight States and/or to the border between the States of Alaska and Canada, for further transit to the southern border of Canada and to markets in the forty-eight coterminous States.

(e) Should Congress fail to act within the period established in subsection (d), the Secretary may then proceed to issue what ever rights-of-way, and take whatever further actions he may deem necessary to effect the transportation of oil from the North Slope of Alaska.

SEC. 202. Such funds are hereby authorized to be appropriated as are necessary to implement the provisions of this title.

AMENDMENT NO. 226

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

AN AMENDMENT TO S. 1081 TO SPEED CONSTRUCTION OF THE TRANS-ALASKA PIPELINE

Mr. GRAVEL. Mr. President, the Senate will be faced shortly with a choice that goes to the very roots of the constitutional authority and prerogatives of this body. We will be asked to act decisively and forthrightly on an issue of great national importance and need. If we choose not to act, we will pass the decision making over to another branch of Government, with an inevitable delay that can be extremely hurtful to the United States.

The issue is the trans-Alaska pipeline, and the need of this Nation for the oil products it will supply.

The choice is embodied in two legislative proposals that are now before it. One bill was reported earlier this week by the Senate Interior Committee. This, the Jackson bill, is a good bill. The problem is that it does not go far enough.

The other proposal is an amendment to the Jackson bill that I am submitting now to S. 1081. This amendment enables the Senate to put an end to the considerable delay that has effected this vital project.

My amendment would have the Congress find that the environmental requirements applicable to the project have been fulfilled.

This major omission from the Jackson bill is a severe shortcoming. It is to remedy this that I am introducing my amendment today. I intend to offer it for debate and a vote.

This country is confronted with a crisis of supply in its most precious resource, energy. The warning signs have been appearing with urgency for the last year. Schools and factories were closed, because there was no fuel to heat them. Gasoline shortages are occurring, with dire consequences to some and inconvenience to others. Generally, the impact and scope of the crisis have not been fully realized. It has been understated, not exaggerated.

There is another troubling side to this crisis that threatens the world economic posture of this Nation. As our dependency on imported oil grows, so does our balance of payments deficit. This has produced two recent dollar devaluations. Some believe we are on the verge of a third such devaluation, either de facto or declared.

While there is no total panacea immediately available, there is a shortrun remedy that will reduce the crisis. We must exploit to the fullest our domestic oil resources. This will relieve the shortages and at the same time stem the outflow of dollars from this country.

I have likened the crisis to a hemorrhage, with the oil from Alaska's North Slope being a tourniquet we refuse to employ. Our reluctance to use the means at hand to help meet our problems is ironic. At the same time, we suffer inconvenience and a weakening of the dollar, we have found every excuse imaginable to avoid using what is immediately available to relieve our suffering.

I hope that the Senate will depart from this and act decisively to employ the tourniquet. The legislation I am introducing is a vehicle to give a prompt go-ahead for construction of the trans-Alaska pipeline, which in turn will relieve our Nation's crisis.

Let us be clear on this point. The Jackson bill will not provide for construction of the trans-Alaska pipeline. It will only clear up a narrow technicality and defer the major decision to the Courts. The issue has been in the courts for too long already. The United States cannot afford to wait for the year and one-half or 2 years that the courts will take to reach a final decision.

I support the Jackson bill for what it does. Congress must approve it or we will not be able to keep up the delivery of oil in this country. But, the Congress must also act promptly to bring new sources of oil on line. It must act to build the trans-Alaska pipeline.

There are two roadblocks to construction of the trans-Alaska pipeline. The Court of Appeals in February of this year, ruled that the permits for construction right of way, issued by the Secretary of the Interior, did not comply with the law. The justices cited the 1920 Mineral Leasing Act that allows a width of 25 feet on either side of the pipe, plus the pipe itself. This would allow only 54 feet for the Alaska pipeline. No one argues that this is sufficient to build any pipeline anywhere, let alone in Alaska.

In practice, the Interior Department had issued special land use permits for other pipelines that needed additional width for construction. It was this practice that was ruled invalid, affecting the Alaska pipeline directly, and indirectly threatening every other pipeline in the Nation that crosses public land.

The court, in a unanimous opinion, said it could no nothing further with the pipeline until Congress changed the law. This the Jackson bill will do.

The other roadblock is the sufficiency of the environmental impact statement, prepared by the Interior Department under the requirements of the National Environmental Policy Act of 1969. The Court of Appeals ruled in a close 4-to-3 decision, that it could not decide the sufficiency of the impact statement until Congress amended the Mineral Leasing Act. The three justices dissenting on this, felt the court should have instead ruled that the statement was sufficient.

My amendment to the Jackson bill will remove both roadblocks to construction. Congress will in fact be ruling that the environmental statement is sufficient, and will be amending the law to provide for a realistically wide pipeline corridor.

My amendment does not overturn the National Environmental Policy Act. Instead, it substitutes the judgment of the Congress for that of the courts in determining the sufficiency of the impact statement.

I would not want to overturn NEPA. I cosponsored that bill in 1969, and voted for it. I have great respect for it, believing it to be one of the landmarks for enlightened legislation.

Just as this amendment does not overturn NEPA, neither does it exempt the trans-Alaska pipeline from the law. It would be tardy for us to do that now anyway, since the statement has been completed.

Let me stress this point: The Congress, in adopting my amendment, is simply saying that the terms of the NEPA law have been fulfilled; the impact statement demanded by NEPA is sufficient under the terms of that act.

The statement is sufficient. I am convinced that the protective measures and devices built into the plans for the pipeline will give full protection to Alaska's environment and wildlife. With the possible exception of the space program, no engineering project has ever been examined more exhaustively than the pipeline.

The impact statement itself is the result of 2 years study by the Interior Department that cost $9 million. An additional $350 million was spent by the Aleyeska Pipeline Service Co. on engineering and environmental studies. The State of Alaska, several Federal agencies and at least a dozen universities and research institutions were involved in investigating all facets of the project. The total expenditure is in excess of $400 million.

A cursory examination of the six volume impact statement will show the overriding concern for protecting the environment of Alaska. I urge my colleagues to study the report. I know that such effort will remove whatever doubts you may have about its adequacy.

There are some who say that the Congress lacks the authority to act on the question of the pipeline's environmental impact statement. Others say that it is not proper for the Congress to make the decision, that it is the responsibility of the courts.

To both groups I note that no one doubts the authority of the Congress to act on corrective legislation or to substitute its judgment for that of the courts regarding legislation it has passed into law. In fact, much of the legislation we deal with falls into this category. There are clear instances of settlements, notably the Alaska land claims, which were arbitrated by the Congress entirely, not by the courts.

In reality, the question can be decided

either by the Congress or the courts. If we make the decision, the courts will be relieved of the responsibility. If we defer, then the courts will be compelled to make the decision. Both of us have the authority to make the decision. Our decision will have the same validity as the court's decision.

This fact is recognized by some opponents of the trans-Alaska pipeline. They would have the Congress authorize a study comparing the trans-Alaska pipeline and one through Canada. Congress would, on the basis of the report, authorize the construction of one line or the other. The Congress would in effect be ruling on the environmental impact of each line, substituting its decision for that of the courts.

While I have serious reservations about this proposal, they rest in the merits of building either one pipeline or the other, not in the authority of Congress to make the decision. I agree with them that Congress could make such a decision. But I would hope they recognize that if Congress can make the decision under their proposal, it can also do so under mine.

Moreover, I would invite their support for my amendment. The North Slope of Alaska has sufficient oil to support two pipelines, one through Canada, the other through Alaska.

The Jackson bill with my amendment would give the immediate go-ahead for the Alaska line and at the same time start the lengthy process toward construction of another pipeline through Canada.

The main point is that the urgency of the Nation's energy crisis demands that the Congress apply its decisionmaking authority in this area. It would be much easier for us to do only what we have to do—clear up the technical right of way problems and let the court handle the rest. Circumstances demand that we not pass the buck.

I believe that the constituents of all of us in this Chamber will demand the same. As energy shortages worsen this summer and as the international strain on the dollar increases, they will demand that we take direct action to meet their needs. They will feel we have abdicated our responsibility if we refer a decision on the trans-Alaska pipeline to the courts.

What happens if the Jackson bill passes without my amendment? A final bill will clear the Congress and be signed into law probably some time in October of this year. The matter would then be taken up by the Court of Appeals. The Appeals Court justices may return it to the district court for further action before ruling on it themselves. An appeal to the Supreme Court is a certainty.

This process will take at least 1½ years. Two years or more is reasonable. Only then could construction of the pipeline begin.

What happens if my amendment to the Jackson bill is adopted? The amended bill would be signed into law in October of this year. Construction of the trans-Alaska pipeline could then begin sooner than the Jackson bill, without the amendment, would allow.

The bottom line is that the Alaska pipeline will be built some 2 years sooner with my amendment than without it. What does that 2 years mean?

Each day that goes by, delaying construction puts off by 1 day the time when oil flows through the pipeline. That will initially be at the rate of 600,000 barrels a day. When the pipeline gets up to full capacity, it will carry 2 million barrels of oil a day. My amendment will mean that we will have that 2 years sooner.

We are currently using 16.6 million barrels of petroleum products each day, 6.6 million of which are imported. We cannot afford to postpone by 2 years the time when we can offset that with North Slope oil. The pipeline will supply one-eighth of our total daily consumption. It will supply one-third of our imports. We need that oil today. We cannot postpone it 2 years.

Each day that goes by increases our balance-of-payments deficit through our purchase of foreign oil. Supplying one-third of our current imports domestically will significantly reduce the more than $10 million per day that is added to our balance-of-payments deficit.

We in the Senate should be trying to do everything in our power to hasten the day when North Slope oil can meet our needs. We should be taking every opportunity to get the pipeline built promptly.

This amendment supplies such an opportunity.

I ask unanimous consent that the full text of my amendment be printed at this point in the RECORD.

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

AMENDMENT NO. 226

At the end of the bill, add the following new title:

TITLE III—CONGRESSIONAL FINDING AND DETERMINATION

SEC. 301. The Congress finds, declares, and deems that, notwithstanding any other provision of this Act, the statement prepared by the Secretary of the Interior pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 with respect to the granting of a right-of-way permit for the trans-Alaska pipeline is in compliance with, and meets all the requirements of, such Act, and is sufficient for the purpose of granting any rights-of-way under this Act or any other law for purposes set forth in section 101(a) of this Act as the Secretary of the Interior determines necessary for the construction, operation, and maintenance of the trans-Alaska pipeline, including rights-of-way, leases, licenses, or permits for purposes ancillary, complementary, or necessary to such construction, operation, or maintenance (such as access, communications, and the transportation of personnel, material, equipment, and supplies).

BUDGET CONTROL ACT OF 1973—AMENDMENTS

AMENDMENT NO. 225

(Ordered to be printed, and referred to the Committee on Government Operations.)

Mr. BENTSEN. Mr. President, today I rise to submit an amendment to S. 1641, the Budget Control Act of 1973. As I have stated previously, I believe the Joint Study Committee on Budget Control has produced a generally sound and reasonable set of recommendations for reform of the budget process. I am pleased to be a cosponsor of that measure.

However, one basic purpose of congressional budget reform should be to provide for systematic congressional determination of the surplus or deficit necessary to meet the congressional responsibility under the Employment Act of 1946 of promoting "maximum employment, production, and purchasing power." There is presently no such systematic determination.

The proposed budget committees to be created under S. 1641 would have the authority to review economic conditions, but they would not be required to do so. There is no requirement that the staff of the proposed budget committees include fiscal economists capable of evaluating the economic outlook. Those committees and afterward the Congress as a whole would consider the surplus or deficit as part of a concurrent resolution which would include controversial decisions as to spending priorities. There would be time limits on the committees and later limits on the floor debate of this resolution. It seems quite probable that consideration would focus almost exclusively on the question of priorities and that the proper level of surplus or deficit would not receive the attention it deserves.

I believe the best way to provide for systematic congressional consideration of fiscal policy would be to require adoption of a separate resolution relating only to the desired size of the budget surplus or deficit. Since such fiscal policy expertise as Congress presently possesses is located at the Joint Economic Committee and since that committee is required by the Employment Act of 1946 to review fiscal policy, it seems only logical that the Joint Economic Committee should be empowered to report out the resolution on surplus or deficit. My amendment would so provide. And it would also provide that a vote be taken upon that resolution before the budget committees report out spending levels for the various departments and programs.

This would allow the Congress to focus on the issue of what level of budget surplus or deficit is appropriate in light of our Nation's economic condition and to do before we become involved in the consideration of individual spending programs. I believe such an approach is good management and that it is good economics as well.

Mr. President, I ask that my amendment be printed in full in the RECORD.

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

AMENDMENT NO. 225

Renumber parts 2 through 7 of title I as parts 3 through 8, respectively, and on page 8, after line 21, insert the following:

PART 2—DETERMINATION OF APPROPRIATE BUDGET SURPLUS OR DEFICIT

SEC. 116. CONCURRENT RESOLUTION ESTABLISHING APPROPRIATE LEVEL OF SURPLUS OR DEFICIT.

(a) Action to be Completed by February 15.—On or before February 1 of each year, the members of the Joint Economic Com-

mittee who are Members of the Senate shall report to the Senate, and the members of such Committee who are Members of the House of Representatives shall report to the House, a concurrent resolution setting forth, for the fiscal year beginning on July 1 of that year, the amount of the surplus, or the amount of the deficit, in the budget which is appropriate in the light of economic conditions and such other factors as may be relevant. On or before February 15 of each year, the Congress shall complete action on one of the concurrent resolutions reported pursuant to the preceding sentence.

(b) Action Must Precede Consideration of Budget Resolution.—It shall not be in order in either the Senate or the House of Representatives to consider the concurrent resolution on the budget referred to in section 121(a) for any fiscal year prior to the adoption of the concurrent resolution referred to in subsection (a) of this section for that fiscal year.

SEC. 117. REAFFIRMATION OR REVISION OF APPROPRIATE LEVEL OF SURPLUS OR DEFICIT.

(a) Mid-Year Action.—As soon as practicable after July 1 of each year, the members of the Joint Economic Committee who are Members of the Senate shall report to the Senate, and the members of such Committee who are members of the House of Representatives shall report to the House, a concurrent resolution which reaffirms or revises the concurrent resolution referred to in section 116(a) for the fiscal year which begins on July 1 of that year. Not later than 15 days after the concurrent resolutions referred to in the preceding sentence for a fiscal year have been reported in both Houses, the Congress shall complete action on one of such concurrent resolutions.

(b) Action Must Precede Consideration of Reaffirmation or Revision of Congressional Budget.—It shall not be in order in either the Senate or the House of Representatives to consider the concurrent resolution referred to in section 122 for any fiscal year prior to the adoption of the concurrent resolution referred to in subsection (a) of this section for that fiscal year.

SEC. 118. RULES FOR CONSIDERATION OF CONCURRENT RESOLUTIONS.

(a) Reference of Resolutions to Committee.—All concurrent resolutions on budget surplus or deficit shall be referred to the Joint Economic Committee by the President of the Senate or the Speaker of the House of Representatives, as the case may be.

(b) Procedure After Report of Committee; Debate.—

(1) When a concurrent resolution on budget surplus or deficit has been reported, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the concurrent resolution. The motion is highly privileged and is not debatable. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(2) Debate on any concurrent resolution on budget surplus or deficit, and all amendments thereto, shall be limited to not more than 10 hours, which shall be divided equally between the majority and minority parties. A motion further to limit debate is not debatable. A motion to recommit the concurrent resolution is not in order, and it is not in order to move to reconsider the vote by which the concurrent resolution is agreed to or disagreed to.

(c) Procedure After Passage by One House.—If, prior to the passage by one House of a concurrent resolution on budget surplus or deficit of that House, that House receives from the other House a concurrent resolution on budget surplus or deficit of such other House, then—

(1) the procedure with respect to the concurrent resolution of the first House shall be the same as if no concurrent resolution from the other House had been received; but

(2) on any vote on final passage of the concurrent resolution of the first House the concurrent resolution from the other House shall be automatically substituted.

(d) Action on Conference Reports.—Debate in either House on the conference report on any concurrent resolution on budget surplus or deficit shall be limited to not more than 5 hours, which shall be divided equally between the majority and minority parties. A motion further to limit debate is not debatable. A motion to recommit the conference report is not in order, and it is not in order to move to reconsider the vote by which the conference report is agreed to or disagreed to.

(e) Decisions Without Debate on Motion To Postpone or Proceed.—

(1) Motions to postpone, made with respect to the consideration of any concurrent resolution on budget surplus or deficit, and motions to proceed to the consideration of other business, shall be decided without debate.

(2) Appeals from the decisions of the Chair relating to the application of the Rules of the House of Representatives or the Senate, as the case may be, to the procedure relating to any concurrent resolution on budget surplus or deficit shall be decided without debate.

(f) Concurrent Resolution on Budget Surplus or Deficit.—For purposes of this section, the term "concurrent resolution on budget surplus or deficit" means—

(1) a concurrent resolution setting forth the appropriate level of surplus or deficit, as provided in section 116(a), and

(2) a concurrent resolution reaffirming or revising the appropriate level of surplus or deficit as provided in section 117 (a).

SEC. 119. LEGISLATIVE JURISDICTION OF JOINT ECONOMIC COMMITTEE.

Section 5 of the Employment Act of 1946 (15 U.S.C. 1024) is amended by adding at the end thereof the following new subsection:

"(g) The joint committee shall have jurisdiction to consider and report concurrent resolutions on budget surplus or deficit as conferred by part 2 of title I of the Budget Control Act of 1973."

On page 5, strike out lines 22 through 25.

On page 6, line 1, strike out "(d)" and insert "(c)".

On page 6, line 6, strike out "(e)" and insert "(d)".

On page 6, lines 9 and 10, strike out "(c), and (d)" and insert "and (c)".

On page 7, strike out lines 4 through 7.

On page 7, line 8, strike out "(D)" and insert "(C)".

On page 9, strike out lines 14 through 17.

On page 9, line 18, strike out "(4)" and insert "(3)".

On page 9, line 22, strike out "(5)" and insert "(4)".

On page 10, line 13, strike out "(4)" and insert "(3)".

On page 17, strike out lines 15 and 16 and insert "that set forth as the appropriate amount of deficit or surplus for the fiscal year in the concurrent resolution on budget surplus or deficit adopted pursuant to section 117,".

On page 19, line 9, strike out "in such resolution" and insert "in the concurrent resolution adopted pursuant to section 117".

On page 38, line 16, strike out "or 5" and insert "5, or 6".

On page 39, line 4, strike out "and 4" and insert "4, and 5".

ESTABLISHMENT OF A FEDERAL FINANCING BANK—AMENDMENTS

AMENDMENT NO. 227

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

SUBMISSION OF AN AMENDMENT REQUIRING THE PRESIDENT TO NOTIFY CONGRESS OF ECONOMIC CHANGES

Mr. McGOVERN. Mr. President, all of us were encouraged by the President's economic message last night. Most of the actions he has taken are right. And although many of us were disappointed that he did not put controls on interest rates, rents, profits and dividends, I think that the 60-day freeze on prices—with exemption for raw agricultural products—was the essential step at this time. It is the only way to halt the runaway inflation we have seen over the last few months.

But none of us should be deceived into thinking that this step will completely resolve the problem of inflation. The pressures for higher prices are still there and, according to the available economic evidence, they will increase in the coming months.

As Hobart Rowen points out in an article in this morning's Washington Post, inflation is a many-sided problem which will be with us for some time. I ask unanimous consent that a copy of the article be printed in the RECORD.

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

CONTROLLING RUNAWAY INFLATION WORLDWIDE

(By Hobart Rowen)

Inflation is a worldwide bugaboo and the most discouraging fact about it is that almost no one sees it coming under control. European government officials to whom I talked in the past two weeks are only slightly less pessimistic than businessmen about getting some kind of a grip on rising prices.

Businessmen and bankers, for the most part, think that today's social pressures lead to "over-full employment." That's another way of saying that some of them believe that inflation will steadily erode the value of money until another worldwide, full-fledged depression takes over. Some think that this will happen by 1975.

American officials tend to be more optimistic. Better than any other big industrial power, the United States has been able at times to mobilize a degree of anti-inflation control. Phase I and Phase II of the 1971–72 Nixon program, for example, were successful in reversing an inflationary course for a year and a half.

A new effort is now under way, and it remains to be seen what effort a jazzed-up controls program, with some supplements from more traditional pressures, will do.

But everybody seems to agree that wage-price policies, or "incomes policies," as they are called in Europe, are useful only in helping to dampen inflationary expectations.

That's why Phase III has been a disaster. Whatever the administration now says was intended, Phase III was taken as evidence that the Nixon administration had lost the will or ability to continue the fight against inflation.

In part, this helps to account for the uneasiness in the rest of the world. If the U.S. after a good record in 1971–72, was unable or unwilling to contain inflation, how could it be brought under control elsewhere?

During the past 12 months, according to the latest report of the Organization for Economic Cooperation and Development, inflation has accelerated in all member countries. Consumer prices rose by 8.0 per cent in Europe in the year ended in April, despite a new controls program in Great Britain, and other restrictive measures elsewhere. The record is worse than the average in some of the biggest countries.

Two-thirds of the recent European inflation is due, as in the United States, to soaring food prices—caused in Europe not only by rising consumer demand, but by out-of-date agricultural policies driven through by the powerful farm interests.

European agricultural policies are designed to protect the farm structure of 100 years ago, in a Europe which pretends that it can become a modern third force in the world. The price of this is a shockingly high retail grocery bill paid by the average householder in Europe.

The major nations of Europe, including France, West Germany and Britain, aren't likely to achieve their much sought-after role of influence in the world, singly or collectively, until they abandon their archaic Common Agricultural Policy (CAP).

Take the embarrassing CAP program for butter, which has created a surplus of 400,000 tons by paying farmers $2,232 a ton (twice the world price). Then, to get rid of half of it, the managers of the Common Agricultural Policy sold butter to Russia at only $420 a ton. The contempt of the average European consumer for governmental policy which produces a fiasco like that is easy to understand.

But apart from food, monetary and fiscal policy in Europe and in most other countries have been fueling a continued inflation. There is plenty of money around (I am not suggesting that it is well or evenly distributed), and it is being spent as inflationary expectations multiply.

The pessimists in Europe fear that the spending binge will eventually result in a boom-bust cycle, because governments have neither the courage nor the ability to tackle the problem. They suggest that it leads to a vicious cycle in which the price inflation is undermining the confidence in currencies, which simply drives prices even higher.

"In spite of, or because of official statements," said former Common Market vice president Raymond Barre, "people are convinced that the international value of currencies will tend to change frequently, if not continuously. The gold fever, the rise in the prices of basic commodities, of real estate, of paintings, the systematic search for capital gains, are the main symptoms of a generalized monetary incredulity . . ."

There are some in Europe who think that the world had better get used to living with an annual rate of about 8 per cent inflation, "adjusting" to it by higher taxes, higher interest rates, and controls policies. But many others think that this ultimately would dry up private investment and reduce yields on stocks.

Increasingly, as a recent OECD report observed, there has been more "internationalization" of the problem of inflation, in that an individual country's anti-inflationary efforts get overwhelmed by international developments. But not only are there no signs of real competence to deal with inflation on a national level (witness the fiasco of Phase III here and the inadequacy of Phase II in Britain) there are even fewer signs of international cooperation to deal with the problem. And certainly the conventional wisdom of some bankers—a depression is no answer at all.

Mr. McGOVERN. Mr. President, inflation will remain with us until we are able to solve the underlying causes of inflation. And as the President indicated last night, the present freeze solves nothing. It is a band-aid solution to the pressures which arose under the ill advised phase III program. It only means that when it ends, the pent-up pressures will explode in a new round of inflation—unless the President uses the next 60 days to develop a new and, for the first time, a truly effective economic program. Whether inflation will come under control in the long run will be determined by how we use the time the President has bought with his temporary freeze.

So while I generally support the actions he announced last night, I think it is important to note that the need for them resulted from his inaction after a premature end to the phase II controls. Had his course last January been more moderate, we would not face this crisis now.

I also think that the mistakes of phase III might have been avoided had the President chosen to consult with Members of Congress. But the present language of the Economic Stabilization Act does not require him to consult with anyone. We, the Congress, have abdicated almost all power over economic policy to him. In effect, we have become silent partners in his errors.

I believe we now owe it to the President and the country to reassert our responsibilities, particularly in this time of doubt about Government in general and the executive branch in particular. If the President is to govern effectively, he must seek the cooperation of the Congress. And if he is unwilling to do so, we should require that we assume a greater share of responsibility for economic policies. For the Congress to abandon its responsibility in economic matters and then criticize the President when things go wrong may be good politics, but it is bad government.

So, Mr. President, I send to the desk an amendment on behalf of myself and the distinguished majority leader (Mr. MANSFIELD) and ask unanimous consent that it be printed, which, if adopted, would require the President to give Congress 15 days' advance notice of any major action under the Economic Stabilization Act. The President could no longer present the Congress and the country with a fait accompli, as he did last January. The Congress would have the opportunity to correct mistakes before they are made—and the obligation to share the blame if the program does not work. In defense of the President, we must note that while many of us expressed misgivings, few of us—and few economists—fully foresaw what a disaster phase III would be.

Now let us return to a more balanced economic policy; let us restore the joint decisionmaking our Constitution ordains and our constituents have a right to expect.

In conclusion, Mr. President, let me say that the distinguished majority leader and I recognize the problem that prenotification of a major change in economic policy may cause—that certain companies or unions may try to exploit the period between the time the President sends a special message to Congress and the time the new program comes into effect. Therefore, our amendment also provides that the President may declare that any actions inconsistent with his proposed program taken during that period will be null and void. For example, a company which then raised its prices would be on notice that it was subject to a rollback unless the Congress overruled the President. I cannot imagine any corporation foolhardy enough to wager that the Congress would do so; the economic risks would be too high.

Of course, this provision of our amendment would not effect the current freeze in which prices will remain frozen until phase IV is determined.

The PRESIDING OFFICER. The amendment will be received and, without objection, will be printed in the RECORD.

The text of the amendment is as follows:

AMENDMENT NO. 227

At the end thereof add the following new section:

The Economic Stabilization Act is hereby amended by adding at the end thereof the following new section:

The President shall notify the Congress by special message of the substance of any major action he proposes to take under this Act 15 days in advance of the date on which he proposes to take such action. The special message may provide that any action taken by private individuals or entities which is inconsistent with the President's proposed action shall be of no force and effect.

AMENDMENT NO. 228

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

Mr. HUMPHREY submitted an amendment, intended to be proposed by him, to Senate bill 925, supra.

AMENDMENT OF EXPORT ADMINISTRATION ACT OF 1969—AMENDMENT

AMENDMENT NO. 229

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

Mr. STEVENS. Mr. President, I submit an amendment to S. 1033, the bill to amend the Export Act to control the export of timber from the United States. My amendment is a straightforward one. It will add a new subsection 203(e) to exempt Alaska from the limitations on the export of softwood logs and softwood lumber set forth in that section.

Alaska is in a quite different position from States in the lower 48. States in the lower 48 have domestic processors in need of raw timber and domestic markets readily available. Alaska has no such processors able to compete with domestic processors in the lower 48. The high cost of processing in Alaska plus transportation costs would price Alaskan timber out of the market.

Foreign nations, particularly Japan, have entered into substantial contracts with Alaskan mills for softwood lumber. Round logs and cants are competitive abroad, even including transportation costs from Alaska.

To require that Alaskan timber exports be limited under section 303 would destroy the Alaskan timber industry.

Because the purpose of this legislation is to assist American timber processors, Alaska must be exempt. My staff and I have discussed this amendment with the

staffs of other interested Northwest Senators. I am aware of no opposition to this amendment. I urge the Senate to consider the Alaskan situation during debate on S. 1033.

I ask unanimous consent that the amendment be printed in the RECORD at this point.

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

AMENDMENT No. 329

On page 12, between lines 3 and 4 insert a new subsection (e) as follows:

"(e) This section shall not apply to Alaska."

NOTICE OF HEARINGS ON EXECUTIVES C, D, F, H, AND I

Mr. PELL. Mr. President, I wish to announce that the Subcommittee on Oceans and International Environment has rescheduled from June 13 to June 20, 1973, its public hearings on the following agreements: The Convention on the Prevention of Marine Pollution by Dumping of Wastes (Ex. C, 93–1); The amendments to the International Convention on Load Lines (Ex. D, 93–1); The Convention Concerning the Protection of the World Cultural and Natural Heritage (Ex. F, 93–1); The Convention on International Trade in Endangered Species of Wild Fauna and Flora (Ex. H, 93–1); and six amendments to the Convention for the Safety of Life at Sea, 1960 (Ex. I, 93–1).

The hearings will be held in room 4221, in the Dirksen Senate Office Building, beginning at 9:30 a.m. At that time, the subcommittee expects to hear executive branch witnesses and other interested individuals.

Persons wishing to testify should notify the subcommittee.

NOTICE OF HEARINGS ON THE USE OF DRUGS BY ATHLETES

Mr. BAYH. Mr. President, I wish to announce that the Subcommittee on Juvenile Delinquency of the Committee on the Judiciary is beginning hearings on the proper and improper use of drugs by athletes, particularly in college, high school, and amateur sports.

The hearings are scheduled for June 18 and 25, 1973, at 10 a.m., in room 2228, Dirksen Senate Office Building. The following witnesses have been scheduled to testify on June 18: several athletes; representative of the American Medical Association's committee on the medical aspects of sports; Walter Byers, executive director, National Collegiate Athletic Association; Otho Davis, executive director, National Athletic Trainers Association; Dr. Lawrence Golding, Kent State University; and Clifford Fagan, executive director, National Federation of State High School Athletics. Witnesses scheduled to testify on June 25 are: George Killiam, executive director, National Junior College Athletic Association; Daniel F. Hanley, International Olympic Committee Medical Commission, Bowdoin College; and A. O. Duer, executive director, National Association of Intercollegiate Athletics.

Any person wishing to submit a statement for the record should notify Mathea Falco, staff director and chief counsel of the subcommittee at 225–2951.

ADDITIONAL STATEMENTS

PROUD SALUTE TO THE FLAG OF THE UNITED STATES

Mr. NUNN. June, Mr. President, has two splendid anniversaries that I wish to call attention to. The 14th is our National Flag Day, and the 30th an anniversary of an illustrious Southern lady, Helen Dortch Longstreet, whose lovely portrait hangs in the Georgia State Library. The portrait was presented to Georgia by patriotic Americans, accepted by Governor Ellis Arnall, and unveiled on June 30, 1947, with much patriotic fanfare in the presence of many outstanding dignitaries.

This noted woman, daughter of Col. James Speed Dortch, a distinguished member of the Georgia bar, was married to the famous Confederate commander, Gen. James Longstreet, at an impressive ceremony in the executive mansion in Atlanta on September 8, 1897. The marriage was of short duration, however, as the general died in early 1904.

As a gifted, patriotic widow who loved her country above all things, she carved a special place for herself, along with some significant causes for which she stood, in the annals of our history books. She is remembered as a pioneer newspaper woman, leading political campaigns that "made" Governors for Georgia; battling for woman suffrage; countless endeavors for establishment of the Georgia Women's State College in Milledgeville, Ga. She was the first woman to hold office in the State government—a position in the Georgia State Library—later holding several Federal positions of honor and trust.

In World War II this dedicated woman served 2 years on the assembly line in the Georgia division of the Bell Aircraft plant, helping to build B–29's. Although small and frail in physique, she never missed a day during this "tenure of office" and frequently declared:

I will quit only when the last battle flag has been furled on land and sea.

Atlanta newspapers, commenting about her service, said:

No wonder the Japs surrendered.

Helen Dortch Longstreet was a member of various organizations including the National League of American Pen Women, Inc., chartered in 1897, the year of her marriage to General Longstreet. The league includes artists, writers, music composers, with a membership of about 6 thousand, functioning in many branches throughout the United States. The league was very dear to her and she was among the most respected and beloved members. Whenever possible she attended its national biennial conventions and in 1950, aged and in ill health, registered for participation in the convention convening in Washington, D.C., declaring to her associates that she had "missions to perform." Like the general with whom she had shared a few years in a cherished marriage, she carefully planned her maneuvers. During an important business session of the convention she asked for time on the floor, and when it was granted moved that the National League of American Pen Women approve and pass a resolution—she then presented—declaring the league against communism. Many delegates sprang to their feet to second the motion and it was then passed unanimously, a splendid tribute to its sponsor.

A second mission was accomplished on the closing night of the convention, the last ever attended by this illustrious member. She stood beside the national president at the head table and presented a beautiful rotary trophy—the Helen Longstreet Silver Flag Cup—to the first fortunate contestant to win it in the league's national contest for the best salute to the flag of the United States. The trophy was the gift of Mrs. Longstreet given, she confided to intimate friends, at considerable personal sacrifice.

Poems submitted in the contest without any identification were judged by a jury of three great Americans—not Pen Women—in Denver, Colo. The beautiful flag cup, honoring our Stars and Stripes, was won by a blue-blooded Kentuckian, Mattie Richards Tyler, a noted poet in Washington who has held several high offices in the national league, having served as president of the District of Columbia branch, and as State president for the District of Columbia. She was for many years an associate editor of Blue Moon Poetry magazine, and is lifetime poet laureate of Beta Sigma Omicron.

Patriotism, Mr. President, is timeless but it seems to me we need a rallying spirit amid the whirlwind of national debates, rocked by the earthquake of today's dislocations. I feel very deeply that the services rendered by Helen Dortch Longstreet, and Mattie Richards Tyler, and their burning love of country gives added luster to the Stars and Stripes as we glory in the gleaming beauty of our revered flag in this June 1973.

Miss Tyler's sparkling poem has had many honors. Its kindling power of pure patriotism is such that I feel it will remind Americans everywhere just how great, and how constant, our reverence should be. In this spirit I ask unanimous consent that "A Proud Salute to the Flag of the United States" be here included as a part of my remarks.

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

PROUD SALUTE TO THE FLAG OF THE UNITED STATES

I stand at Proud Salute
Before your Stars and Stripes,
The stainless symbols of a free and independent nation.

I stand at Proud Salute as I remember
How you were given birth!
The blood and tears that marked our Revolution;
The travail of our people and their valor;
The sacrifices made; the lives laid down,
In this and later wars—
That we might live in freedom and in peace.

I stand at Proud Salute as I remember
The beauty stretching far beneath your banner:
The fields and meadows, valleys, mountains, forests;
The brooks, the waterfalls, and winding rivers;
The farms and orchards, towns and growing cities,
The homes of all our people—great or lowly.
I stand in awe of our tremendous power,
Of our resources rich beyond our dreaming,
The genius and the talents of our nation,
The useful hands and understanding hearts.

I stand at Proud Salute as I remember
That each white star, upon your field of blue,
Bears witness to a loyal State of our United States.

I stand at Proud Salute as I remember
That you are mine:
My Flag to love and cherish,
To live beneath in peace or war, in sickness or in health;
My Flag to die for, if the need arises—
And not to count the dying as in vain.

I stand at Proud Salute
Before your Stars and Stripes; and standing here,
I render unto God my gratitude
For this fair land wherein you long have waved;
And to my thanks, I add my heartfelt prayer
That He, who led the pilgrims to these shores,
Will ever bless and shield The Flag I love.

MATTIE RICHARDS TYLER.

PRESSURES ON FOOD PRICES

Mr. DOLE. Mr. President, an article from the June 11 Wall Street Journal tells an ominous, disturbing story which should be of immediate concern to every Member of the Senate, regardless of the size, economic characteristics, or location of his State.

Food prices affect every American and the economists, farmers, and other students of the subject realize that those prices are determined by the interaction of many complex, sensitive forces. But I am concerned that some of those who advocate radical action of one sort or another with regard to various factors in the food price equation often may do so without a real appreciation for the unforseen effects these actions may have.

This Wall Street Journal article, briefly and with forceful clarity gives an insight into the many factors and numerous questions which will be involved in the determination of food prices in the coming months. It merits the detailed consideration of every concerned legislator, housewife, and food consumer, and I 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:

COST OF EATING: SOARING GRAIN PRICES SEEN BRAKING OUTPUT OF MEAT, MILK, BREAD

(By Norman H. Fisher and John A. Prestbo)

Fast-rising prices for grains and livestock feed are threatening to brake sharply the output of meat, milk and eggs. This could lead to such gloomy possibilities as much higher food prices, potential shortages and severe economic strains for major segments of the agricultural and food industries.

"We've got a world-wide food panic on our hands," declares R. H. Uhlmann, president of Standard Milling Co. in Kansas City, "and unless something is done we're going to have shortages in this country."

Iowa Gov. Robert Ray predicted on nationwide television last week that "a meat crisis" could develop in 60 to 90 days. He blamed the controls imposed in early April on wholesale and retail prices of red meat. "With the freeze on these prices, farmers are squeamish about producing more," the Governor said.

Bread bakers also are caught between zooming costs and a government ceiling on prices for bread and other baked goods. "We didn't think the situation could get any worse, but it has," says Robert Grant, chairman of the executive committee of American Bakeries, one of the biggest in the country. "If prices stay as high as they are or go higher, a big segment of the baking industry will go out of business."

A GOVERNMENTAL DILEMMA

Some Congressmen are calling for a freeze on all wages and prices, including those of foodstuffs that were exempt from earlier controls, restrictions on commodity exports and other severe measures. The Nixon administration has indicated stiffer economic controls of some sort will be imposed soon.

Clamping on food and farm prices controls poses a dilemma for administration officials. If farmers, bakers and others are allowed to pass along their higher costs, retail food prices could skyrocket further from their already high levels and spark bitter consumer protests. But if they aren't allowed to pass along higher costs, production could fall and retail prices would be up anyway. If exports are curtailed, foreign trade and balance of payments deficits would worsen considerably, further imperiling the value of the dollar.

But trying to wait out the problem hasn't worked very well, either. The government index of feedstuff prices, which account for 75% of the cost of producing meat, milk and eggs, has risen 30% in the past two weeks and is nearly four times higher than it was a year ago. The index of feed grain prices, including corn, has jumped nearly 20% in the past two weeks and is nearly double the year-ago level. The price of wheat in Kansas City has climbed 25% since May 1 and is about 85% higher than in June 1972.

Much of the impetus for these booming prices comes from overseas, where droughts and other calamities reduced grain and food production last year. It's too early to tell how world-wide production will fare this year, but foreign governments aren't taking any chances and are buying as much as they can from the U.S.

STOCKING UP ABROAD

"Some foreigners seem to think the U.S. might impose export controls, so they're buying ahead as much as they can," says one grain-industry executive. Others contend that U.S. and foreign speculators have pushed prices higher than they should be.

Whatever the reasons, high-priced grains and feedstuffs are beginning to crimp the production of food in this country:

Beef production is still running about 3% below a year ago, even though experts earlier had figured output would have increased by now. Cattlemen are expanding the nation's beef herd, and meat economists were expecting production to gain 3%–5% over 1972 by the end of this year. Now, says an official of a cattle feeding trade group, "there are indications beef output may only match last year." Some feedlot operators, pressed by high costs, say they may begin to feed their cattle to lighter weights.

Pork production had been predicted to rise 6% to 8% this year, but now a 2% to 3% gain is more likely, experts say. So far this year, pork production is 5% lower than a year ago. Livestock market sources say some farmers are so disgruntled with rising feed costs that they're sending their pregnant sows to market for slaughter instead of having them farrow.

Broiler chicken production is running 2% to 3% below a year ago. If costs don't decline soon, says an official of the Broiler Marketing Association in Jackson, Miss., "we could see a substantial cutback in broiler production in the next few weeks." Based on current feeds costs and broiler prices, some chicken farmers could be losing as much as three to four cents a pound.

Egg output is down about 6% from a year ago, and some egg farmers are cutting back on the number of layers they feed. For instance, Perry McCrane of Bowen-McCrane Inc., a Tifton, Ga., firm, says he has 10% fewer hens in production now than a year ago. W. W. Taylor, who keeps 130,000 laying hens near Eastman, Ga., predicts that because of the flock cutbacks, retail prices may be $1 a dozen by November.

There was concern several months ago about a possible milk surplus, but now milk production is running 2% below a year ago and some experts think shortages could develop in parts of the South this summer. Milk prices have gone up an average of 8% so far this year, but feed costs have risen more, causing many dairy farmers to sell their cows for beef and quit. "We're now seeing an accelerated liquidation" of dairy farms, says George L. Mehren, general manager of Associated Milk Producers Inc., a huge San Antonio-based dairy cooperative.

More than 50 independent bakers have gone out of business in the past eight months because of high costs and a ceiling on bread prices, says George Rosenthal, president of Fink Baking Co. in Long Island City, N.Y., and a spokesman for the baking industry. The price of flour jumped 18% during May alone, and prices are increasing for such other ingredients as sugar, caraway seeds, sesame seeds and raisins. In fact, raisins have more than doubled in price, and many bakers have stopped making raisin bread and other items containing them.

Mr. Grant o. American Bakeries said his company asked the Cost of Living Council about two weeks ago for permission to raise the price of raisin bread. The council denied the request.

"They said if you feel you must make raisin bread, then absorb the higher costs," Mr. Grant recalls. "Well, the world will get along without raisin bread, but the point is the controllers have gone beyond the law. What they should have done is let us raise prices to compensate for higher costs, and then if people didn't think raisin bread was worth it they could make the choice not to buy it rather than some bureaucrats."

Some relief for bakers is in sight as Congress moves toward taking off the "bread tax" of 75 cents that millers must pay for every bushel of wheat they grind into flour for domestic use. This would lower flour prices, but probably not enough to offset all the increase of recent months. "Bakers would still be bleeding to death, but at a slower rate," says J. Allen Mactier, president of ConAgra Inc., a diversified milling firm based in Omaha.

Mr. Mactier and many other food-industry executives are upset with what they think is gross government disregard for their problems. "It's shocking, but the authorities in power in Washington don't know what's going on," Mr. Mactier says. "The government is all wrapped up with Watergate, letting domestic problems go to hell."

Adds Mr. Grant of American Bakeries: "We are telling the controllers about all the bakeries going out of business, and they told us in effect that we've got some excess capacity in the baking industry that will be shook out by the controls and then those of us who are left will be better off. That may be true, but I daresay it's not the job of the government to run a lot of little bakers out of business."

The government has been holding firm for a couple of reasons. For one, officials don't want to upset the foreign trade leverage gained from agricultural exports, even though shipments of grains, animal feeds and meat itself are further straining domestic supplies. Of the 10% rise in retail food prices predicted for this year by the Agriculture Department, about 1.5% is the result of increased exports. Purchases by the Soviet Union, which touched off the price spiral last summer, are likely to be somewhat smaller this year because of better growing weather in Russia. (See story on page 22.)

The Nixon administration has indicated it wants to adopt a free trade policy regarding farm products—eliminating U.S. import barriers against foreign produce in exchange for other countries removing theirs. A study on the impact of such a move indicates the U.S. would do a lot of overseas business in grains, livestock feed and poultry but would lose out to foreign competition in dairy, sheep and peanuts.

Second, government economists are still counting on increased farm production this year to help bring down food prices. More than 40 million acres were brought out of retirement, and farmers are trying to put them into production. But cool, wet weather has delayed plantings of such key crops as corn to the point that yields might be lowered significantly.

Based on current conditions, the 1973 wheat crop would be 13% bigger than last year, corn 3% larger and soybeans 17% greater. If harvests are that bountiful, and if exports aren't any bigger than presently expected, farm economists say, prices of grain and meat probably will decline.

But there are some ifs on the negative side, too: If the weather turns bad during the summer and fall, or if the fuel shortage worsens during the critical harvest period, or if crop failures abroad strengthen foreign demand, this year's crops will be smaller than needed, and prices would stay high.

"I think meat rationing is inevitable within six months if 1973 crops are poor," Mr. Mactier of ConAgra says.

CIVIL SERVICE RETIREMENT

Mr. MOSS. Mr. President, I am happy to report that last week the Senate Post Office and Civil Service Committee held hearings on several bills that would improve the Civil Service Retirement System.

For a number of years now, one of my main concerns has been the financial plight of many of the older Civil Service retirees. In 1969, the Congress passed legislation that brought more generous retirement benefits for Federal employees who retired after October 20 of that year, but unfortunately, previous retirees were left out in the cold. So in the last Congress and the present one, I have introduced bills that would provide some measure of justice to these older retired civil servants.

Two of these bills were under consideration in last week's hearings, and at that time I made a statement stressing the great importance of enacting these bills as quickly as possible. I ask unanimous consent that this statement be printed in the RECORD.

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

STATEMENT OF SENATOR FRANK E. MOSS
SUBJECT: CIVIL SERVICE RETIREMENT

Mr. Chairman: I am very pleased that you have called hearings on these three bills to provide greater equity in our Civil Service Retirement system. I am also pleased that Mr. Arthur L. Sparks of the National Association of Retired Federal Employees will be testifying today. Mr. Sparks and the members of his organization have been tremendously effective in representing retired Federal workers, and those of us on the Committee owe them a large vote of thanks for the job they do. The bills we are considering—two of which I have introduced—would provide some measure of assistance to one group of senior American citizens who are now in the midst of a financial crisis.

In these days of skyrocketing prices, many Americans are being put under a financial squeeze, but Federal workers who retired prior to three years ago face financial problems that are particularly acute. Their retirement income is fixed by outmoded formulas, and they have seen the value of this income steadily eroded by inflation. The primary purpose of the legislation we are discussing here this morning is simply to alleviate the financial burden on the older civil service annuitants and to bring them into a more equitable position compared with more recent retirees.

In 1969, when the Congress passed legislation that replaced the high five year salary formula with the high three year formula, retirement benefits were significantly improved for those Federal employees who retired after the date of enactment. One of the reasons given for confining the increase to future retirees was that the measure would put the Federal government in a more competitive position in the labor market. Unfortunately, however, this reasoning meant that those who retired prior to the date of enactment were given the short end of the stick.

Allow me to cite one example, Mr. Chairman, of the great discrepancy that exists today in the benefits given to recent retirees compared to the benefits given to those who retired prior to October 20, 1969. A GS-7 who retired on December 31, 1961, with 30 years of service has a base annuity of $3,015 under the present retirement system. An employee who retired on December 31, 1971, however the same amount of service, would receive $5,094—a difference of more than $2,000 per year for Federal employees who served the same amount of time and who performed the same job for the government.

I note, Mr. Chairman, that S. 1866 and S. 626 are quite similar. Unlike S. 626, your bill would not apply to retirees who are receiving Social Security, and provides for an increase of $20 per month while mine provides for an increase of $25. I believe that it might make sense to exclude those receiving Social Security, for their financial position is not as acute as other retirees. This limitation would also increase the chances of passage, which is an important consideration. We must act as soon as possible to help older civil service retirees, for there are more than 140,000 who are receiving less than $85 a month in civil service retirement.

The situation is indeed acute, and it is distressing that the Nixon Administration has not seen fit to support this legislation. In essence, they argue that there is no point in improving the position of civil servants who have already retired because they are no longer needed by the government. The Administration's argument is no more than cruel non-sequitur. The purpose of this legislation is basic, simple fairness. The purpose is to provide one group of government servants some portion of what they are entitled to.

A CRISIS NOT OF ENERGY BUT OF MONEY-CHANGERS

Mr. DOMINICK. Mr. President, as I have observed the unfolding problems of our energy crisis, I again see the need for open discussion by all people who are concerned about insuring our own survival as a great nation. For too long, I believe, segments of our Nation have looked with distrust at each other instead of exploring common grounds for discussion and activity. Too many have unwisely concluded that "environmentalists" could not have a meaningful dialog with those who would seek to use our natural resources. What was and is needed are solutions to preserving exploitation of our resources.

Many of us are becoming aware of the vast implications of "energy." The problems besetting us range from agriculture to the environment to foreign trade. The time is now for common solutions rather than personal biases. Previously I have pointed out the problems besetting our agriculture communities because of "energy" and I today point to another facet of the "crisis"—our trade picture.

Trade is an especially timely topic because of the trade legislation which will be discussed and debated in the months to come. Today, oil is the largest single item moving in international trade. Certainly, there is no reason to doubt that it will remain in that position in the years to come. We now face a monumental fixed cash flow out of this country in the foreseeable future. At the same time, it is worth noting the paramount roles that energy-consuming countries play in world trade.

Recently an article appeared in the New York Times reviewing some of our problems with energy and trade. I 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:

[From the New York Times, March 22, 1973]

A CRISIS NOT OF ENERGY BUT OF MONEY-CHANGERS

(By J. T. Claiborne, Jr.)

We are no longer energy-rich. We have become energy-poor, and until we solve our energy shortage, the world's currency managers will distrust the dollar—even when our inflation rate is below that of other nations. They see that we have a new and progressing malignancy that plagues our hopes and even our treadmill efforts.

A measure of our new vulnerability are the projections by Ford, Bacon & Davis Inc., that we will need to import $14 billion of oil and gas by 1975; $30 billion by 1980 and $54 billion by 1985. Until a few months ago, that import rate was $5 billion. It is now over $7 billion, about the same as our over-all trade deficit, which is already intolerable.

The projections are fantasies. Long before 1985, such import needs would bankrupt America, eliminating us as a customer. Our only realistic alternatives are: (a) promptly developing our indigenous reserves of fossil fuel, (b) violently forcing our will on the Arabs, who own two-thirds of the world's developed oil, or (c) collapsing our economy and living standards to Spartan levels.

Of the three alternatives, only the self-improvement one is acceptable. It is also attainable. We have more than enough undeveloped oil, gas and coal. Make that useful and we could be reasonably independent and affluent until, as we must, we have economically and amply harnessed the energy of uranium, the sun, the tides and the heat in the earth's depths.

Unlike China, which is largely a human energy society, we have long been both liberated and straitjacketed by an economy which is totally dependent upon growing quantities of mechanical energy, 75 per cent

of it coming from petroleum and natural gas. Western Europe, Israel and Japan are equally dependent. Our joint enthrallment to the Arabs is now stringent and obvious to our potential enemies.

America is uniquely vulnerable. Foreigners now hold over seventy billion of our dollars, at least half of which are a nervous glut. Moreover, our people regard it as an inalienable right to receive ever-rising wages and salaries that are always substantially above those paid elsewhere. That bounty would not have been possible without our uniquely abundant and cheap mechanical energy. Stripped of that advantage, and possibly forced to import half or more of our energy needs, we must begin to compete, man to man, in a fierce arena. The money-changers fear the social and political implications of that ugly transition.

We can eliminate our economic cancer. Fortunately, simply giving convincing evidence that we will immediately attack this problem aggressively and wisely could significantly moderate the attitudes of the money-changers and the Arabs even though adequate, concrete results might not be achievable for seven or more years. Until we are validly dedicated, our negotiating strength, and that of our friends, will degrade at a shocking rate.

The wisdom we shall need to avoid economic disaster will entail some bitter choices. It will demand a far greater willingness to compromise on that sacred cow, "tax reform," and such truly sacrosanct issues as Alaska's pristine beauty and the purity of the air we breathe. Unless we now compromise sensibly, the rigors of economic contraction could, before 1975, politically force roughshod abuses on our environment. The ecologists' trading stance, now strong, is in grave danger.

Remember, we must convince savvy, cynical money-changers. They will only question our political sophistication. That type always looks for the Achilles heel. For more than a dozen years we have persisted on a self-destructive political course even though our energy crisis was an obvious threat. We have been naive.

The Federal Power Commission artificially stimulated consumption of natural gas with regulated prices that also discouraged exploration and development. While nature was forcing prospectors to drill deeper, costlier wells in the most hostile places, "tax reformers" sharply reduced the incentive for such endeavors. They used the large Alaskan discoveries as their excuse and then well-meaning but uncompromising ecologists blocked the shipment of this oil. Amateur fears stopped the building of atomic energy plants.

We have neglected our heritage by disbanding to caterwaul ideological opposites instead of jointly seeking our common good. It is high time we exercised enough political maturity to save our economy and make the dollar creditable. We need to be rescued by serious students. The dilettantes are clobbering us.

LITTLE JIMMY DICKENS APPRECIATION DAY

Mr. ROBERT C. BYRD. Mr. President, on June 17, West Virginia will honor one of the finest country singers in America when it celebrates "Little Jimmy Dickens' Appreciation Day."

Jimmy Dickens was born in Bolt, W. Va., the youngest of 12 children, and made his show business debut in 1939 on radio station WJLS in my hometown of Beckley.

This country music artist became almost instantly popular wherever he performed. After appearing on WJLS, he went on to WIBC in Indianapolis and then to WLW in Cincinnati. He sang with Roy Acuff and became a regular at the Grand Old Opry.

As a testament to his popularity, it is worth noting that Little Jimmy Dickens was the first country music artist to completely circle the globe on a performing tour.

He achieved star status in the competitive field of country music through hard work—and through love of his work; and it is fitting that this West Virginian who has made significant contributions to his chosen field should be cited with a day in his honor.

I congratulate Little Jimmy Dickens for using his talents to bring pleasure to millions of country music fans, and I commend radio station WRDS, South Charleston, W. Va., for organizing such a richly deserved appreciation day.

PERILS OF THE PIPELINE

Mr. DOMINICK. Mr. President, 5 years ago 25 percent of the total present U.S. domestic proved reserves of oil was discovered on Alaska's North Slope. At that time, the term "energy crisis" was not a common household phrase. At that time, studies were performed to determine the best transportation system to deliver that oil to the United States. Those studies included the possibilities of a pipeline through Alaska and Canada to Chicago as well as delivery by ice breaking tankers through a northwest passage to the east coast. These alternatives were determined to be less desirable than the construction of a pipeline through Alaska to seaport for shipment to the west coast. Now it is 5 years later; the construction of that pipeline has not begun, and the term "energy crisis" has become part of the vocabulary of all of us. I believe the time has come for all of us to reach agreement to get the pipeline underway without delay.

I have, for some time, watched with regret the development of polarized attitudes upon the part of some of our citizens. It is a polarization in which some people involved in the "environmental movement" and some "business leaders" are mutually excluding themselves from each other. Such a situation cannot be tolerated; for all of us, environmentalists, industrialists, businessmen, all share ultimately a common need to do what is best for all. To do so requires communications.

Whether they choose to acknowledge their contribution or not, those who have expressed environmental criticisms of the Alaskan pipeline have aided in promoting careful study and planning that has gone into the work on this line. The hazards of the Alaskan pipeline have been researched and reviewed through careful studies costing in the millions. New and stringent design criteria have been developed and in fact ecology has played a major role as a criterion for construction. I know of no project which has consumed as much "energy" from men's minds in order to produce energy.

Now again we see a move developing to further delay the construction of the pipeline while studies are completed to determine the feasibility of constructing a line across Canada. To those who wonder about Canada's reaction to the MacKenzie Valley line, I quote from an article appearing in the New York Times by Robert Bendiner, "MacKenzie Pipe Dream?":

Reflecting the economic nationalism which runs through Canadian politics these days, the New Democratic party, by whose grace Mr. Trudeau's Liberal minority now governs, opposes the project on the formal ground that not enough research has been done and on the informal ground that it is not prepared to support something just because it might serve the interests of the United States, much less those of some oil companies.

Financial and economic objections run through all of the country's major parties. Donald S. MacDonald, the Minister of Mines, Energy and Resources, who leans toward the project, indicates that his Government would expect the oil pipeline to be at least 51 per cent Canadian-owned. But the job of raising that kind of money—at present costs, some $8 billion—would be forbidding if not impossible. And if it were raised, there are fears that it would tie a large part of the country's savings to the energy needs of the United States.

Mr. President, the Alaskan pipeline question is not only an environmental question. It is a question which transcends fields from economy to foreign relations. I submit that we know that the oil will come to the United States by pipe—a delivery system to which many environmentalists do not object. Our energy problems call for immediate solutions. The expectations are that our energy problems are going to get worse and if so we will need additional oil from the Alaskan and Canadian reserves. I do not reject the Canadian idea at all but I do say let us get on with the job and build the Alaskan line while we are negotiating with Canada on another line.

Amongst Colorado newspapers which have editorially endorsed the project, the Rocky Mountain News and the Denver Post indicated their support on March 4, 1973, and February 22, 1973, respectively. I ask unanimous consent that those editorials be printed in the RECORD.

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

PERILS OF THE PIPELINE

The Nixon administration deserves high marks for its persistent efforts to pipe oil out of northern Alaska to an ice-free tanker port at Valdez oil pipeline.

Interior Secretary Rogers C. B. Morton says he'll ask Congress and the Supreme Court to remove all roadblocks this year for the 789-mile pipeline.

Congress will be asked to amend a 1920 law that severely restricts pipeline right-of-way on public lands.

The Supreme Court will be asked to decide, once and for all, whether the pipeline plan meets environmental standards.

This may sound like a fairly simple process. But the pipeline project has taken so much flak from courts, conservationists and congressmen in the past four years that nothing is simple any more.

The most perilous thing about the pipeline is getting it approved. The dangers (real or imagined) of operating it seem inconsequential compared to that.

To argue, as some wildlife lovers do, that the line should go through Canada is not very convincing. Even more fish and caribou would be disturbed by the Canadian route than by the much shorter Alaskan route.

The primary consideration is that the nation needs Alaskan oil. Every barrel piped from Prudhoe Bay will be one less barrel we

have to import from the unstable Middle East.

That alone should be enough to prod Congress and the Supreme Court into the prompt action that Secretary Morton suggests.

ALASKA PIPELINE SHOULD BE BUILT

The Nixon administration has met with key senators to discuss ending the legal blockade of the trans-Alaska oil pipeline. Chances appear good that a bill will be introduced soon to lift that blockade.

Such action is necessary. Of all the steps that can be taken quickly to add to the nation's oil supply in time of growing shortage the Alaska pipeline is one of the most logical.

The Alaska North Slope is a sure source of oil. Its reserve—at least 10 billion barrels—is not great in the overall U.S. picture. But it is a substantial resource and one that should be tapped. And considering the 1972 balance of payments deficit, imports of foreign crude—while essential—are not the easy alternative they once were.

We were, therefore, disappointed with the U.S. Appeals Court ruling earlier this month. The court barred the pipeline because it said the line could not be built under rules spelled out in the 1920 Mineral Leasing Act.

But since the court has ruled as it has—saying the 1920 law restricts public land right-of-way for pipelines to 25 feet width—there is a sure recourse in Congress.

The 789-mile line running south to Alaska's ice-free ports would use 48 inches in diameter, far larger than anything contemplated in 1920. The project obviously needs much more access than the 25-foot limit allows.

So the law should be changed.

The Department of the Interior study of this project, released a year ago, makes the basic case for the pipeline in strong fashion. It concedes that there will be environmental damages. But it also outlines safeguards that can be insisted on as part of the pipeline authorization.

As to the alternative pipeline route proposed through Canada, it must be recognized that Canada is by no means ready for a firm decision on a cooperative venture.

In any case, the environmental argument is diffuse. A decision against the Alaska pipeline might only increase the pressure to tackle northwest Colorado for oil shale. Or it might mean increased dependence on coal alternatives to petroleum.

Meanwhile, the noose of shortages is being tightened.

With construction time reckoned in years for projects to supplement our energy sources, it is clear that we can't delay. Giving early approval to the Alaska pipeline is required. We think Congress should act.

DELAWARE LEGISLATURE SUPPORTS SOIL CONSERVATION SERVICE

Mr. ROTH. Mr. President, the Senate will soon be asked to consider the appropriations bill for the Department of Agriculture in fiscal year 1974. The General Assembly of the State of Delaware has gone on record as supporting an appropriation for the Soil Conservation Service in an amount at least equal to its appropriation in fiscal year 1973.

In order that my colleagues may have the benefit of the General Assembly's views, I ask unanimous consent that the text of House Concurrent Resolution 7 appear in the RECORD at the conclusion of my remarks.

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

HOUSE CONCURRENT RESOLUTION No. 7

Memorializing and urging the Congress of the United States to make an appropriation to the Soil Conservation Service in the 1974 fiscal year budget in an amount at least equal to the appropriation in the 1973 fiscal year budget and urging the Delaware congressional delegation to give their support to the appropriation of funds to the Soil Conservation Service at the 1973 fiscal year level

Whereas, the preservation of the soil, water, forests, and wildlife of Delaware and of this nation is necessary; and

Whereas, we believe the preservation of these resources is the responsibility of all people; and

Whereas, farmers and other landowners, through conservation practices, have made Delaware a more beautiful State for both rural and urban people to enjoy; and

Whereas, soil loss, previously recognized as detrimental to the production of agricultural crops, is now recognized as a major pollutant of rivers, lakes, and streams; and

Whereas, control of erosion, sediment production, and runoff containing fertilizer and pesticide residues are of such significance that greater control is in the public interest; and

Whereas, the Agricultural Conservation Program, providing incentives to landowners for rural environmental improvement of private lands, has been eliminated; and

Whereas, the technical services program, providing services to farmers and other landowners through the local Soil and Water Conservation Districts, have been curtailed by impoundment of funds appropriated to the Soil Conservation Service; and

Whereas, further reductions in both funds and services for programs affecting whole communities and watersheds are proposed in the 1974 fiscal year budget of the Soil Conservation Service; and

Whereas, major reductions are proposed for both the Watershed Program and the Resource Conservation and Development Program, two programs having areawide impacts on resource protection and development in Delaware; and

Whereas, the Department of Natural Resources and Environmental Control has budgeted its activities to meet its obligations toward planning, staffing, and funding based on mutual efforts of local, county, state, and federal areas of cooperation as stated in work plans and other articles of agreement,

Now, therefore:

Be it resolved by the House of Representatives of the 127th General Assembly of the State of Delaware, the Senate concurring therein, that the Congress of the United States is respectfully urged to make an appropriation to the Soil Conservation Service in the 1974 fiscal year budget in an amount at least equal to the appropriation in the 1973 fiscal year budget; and

Be it further resolved that Delaware Senators William V. Roth, Jr. and Joseph R. Biden, Jr., and the State Representative in Congress, Pierre S. duPont, IV, are urged to give their wholehearted support to the appropriation of funds at the 1973 fiscal year level to the Soil Conservation Service; and

Be it further resolved that the Secretary of State be directed to transmit duly attested copies of this Resolution to the President of the United States; to the Vice President of the United States; to the Speaker of the House of Representatives; to the Chairmen of the Senate and House Committees on Agriculture; to the Chairmen of the Senate and House Committees on Appropriations; to the Secretary of Agriculture; and to the Delaware Congressional Delegation.

BALANCED NATIONAL GROWTH AND ENVIRONMENT

Mr. HUMPHREY. Mr. President, on June 9 the Washington Post published an excellent article by Dr. Oliver Jones, executive vice president of the Mortgage Bankers Association, entitled "Growth and Environment: It's Time for a Balance." This article reinforces my firm conviction that policies and programs developed to alleviate national problems must be delicately balanced. The costs and benefits of alternative policies must be carefully analyzed as decisions are made if the greatest public benefit is to be derived.

The growing complexity and increasingly close relationships between individuals, institutions, and systems of all kinds, in America today, make the Nation's problems difficult to clearly define and even harder to alleviate.

I believe that our national policymaking processes must be updated to reflect these changes in our society.

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

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

AN ECONOMIST EXPOUNDS: GROWTH AND ENVIRONMENT: IT IS TIME FOR A BALANCE

(By Oliver H. Jones)

The gasoline shortage forecast for the summer months promises to be more than an inconvenience for vacationers. The private citizen will be personally involved in a collision between economic growth and the limited supply of natural resources.

So far, most citizens have been immune to ecological warnings. People are often bored with the disaster lobby—the broadcasters of gloom-and-doom. A person tells himself, "Things will work out; they always have." By the end of this summer we all may realize that we are part of the problem and that the solution will not only affect the size and power of the cars we drive but also the use of public transportation, housing and community arrangements, availability of jobs, and even our standard of living.

A gasoline shortage may be the first step in creating an aroused citizenry and, thereby, a govenment that is responsive to the questions posed by economic growth: "Can the economy continue to grow in a sterile environment?" . . . "Can the population survive in a poluted environment?"

Neither of these extremes can succeed as governmental policy. The militant protectors of the environment may manage to stop the construction of an atomic power plant, slow down off-shore oil drilling and enforce antipollution devices to be installed on automobiles. In so doing, they reduce the availability of employment and of products demanded and required by a growing population.

Birth control devices may be essential to resolving the basic issue of famine in India and resolving the broader issues of growth versus exploitation of the natural environment in the United States. But the results may not be effective for a generation or more. Meanwhile, the population of the United States will require more products and more jobs—not less—over the next three decades. We will not be satisfied by reduced investment in productive capacity, by an unwillingness to use available alternatives, and certainly not by fewer job opportunities. And we will not accept a reduced standard of living.

The trade-off is not between clean air and

increased costs of producing goods, but between clean air and jobs. Although the growth and no-growth proponents are clearly on a collision course, the result need not be an economy that is stagnated by a lack of jobs and investment opportunities or a populace that is surrounded by stagnant air and water.

Growth for growth's sake, long a fetish, must be examined from new and imaginative directions if we are to find a workable middle ground. Smaller cars and greater use of public transportation will save gasoline; reduce air pollution, and reduce the risk of oil spills on ocean beaches. But this does nothing to solve the problem of providing increased energy needs to heat, cool and light a growing number of homes and business installations. It does nothing to reduce the crowding of individuals in larger and larger cities. It does little to alleviate growing traffic problems.

To a degree, some individuals have already made a choice by moving from crowded cities to smaller towns. This would do much to relieve the concentration of the population and the concentration of pollutants that accompany it. But this voluntary migration cannot become large enough to reverse the threatened ecological breakdown unless jobs are also provided in the smaller towns.

Sweden is experimenting with incentives to encourage the relocation of industry away from major cities, including the relocation of entire departments of the government. U.S. industry has relocated outside major cities in suburban areas where labor and housing are already available.

Having to face the collision with the environment, this nation is fortunate in two ways. It has the physical resources and the technology needed to adjust to a new and probably a greatly improved living environment. Now we need the imagination and the will to do the job.

By way of imagination, we might consider how much could be accomplished by using modern communication systems to transport ideas, thoughts and instructions. Our major cities are places where people meet to work together, transact business, be entertained and find education. But are daily face-to-face meeting needed? Modern communication systems could be used to create networks between cities and satellite towns. Millions of people could live in smaller towns and work in offices, attend schools and watch shows—all of which are tied directly to the large city as the continuing source of culture and center of government, finance and education. Even housing would be clustered or combined in high-rise apartments to reduce traffic and pollutant problems.

This may suggest a picture of the world of tomorrow, unattainable and impracticable. However, the alternatives of unrestrained economic growth or no-growth are far less practicable and far less acceptable. It is time to consider the unattainable with the same degree of national will that created atomic power and placed men on the moon.

Perhaps, then, the summer's inconvenience will start us on the path to creating a new world where growth and the environment are again in balance.

(Dr. Oliver H. Jones, an economist and author, is executive vice president of the Mortgage Bankers Association. He reports his personal views on housing, finance and their political implications on these pages from time to time.)

REMARKS OF SENATOR BARRY GOLDWATER AT AIR FORCE ACADEMY COMMENCEMENT ON JUNE 6, 1973

Mr. THURMOND. Mr. President, an inspirational and instructive address was delivered to the Air Force Academy Class of 1973 at commencement services by my distinguished colleague, Senator BARRY GOLDWATER, Republican of Arizona, on June 6.

While these remarks were primarily for men who have already committed their lives to the defense of our Nation, I wish every graduate in this great country could have heard these words. In them the Senator issued an eloquent call to stewardship as a citizen which applies to all graduates, not just those committed to wear the military uniform. He espoused those attributes which made this country great—honor, discipline, patriotism, self-respect, self-confidence and self-denial.

Mr. President, Senator GOLDWATER knows what has made America the most outstanding Nation in the world. He sees, however, some eroding of our institutions which have heretofore preserved the strength of these United States. He has challenged the Air Force Academy Cadets to provide the leadership this country so desperately needs for the future. He also expressed the belief, which I share, that our young men and women, military and civilian, will appreciate and preserve the values which have brought through our Government more freedom, blessings and responsibility than that experienced by any previous people in world history.

Mr. President, I ask unanimous consent that this speech by Senator GOLDWATER be printed in the RECORD.

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

SPEECH BY SENATOR BARRY GOLDWATER

General Ryan, General Clark, distinguished guests, gentlemen of class of 1973: It is not easy, it may even be impossible for me to describe to you my feelings and my thoughts as I stand here beneath the backbone of America, the Rockies, speaking to the future backbone of the United States Air Force.

The only manner in which I can address this class is to draw upon experience which I think is the duty of those who have passed youth. "What is past is prologue, study the past." This is carved upon the steps of the National Archives building in Washington and the older you get the more you are going to realize how true that statement is. Study the past. A study of it will show what has made America great and an application of the understanding will continue to keep America great. Any deviation from the established pattern will lead us into the chaos experienced by every government before us whose people forgot the source of their strength.

Our basic strength stems from the fact that two hundred years ago we recognized that "we are endowed by our Creator with certain inalienable rights and among these are life, liberty and the pursuit of happiness." If we still believe that, and we must, then the words of an author unknown to me can supply the best advice I can give you in the serving of your country, the serving of your family, the serving of yourselves. And this man wrote:

"I do not choose to be a common man, it is my right to be uncommon if I can. I seek opportunity, not security. I do not wish to be a kept citizen, humbled and dulled by having the state look after me. I want to take the calculated risk to dream and to build, to fall and to succeed. I refuse to barter incentive for a dole. I prefer the challenges of life to the guaranteed existence, the thrill of fulfillment to the safe calm of Utopia. I will not trade freedom for beneficence nor my dignity for a handout. I will never cower before any master nor bend to any threat. It is my heritage to stand erect, proud and unafraid, to think and to act for myself, to enjoy the benefits of my creations and to face the world boldly and say: 'This I have done; all this is what it means to be an American.'"

Common men, I might say, have never been leaders; and we have too many common men in our country today and too few leaders. In fact, I just returned from the Paris Air Show a few days ago and there it was my pleasure to visit again with people I have come to know since the early days of World War II; people from every country who were asking me, where has the leadership of the United States gone? Why are you giving up in the fields of technology? Why is the man in uniform being so defiled by the press of the nation? What are you going to do about the problems you find yourselves in around the world? My answer to them was, yes, we have suffered, suffered for a long time through a lack of enough leadership, but I told them this:

"I have faith in the young men graduating this week from our academies who will supply the military leadership for our country in the years ahead."

I say this, gentlemen, because you are not common men, nor have the great leaders who have preceded you been common men. The uncommon man is a patriot; he has self-respect, he has discipline and he has self-confidence. Now, without these basic possessions, you can never become good leaders because from these stem morale without which no organization, be it business, academic, military, or political can perform or even survive. The acquisitions of these attributes have come to you through birth, guidance by your family, your church and through the guidance of this institution. Now, your job is to hold on to those ingredients and put them to work.

The failure to possess all of those qualities or even part of them caused us to enter a war without the will to win it and caused us international humiliation because the war has never been won.

Had these attributes I've mentioned been possessed by the civilian leaders when the Vietnam War was opened, this country would have emerged victorious in a very short time. It is the spirit which we bring to the battle that makes the decision and it is *morale* that wins the victory. The members of our Air Force who maintain patriotism, self-respect, discipline and self-confidence are the leaders who truly lead and the leaders who bring victory.

Let me cite one example out of hundreds that come to my mind to try to illustrate what I am talking about. The last gasp of the Luftwaffe was carried out on the morning of January 1st, 1945, as they had begun a very intensive program of strafing and bombing out allied airfields in France, Belgium and Holland, in which they destroyed many of our aircraft. And during the rather peaceful period just before that, the 352nd Fighter Group was flying escort missions for our bombers. They were also flying early morning patrols and were having marked success in strafing and attacking the Luftwaffe. However, orders came down, that on January the 1st, the group was to be concentrated on bomber escort, and the Group Commander, Colonel Jim Mayden, an old friend of mine, and his Operations Officer, a young Lt. Colonel, felt that this would be wrong, for at least part of the aircraft should be used to continue attacking the Luftwaffe.

Now, even though the order had come down from above, both Colonel Mayden and his Operations Officer carried their arguments right to the top of the command and

after much discussion, they were allowed to fly a small portion of their planes on patrol. The fact that the persistency, the discipline and the self-confidence of these two young men resulted in the smashing of the Luftwaffe attack efforts has become one of the classics of the war, the Battle of Asch. And, who do you think that Operations Officer was? He became one of our ranking Aces. He is now General J. C. Meyer, Commander of the Strategic Air Command. I don't tell you this story to urge you to be disrespectful or to disregard orders coming down. I use it to point out that there are times when the decisions of your superiors can be discussed with them, always in a respectful way with the idea that you might change their minds or might alter their plans so as to incorporate things which discipline has taught you to be correct. A leader must lead; I will never forget an evening in my life when I attended a critique being conducted by General Patton on the deserts of my State in Southern Arizona, a critique after his day's drill, by a man I consider one of the great leaders of World War II. He stood in front of his men that night and he held up a china plate and on it was a long, wet noodle and he was trying to push it from the bottom. It was obvious that it couldn't be done, so he grasped the noodle at the other end and said, "Gentlemen, to lead, you must pull the noodle." I have never seen a better explanation of leadership; I won't use some of the language he used in explaining it either. I've never forgotten that example because to be a leader you have to prepare yourself, not just to be in front, but to be worthy to be there, able to be there and sufficiently trained to do a good job.

Now, in closing, let me urge one thing upon you that I have learned through my life as a civilian, a politician and a military man. You must have morale, you must have it yourself and you must instill it in the men under you, and you do this by having patriotism, self-respect, discipline and self-confidence, and let me add one more ingredient, a very important one, a keen understanding of the men under you and with you and a respect for them. And let me tell you something, you're never going anyplace without some good Sergeants.

As you leave these halls, leave with the American dedicated to the defense of our country in the air, from all enemies, foreign and domestic. And remember that what you were taught here about honor will more and more become the keystone of life dedicated to a country founded in honor, even if some of our people today seem to scoff at the idea today.

For example, we see a man who stole classified documents from the Pentagon and sold them being made into a hero. I would suggest that instead of the paper which bought those items being awarded the Pulitzer Prize, it should have been given along with the thief, the Benedict Arnold Award. Let me tell you, the honor system will be here and at the other academies a long time, honesty will not die.

We see the Office of the Presidency today being attacked and I am not defending those men who should be attacked, but the effort seems to be not just to get the captain of the ship, but to sink the ship as well.

Let me tell you something that you're going to learn, and these detractors of America will have to realize, this form of government we have is as tough as granite and it has withstood attack after attack on its Presidents, beginning with Washington and including all but a few. We have survived, we will survive, our Commander-in-Chief will not resign, nor will he be impeached. Our government is too strong because the people, two hundred and five million of them, are basically honest people.

Gentlemen, as you leave here today, you're going to be leaving a very close part of your life. But, you're going to be entering the service of your country and I always remember the admonition of my old grandfather, born in Poland, who never could speak good English, he said," Every man owes something for the space he occupies. Occupy your space with pride and with discipline. Occupy it knowing you're a member of one of the great branches of military service. Occupy it knowing that as long as you stay honorable, as long as you have respect for yourself and your country and your God, nothing can stop you."

I wish you well. Thank you.

TAX THE LITTLE GUY FOR HIS GAS AND LET THE GIANT OIL COMPANIES REAP HUGE PROFITS SEEMS TO BE NIXON ADMINISTRATION APPROACH TO FUEL SHORTAGE

Mr. CHURCH. Mr. President, I was shocked when the trial balloon began floating out from Washington that the Nixon administration had found a way to conserve gasoline, by raising the gasoline tax by as much as 5 or 10 cents a gallon.

I want to help shoot down this particular trial balloon right now. I have no intention of supporting gigantic tax increases which penalize the consumer of gasoline. I will not support proposals to increase the tax on gasoline and ignore the fundamental need of a strong program to put a stop to inflation.

It seems incredible to me that at a time the major oil companies are showing gigantic profits, this administration talks about taxing the ordinary guy who needs the car to get to work, to take his children to school, and to shop for groceries.

The administration should get on with the job of implementing a strong program to assure that scarce fuel supplies are equitably allocated. Congress is giving the necessary tools to the President. He should use them rather than sending out feelers to see if it would be feasible to soak already hard-pressed taxpayers for more of their dollars.

Mr. President, I ask unanimous consent that a recent article appearing in "U.S. Oil Week" describing the profit rates of major oil companies, together with a recent editorial from the Idaho Daily Statesman of Boise, Idaho, entitled "No to Gas Tax Increase," appear in the RECORD.

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

MAJORS REAP SHORTAGE GAINS

Major oil company profits zoomed ahead in the first quarter as shortages allowed them to charge prices beyond their wildest dreams.

Exxon, the world's largest oil company typically has posted gains from above 3% to 7%, but now its profit has jumped 43% to $508 million.

Only a few of the small refiners took it on the chin as they couldn't get the crude to make out the way their big competitors have.

Here are the ones so far reported:

Net income:	Percent gain
Amerada Hess, $36,706,000	+25
American Petrofina, $4,735,000	+105
Amoco, $121,100,000	+21
Apco, $889,000	−47
Ashland,[1] $38,500,000	+25
Arco, $50,300,000	+52
Citgo, $34,400,000	+17.4
Conoco, $47,500,000	+11.5
Crown, $302,938	+34
Exxon, $508,000,000	+43
Gulf, $165,000,000	+18.7
Marathon, $24,165,000	+49.6
Mobil, $155,800,000	+10
Murphy, $1,900,000	−1.6
Occidental $8,934,000	+58
Pennzoil, $19,624,000	+24
Phillips, $43,448,000	+22
Shell, $80,200,000	+49
Skelly, $9,961,000	+2.5
Std. (Calif.), $152,800,000	+24
Std. (Ohio), $17,500,000	+48.3
Sun, $49,000,000	+40
Tenneco, $53,413,000	+14.4
Texaco, $264,016,000	+14.8

[1] 1st fiscal half.

Source: U.S. Oil Week, April 30, 1973.

[From the Idaho Statesman, June 1, 1973]

NO TO GAS TAX INCREASE

Pressures are growing for some dramatic action to curb inflation. One of the suggestions is an increase in the four-cent federal gasoline tax, perhaps to as much as 10 cents a gallon.

A gas tax boost offers some important benefits, but it also has serious drawbacks. It is a tax that strikes hardest at people least able to pay. And it would contribute to increased costs for many products.

The theory behind the gas tax proposal is that it would 1) reduce consumption of limited gasoline supplies 2) raise several billion dollars 3) wipe out a projected federal deficit, and 4) cool the economy and curb inflationary pressures.

There are other ways to accomplish those objectives.

Conservation of gasoline is a desirable goal. The U.S. cannot continue to increase its gas consumption without drawing heavily on imports from the Middle East. In the long run there isn't enough oil in the world to match the possible growth of our appetite for it.

So government should begin taking steps to discourage consumption. It would be fairer to tax autos on the basis of weight and horsepower than to raise the tax on gasoline. Reduced speed limits would help.

More than $1 billion a year could be raised by eliminating the depletion allowance which favors the oil industry. That cost might be passed on to consumers in the price of oil, but oil prices have already risen and the oil companies are reaping big profits.

If inflation can't be curbed by natural forces, a return to tighter wage and price controls is an option. Both Rep. Wilbur Mills, chairman of the House Ways and Means Committee, and Senate Majority leader Mike Mansfield are advocating that step.

Controlling inflation by raising interest rates and raising taxes is the method that hurts the consumer the most.

Idaho's economy is heavily dependent upon auto transportation. A five-cent increase in the gasoline tax would be a severe jolt, particularly to people of lower and middle incomes who must commute to work.

Gasoline prices are moving up anyway, without a tax increase. Some people are forecasting a price of $1 a gallon or more. Before gasoline reaches that level, the government would have to step in and put a lid on. If supplies are short, a rationing system would be required.

We must move as rapidly as possible to policies which conserve gasoline. While that transition is in progress, however, the economy must be protected from excessive prices for gasoline.

TESTIMONY ON PROBLEMS AND INADEQUACIES OF FEDERAL DISASTER ASSISTANCE EFFORT

Mr. BAKER. Mr. President, on Tuesday of this week the junior Senator from

New Mexico, Mr. DOMENICI, testified before the Housing and Urban Affairs Subcommittee, which is presently considering several disaster assistance proposals.

Senator DOMENICI serves as the ranking minority member of the Public Works Disaster Relief Subcommittee and has just attended a series of field hearings on the Federal Government's response in major disasters. From these hearings the subcommittee has been able to get an oversite of Federal disaster activities. Senator DOMENICI's statement is an excellent summary of many of the problems and inadequacies of the existing Federal disaster assistance effort, and I thought it would be of interest to other members of the Senate concerned about this program. I ask unanimous consent that Senator DOMENICI's statement be printed in the RECORD along with a recent article from the Wall Street Journal and the statement of Mr. Amory Houghton, Jr., chairman of the Board of Corning Glass Works, before the Disaster Relief Subcommittee in Elmira, N.Y., on June 1 of this year.

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

STATEMENT OF SENATOR PETE V. DOMENICI

Mr. Chairman, members of the Subcommittee, I want to thank you for the opportunity of appearing before you today to discuss federal disaster assistance programs. I have become involved in this area of Federal activity through my work on the Public Works Disaster Relief Subcommittee. The Public Works Committee developed the basic comprehensive disaster relief program now operating—the Disaster Relief Act of 1970 (Public Law 91-606). This law was designed to create a permanent structure and procedure by which the Federal Government could respond quickly and effectively to natural catastrophes. Public Law 606 has been in effect for three years and has been utilized in over 70 major disasters.

I think there is wide agreement that the authorities and mechanisms set up in Public Law 606 work as far as they go. Some changes will be necessary in the law and in present program administration, but basically we have a sound program of assistance.

Through a series of field hearings earlier this year, our Subcommittee has been able to get a total picture of what is involved when a disaster strikes from the early warnings and evacuation efforts to the long term rebuilding activities. While we focused on the implementation of Public Law 91-606, the hearings covered all federal programs which come into play in a disaster either under PL-606 or under other authorities. From the experience I gained in these hearings, I believe there is need for a comprehensive, coordinated disaster assistance program which will place as much emphasis on the prevention and mitigation of disasters and the long-term permanent rebuilding as is now placed on the extension of relief to individuals and communities. A comprehensive policy on disaster assistance would necessarily involve the jurisdiction of more than one committee. I would hope, therefore, that all committees involved could work together in the development of a truly comprehensive disaster program.

The Public Works Disaster Relief Subcommittee was reconstituted this year to review the comprehensive disaster legislation required under PL 92-385, to conduct an evaluation of the adequacy and effectiveness of the 1970 Act and to make recommendations, as may be necessary, to improve the law.

The Subcommittee has just completed seven days of disaster aftermath field hearings which included Biloxi, Mississippi, Rapid City, South Dakota, Wilkes-Barre, Pennsylvania, and Elmira-Corning, New York. All of these areas in recent years have been ravaged by natural calamities. Biloxi, you will remember, was struck by Hurricane Camille in 1969 and, at that time, represented the most costly single natural disaster ever. Rapid City was devastated by floods around this time last year. Wilkes-Barre and Elmira-Corning were among the worst hit areas during tropical storm Agnes. Storm Agnes, by the way, is now considered the most destructive natural disaster in the history of this country. According to the Office of Emergency Preparedness, Agnes required the largest federal relief effort in the agency's history.

There was strong objection by witnesses to the placing of Federal relief in the Department of Housing and Urban Development. There is fear that the disaster program will be downgraded, that it will lose the stature and authority now derived from being located in the President's office and reporting directly to him.

There is fear that once in a line Department, it may be more difficult to coordinate peer agencies as effectively as is now done by the Office of Emergency Preparedness. Witnesses were concerned that the federal disaster program would lose its flexibility and responsiveness. I am concerned that the expertise developed by the Office of Emergency Preparedness over the years in administering this law may be lost. The ability to respond firmly and in a knowledgeable manner saves lives and expedites recovery. It appears that no equivalent expertise exists in any State agency at this time and until a change in the operation of the disaster relief program is enacted, it is imperative that the Federal government retain the capability to respond. It may be that some of the poorer, less populous states may never develop this capability and a Federal standby will always be necessary. The relocation of the Office of Emergency Preparedness was authorized with little opposition earlier this year by the first reorganization plan. I believe we must monitor this move very carefully, based on the testimony received in the hearings. If it should appear necessary—and I think it may be—I would hope that a Federal disaster coordinating officer under the President be reestablished. From what I have seen in our hearings—the chaos, helplessness and paralysis that follows a disaster—I cannot over emphasize the need for an effective federal coordinator.

There is no clear delineation of phases in a disaster. The actions or inactions of any one period are important in what comes later. For discussion purposes, however, reference can be made to an emergency phase, which includes evacuation and emergency services; to a restoration and recovery phase, and to a long-term permanent recovery phase. These last two phases are intimately related and restoration projects undertaken in phase two have a lasting impact on longer range redevelopment.

PL 91-606 authorizes recovery and restoration projects under the coordination of the designated Federal Coordinating Officer. The law provides, for example, for the reconstruction, repair and replacement of streets, public buildings and public facilities to their preflood condition. The local comunity and State identify the damaged facility, a hospital say, and OEP will finance the repair of the hospital to its preflood status out of the President's disaster fund.

Such projects sometimes take from three to five years to complete and are a part of the long-term rebuilding of an area. Past major disasters which hit Biloxi, Mississippi; Buffalo Creek, West Virginia; Rapid City, South Dakota; Wilkes-Barre, Pennsylvania and New York have so destroyed whole communities as to require Federal help for rebuilding far beyond the scope contemplated and provided in Public Law 91-606. This development has led us to the third phase, the permanent long-term rebuilding period. The rebuilding provides a splendid opportunity not only to restore communities but to improve these areas beyond what they were before the disaster. Other than for the limited authorizations in the Disaster Relief Act, there are no comprehensive plans or programs for this period. The most critical testimony our subcommittee received related to the federal activity in this period and it is evident that this phase of a comprehensive disaster program has been overlooked in legislation and deserves our attention.

At the present time States and communities, trying to rebuild after a disaster, have had to turn to the separate Federal categorical aid programs which happen to be on the books and available at the time. These programs were not designed for disaster situations, and their numerous, time-consuming requirements and regulations are more frustrating when imposed on the already beleaguered communities digging out from a disaster.

Our hearing record is replete with examples of problems caused by this fragmented approach applicable to phases II and III. Many communities, almost a year after the disaster, have not been able to complete the necessary papers and receive approval of their projects. During our hearing on June 1 of this year in Elmira, New York, HUD announced approval of one urban renewal project nearly one full year after the disaster; a similar project for a nearby community is still in the works. One year after the disaster, about 3,000 families are still living in trailers provided as temporary housing in Corning, Wilkes-Barre and Rapid City.

The application of the various programs often overlap, creating problems and inequities none could foresee. In some areas individuals receiving SBA home loans have gone back and repaired or rebuilt in the flood plain, thus limiting the city's efforts to zone and restrict building in this critical area. Approval of urban renewal projects comes after much of the rebuilding has already taken place and some of the properties improved with SBA loans are now designated for acquisition under urban renewal.

In Pennsylvania, some individuals lucky enough to live in the urban renewal area will be paid pre-flood value for their houses while others, perhaps with more damage and need but outside the urban renewal boundaries, must rely on loans and a grant to rebuild or repair.

An article appearing in the June 8 Wall Street Journal illustrates the problem of overlapping programs and duplication of benefits and I ask that it be included in the RECORD after my remarks. While the family in the story was helped by this maze of programs, the reverse is as often true.

Public Law 606 includes a mechanism to trigger Federal emergency and relief activities. There is question, however, on how best to define the end of a disaster and to define the Federal role and responsibility in the post-emergency period. It is legitimate to question whether the long term phase should be considered part of the "disaster" requiring the same type of organization and direct Federal involvement we have during the actual emergency. One witness in New York urged that the atmosphere of "crisis" which applies to the initial stages of an emergency be continued into phase three. Such a philosophy may be necessary to prevent the delays in rebuilding which occur when the Federal agencies revert to business as usual.

There are different ways of dealing with this fundamental question of the post-emergency period. Many persons favor block

grants, permitting the greatest degree of flexibility in planning and development, rather than replacement on a project-by-project basis as now provided in PL 606. This latter approach tends to freeze ineffective and inefficient projects into place. Block grants might give communities the opportunity of renewing their physical and economic base. The question arises over the mechanism for carrying out such a program. Some witnesses supported an agency similar to the Office of Emergency Preparedness, possibly with expanded powers, in the Office of the President, to continue coordination and direction of Federal activities on the scene through redevelopment. Other witnesses indicated that such a procedure would create too much unnecessary federal control. During the hearing in New York, I requested State officials to report on what it would take in terms of additional authorities, manpower, programs and money to carry out the Administration's proposals in S. 1840 for State administration of block grants. This question arose during the field hearings but I intend to solicit similar analyses from the States to get some idea of when and how States would implement such a program.

Under the present mode of operation, the Federal Regional Councils, along with a State and local counterpart, act as the program coordinators in phase III, but this has not been wholly successful. I believe that if we choose to continue the approach of using categorical aid programs, it will require some amendments to the various program or Departmental authorities to establish special "disaster regulations and policies" to cut red tape and expedite delivery of programs basic to the needs of any communities but particularly necessary to devastated communities trying to rebuild the whole range of basic services such as housing, medical care, and transportation.

Consideration should also be given to financing for long term development. As it is now, regular monies will have to be taken from other programs and projects, which may have equal merit, to fund the projects in the disaster area. Also, most Federal programs require that total costs be committed against the annual appropriation, severely restricting the monies available for regular projects. Such a special fund would not be caught in changing priorities, program freezes or cutbacks which have hampered current redevelopment. This is particularly true in the area of housing.

Another piece of legislation before the Banking Committee which will affect the present approach to rebuilding is the urban block grant proposal similar to the one passed by the Senate last year. The blocking of these authorities and the pass through of funds is important as it covers the HUD programs, outside of housing, most widely used by disaster communities.

Mr. Amory Houghton, Jr., Chairman of the Board of Corning Glass Works, testified during our New York hearings and I request that his statement also be included in the record after my remarks. Mr. Houghton made several recommendations which may be of interest to your Committee, particularly his discussion of the problems of medium-size businesses damaged by a disaster. Mr. Houghton pointed out that these businesses, an estimated 140,000 such firms employing around 200 to 300 people, usually cannot afford flood insurance at market rates but the coverage they receive under the federally sponsored program is not adequate. He recommended that subsidized coverage be raised to $500,000 and that unsubsidized coverage be raised to $1 million.

I want to add a few words about insurance. I believe an insurance program should be an integral part of any comprehensive disaster policy, and eventually will supplant disaster loans as the primary means of providing relief. When you look at some of the statistics from tropical storm Agnes, however, there is serious question as to when or if insurance will be a viable alternative for many people. Estimated damage from Agnes is $2.5 billion but ony $5 million in losses was payable under the National Flood Insurance program. In Wilkes-Barre only two flood insurance policies were in effect at the time of the disaster, but over 14,000 homes were damaged by the floods.

I understand that participation in the program has increased dramatically since Agnes and in light of the flooding already begun this year. More than 2,200 communities are now eligible for the program, 230,000 policies have been sold and $15 million in claims has been paid so far this year. But I would like to point out that during this same period SBA has made over 200,000 disaster loans for about $1.5 billion. Much of the new insurance coverage is being sold in areas which were devastated last year. We must make certain that the program is so designed and operated that if another Agnes were to strike these areas five or twenty years from now we would find the insurance coverage working and providing adequate relief.

While I support every effort to extend the program, I do not want to imply that I am for coverage without any qualifications. I support the land use management provisions of existing law. Through flood plain management and building codes we can hope to minimize food losses in the future and I endorse the concept in the proposed amendments to the National Flood Insurance Program which would cut off Federal building funds to communities after 1975. I only wonder if we should postpone the deadline that long. It may prove necessary in some especially hazardous areas to require both insurance and land use controls. With a stronger mandate for flood plain management, there could be increased Federal help to meet the requirements.

This could be done through subsidies and higher coverage limits under the insurance program. Or, perhaps, there could be special Federal building loans, carried out through the regular agencies, to facilitate implementation of a flood plain management program. The proposed amendments now before your subcommittee are addressed to several of the problems which have restricted the use of the insurance program and I am sure you are more aware than I of the changes required to encourage the use of the program while meeting the program objectives. I only want to lend my support to legislation extending the program to more communities and homeowners and which will make the scope of the insurance broad enough to provide adequate coverage.

I have only mentioned a few of the problems involved in writing and implementing a comprehensive disaster program. The Senate needs to consider the problems of a disaster as a whole and the entire range of programs—from prevention and mitigation of damages through redevelopment—necessary for a comprehensive approach. This effort will necessarily cross jurisdictional lines but I am hopeful the committees can work together, sharing their experiences and expertise on different program components, and can agree on a permanent, adequate and equitable disaster program. I pledge my cooperation to this effort. I believe it is something we must do.

[From the Wall Street Journal, June 8, 1973]

AFTER THE DELUGE: THE GREAT FLOOD OF 1972 IS FAR FROM FORGOTTEN IN RAPID CITY, S. DAK.—DEVASTATION IS STILL EVIDENT DESPITE BOOM IN BUSINESS; "A MENTAL HEALTH CRISIS"

RAPID CITY, S. DAK.—One evening not long ago, Wayne Ward noticed dark thunderclouds hovering over the rocky, spruce-topped Black Hills that dominate this city's horizon. Suddenly, he felt apprehensive. For the gray twilight was reminiscent of the evening—just a year ago tomorrow—when the rain-swollen Rapid Creek overflowed its banks in one of the most destructive floods in U.S. history.

During that flood, the Ward's home was swept off its foundations, nearly all their belongings were buried under tons of mud, and they themselves escaped drowning by about 10 minutes. "Rain bothered me for a little while after that," Mr. Ward acknowledges today. "I think it bothered everyone. But we're all right now. After all, we were lucky."

That they were. In all, 237 people died after 14 inches of rain fell on the hills and collapsed an earthen dam. Four others have never been accounted for and are presumed dead. And in terms of nonhuman loss, some 770 houses and 565 mobile homes were destroyed, with property damage being figured at more than $100 million.

Certainly, Rapid City wasn't the nation's only disaster area last year. Tropical Storm Agnes inundated large sections of seven Eastern States. Waste waters from a coal mine crumbled a makeshift dam in Buffalo Creek, W.Va., and caused widespread flooding. In all, floods killed more than 500 persons in 1972, left 7,400 families with completely destroyed homes and damaged nearly some $3.5 billion in property.

A GRIM DISTINCTION

No single city in the nation, however, was harder hit by a flood last year than Rapid City. In fact, more lives were lost than in any U.S. flood in more than 40 years. How does a locale adjust to such a calamity? Do the mental traumas and physical scars induced by the violence persist indefinitely? Or do they recede along with the floods waters? The answers to these questions are provided—at least in part—by a look at Rapid City and some of its residents one year after their natural disaster.

Like any story involving the efforts of a multitude of human beings, the Rapid City story is a study in contrasts. Take the positive side first: From many outward appearances, Rapid City in one short year has bounced back. Business has been bolstered by infusions of low-interest federal loans. People at motels and tourist attractions like neighboring Mt. Rushmore say they expect that this year's vacation season will more than make up for last year's 25% slump in business—despite fears of a summer gasoline shortage that could discourage vacationers. Construction is booming to the point that one home builder says, "business has never been better. The flood was the best thing ever to happen here."

But was it? For despite the business euphoria, serious problems remain in Rapid City. Health officials say mental disorders have increased sharply. Hundreds of people still live in the shattered flood plain, where ruined houses and dead trees serve as a grim reminder of last year's disaster and where, Mayor Donald Barnett points out, "there's nothing to guarantee there won't be another flood." (The Army Corps of Engineers rejected the idea of building a series of flood-control dams as too costly.) Several hundred others continue living in cramped, depressing, crime-ridden trailer courts that were hastily set up for the emergency, progress in moving the trailer dwellers to permanent homes has been slower than anticipated.

A TYPICAL FAMILY

Rapid City residents, of course, live lives that fall between the two extremes of boom and bust. Typical of this group is the Ward family: Wayne Ward, a 30-year-old high school physical education teacher and basketball coach at the South Dakota School of Mines and Technology, his 29-year-old wife, Julie, who operates a children's ballet and

tap dancing school; their daughter, Jeanna, 10, and son, Troy, three years old.

The Wards lost nearly everything in last year's flood. Their split-level home, situated along a once-tranquil trout-filled stream and surrounded by stately elms and colorful flower gardens, was smashed into thousands of pieces as it was swept across a nearby golf course. Only a few weeks before the disaster, a Realtor had offered them $40,000—$10,000 profit—for the three-year-old house, but "we couldn't part with it," Julie Ward says. "It was our dream house." But only a few items were salvaged: some stainless-steel dinnerware, two silhouette plaques of the children, a doll and a set of golf clubs from the trunk of Wayne's wrecked car.

When the flood came, Wayne and Julie barely had time to link arms and struggle through knee-deep water to higher ground; the children had gone to their grandparents' house for the night. But if physical safety was the only matter of moment that night, the next day brought the grim realization that the flood waters had left behind a residue of financial problems. The house and its contents were gone, but the Wards still owed $21,000 on their mortgage and $500 more on newly purchased furniture. And of their possessions, only their two cars were covered by insurance.

FLOOD INSURANCE

Federally sponsored flood insurance had been offered in Rapid City about a year before, but Wayne hadn't heard about it. However, "even if I had, I wouldn't have bought any," he says. "We couldn't afford it." Most other flood victims had apparently felt the same way. Before the flood, only 29 flood-insurance policies had been sold in Rapid City. (Business has picked up since; 72 policies have been sold.)

Their lack of insurance, however, didn't mean complete disaster for the Wards. Aided by low-interest government loans, tax refunds, urban-renewal payments and charity, they figure their new monthly payments will about match those of pre-flood days—even though they will be paying for both the destroyed house and the new one that they're building in the foothills. However, now it will take seven years longer for them to be mortgage-free.

Financially, the Wards have taken advantage of:

A $55,000 loan from the Small Business Administration at an annual interest rate of 1%. The loan, of which $5,000 has been forgiven by the SBA, is enabling the Wards to pay off the balance of their 25-year, 7¾% mortgage and build a new home at the same time.

Special legislation that has provided for a refund of all federal taxes that the Wards paid in the last three years ($3,500).

Another $1,400 from the Red Cross and allotments from private donations to a disaster relief fund for clothing, bedding, furniture, cooking utensils and an iron. ("One of the first things I bought were cowboy boots," Wayne says. "In this part of the country you need them.")

$15,500 for "relocation expenses" from the city's federally sponsored urban renewal program.

$6,000 from urban renewal for the lot on Northbrook Street where their destroyed house was located; the lot will become part of the first fairway of a public golf course.

Excluding the $50,000 loan, the total of all these grants comes to $31,400. The family's estimated uninsured losses amounted to some $35,000. But with the combined cash from the loan and the grants, the Wards, all things considered, have emerged from the flood in a healthy financial position. No price tag, of course, can cover the family's mental anguish; nor can these statistics include the jarring losses of sentimentally valued possessions.

Money, however, was in short supply immediately after the disaster, and Wayne took a $2-an-hour summer job as a stockboy for a plumbing wholesaler. "I sure was looking forward to that vacation," he says, "but we didn't have much cash on hand. Everything we had went into the house, and that's gone."

Housing was the Ward's most serious problem after the flood. They moved in with Julie's parents while awaiting assignment to a 12-foot-by-48-foot trailer provided by the Department of Housing and Urban Development. But then fearing a shortage of trailers, HUD told the Wards it would pay their rent on a house for one year if a house could be found. Few homes were available, but Julie's father bought one in September and rented it to his daughter and son-in-law. (Julie was much relieved by this turn of events. Having begun her married life in a trailer, she hated the idea of returning to one. "It would have been like the last 11 years never happened," she explains.)

Unlike the Wards, some of their neighbors discovered that the flood had wrought only minor property damage. But even those whose houses survived are being forced by the city to move out of the dangerous 600-acre flood plain. (The area is slated to become a park within five years) "We're paying liberal prices for the land and what's left of any houses," Mayor Barnett says.

Perhaps so. But some feel the prices aren't always fair. For example, Mrs. Edin Smolik, who was able to clean the eight-foot-deep mud out of her basement and temporarily stay on, says she can't duplicate her house elsewhere for what she has been offered. What's more, she says there are wide—and unfair—discrepancies among the prices offered her neighbors. "The man down the street got $97,500 for a concrete slab ranch house that's one-third garage," she says indignantly. "His neighbor got only $40,000 for a much better house." She adds: "They used to be good friends."

By some standards, Mr. Smolik is lucky. About 200 families haven't received a cent from the urban-renewal programs because the programs are available only in Rapid City and not in the flood-torn areas outside the city limits. "They're the ones who have really been hurt," says a local disaster official. And while there is talk of annexing some of the areas—like Dark Canyon, Cliffside and Jackson Park—to Rapid City so that they'll become eligible for aid, the residents aren't optimistic. "We feel we're the forgotten ones," says Mrs. Stanley Burnor of Dark Canyon. "We don't get our hopes up anymore because we can't stand any more disappointment."

VANDALISM AND BURGLARIES

Others feel forgotten, too. About half of the 777 families who were relocated in trailers remain in their emergency housing, and the experience hasn't been pleasant for most of them.

Tensions in the cramped muddy courts have exploded into frequent fistfights. Vandalism and burglaries have prompted many trailer dwellers to chain large, fierce dogs outside their doors.

"We made a lot of mistakes," acknowledges Lewis Young, assistant director of the emergency-housing program. "We threw everyone together, rich and poor. It just didn't work out."

This chaotic situation, however, did have a silver lining of sorts. It "encouraged people to move out a lot quicker than they might have otherwise," Mr. Young says. Still, he adds, all those in trailers were originally scheduled to be moved out by sometime this September, but it currently appears that this is an unrealistic cutoff. About 50 poor Indian families, Mr. Young says, will have to wait until public housing is built—and construction hasn't even begun yet.

The topic of construction is a major source of irritation for many Rapid City residents. "We're all a little upset that the builders are taking advantage," says one flood victim. "There are a lot of shenanigans going on."

This view is widely held. But Donald L. Knecht, an owner of one of the city's two major home-building concerns, says that construction costs, while soaring, have increased no more than the national average. Builders aren't taking advantage of anyone in Rapid City, Mr. Knecht asserts. The problem, he says, is that "everyone wants to get up into the hills," and, as a result, land prices in desirable areas have jumped as much as 30%. (The Wards, for example, paid $7,000 for their new lot, which was selling for $1,500 less before the area started filling with flood refugees.)

DEVASTATED LANDSCAPE

Mr. Knecht figures that Rapid City builders will have more work than they can handle until well into 1974. But despite this boom, the area still shows many signs of the disaster. For example, the Canyon Lake area, where the broken earthen dam released torrents of water, looks like a battlefield. Dying trees lean toward the ground, their bottom bark stripped away. Weeds have replaced manicured lawns. Gaping holes pit residential streets. Ten-foot mounds of mud, studded with rocks, tree limbs and broken boards, stand guard over the swift creek waters. Dozens of smashed houses, some with only three walls, dot the landscape. Those that are to be torn down are marked with large black "X"s; others will be sold at public auction to anyone who wants to move them.

But over and above the physical scars left by the flood is the mental anguish. Children, the elderly and the poor (mainly Indians) have suffered the most mental damage, health officials say. Children play "flood" together, setting up rules on who will "die" and who won't. Other examples: A welfare mother continues to claim aid for a drowned child whose death she can't accept; a gray-haired widow, fearing another flood, carries her few remaining possessions with her at all times in a plastic bag.

"There are thousands of people who need psychological help but aren't getting any," says Sister M. Sarto Rogers, director of St. John's McNamara Hospital. There psychiatrists from Denver have each visited Rapid City once a week since the flood, she says, but it hasn't been enough. A study prepared in February for the National Institute of Mental Health notes sharp increases in alcoholism, anxiety, depression and other emotional problems since last June. The city, the study said, is "facing a mental health crisis."

The Ward family, however, seems to be coping well. True, Julie Ward still gets "Shivery feelings" every once in a while. "It just comes over me all of a sudden thinking about it," she says. "I break out in a cold sweat." And Jeanna Ward didn't speak a word in school for six weeks after the deluge. But today, Wayne Ward says, they have put their problems behind them." It doesn't pay to dwell on them," he says. "Everybody's been real good to us, and we're going to be fine."

Can a similar natural disaster wreak such havoc in the Rapid City of the future? Mayor Barnett expressed a few thoughts on this subject in last month's issue of Nation's Cities magazine. "Our upstream warning system was very weak," he said, "and it will be reestablished and a brand new one installed." In addition, he said, "you've got to . . . be aware and recognize that many people, even though you've got a warning system, will ignore it.

"So what you've got to look at then is your land use along a creek or a river which has the potential for flooding."

Rapid City has looked, and, with official persuasion, its residents are abandoning the river and creek areas for the foothills. It has been, all in all, a costly lesson indeed.

TESTIMONY BY AMORY HOUGHTON JR.

Mr. Chairman and members of the Committee:

I am Amory Houghton Jr., chairman of the board of Corning Glass Works. Our headquarters are in Corning, New York, a community which suffered severe flood damage from Hurricane Agnes.

Corning Glass Works is the principal employer in the Corning area, providing jobs for some 7,700 persons. Of our 10 manufacturing plants in this valley, eight suffered substantial flood damage, as did our administrative headquarters, the Corning Glass Center, and The Corning Museum of Glass.

Approximately 30% of our employes' families were affected by the flood. Many of them were completely wiped out of their homes.

I appreciate this opportunity to give you my views on our federal disaster laws and how they served us in the aftermath of Hurricane Agnes.

Hopefully, I express the views of the overwhelming majority of this area's flood victims when I tell you that the response by the federal government to the critical needs of our citizens was extraordinary—and by that I mean extraordinary in the finest sense.

The President declared the existence of a major disaster on June 27—four days after the flood. The OEP had arrived on the scene the day before and was already in business—headed by Tom Casey, an able, competent and energetic administrator. He did a magnificent job in coordinating the federal presence here. I cannot begin to cite every public and private agency that provided help, but I must single out the Office of Emergency Preparedness, the Department of Housing and Urban Development, and the Small Business Administration for their exceptional effort.

It is not in our nature to ask for handouts or to rely on others. But the magnitude of this disaster required help on a scale only the federal government could provide. We are deeply grateful for its assistance, and we are grateful, too, for the action by the Congress in easing the financial strain on the individual citizen through prompt passage of the Agnes Recovery Act.

I know you have received hundreds of suggestions concerning improvements that could be made, such as better early warning and communications systems. As a result, I won't attempt to touch upon each aspect of disaster response and recovery. However, based upon my own experiences of the past year, I would direct your attention to three primary concerns:

I. DISASTER AID A FEDERAL MATTER

First, disaster recovery should, in my opinion, continue to be a responsibility of the *federal* government. I cannot emphasize that too strongly: a powerful federal agency geared to action is a must. We are making rapid recovery in this valley from Hurricane Agnes, but I'm convinced that without the presence of the OEP and federal help in the early months our story would have been entirely different. This in no way downgrades the response and responsibility of the state governments. Disaster organizations at the state level must also be retained and strengthened. But they should be supportive to, and coordinated with, a central federal disaster agency.

After all, a proper response to these kinds of tragedies requires special talents, special experts, people with experience in other disasters. In the calendar year 1972, there were 48 Presidentially declared disasters nationwide—yet only one in New York State. The federal government has a power and expertise to respond that no one else has.

Also, only the federal government can *plan* effectively for the enormous recovery effort that of necessity follows widespread destruction—particularly when such disasters encompass several states at the same time.

II. COORDINATION OF SHORT- AND LONG-RANGE NEEDS

My second point concerns the necessity for federal laws to recognize that the short and long term effects of any disaster be treated as one.

I am referring here in particular to the housing problem.

In the Corning-Elmira area alone, more than 8,000 families were displaced from their homes by the flood. Within three months, HUD had brought in approximately 3,600 mobile homes, and virtually evey affected family had been housed. Some 850 homes were either carried away by the flood waters, or were so badly damaged that they had to be demolished.

We have on our hands now, gentlemen, what I would unreservedly say is a critical—let me repeat, *critical*—housing shortage.

The temporary mobile homes have been occupied for almost a year. The residents of these mobile homes are being urged by the government to move out.

But the sad fact is there is simply nowhere to go. Adequate and sufficient housing doesn't exist. Our state and local authorities have moved with all possible speed in applying for federally-subsidized housing and Urban Renewal projects. Some of these applications have been approved, and we're delighted with them. But many others are yet to be acted upon.

In the Corning-Elmira area, for example, the state Urban Development Corporation, local housing authorities, and local redevelopment agencies have submitted 16 applications to the federal government, asking for approximately 1,300 new housing units. As of mid-May, 8 applications had been approved, for 952 units. But that leaves 399 families without homes, particularly the elderly and those with modest incomes.

I cite these figures not to criticize in any way, believe me, but to illustrate and underscore an Achilles' heel in existing disaster legislation—that being the absence of any provisions to assist in the phasing out of short-term emergency housing, and to coordinate the provisions for long-term permanent housing.

The same expertise that is devoted to supplying short-term mobile housing quickly in a disaster area can and should be applied with equal urgency to help provide permanent housing for disaster victims who cannot otherwise obtain housing because of limited means.

The single most pressing need in the Southern Tier today is housing—due principally to the flood.

So if I may be presumptuous, may I urge you, gentlemen, to include in new disaster legislation provisions for the long-term as well as the emergency housing, and, furthermore, provisions for expediting disaster-related Urban Renewal projects.

III. STRONG CORPORATE RESPONSE

Third and finally, I believe a strong business response to a disaster is essential to a rapid community recovery—particularly in the psychology of a community. If one knows his job is there and not washed away, as was his house, he at least can begin with an element of confidence to look to the future.

Areas struck by Hurricane Agnes have recovered at varying speeds. While I have no formal data to support this, I suspect you would find that where business recovered quickly, so did the community.

I do not know about firms in other states, but I do know that Corning Glass Works began recalling people for work Monday, June 26, three days after the flood—to shovel mud and debris, to restore vital services, and to dismantle and clean production equipment.

The following day—Tuesday, June 27—we assured our people and the community that—contrary to widespread rumor—Corning Glass Works would indeed remain, would rebuild, and, in fact, add to its facilities here.

There is no reason for you to know this, but being highly subjective I will tell you that the strength not in word but in fact of Corning Glass Works is its people. Possibly the reason some of us work as hard as we do stems from a unique relationship we have to each other. And everyone's reaction under the pressure of the day was outstanding.

Two of our plants were back in operation within 10 days. By August 1—five weeks later—virtually all of our manufacturing facilities were back in operation.

Furthermore, the Corning Glass Center—important economically because of the substantial tourist business it attracts—was reopened also by August 1.

Today, the total employment of Corning Glass Works in this area is almost 900 persons higher than when the flood occurred—a gain of nearly 13%.

To respond to a disaster, business must have the *ability*, the financial resources to carry on. And it is here, Mr. Chairman, where in my opinion a flaw exists in the present disaster insurance provisions.

Let's look at this in terms of the size of the business—the retail business employing perhaps 10 or 15 persons, and the medium-sized business, with 50 to two or three hundred. These are the businesses that are least able to recover from a major uninsured disaster.

Present disaster laws provide for insurance that would cover the very small firm, although the limits are probably too low. However, the Administration has recently proposed higher limits, and if enacted probably would be sufficient to meet the insurance needs for these necessary small businesses.

But what about the medium-sized businesses—the factory with, say, 200 employes. In such businesses the owners may not be able to afford to purchase disaster insurance privately at prevailing rates. The limits on federally subsidized insurance simply are not adequate to begin to cover a major catastrophe.

Under present law, the only recourse such a business has is to obtain a government loan—at rates of interest up to a maximum of 5%. For many businesses, such loans are not economically feasible. Hence, the business might be unable to reopen its doors. Several hundred jobs are lost. And a restored home is of limited value if the job that supported the family is gone.

There are more than 130,000 such medium-sized businesses in this country. Today they stand unprotected against disasters such as flood and earthquake. I would hope that this could be corrected. I am no insurance expert, but perhaps it might be done by raising the limits on federally subsidized insurance—but this means moving substantially beyond the new proposals. I would suggest that these limits might be raised to one-half million dollars for subsidized coverage, and to one million dollars for total coverage—these limits to apply independently to nonresidential structures and to nonresidential contents.

Gentlemen, that concludes my testimony. I thank you for the opportunity to appear here—and particularly on behalf of my fellow citizens of this valley I thank you for your continued interest. In a circumstance such as this it is only when the government and citizens work hand in hand that hope and rebirth can emerge from shock and despair.

SENATOR HUMPHREY ASKS RELEASE OF IMPROVED OIL PRICE INDEX

Mr. HUMPHREY. Mr. President, as chairman of the Subcommittee on Consumer Economics, I strongly question the accuracy of Government price statistics and I urge the immediate publication of the Bureau of Labor Statistics' improved wholesale price indexes for refined petroleum products.

The published wholesale price indexes for many industrial products—including oil products—are based at present on inadequate and unrepresentative information. Yet these indexes are usually taken as gospel by Congress, the press, and the public. Now that rising prices are public enemy No. 1 and Government is intervening more and more in the marketplace, we need the very best price information we can get.

We face an especially confusing situation with respect to oil. The major sellers are under mandatory price controls. Yet the wholesale price index went up by 7.1 percent in April and 4.7 percent in May. Meanwhile I have received consistent reports of recent wholesale price increases of between 25 and 50 percent for oil products in my State of Minnesota. This confusion is eroding public confidence in the controls. The fact is that without valid price indexes it is impossible to tell what is going on.

The Bureau of Labor Statistics already has compiled a great deal of data for improved wholesale price indexes for refined oil products. Almost a quarter million dollars has gone into this work. For some reason, however, its publication has been delayed for many months, and no new publication date has been set.

I have written to Secretary of Labor Peter J. Brennan to inquire why the new improved indexes should not be incorporated immediately into the regular monthly BLS wholesale price release.

I ask unanimous consent that the text of my letter be printed in the RECORD.

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

JUNE 13, 1973.

Hon. PETER J. BRENNAN,
Secretary of Labor,
Washington, D.C.

DEAR MR. SECRETARY: It has come to my attention that the wholesale price indices for oil products, presently published by the Bureau of Labor Statistics, are based on Platt's Oilgram and are poor indicators of actual price movements across the oil industry. I understand, however, that the Bureau—with substantial budget support from the Office of Emergency Preparedness—has been working for about two years to construct an accurate set of price data based on oil company submissions and that publication of new indices from these data initially was scheduled to begin in late 1972. I assume that by now these indices must be nearly ready.

Given the present *urgent* need for accurate data on price behavior in this critical industry, the BLS could make a great contribution to the knowledge of Congress and the public by making available the results of this work. As Chairman of the Subcommittee on Consumer Economics of the Joint Economic Committee, I should like to inquire into the following matters:

1. When will the BLS begin publishing its "special purpose refined petroleum prices and price indices" based on the data it has been collecting from the companies since July 1972?

2. Why should BLS not begin *now* to publish the new index *at least for the national level* on the ground that it is greatly superior to what is currently published?

3. If the delay in publication is based on deficient industry coverage, what proportion of the industry (in terms of sales volume) is now reporting some or all requested data? What proportion has refused to provide data? What reasons are given for refusal? What proportion is required to report before the BLS will publish its indices at least for the national level? What fraction of a regional sample must report to permit publication of regional indices? How did the BLS arrive at these standards?

4. What are you doing to obtain cooperation from presently non-cooperating companies? Could you expect any companies that now refuse to report to change their positions if publication went forward?

I would appreciate your replies to these questions at your earliest convenience, but at any rate by about June 20.

Sincerely,

HUBERT H. HUMPHREY,
Chairman, Subcommittee on Consumer Economics.

AGRICULTURE AND CONSUMER PROTECTION ACT OF 1973

Mr. PERCY. Mr. President, it was a very lonely position I found myself in last Friday when I was one of nine Senators to vote against final passage of the Agriculture and Consumer Protection Act of 1973.

I did vote against the bill as I felt it would be too costly to the Treasury and to the U.S. taxpayer as well as drive up consumer prices for food. At that time I inserted material in the RECORD showing how passage of the bill might drive up the cost of farm programs to $10 billion a year by the fifth year of the bill. I also inserted a letter from Secretary of Agriculture Butz outlining objections to the legislation.

I am most pleased now that the President has agreed with the assessment of the farm bill that the nine of us had last Friday. In his statement on the economy last night the President said:

In its consideration of new farm legislation, it is vital that the Congress put high production ahead of high prices, so that farm prosperity will not be at the cost of higher prices for the consumer. If the Congress sends me a farm bill, or any other bill, that I consider inflationary, I shall veto such a bill.

Mr. President, I commend this statement by the President and hope that the House of Representatives will pass a farm bill that is less costly to the taxpayer, fairer to the consumer, and that I can then support when a final compromise bill is sent back to the Senate from conference.

REORGANIZATION PLAN NO. 2

Mr. MOSS. Mr. President, today I want to announce publicly that I am pleased the Senate has not chosen to turn down Reorganization Plan No. 2, a drug-abuse reorganization plan, submitted by the President to the Congress on March 28, 1973. Last Thursday, the House of Representatives paved the way for implementation of the President's plan by defeating a resolution to reject the reorganization plan. Because of action by the House, and lack of action by the Senate, the drug reorganization plan will go into effect on July 1.

In the past, I have generally favored tightening and streamlining Government agencies. Reorganization Plan No. 2 will accomplish this through the creation of a single enforcement agency to control domestic and international drug traffic and production. The new agency will be known as the Drug Enforcement Administration. It will be in the Justice Department.

President Nixon's statement, when he sent the plan to Congress, is indicative of the need for a new approach to handling the problems created by drug abuse in the United States. He said:

Right now the Federal government is fighting the war on drug abuse under a distinct handicap, for its efforts are those of a loosely confederated alliance facing a resourceful, elusive, worldwide enemy. Certainly the coldblooded underworld networks that tunnel narcotics from suppliers all over the world are no respectors of the bureaucratic dividing lines that now complicate our anti-drug efforts.

To those who fear what may happen when this plan goes into effect, I want to emphasize that the Congress can closely observe the implementtaion of the reorganization plan. If any weak spots should appear, then Congress can and will rectify them. In addition, the Senate has the responsibility to give some direction to the reorganization plan through its confirmation power. Because the Administrator and his top deputy are both subject to Senate confirmation, the Senate can insure that the nominees are capable of coordinating the efforts of the drug enforcement agency.

To summarize, for too long we have had a fragmented approach to the narcotics problem. Reorganization Plan No. 2 provides a solution to the problem by establishing a cohesive, well-managed organization. Federal drug law enforcement will be streamlined. Direction will be given in the fight against the insidious forces associated with illegal drug distribution. Overall Federal drug law enforcement strategy, program implementation, and evaluation will result from this plan.

Thus, I am happy that the House and Senate have not chosen to prevent Reorganization Plan No. 2 from going into effect on July 1.

ATTACK ON MILITARY JUSTICE SYSTEM

Mr. THURMOND. Mr. President, a thorough and enlightening article reference the current attack on the military justice system appeared in the June issue of the Armed Forces Journal.

Authored by Robert D. Heinl, Jr. of the North American Newspaper Alliance, this article clearly documents the unprecedented attack on our military justice system.

Also of concern to me is the report of the task force on the administration of military justice, submitted to the Secretary of Defense in November of 1972. The recommendations of this task force, if implemented, will in my opinion adversely affect the armed services.

Mr. President, these matters are of the gravest concern, for without a sound military justice system the future health of our Armed Forces could be seriously jeopardized.

Extraordinary steps, maybe even a constitutional amendment, may be required to preserve the military justice system from the attacks of the courts, activist lawyers and antimilitary reformers.

Mr. President, I ask unanimous consent that the article by Colonel Heinl, entitled "Military Justice Under Attack" be printed in the RECORD at the conclusion of my remarks.

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

[From Armed Forces Journal, June 1973]

MILITARY JUSTICE UNDER ATTACK

(By Col. Robert D. Heinl, Jr.)

Law, order, and the day-to-day discipline of the Armed Forces are being dangerously undermined if not subverted under the cumulative impact of a wide-range though little-noticed series of legal challengers brought mainly by radical lawyers and consistently substained by libertarian civilian courts.

Originating in the 1950s but only hitting stride within the past five years, unquestionably as a side-effect of the Vietnam War, a general Constitutional offensive against the traditionally separate preserve of military justice and its distinct rules and laws is now being vigorously pushed through the U.S. courts with results that many experienced soldiers feel may cripple or certainly threaten military discipline as it has existed until now. The central thrust of the attack, which, service lawyers say, is being principally mounted by the American Civil Liberties Union (ACLU), by the National Lawyers' Guild, and by the NAACP, is to impose literal application of the libertarian and egalitarian provisions of the Constitution upon the Armed Forces which, in their nature as institutions, cannot tolerate or coexist with libertarianism or egalitarianism.

What judicial interference, primarily by piecemeal decisions on the part of well-intended civilian judges, has been doing to clobber the good order and discipline of the Armed Services can best be appreciated by a sampling of court actions concerning military cases during the past five years.

In 1969, on the technicality (overturning two centuries of past precedents) that courts-martial should not try soldiers for "civilian" offenses, the U.S. Supreme Court released Stephen J. Borys, a convicted officer (12 counts of sodomy, rape and burglary) from 30 years in Leavenworth, gave him $50,000 back pay and forced the Army to take him back into uniform as a captain.

Another soldier-rapist, James F. O'Callahan, doing 10 years hard labor, not only won his freedom on the same technicality (in a controversial decision by Supreme Court Justice William O. Douglas) but lent his name, also in 1969, to a case which, as stated in a powerful dissent by Justice John M. Harlan, "Has thrown (military) law into a demoralizing state of uncertainty.

Just last month, Dr. Howard B. Levy, the Army doctor-draftee who, in 1967, openly called on black soldiers not to fight in Vietnam and told Fort Jackson, C.C. trainees, "Special Forces personnel are liars and thieves and murderers of [illegible]en and children," has had his court-[illegible]tial conviction and three-year prison sentence overturned by the Third Circuit U.S. Court of Appeals on the grounds that the centuries-old military offense of conduct unbecoming an officer and a gentleman now has no meaning or legality.

Another stinging upset to the Army's attempts to keep its house in order was the 1970 New York decision by U.S. Judge Charles H. Tenney requiring that former Pvt. Andrew D. Stapp, an admitted soldier-Communist-fund-raiser for subversive organizations on the Attorney General's list and author of "Up Against the Brass," a grossly seditious anti-Army book, be given an honorable discharge with veterans' benefits instead of the undesirable discharge with which the Army drummed him out of its ranks.

Two seditious soldiers who sought in 1968 at the height of the war to subvert the allegiance and discipline of their comrades at Ford Ord, Calif., by plastering the post with anti-war leaflets and trying to organize an enlisted men's protest union, had their three-year prison sentences revoked with restoration of back pay and honorable discharges by a 1972 Washington, D.C., decision by U.S. Judge Aubrey F. Robinson, on the singular grounds that their acts were neither prejudicial to discipline nor disloyal.

Despite long-standing Anglo-Saxon traditions that seek to separate the military from politics and vice versa, the U.S. District Court in Providence, R.I., last October required the U.S. Navy, over strong objections, to open its Quonset operating base to heavily anti-war and anti-military speeches and electioneering obviously prejudicial to discipline, on the part of splinter Presidential candidate, Dr. Benjamin Spock.

Similarly, in distant San Antonio, Texas, on the technicality that one part of Fort Sam Houston was normally open to the public, the Supreme Court last year required the commander to open his entire vast installation to militant activist distribution of anti-war leaflets and other seditious propaganda aimed against the discipline and loyalty of the Army.

The uniform of the U.S. Services has been long protected by a law prohibiting its unauthorized wearing or its wearing in any way so as to discredit the Armed Forces, but this protection for the badges of a soldier's honor was struck down in 1970 by the Supreme Court, which released a Houston, Texas, anti-war militant who had joined in a nationally coordinated series of guerrilla-theater skits in front of induction centers, wearing an Army uniform in defiance of the law.

The time-hallowed all-hands religious observances each Sunday at West Point and Annapolis and the Air Academy, were finally struck down in 1972 by the same Supreme Court which had outlawed prayer and Bible readings in public schools.

In another Federal Court intervention, U.S. District Judge Charles L. Brieant, Jr., last summer enjoined the Superintendent of West Point from the normal procedure (as old as the Academy itself) of automatically discharging a misbehaving cadet who had exceeded the permissible number of demerits in the 1971–'72 academic year. Instead, with later support from the Second Circuit Court of Appeals, the judge in effect required West Point to hold a legalistic trial on each such case.

With applause from the ACLU, which has been an active party in nearly all lawsuits attacking honor codes and discipline of the Service academies, Federal District Judge Lloyd F. McMahon last December compelled the Air Force Academy to surrender administrative data covering separations of cadets from the Academy, to the New York University Law Review's editors, with the avowed purpose of research for further anti-Academy litigation.

Using an elaborate network of straw plaintiffs, a Berkeley, Cal., antiwar front group whose lawyer refuses to disclose the source of funds to pay the heavy costs involved, has, with the support of findings from U.S. District and Appeals Courts in Washington, D.C., currently brought to the Supreme Court a constitutional suit intended to exclude over a hundred members of Congress from the military reserve.

Although the Navy has been trying with might and main simply to begin the trial of an anti-war saboteur, Patrick D. Chenoweth, who allegedly disabled the turbines of the aircraft carrier *USS Ranger* nearly a year ago, a succession of blocking decisions on procedural technicalities, two by U.S. District Court judges in San Francisco, and two by the Ninth Circuit Court of Appeals, have prevented a court-martial from even hearing the case although charges were preferred in August 1972.

Interference in the administrative processes of the Services to the point of outright disruption has long been a specialty of controversial anti-military Supreme Court Justice Douglas. In September 1968, although then Chief Justice Earl Warren had already denied the petition, Douglas nonetheless issued an order blocking the deployment to Vietnam of an entire Army Reserve unit, the 1002D Supply Company, on an abstract question as to whether the draft was legal.

In December 1971, Douglas compelled the Navy to cancel transfer of a Naval junior lieutenant—a fundamental interference in the right of a Service to move its officers—on the grounds that his orders to Alaska somehow conflicted with his 1st Amendment rights to free expression (on the subject of the Vietnam War). A year later, in 1972, Douglas struck again, this time halting all draft inductions in seven counties of Southern California, in response to an ACLU action seeking to prevent the drafting of seven war protesters.

The administration and internal regulations of prisons, disciplinary barracks and stockades of the Army and Air Force are currently under attack in the U.S. District Court, Washignton, D.C., by National Prison Project, an ACLU front group which is suing to end mail censorship, to relax controls on contraband, and vitiate other normal prison disciplinary practices and restrictions.

OFFENDERS FREED

Just last month, Los Angeles U.S. District Judge David Williams arbitrarily directed immediate release of over 1,500 convicted Navy and Marine offenders in brigs throughout the world (not just in his own judicial district) because informal summary-court procedure specifically enacted by Congress to deal with minor cases eliminates both defense and prosecuting lawyers. Even the California Ninth Circuit Court of Appeals, often given to anti-military rulings, has temporarily stayed Judge Williams' sweeping order, which the Navy, of course, plans to appeal.

In a March 1973 decision with even more harmful consequences, retired Supreme Court Justice Tom C. Clark, father of anti-war activist Ramsey Clark, ruling for a special panel of the Washington, D.C., Circuit Court of Appeals, struck down as "unconstitutional" the so-called catchall "General Articles" of the Uniform Code of Military Justice, which were framed by John Adams (who also helped frame the Constitution) and unanimously enacted by the Continental Congress, which included every other framer of the Constitution.

Flying in the face of the obvious fact that any private knows the difference between behavior and misbehavior, and between discipline and indiscipline, Clark ruled that the historic charge of "Conduct to the prejudice of good order and discipline"—one of the military's most important disciplinary tools—is somehow, after two centuries on the books, no longer a punishable offense in the Armed Forces.

In some ways the most extreme if not contradictory civilian judicial decision in a matter going to the heart of Military Service is the ruling, in January this year, by U.S. District Judge W. Arthur Garrity in

Boston, granting to certain conscientious objectors the same veterans' benefits as those earned under fire or in long years of torture and bondage in the grim prisons of Hanoi.

Taking an all too willing lead from the U.S. Courts in hamstringing service discipline, administration and standards of behavior, the U.S. Court of Military Appeals top (civilian-manned) appellate court in the military legal system, has vented such bizarre rulings as the following: (1) That it is no offense for a commissioned officer to cheat on gambling debts by writing $7,000 worth of rubber checks; (2) That brig and stockade yardbirds can curse and threaten to kill guards "without showing disrespect"; (3) That a Vietnam private who "fragged" a live grenade into a hut where four sergeants were sleeping should go free because after conviction and an 80-year sentence, his defense counsel did not introduce character-witnesses; (4) That a soldier who ran around nude in a headquarters office after refusing to don his Army uniform was innocent of any wrongdoing; and (5) That two confessed drug-running soldiers caught redhanded in an air terminal with a load of narcotics should be freed because they had been searched "without probable cause" even though a trained drug-sniffing dog had ferreted out their contraband.

COMMAND ASPECTS

While the foregoing samples—and they are only samples—of recent and increasing civilian judicial interposition in and frequent nullification of time-honored military practices are superficially diverse, they nevertheless present certain common aspects which bode little good for discipline (and therefore the effective functioning) of the Armed Forces.

Aside from the dead hand of egalistic technicality which releases overwhelmingly guilty rapists like Borys and O'Callahan, or frees murderous soldier "fraggers" for lack of character witnesses, nearly every instance of judicial obstruction, harassment, or interference in the military sphere is aimed at impeding the right and ability of commanders to control their own men and their own ships or installations. Yet the unfettered right of commanding officers to command—in the full sense of the word—is the keystone of the military system and is the only way in which soldiers can be disciplined so as to face death without hesitation when so ordered. Thus the legalization and, if you will, the "lawyerization" of the military system interposes lawyers and such-like civilian third parties (including courts and judges) with no military status or responsibility, into the machinery in such a way as to impede and weaken the necessary and necessarily autocratic and paternal authority of the commander.

Justices Douglas and Clark, for example, will never be called to account if soldiers mutiny, quibble, shirk discipline, refuse duty, disobey, or commit any number of other offenses which can bring down an Army more surely than enemy bullets. Yet the decisions of these learned justices, and of others cited here, can be predicted to produce just such effects. It is no matter, libertarians argue, the principles of the Constitution override any such practicalities as to whether an Army refuses to fight (as U.S. units repeatedly did in Vietnam), or whether ships of the U.S. Navy are wracked by mutiny, affray and sabotage that go unpunished. We can afford to sink the Armed Forces, they say, rather than sacrifice an iota of Constitutional writ.

Yet those who sincerely hold the above view (as distinct from radical lawyers whom senior commanders and service legal experts believe are widely manipulating the Constitution as a tool to dismantle or subvert Armed Forces discipline) fail to face the fact that free societies need bodies like armies and police forces which, precisely in order to protect and preserve the larger free society, must themselves be authoritarian and governed by different rules than the free-and-easy individualism and egalitarianism of the Bill of Rights.

One dominant reality is that, as social organisms, military forces necessarily differ from civilian society in structure, in special values, in codes, in standards of behavior, and in stringent enforcement of all the foregoing. From this reality, obvious enough, stems the fact that military law includes a whole body of crimes and offenses that do not constitute crimes on the outside. Cowardice, desertion, disrespect, sleeping on watch, mutiny—every one is and must be a grave crime in the scale of military values, yet none is known to the law of civilians. These and similar offenses are proscribed in the soldier's code because they strike at the heart of an Armed Force's ability to perform (and win) in battle, which is of course the overriding purpose for having Armed Forces.

Nothing save deeply inculcated discipline can drive soldiers or Marines to cross a fire-swept beach, storm a pillbox, or advance into the next house in street-fighting. There is another reason for the absolute and severe nature of military discipline, which the judges are today busily undermining, that few civilians and even some soldiers do not remember. The purposeful severity of the Military Disciplinary System that the U.S. (and other) Armed Forces have today arose toward the end of the 17th century, and flowered in the 18th, as part of a general trend toward the civilization of warfare. At that time, undisciplined armies and bands of lawless soldiery were the scourge of Europe, and the hanging provost-marshals and stern field courts-martial that came into being in the 18th century were directly related to widespread public desire to eliminate or curb the My Lais of that day—the atrocities, looting, rape and other wanton if not outrageous behavior on the part of uncontrollable soldiers. Great commanders such as Lord St. Vincent and the Duke of Wellington (or our own Winfield Scott) who hanged and flogged their fleets and armies into discipline were in fact civilizing and limiting war and its effects.

The durability of the precedents created in the 18th century, before the U.S. came into existence (and which were unhesitatingly adopted by George Washington and John Adams on the simple practicalities they well understood), is illustrated by the fact that, only since the 1950s has the sound, old Military Justice System come under judge-made bombardment.

COURTS ABSTAINED

Until then, the civilian courts, by long usage, carefully abstained from the realm of military law except in the special case of *habeas corpus* actions based on traditionally precise and narrowly defined grounds, such as lack of jurisdiction, denial of due process, or prosecution where an offense had not been specified. The long-standing (and practical) view taken by earlier U.S. courts of the necessities of military discipline was expressed in the 1890s by a Supreme Court justice who bluntly ruled, "The Army is not a debating society," an obvious truth which, if heeded by today's libertarian judges, would sharply reduce the amount of judicial meddling in the internal affairs of the Services.

Yet, from the foregoing exemplary expression of judicial restraint, only 60 years ushered in an era of ever-increasing wide-open litigious tampering with the systems and concepts underlying military justice. Beginning about 20 years ago, no aspect of military law, however hallowed in precedent or, for that matter, by Congressional enactment (such as today's Uniform Code of Military Justice), has been safe or sacred. One powerful and immediate illustration of the consequences lawyerized tampering with and erosion of a system empirically shaped on long experience to produce given, necessary results, can be found in the pandemic of barracks and shipboard theft that has been sweeping the Armed Forces for the past several years.

While theft as a military problem has not received the publicity accorded to race and drugs, it is an evil of truly monumental consequences and proportions not only intrinsically, but because the presence and operations of thieves is lethal to morale and mutual confidence in groups (like rifle squads, submarine crews, etc.) which must depend absolutely on each other to survive. The commander of one of the best combat divisions in the Armed Forces has said privately that barracks theft has been his top problem and worse for morale than even race or drugs. In corroboration, this reporter, when visiting Fort Bragg, N.C., two years ago, found theft so prevalent in the elite airborne units garrisoned there that, in order to foil barracks junky thieves, soldiers had to strip sheets and blankets and pillows from their bunks every day and lock them up until nightfall.

The cause of these awful conditions, which are recurring throughout the U.S. Armed Forces nearly everywhere in the world, goes directly back to a bitterly divided 1957 decision in the U.S. Court of Military Appeals, which struck down as unconstitutional a long-standing military rule that the unvarying punishment for theft, however slight, must be instant Dishonorable Discharge from the Service. Until that time, the expressed policy of the President (promulgated to the Services) and of every Service Secretary going back time out of mind, was stated in the words of one ruling by the Secretary of the Navy, "There is no place in the Service for a thief."

FERGUSON'S RULING

On November 15, 1957, in what military lawyers consider one of his most aberrant among many odd decisions, Former Judge Homer Ferguson, onetime Michigan Senator, killed the automatic discharge penalty for military thieves and thus, in the opinion of those who have had to live with the consequences, all but forced the Services to retain rather than drum out turpitudinous rotten apples.

The Armed Services today, as on so many other fronts, are beleaguered by courts, activist lawyers, antimilitary "reformers" whose idea is to reform the military out of existence, or simply by wooly-headed people who, like J. M. Keynes on one occasion, said that, of course England needed an Army, but it should always be weak. Thus, when military lawyers and judges-advocate general are asked what remedies they see to offset ever-increasing judicial interference in their system and operations, they are pessimistic. Today, for example, the main concern of the Services is simply to stand off the far-out proposals of Indiana Democratic Sen. Birch Bayh, who, with loud support of the Congressional Black Caucus, National Lawyers' Guild, ACLU, NAACP and a comparable menagery of other anti-military vested interests, is pushing legislation which would virtually dismantle the military justice machinery as it now stands.

The Black Caucus goes one step further: it has openly called for complete abolition of all military tribunals and trial of military personnel only in the civilians courts and only for offenses recognized in civil law. Other lawyers standing clear of the fray and realistically aware of the need for effective and functionally distinct military justice agree that the main requirement is some kind of legal "fence" or clear boundary between Military Law and Courts and their intrusive civilian counterparts.

Some lawyers gloomily speculate that only a Constitutional amendment (like the existing Constitutional exemption of the Armed

Forces from the jury process) can legitimize essential differences which do and should exist between Military and Civilian Justice. In the present temper of the country, Congress included, such a Constitutional amendment to the benefit of the Armed Forces would, unfortunately, be impossible even to imagine.

HIGH COURT SOLUTION

Other lawyers say that a Supreme Court decision clearly placing the Military Justice System under and within the Executive Branch (Article 1 of the Constitution) and as clearly separating it from the Judicial Branch (Article 3) would provide the fencing necessary to prevent the continual damaging spillovers of piecemeal judicial meddling that have been described. Until such explicit protection can be understood as vitally necessary to the effectiveness of Military Forces, and these forces are in turn, recognized as essential to public freedom and national survival, the common defense and Armed Services are going to be hobbled, harassed, impeded, sabotaged and vexed in doing what they must do for the sake of all of us.

PHILLIPS' OUSTER

Mr. WILLIAMS. Mr. President, on June 11, U.S. District Court Judge William B. Jones rendered a decision which may very well go down in the annals of constitutional litigation as a landmark.

The legal issue, simply put, was whether or not the President could circumvent the advise-and-consent provision of the U.S. Constitution—article II, section 2—by refusing to submit temporary appointees to the confirmation process. The court ruled that the President's power to appoint is clearly subject to the Senate's right to exercise its scrutiny over such individuals, unless the Congress shall otherwise dictate.

As a direct result of a lawsuit entered into by myself and three colleagues, the distinguished Senator from Rhode Island (Mr. PELL), the distinguished Senator from Minnesota (Mr. MONDALE), and the distinguished Senator from Maine (Mr. HATHAWAY), the court declared that the President's appointment of Mr. Howard Phillips as Acting Director of the Office of Economic Oportunity was null and void on the basis that Mr. Phillips' name was never submitted for consideration to the Senate.

As chairman of the Labor and Public Welfare Committee, which has legislative jurisdiction over OEO, I have watched with growing alarm the arrogance with which Mr. Phillips has carried out the dismantling and destruction of that agency. As each day went by, it became obvious that the President was not going to submit Mr. Phillips' name to the committee for consideration. The combination of these two actions—the deliberate abuse of senatorial prerogatives, and the cavalier destruction of so many worthwhile social and economic programs, clearly could not go unheeded.

It was this framework of urgency which prompted my colleagues and me to seek this admittedly extraordinary remedy of judicial removal. I think Judge Jones' decision declaring the appointment void, and enjoining the incumbent from any further official duties, will go a long way toward re-establishing congressional prerogatives which unfortunately have been subject to attack during the past few years.

Furthermore, the removal of Mr. Phillips from office coming just 2 months after having had the same court declare his dismantling efforts to be illegal, is a ringing endorsement of the fact that the Congress must continue to play a key role in the important task of reorganizing our priorities, so that human and domestic needs will be our first consideration.

Because of the great significance of the decision, which I am sure that many Members of the Senate will wish to read, I hereby ask unanimous consent that the full text of the decision and court order be printed in the RECORD.

There being no objection, the decision and court order were ordered to be printed in the RECORD, as follows:

[U.S. District Court for the District of Columbia, Civil Action No. 490–73]

SENATOR HARRISON A. WILLIAMS, JR., SENATOR CLAIBORNE PELL, SENATOR WALTER F. MONDALE, AND SENATOR WILLIAM D. HATHAWAY, PLAINTIFFS V. HOWARD J. PHILLIPS, ACTING DIRECTOR, OFFICE OF ECONOMIC OPPORTUNITY, DEFENDENT

ORDER

This matter having come before the Court on the plaintiffs' motion for summary judgment and the defendant's motion to dismiss, and the Court having considered the memoranda filed in support of and in opposition to those motions, and having heard argument of counsel, and for the reasons stated in the Opinion filed in this case,

It is, this 11th day of June, 1973,

Ordered That the motion of the plaintiffs for summary judgment be and the same is hereby granted;

Further ordered That the motion of the defendant to dismiss be and the same is hereby denied;

Further ordered, adjudged and declared That the defendant Howard J. Phillips is serving unlawfully and illegally in his position as Acting Director of the Office of Economic Opportunity in that he has been exercising the powers of Director of that Office but he has not been appointed Director of that Office by the President and confirmed by the Senate as required by 42 U.S.C. § 2941(a) (1970), and that his unlawful service has continued from January 29, 1973, to the present date; and

Further Ordered That the defendant Howard J. Phillips is enjoined from taking any action as Acting Director of the Office of Economic Opportunity.

WILLIAM B. JONES,
Judge.

OPINION

This action is brought by four United States Senators to remove the defendant, Howard J. Phillips from his position as Acting Director of the Office of Economic Opportunity [OEO] because he has not been appointed by the President, and confirmed by the Senate, as Director of OEO, as is required by 42 U.S.C. § 2941(a) (1970). The plaintiffs, Senators Harrison A. Williams, Jr., Claiborne Pell, Walter F. Mondale, and William D. Hathaway are all members of the Senate Labor and Public Welfare Committee, with Senator Williams serving as Chairman of that Committee, which has legislative jurisdiction over OEO. Jurisdiction is based on the federal question statute, 28 U.S.C. § 1331(a) (1970). The case is now before the Court on the plaintiffs' motion for summary judgment[1] and the defendant's motion to dismiss for failure to meet the jurisdictional amount of $10,000, for lack of standing, and for failure to state a claim upon which relief may be granted. For the reasons set forth below, the Court finds no merit to the jurisdictional defenses of the defendant, and holds that the defendant is not serving validly in office and enjoins him from taking any action as Acting Director of OEO.

The defendant urges that the plaintiffs have failed to show that their complaint meets the jurisdictional amount of $10,000 required by 28 U.S.C. § 1331(a) (1970). In support of this argument the defendant contends that the injury alleged by the plaintiffs in their complaint, the denial of their opportunity to consider the defendant's qualifications for the position of Director of OEO (Complaint ¶ 10), is not measurable in dollars and cents and thus cannot meet the jurisdictional amount. *McGaw* v. *Farrow*, 472 F.2d 952 (4th Cir. 1973); *Goldsmith* v. *Sutherland*, 426 F.2d 1395 (6th Cir.), *cert. denied*, 400 U.S. 960 (1970). The plaintiffs, however, do not disagree with the $10,000 requirement, but assert they have met the test.

In cases in which purely injunctive relief is sought, the amount in controversy may be measured either by the value of the relief sought by the plaintiff or the cost of enforcing that right to the defendant. *Tatum* v. *Laird*, 144 U.S. App. D.C., 72, 444 F.2d 947 (1971), *rev'd on other grounds*, 408 U.S. 1 (1972) (dictum); *Hedberg* v. *State Farm Mutual Automobile Insurance Co.*, 350 F.2d 924 (8th Cir. 1965) (dictum). Although the Supreme Court has not spoken definitively on the issue, *Flast* v. *Cohen*, 392 U.S. 83, 103 (1968), in discussing standing, noted that "the challenged program involves a substantial expenditure of federal tax funds," without reference to the value of the plaintiff's claim. In this case, the plaintiffs challenge the legal right of the defendant to administer a program with an appropriation of over $790 million dollars for fiscal 1973. Pub. L. No. 2–607, ch. 4, 86 Stat. 1503. Under these circumstances, the plaintiffs are found to have met the $10,000 requirement.[2]

The plaintiffs have brought this action in their capacity as United States Senators who are entitled to pass upon the qualifications of the Director of OEO in the confirmation process, both as members of the Labor and Public Welfare Committee and as members of the Senate as a whole (Complaint ¶ 10). The defendant challenges the standing of the plaintiffs to bring the action in that context because their interest as legislators in the subject matter of the controversy allegedly is not an injury in fact within the terms of *Sierra Club* v. *Morton*, 405 U.S. 727, 734–35 (1972). The Court holds that the plaintiffs have the requisite standing.

Six days after this suit was filed the Court of Appeals for the District of Columbia decided *Mitchell* v. *Laird*, —— U.S. App. D.C. ——, —— F.2d ——, No. 71–1510 (March 20, 1973). In affirming the dismissal by the District Court of a suit brought by 13 members of the House of Representatives to enjoin the war in Indo-China, the Court of Appeals decided that the plaintiffs did have standing to assert that claim. The Court held that assuming that the war was illegal, that declaration would bear upon the duties of the plaintiffs as members of the House to impeach the defendants as well as their duties to consider and act on appropriations bills, or other legislative matters, such as raising an army, or the enactment of other civil or criminal legislation. In this case, a declaration that the defendant is unlawfully serving in office would bear upon the plaintiffs' duties to consider appropriations for OEO, or other legislative matters affecting OEO or the position of OEO Director. Moreover, the service by the defendant as Acting Director of OEO, rather than Director, does not remove the direct injury to the plaintiffs' alleged right to pass on the individual nom-

Footnotes at end of article.

inated to be Director. The injury is aggravated, if anything, because the Acting Director is performing the duties of the Director without the advice and consent which the plaintiffs would have been able to assert over an individual whose name had been submitted to the Senate for confirmation. Having rejected these jurisdictional defenses, the Court now turns to the merits of the case.

The Economic Opportunity Act of 1964, the substantive legislation creating OEO, requires that OEO "shall be headed by a Director who shall be appointed by the President, by and with the advice and consent of the Senate." 42 U.S.C. § 2941(a) (1970). In addition, the Deputy Director and five Assistant Directors are all to be appointed by the President with Senate confirmation. *Id.*

It is undisputed that the defendant Phillips was appointed Acting Director of OEO on January 31, 1973, by the President.[3] On that same date, Phillip V. Sanchez, then OEO Director, in anticipation of the acceptance of his resignation, signed a delegation of his powers to the defendant pending the appointment of Sanchez's successor.[4] Phillips had been serving as an OEO Associate Director for Program Review, a post not subject to Senate confirmation. The defendant's name has not been submitted to the Senate for its advice and consent on an appointment as Director of OEO.[5] No provision is made anywhere in the Economic Opportunity Act of 1964, as amended, for the appointment of an Acting Director. From these undisputed facts it is urged that the defendant is illegally serving in office.

Article II, section 2, of the United States Constitution, provides that the President "shall nominate, and by and with the Advice and Consent of the Senate, shall appoint . . . all other Officers of the United States, whose Appointments are not herein otherwise provided for, and which shall be established by Law: But the Congress may by law vest the Appointment of such inferior Officers, as they think proper, in the President alone, in the Courts of Law, or in the Heads of Departments.

"The President shall have Power to fill up all Vacancies that may happen during the Recess of the Senate, by granting Commissions which shall expire at the End of their next Session."

Thus, the plaintiffs argue, the Constitution dictates that all federal officers not otherwise provided for in the Constitution shall be nominated by the President and appointed with the advice and consent of the Senate except as the Congress may otherwise provide by law for that power in the President or others. The OEO director is an officer of the United States and the Congress has not provided specifically for the position to be filled in any manner other than the nomination and confirmation process described in Article II. The plaintiffs would, however, find the authority to fill the vacancy created by Sanchez's resignation in the general law dealing with the filling of vacancies in office by the President (the Vacancies Act of 1868, as amended, 5 U.S.C. §§ 3345–49 (1970)).[6] But the plantiffs assert that because the terms of that Act limit the term of appointments under it to 30 days, 5 U.S.C. § 3348, the defendant Phillips has been serving unlawfully in office since March 3, 1973, 30 days after his January 31, 1973, appointment as Acting Director.

The defendant counters with two different arguments: first, that the President has the constitutional power to appoint officers of the United States without Senate confirmation deriving from his obligation under Article II, section 3, to "take Care that the Laws be faithfully executed;" and, second, that the Vacancies Act is inapplicable on its face to the Director of OEO and thus was not required to be followed, as it was not, in this case. Because the main thrust of the defendant's argument has gone to the inapplicability of the Vacancies Act, that argument will be treated first.

The basic argument is that because the Vacancies Act on its face is applicable only to Executive and military departments, the office of Director of OEO is not subject to its strictures because OEO is not an Executive or military department as those terms are defined in 5 U.S.C. §§ 101 and 102 (1970).[7] Certainly it is true that OEO is not an Executive or military department as those terms are defined. OEO is what section 104 of title 5 defines as an independent establishment—one in the Executive branch other than, with enumerated exceptions, an Executive or military department. But the facial inapplicability of the Vacancies Act to the appointment in question does not establish the legality of the appointment. The question remains, by what authority does the defendant serve in office if he was not appointed pursuant to the Vacancies Act.

The constitutional provision governing the appointment of federal officials is clear in its mandate. Unless Congress has vested the power of appointment of an officer in the President, the Courts, or a Department head, he may be appointed only with the advice and consent of the Senate, unless that body is in recess. Although no clear case interpreting this provision has arisen, there are several sources which favor that interpretation.

In *Ex parte Siebold*, 100 U.S. 371 (1880), the Court upheld the validity of an Act of Congress authorizing the appointment of supervisors of elections by circuit courts of the United States notwithstanding the claim that the duties of the supervisors were executive in character. The Court recognized that under Article II, section 2, of the Constitution, Congress had the power to vest by law the appointment of inferior officers of the federal government in the President alone, in the Courts, or in the heads of Departments. And it declared, with respect to the appointment of the supervisors, that "as the Constitution stands, the selection of the appointing power, as between the functionaries named, is a matter resting in the discretion of Congress." *Id.* at 397–98. *See also United States* v. *Eaton*, 169 U.S. 331, 343 (1898).

Two opinions of the Attorney General contain similar language indicating that the President must obtain the advice and consent of the Senate on all appointments of officers of the United States[8] whose appointments have not been otherwise vested by Congress in the President, the Courts, or a Department head. In early 1885, a question arose as to whether the President or the Secretary of the Treasury had the power to appoint the assistant collector at the port of New York. Congress had provided previously that the office be filled by the Secretary. In the revision of the statutes, however, the provision was omitted and thus repealed, so that the office of assistant collector remained but without any statutory provision on the manner in which it was to be filled. The Attorney General advised the President that in the absence of any statutory provision, the power of appointment lay in the President with the advice and consent of the Senate as set forth in Article II, section 2, of the Constitution. 18 Op. Att'y Gen. 98 (1885).

Similarly, in 1886 the question was who should appoint the chief examiner of the Civil Service Commission. The act creating the position did not specify who had that power. The Attorney General reasoned that because the chief examiner of the commission would be an officer of the United States established by law, the power to fill the position would rest in the President subject to Senate confirmation. 18 Op. Att'y Gen. 409 (1886).

Ex parte Siebold, supra, and the opinions of the Attorney General give strong indication that in the absence or repeal of a statute vesting an appointment outside the nomination and confirmation process, that process is the exclusive means for appointing federal officers.

The defendant, however, would answer the question of by what authority he does serve in office by finding in the President a direct constitutional power to appoint officers temporarily without restriction to Executive branch positions outside the Executive and military departments. This argument is premised on the words of Article II, section 3, of the Constitution, which obligate the President to "take Care that the Laws be faithfully executed." In support of that proposition two opinions of the Attorney General are cited. Neither supports the finding of such a temporary appointive power.

The first opinion, 6 Op. Att'y Gen. 357 (1854), concerned the appointment of Navy pursers in the "distant service." Two acts of Congress created a new requirement that all Navy pursers be appointed by the President by and with the advice and consent of the Senate except those in the emergency circumstance of "distant service." The Attorney General concluded that these two acts gave the President the power to issue regulations concerning such appointments in the "distant service," independently of the power to issue regulations for the Navy granted the President by a third act. He did not conclude, as the defendant asserts, that the President has the inherent authority to make temporary appointments to all positions requiring nomination and confirmation.

The second opinion of the Attorney General cited by the defendant, 25 Op. Att'y Gen. 258 (1904), dealt with the power of the President to fill vacancies temporarily while the Senate was not in session by assigning one officer to perform the duties of another. The opinion concluded that the President had both the constitutional power and the statutory authority temporarily to fill a vacancy occurring during a Senate recess. The opinion was not directed to the appointment during a Senate session, as here, of one who was not an officer to hold the position and, as in the previous opinion, was addressed to an emergency situation.

Whatever the merits of the argument finding an interim appointment power in the President may be, it is clear from the defendant's own citation of authority that that power, if it exists at all, exists only in emergency situations. No claim has been made that the appointment of Phillips was necessitated by any emergency situation and the Court finds that there was none, and thus expresses no view on the existence or scope of such a power.

Several constitutional problems are presented by a temporary appointive power of the President as interpreted by the defendant. If the President has an inherent (or more properly, derivative) power to make temporary appointments of federal officers under his obligation to faithfully execute the laws, then the Vacancies Act would be unconstitutional. If the President has a constitutional power to make temporary appointments, then Congress cannot limit the exercise of that power as it has through the Act. But the defendant himself claims the power to temporary appointment only for those officers not covered by the Vacancies Act. For this Court to hold that the President has the constitutional authority to appoint temporary officers only if they are not covered by the Vacancies Act or similar legislation, see *infra*, would place a strange construction indeed on a constitutional power.

Moreover, a Presidential power to appoint officers temporarily in the face of statutes

Footnotes at end of article.

requiring their appointment to be confirmed by the Senate, such as is required for the OEO director by 42 U.S.C. § 2941(a) (1970),[9] would avoid the nomination and confirmation process of officers in its entirety. Constitutional provisions cannot be given such an interpretation.

The plaintiffs urge that the Vacancies Act be held to apply to all Executive agency temporary appointments, as was the original Congressional intent.[10] This construction would avoid a potential constitutional conflict between the requirement that all officers be nominated by the President and confirmed by the Senate in the absence of contrary legislation, and the possible emergency power of the President to make temporary appointments argued for by the defendant. The position urged by the plaintiffs is unsound.[11]

The codification of title 5 of the United States Code in 1966, Pub. L. No. 89–554, 80 Stat. 378, which contains the Vacancies Act, was enacted into law two years after the passage of the Economic Opportunity Act of 1964, Pub. L. No. 88–452 Stat. 519. The definition in 5 U.S.C. § 101, note 7, *supra*, of Executive department as used in the vacancies Act did not include OEO. The Congress has amended section 101 twice since the codification and has not included OEO on either occasion.[12] Thus it cannot be assumed that Congress failed to include OEO in the terms of the Vacancies Act by mere oversight and that Congress intends that the Act cover the OEO Director. The more reasonable interpretation is that Congress intended to foreclose the possibility of the Executive making a temporary appointment of the OEO Director.

Congress has shown through legislation other than the Vacancies Act that it knows how to provide for an acting administrator of Executive agencies not contained within the Executive departments. The Administrator of Veterans' Affairs, the head of the Veterans' Administration, is nominated by the President and confirmed by the Senate. 38 U.S.C. § 210(a) (1970). Section 210(d) of that title provides for the appointment of a Deputy Administrator by the Administrator, and further that:

"The Deputy Administrator shall perform such functions as the Administrator shall delegate and, unless the President shall designate another officer of the Government, shall be Acting Administrator of Veterans' Affairs during the absence or disability of the Administrator or in the event of a vacancy in the Office of Administrator."

Section 210(d) was added by Pub. L. No. 89–361, 80 Stat. 29, only six months prior to the codification of the Vacancies Act of title 5.

The Comptroller General, the head of the General Accounting Office, and the Deputy Comptroller General, are appointed by the President by and with the advice and consent of the Senate. 31 U.S.C. § 42 (Supp. I, 1971). In the event of the absence or incapacity of the Comptroller General, or during a vacancy in that office, the Deputy Comptroller General shall act as Comptroller General. *Id.* In addition to this method of temporarily filling vacancies, the Congress has provided in 31 U.S.C. § 43a (1970) that:

"The Comptroller General shall designate an employee of the General Accounting Office to act as Comptroller General during the absence or incapacity of the Comptroller General and the Assistant Comptroller General [now called the Deputy Comptroller], or during a vacancy in both of such offices."

In these statutes the Congress has provided a detailed ordering of authority in the event of a vacancy, and thus must it be presumed to know how to provide for that contingency outside the Vacancies Act.[13] The defendant contends in his post argument memorandum that these statutes are a Congressional recognition of the President's inherent temporary power of appointment. But Article II, section 2, *supra*, clearly vests all appointments in the President subject to the advice and consent of the Senate, unless the Congress vests that power elsewhere by law. The vacancies statutes cited are clear examples of the vesting by the Congress of an appointive power in the President or Department head alone that would not otherwise exist. Congress has merely exercised the power conferred upon it by the Constitution.

Thus the failure of the Congress to provide legislation for an acting director must be regarded as intentional. The Court holds that in the absence of such legislation or legislation vesting a temporary power of appointment in the President, the constitutional process of nomination and confirmation must be followed.[14] Therefore, the Court finds that the defendant Phillips was not appointed lawfully to his post as Acting Director of OEO. An injunction will issue to restrain him from taking any actions as Acting Director of OEO.

JUNE 11, 1973.

WILLIAM B. JONES,
Judge.

FOOTNOTES

[1] This case was filed on March 14, 1973, eight days prior to the scheduled hearing on the cross-motions for summary judgment in Local 2677, A.F.G.E. v. Phillips, ——— F. Supp. ———, (D.D.C. 1973), in which actions taken by the defendant Phillips to terminate certain OEO functions were enjoined as unlawful. Because the issue of the validity of Phillips' service in office was raised in that case, the plaintiffs in this case sought leave to file their motion for summary judgment so that it could be consolidated for hearing at the same time. Fed. R. Civ. P. 56(a) precludes the filing of a motion for summary judgment by the plaintiff until 20 days have elapsed from the time the complaint is filed unless the defendant files a motion for summary judgment within that time, and the plaintiffs' motion was not permitted to be filed. Their points and authorities were allowed to be filed as an amicus brief at the time of the oral hearing in *Local 2677, supra*. No decision on the legality of the defendant Phillips' service in office was rendered in *Local 2677*, and the motion for summary judgment was filed in this case on April 12, 1973, one day after the decision in *Local 2677*.

[2] The plaintiffs may be found to have met the requirement in several other ways. From the time of filing suit until the end of the current fiscal year, the defendant would collect over $10,000 in salary, which he would not be entitled to if he were serving unlawfully in office.

Cases seeking injunctive relief in the first amendment area have also liberally construed the jurisdictional amount requirement. *E.g.*, Spock v. David, 469 F. 2d 1047 (3d Cir. 1972). The plaintiffs here are arguably protecting a first amendment right to comment on the nomination of an OEO Director, as well as their right to pass on nominations of executive officers under Art. II, § 2 of the Constitution.

Finally, in valuing the rights of the plaintiffs, the words of Chief Judge Lumbard in Bivens v. Six Unknown Named Agents, 409 F. 2d 718, 723 (2d Cir. 1969), *rev'd on other grounds*, 403 U.S. 388 (1971) are relevant:

"Few more unseemly sights for a democratic country operating under a system of limited governmental power can be imagined than the specter of its courts standing powerless to prevent a clear transgression by the government of a constitutional right of a person with standing to assert it."

[3] 9 Weekly Comp. of Pres. Docs. 122 (1973). Although the defendant was appointed Acting Director of OEO on January 31, 1973, it would appear that he took action as Acting Director as early as January 29, 1973. The defendant issued on January 29 a memorandum regarding the "termination of section 221 [Community Action Agency] funding." That plan was enjoined by this Court in Local 2677, A.F.G.E. v. Phillips, ——— F. Supp. ——— (D.D.C. 1973). Therefore the relief granted by the Court, *infra*, will date from January 29, 1973, rather than the putative appointment date of January 31, 1973.

[4] The delegation is item 1 of exhibit B to the Court's request for filing of OEO delegations of authority.

[5] Plaintiffs' Statement of Material Facts as to Which There Is No Dispute, No. 3. This statement was controverted by the defendant only as being irrelevant.

[6] Briefly, the Vacancies Act provides that when the head of an Executive or military department, or an officer of a bureau of an Executive or military department whose appointment is not vested in the department head, dies, resigns, or is sick or absent, his first assistant performs his duties until a successor is appointed or the absence or illness stops. The President may direct that another department head or officer subject to Senate confirmation may perform those duties instead of the first assistant. A vacancy caused by death or resignation can be filled through these provisions for 30 days. The Act provides that it is the exclusive method for filling vacancies covered by the Act except those occurring during a Senate recess.

[7] The Executive departments are the 11 Cabinet departments. The military departments are the Army, Navy and Air Force.

[8] The Director of OEO is undoubtedly an officer of the United States because of the provision requiring Senate confirmation. He is not a mere agent or employee who is not an officer and whose employment may be outside the confirmation process. *See* United States v. Hartwell, 73 U.S. (6 Wall.) 385 (1867); Burnap v. United States, 252 U.S. 512 (1920).

[9] For the defendant to claim, as is done at p. 9 of the Points and Authorities in Support of Defendant's Motion to Dismiss and in Opposition to Plaintiffs' Motion for Summary Judgment, that 42 U.S.C. § 2941(a) is inapplicable to the present case because the President appointed him Acting Director rather than Director is without merit. The appointment and confirmation process of Article II, section 2, of the Constitution cannot be so evaded.

[10] Statements on the Senate floor by Senator Trumbell, the principal Senate sponsor of the Act, indicate that it was to apply to all vacancies in the Executive branch requiring confirmation. 39 Cong. Globe S1163–64 (1868).

[11] It would appear that the defendant would not be validly serving in office even if the Vacancies Act were held to be applicable to OEO. The defendant has not succeeded to his post through either 5 U.S.C. § 3345 or 3346 because he concededly was not the first assistant to former Director Sanchez at the time of the appointment. No basis for the temporary appointment is found in § 3347 because the defendant admittedly was not an official whose appointment had been confirmed by the Senate. Finally, S. 3349 is inapplicable because the Senate was in session on January 31, 1973, the date of the appointment.

[12] Pub. L. No. 89–670, § 10(b), 80 Stat. 948, added the Department of Housing and Urban Development and the Department of Transportation to the definition of Executive department. Pub. L. No. 91–375, § 6(c)(1), 84 Stat. 775, deleted the Post Office Department from that definition when it was made an independent corporation.

[13] In addition to the provisions for vacancies discussed in the text, there are several others, including some in which both the

chief and deputy are appointed by the President by and with the consent of the Senate. The following list is not intended to be exhaustive, but merely illustrative: General Services Administration 41 U.S.C. §§ 751(b) and (c) (1970); Small Business Administration, 15 U.S.C. § 633(b) (1970); Environmental Protection Agency, Reorganization Plan No. 3 of 1970, §§ 1(b) and (c), eff. Dec. 2, 1970, 84 Stat. 2086 (42 U.S.C. § 4321 note (1970)); Office of Telecommunications Policy, Reorganization Plan No. 1 of 1970, § 3, eff. Apr. 20, 1970, 84 Stat. 2083 (47 U.S.C. § 305 note (1970)); Action, the agency which administers Vista, the Peace Corps, and similar programs, Reorganization Plan No. 1 of 1971, §§ 1(b) and (c), eff. July 1, 1971, 85 Stat. 819 (42 U.S.C. § 2941 note (Supp. I, 1971)). The defendant urges at note 3 of his post argument memorandum that because the Executive proposed the above cited reorganization plans pursuant to the Reorganization Act of 1949, as amended, 5 U.S.C. §§ 901, *et seq.* (1970), those vacancy provisions were issued by the Executive rather than the Congress as part of the President's inherent temporary power of appointment. But the Reorganization Act gives those plans the effect of statutory law only upon action or inaction by the Congress, 5 U.S.C. § 906(a), and thus the mere proposal of the plan by the President is ineffective without Congressional approval. This in effect recognizes the absence of an inherent temporary power of appointment in the Executive.

[14] The wisdom of the nomination and confirmation process, even in the light of the President's Executive powers, was pointed out by Alexander Hamilton in The Federalist No. 76. In answering critics of the Constitution who felt that the President should have the sole authority to appoint federal officials, Hamilton pointed out that the nomination and confirmation process did vest the power of choice in the President because "no man could be appointed but on his previous nomination, [and] every man who might be appointed would be, in fact, his choice." *Id.* at 89 (Tudor Pub. Co. ed. 1947). Hamilton pointed out further that the Senate would be reluctant to overrule nominations frequently because they could not be certain that any subsquent nominee would be one to their liking. Finally, he noted that the confirmation requirement would check the possible evil of vesting the appointment power solely in the President:

"To what purpose then require the co-operation of the Senate? I answer, that the necessity of their concurrence would have a powerful, though, in general, a silent operation. It would be an excellent check upon a spirit of favoritism in the President, and would tend greatly to prevent the appointment of unfit characters from State prejudice, from family connection, from personal attachment, or from a view of popularity. In addition to this, it would be an efficacious source of stability in the administraion." *Id.* at 89.

SOME WISE AND SOUND ADVICE FOR HIGH SCHOOL AND COLLEGE GRADUATES

Mr. THURMOND. Mr. President, a very good newspaper article which appeared on the editorial page of the Greenville News of Greenville, S.C., was recently called to my attention. It was written by Dr. John Wood Robison, the senior minister of Buncombe Street Methodist Church in Greenville. The article contains wise and sound advice for high school and college graduates.

I believe my colleagues will read it with great interest. Mr. President, I ask unanimous consent that the article entitled "To the Graduate," which appeared in the Greenville News, June 9, 1973, be printed in the RECORD at the conclusion of my remarks.

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

TO THE GRADUATE

(By Dr. John Wood Robison)

(NOTE.—The writer is senior minister of Buncombe Street Methodist Church in Greenville.)

Throughout our land, these days, thousands of young men and women are graduating from our high schools and colleges. Perhaps the one identical question running through the mind of each one is, "Where do I go from here?"

Some of you young people may be like the absent-minded professor traveling on the train, who was asked by the conductor for his ticket. After a fruitless search, the ticket could not be found. The kind conductor finally told the man to give it to him when he found it. The puzzled professor answered, "Thank you, but I have to have that ticket to know where I'm going."

In these confused and unsettled days you may wish that you could buy a ticket that would tell you where you are going. Unfortunately, you can't. Yours will be more like the situation of the pilot who had clearance to land his flak-packed bomber, and upon attempting to lower his landing gear, found that it was jammed. After his men had bailed out he asked the officer in the tower, "Shall I attempt a landing or abandon the plane?"

The crisp reply came at once: "You are on your own."

God has given you a free will and you must make choices. You are going to have to make more decisions than you ever have made before. Why not set up a few markers that might help to guide you?

T. F. Adams suggests several principles which might help. The first is: Accept yourself as you are. Accept your limitations as well as your talents. Don't feel sorry for yourself. Some may have more brains or talent than you, but God is going to hold you responsible for them. Do the best you can with what you have to do with—which leads to the second thing:

Better yourself. It may take long, hard hours to master the skills necessary for your job or profession. Then your knowledge must be kept sharp by continuing to learn all your life. Remember, there are still frontiers to conquer.

Next, consecrate yourself. If you want to achieve, let your life have a central loyalty and a controlling purpose. William James said, "The great use of life is to spend it for something that outlasts it."

Then, of course, you must discipline yourself. You can live on the lowest, vilest level or you can discipline yourself to live on the highest.

Last, but not least important—enjoy yourself. Christ said that He came to bring abundant life. Live yours to the fullest!

Where do you go from here? The choice is yours. You are on your own!

THE GENOCIDE TREATY AND THE RIGHT TO LIFE

Mr. PROXMIRE. Mr. President, as we approach the 197th anniversary of our Nation's independence, it is fitting that we pause to reflect upon those self-evident truths which our forefathers so nobly proclaimed. Since 1776 the belief in the inalienable right of all men to life, liberty, and the pursuit of happiness have guided the course of this Nation and the decisions of this body. Whether waging war, making peace, or passing vital legislation, the U.S. Senate has ever strived to uphold these rights for the citizens of this country and the peoples of the world.

We are presently faced with a decision which concerns the most basic, yet the most crucial of these rights—the right to life. The history of our race is marred by terrible incidents of the violation of this precept. The murder of 2 million Armenians in Turkey, the annihilation of more than 6 million Jews at the hands of the Nazis, the recent slaughter of more than 100,000 tribesmen in Burundi give shocking testimony to the existence of genocide in the world. The extermination of millions of human beings simply because they belonged to a particular national, ethnical, racial, or religious group is a crime which contradicts the most basic foundations of this country, and which cries for condemnation.

In 1946 the United Nations recognized this fact by declaring that genocide should be treated as an international crime, and in 1948 it unanimously approved a treaty to that effect. The following year President Truman referred the treaty to the Senate with these important words:

> America has long been a symbol of freedom and democratic progress to peoples less favored than we have been . . . and we must maintain their belief in us by our policies and acts.

For more than 25 years this treaty has languished in these Chambers. I urge Senators to renew their commitment to the right to life, to restore the faith of the world in our belief in that right by ratifying the Genocide Treaty.

INTERROGATION OF GOVERNMENT OFFICIALS ON SENATE FLOOR

Mr. MONDALE. Mr. President, recently I introduced Senate Resolution 123, to provide for a question period during which Cabinet officers and heads of executive agencies would be requested to answer, on the Senate floor, questions from Members of this body.

I believe that establishment of such a procedure in the Senate rules is vitally important if we are to reestablish the ability of Congress, Cabinet officers, and the people to be fully informed on key policy decisions as they are made. In this regard, I commend a recent editorial from the St. Paul Pioneer Press, which I believe expresses well the importance of our adopting this procedure.

Mr. President, I ask unanimous consent that the St. Paul Pioneer-Press editorial be printed in the RECORD at the conclusion of my remarks.

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

REVIVING CABINET PRESTIGE

There is merit in Sen. Walter Mondale's proposal for "question and report" periods during Senate sessions at which Cabinet officers and heads of major federal agencies would be asked to discuss policies and programs. Such appearances would be made a regular part of Senate procedures.

The plan represents a congressional response to the over-centralized power structure of the Nixon Administration, under which authority over all branches of the Executive Department has been concentrated in the White House staff.

Mondale said: "By making Cabinet officers and agency heads more accountable to the people—through the Congress—we will enable the balance of power to shift away from a White House staff of a few unelected and unresponsive men, and reassert the proper role of the Congress and the Cabinet. The events surrounding the Watergate affair have revealed the dangers inherent in the ability of a few men on the White House staff . . . to control policy."

In recent Democratic and Republican administrations alike, the tradition of relying on Cabinet members as presidential advisers with major responsibilities for government policy has been eroded. The country would be well served by a turn toward this older concept. Better communication between the Legislative and Executive Departments, and greater knowledge for the public regarding Administration policies, would be encouraged by such procedures as Mondale suggests.

LEGAL SERVICES

Mr. MATHIAS. Mr. President, I have today, together with other Members of the Maryland delegation in the Congress, met with a number of Maryland citizens who are concerned with the present status and future prospects of community action agencies and related programs designed to help people cope with the complex conditions of life.

Some of the material relating to legal services is of such general interest that I ask unanimous consent to print it in the RECORD.

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

JUNE 14, 1973.

Hon. CHARLES MCC. MATHIAS,
Old Senate Office Building,
Washington, D.C.

DEAR SENATOR MATHIAS: The ability of the State of Maryland to provide legal services in civil cases for its thousands of indigent citizens is rapidly approaching the crisis point. Unless immediate action is taken, legal services will not be available to the poor in the 23 counties of Maryland, and services to the poor of Baltimore City will be drastically curtailed. The resultant withdrawal of representation will seriously impair the operation of the Court, cause detriment to the rights of litigants currently represented, and seriously damage the confidence of the general public in the principle of Equal Justice under the law.

This serious state of affairs is brought about by the Amendments to the Social Security Act contained in the Revenue Sharing Act (State and Local Fiscal Assistance Act of 1972) and by HEW regulations, published in the Federal Register on May 1, 1973. These regulations, which are to take effect on July 1, 1973, will make HEW funding unavailable to the Maryland Judicare program, which relies entirely on HEW funds, and to the Legal Aid Bureau, which realizes 60% of its funds from this source. Enclosed herewith is a statement of the combined effects of the law and regulations referred to above, along with a report on the status of bills affecting Maryland Legal Services, the Legal Aid Bureau's analysis of the proposed Legal Services Corporation Act, and letters in support of the Maryland Legal Services Program written by members of the Maryland Judiciary and the appropriate Bar Associations in Maryland.

We earnestly request the assistance of the Maryland Congressional Delegation in our attempt to make the principle of equal justice under the law a reality for the poor of this state.

Sincerely,

ROGER GARFINK,
President, Legal Aid Bureau, Inc.
MICHAEL MCWILLIAMS,
Chairman, Legal Services Committee, Maryland State Bar Association.

STATUS OF BILLS AFFECTING MARYLAND LEGAL SERVICES

S. 1220 has had rather extensive hearings and is currently in the Senate Finance Committee. The bill in general freezes HEW Social Services Regulations as of January 1, 1973 for some purposes. It will be necessary to amend legal services into the bill in order to continue Maryland Legal Services Program.

The Debt Ceiling Bill has been reported out of the House Ways and Means Committee and will be acted upon by the House very soon. The Senate Finance Committee has already voted unanimously to add an amendment to the Debt Ceiling Bill that would postpone the effective date of the HEW regulations on social services from July 1, 1973 to January 1, 1974.

H.R. 5628, which would repeal the requirement that 90% of the recipients of HEW Social Services be welfare recipients, is currently in the House Ways and Means Committee. No hearings have been conducted nor, to our knowledge, have hearings been scheduled.

The National Legal Services Corporation Act, H.R. 7824, has been reported out by the House Education and Labor Committee. While we have many reservations about the Committee version, ws support the Committee version, since it is quite possible that if the bill is opened significantly to amendment, a majority of the amendments added will likely be unfavorable to legal services. Some attempts will be made to improve this bill in the Senate and we support those attempts. (If we are to have such a restructed Legal Services Corporation, it is imperative that the funding level of the Corporation be reasonable and proper. There has been some suggestion that the funding level will be $71.5 million, the same as the current funding level for OEO Legal Services. This would in effect be less than we have now, since it is our understanding that some of the future monies have already been spent, inflation is increasing at a rapid rate, and additional administrative costs may be generated. Additionally, if HEW Legal Services is not continued, it would seem appropriate to have the Legal Services Corporation fund those programs now funded by HEW Legal Services.)

BACKGROUND STATEMENT ON HEW LEGAL SERVICES FUNDING PROBLEM

Since 1968 under the Social Security Act, HEW has paid States 75% of the costs of a wide range of social services provided primarily to actual, former and potential recipients of public assistance programs such as Aid to Families with Dependent Children and Aid to the Aged, Blind or Disabled. This is commonly known as the HEW Title IVA program (although other titles of the Social Security Act are also included). Regulations promulgated and administered by the Social and Rehabilitation Service enumerated a wide range of mandatory and optional services eligible for these HEW matching ($3 for $1) funds. Among the optional services was legal services (see, e.g., 45 CFR Part 220.51 (c)(4)). This funding was open-ended until the 1972 amendments to the Social Security Act (tacked on to the State and Local Fiscal Assistance Act of 1972) incorporated a $2.5 billion ceiling.

For the most part States have provided traditional social services—child care, day care, counselling, foster care—under the Title IVA program. Only 3 States—Maryland, Pennsylvania and Georgia—have developed significant statewide legal services programs. These programs are partnership efforts between the bar associations and the State welfare departments. They are founded upon a recognition that the poor need and deserve legal services; in the most fundamental sense because of our commitment to the rule of law and to the principle of equal justice under the law, but also because, in the most practical sense, the poor so often in their everyday family problems and transactions with landlords, merchants and institutions, need legal assistance just to keep their lives from falling apart. By preserving family relationships and by protecting the rights of poor people in their dealings with creditors and institutions, legal services save the State from bearing, in additional welfare costs, the damage done by the absence of legal representation.

With the availability of Title IVA funds for legal services, the Bar in Maryland and the State Department of Employment and Social Services stepped to the forefront. The State provided $275,000 as local share which was added to $140,000 of United Fund money provided to the Legal Aid Bureau, enabling the SDESS to obtain approximately $1.2 million in HEW funds. These funds made possible expansion of the services of the Legal Aid Bureau and the development of a statewide judicare program. Under the judicare program some 700 lawyers have agreed to participate and have handled 10,000 individual cases throughout the State. The bench and bar have become thoroughly involved and committed, witnessed by the strong efforts the State Bar Association, the City Bar Association, Chief Judges Murphy and Sweeney and other bar groups are making with us to save this program from its impending cut-off. Needless to say such a cut-off would deprive thousands of recipients of equal access to our legal system. It would also cause a grave crisis in the administration of civil justice in our State. The most immediate impact would be confusion, if not chaos, as literally thousands of low-income clients would be left without counsel in the middle of litigation or other legal matters, causing great prejudice to the rights of these persons, as well as probably irreparable harm to the administration of the courts.

Under recent HEW regulations published in the Federal Register of May 1, 1973, which are scheduled to become effective on July 1, 1973, legal services are effectively removed as an option for the States. Under these regulations, legal services are restricted to services to obtain or maintain employment. Both the regulations and current law (Public Law 92–512) further restrict services to welfare applicants or recipients only. Since employment problems for this category of the poor are miniscule, these regulations in combination with Public Law 92–512 sound the death knell for the Maryland judicare program, and curtail severely the ability of the Legal Aid Bureau to provide services for its thousands of clients. Under the current law and proposed regulations, the working poor, those receiving veterans benefits, social security benefits and the unemployed are ineligible for services under either the judicare program or in those Legal Aid offices funded by HEW monies. This situation creates one of the disincentives to work that we are hearing more about recently and is extremely unfair to the working poor.

The Legal Aid Bureau which relies on HEW funds for 60% of its operating costs will be forced to close its offices in Anne Arundel, Harford and Carroll Counties, and at least two of its neighborhood offices in Baltimore City. The net effect will be the removal of all legal services for the indigent in all twenty-three of the counties of Maryland, and a serious reduction of services in Baltimore City.

Some significant efforts to alleviate this result are currently being made in Congress. S. 1220 would freeze some aspects of the HEW regulations on Social Services Programs as they existed on January 1, 1973. Legal Services is not one of the aspects in the original bill that would be frozen as of January 1, but efforts are currently being made to amend legal services into the bill. While on the same lines, as an interim measure, efforts are being made to postpone the effective date of the regulations from July 1, 1973 to January 1, 1974. It is our understanding that this is being done through the Senate Finance Committee by Senators Long and Mondale. The amendment will be attached to the Debt Ceiling Bill.

In the House of Representatives, efforts are being made to change the requirement that 90% of the recipients of services funded by HEW social service programs be welfare recipients. What appeared at the time to be an effective way to limit the programs to the people that need them the most has turned out to be an administrative nightmare which contains numerous disincentives to work. A bill sponsored by Congressman Ogden Reid, with numerous co-sponsors, H.R. 5628, would do away completely with the 90–10 requirements.

If these Congressional efforts are not successful, legal services will not be available to indigents in any of the twenty-three counties of Maryland, and legal services to the poor will be drastically reduced in Baltimore City. Legal services for the poor in the State of Maryland has reached the point where vigorous action must be taken, or thousands of poor people in great need of the protections of the law will have no one to assist them.

LEGAL AID BUREAU ANALYSIS OF PROPOSED LEGAL SERVICES CORPORATION ACT

The Baltimore Legal Aid Bureau supports the concept of a separate Legal Services Corporation, as do all the other responsible persons and agencies attempting to deal with the problem of the delivery of legal services—national and state bar associations, the Nixon Administration and Senator Mondale, the leading congressional advocate of legal services. Such a structure is long overdue, and should not have been postponed until the proposed dismantling of OEO.

While agreeing with the general purposes of the Legal Services Corporation Act as introduced by the Administration, the Legal Aid Bureau is opposed to a number of sections of the proposed bill. What follows is a brief discussion of the reasons for opposing those sections.

No funding level is suggested in the Act. In our judgment the funding level is crucial, and something that must be directly dealt with in the Act or through the Appropriations Bill. For the Corporation would seem to be taking the place of both the OEO legal services program and the HEW Legal Services Program. HEW Secretary Caspar Weinberger said as much at a recent Senate hearing on changes in HEW regulations that would in effect end the HEW Legal Services Program. The Secretary said that all legal services should be delivered through the Legal Services Corporation Act. Funding for legal services is provided for in the HEW Appropriations bill, since HEW is to be responsible for legal services during the transition from OEO to the Corporation. Funding in that bill is set at $71.5 million, an amount exactly equal to the current funding of OEO Legal Services and excluding completely the $5 million that currently goes to Legal Services through HEW. This is an extremely crucial problem for Maryland since Maryland is one of the three states that currently receives legal services money through HEW. The $5 million currently in HEW Legal Services must not be "lost" in the transition.

Many of our clients are juveniles. Section 7(b)(c) of the House Education and Labor Committee version limits the representation of juveniles to those situations where the juvenile's parent consents, or court approval is secured or pursuant to criteria issued by the board of the Corporation. These restrictions are unnecessary and perhaps run counter to the Canons of Professional Ethics. For a parent's interest and the juvenile's interest may be in conflict. It is not necessary, to our knowledge, for a lawyer to seek court approval to represent a client in any other context. Additionally, the Corporation by regulation should not have any more power to issue regulations concerning this attorney-client relationship than it does to issue regulations concerning any other such relationship.

The Committee version places restrictions upon legislative advocacy and administrative advocacy through Section 6(d)(4) and Section 7(a)(5). We do not believe that there is any appropriate reason to prohibit legal services attorneys from representing their clients before the Legislature and before Administrative Agencies in the same manner that private attorneys represent their clients before those bodies and those agencies. Legal services attorneys should be restricted in these activities only by the Canons of Ethics and Code of Professional Responsibility. In fact, it is extremely contradictory to say to poor citizens that you should bring your grievances before your government, yet we will be denying you the legal assistance that is often crucial to the airing of these grievances. Over the past few years we have had lawyers dealing with legislative bills and administrative actions in a most professional and most effective manner.

In summary, the Legal Aid Bureau supports wholeheartedly the concept of a Legal Services Corporation. We have significant reservations about some provisions of the original Administration bill and of the House Committee version. However, we recognize the political realities of the situation and are hopeful that the bill as finally enacted will satisfy all the conflicting interests involved, including our own.

HUNGER STRIKE OF SOVIET SCIENTISTS DENIED EMIGRATION

Mr. JACKSON. Mr. President, virtually every day we are confronted with chilling new evidence of the continuing human tragedy of people who can neither tolerate nor be tolerated by the Soviet Government but are denied their fundamental human right to emigrate to a nation which would welcome them.

Seven Soviet Jewish scientists are now in the fifth day of a hunger strike in Moscow undertaken in desperate protest against "the principle of human beings as property, as manifested in our forcible detainment in the U.S.S.R."

One of these scientists, Prof. Mark Azbel, has been in telephone contact with Prof. Edward Stern of the University of Washington, in connection with an invitation extended by the university's department of physics to spend part or all of the 1973–74 academic year as visiting faculty.

Professor Azbel was head of the department of electron theory of metals at the Landau Institute of Theoretical Physics in Moscow until he was forced to resign his post and forfeit his salary as a consequence of requesting permission to emigrate to Israel last fall. His book on "The Electron Theory of Metals" is now being withdrawn from Soviet libraries and his writings have been banned from Soviet scientific journals. With the Soviet authorities effectively depriving Dr. Azbel of his professional existence in the Soviet Union or anywhere else, the threat is now to his human existence. Dr. Azbel's 12-year-old son was given permission to emigrate on March 27 and is now safely in Israel. On May 21, Dr. Azbel and his wife were notified that their own visa applications had been rejected.

Mr. President, in telephone conversations on June 8 and June 11, Professor Azbel read to Professor Stern two statements which I would like to share with my colleagues. One is an open letter from Professor Azbel to the scientists of the world, and the other is a statement by the seven scientists on entering into their hunger strike.

Mr. President, I would like to call attention in particular to a sentence in the joint statement expressing the scientist's fear that "for all we know this new kind of serfdom may be sanctified silently by many political leaders of the world." I am proud that the Congress of the United States is not silent and that 77 Senators and more than 275 Representatives have taken a strong stand by cosponsoring the East-West Trade and Freedom of Emigration amendment.

I ask unanimous consent that these two appeals be printed in the RECORD.

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

OPEN LETTER FROM PROFESSOR MARK AZBEL

JUNE 8, 1973.

To the scientists of the world:

I address to you my colleagues, Bardeen and Schrieffer, Dyson and Ziman, Peierls and Fawcett, Kittel, Dresselhauss, Mattis, Pippard and Chambers. I address to all the scientists who are not indifferent to the fate of their friends in science. I address to all the scientists who are human beings and not the two hand computers.

For 20 years I was engaged in science in the Soviet Union. I want to live the rest of my life in Israel. My 12-year-old son is already there. He got his permission on March 27, and yet I am not allowed to leave the USSR. I am not accused, as many others are, of being involved in the secret activities, possibly because of the topics of about 100 of my papers which were published in the Scientific magazines all over the world and which were submitted to these magazines from the well-known institute. I happen to be guilty just in being the doctor of science who must not be useful anywhere outside the USSR, and I am condemned to be separated from my son and to be forcibly detained in the USSR.

I do not know who passed this sentence on me. I do not know for how long it will act. I cannot even appeal against it. I have not got any written sentence. It was told to me only orally and only by the irresponsible visa official, the only secret court of our time who announces the most essential judgment in the life of the Jew who wants to live in Israel—without any law, any lawyers, any defenders, any publicity and even without any written sentence. Will the world accept such a bible of inquisition customs, such absence of any control, such arbitrariness? Are the scientists and their societies so weak as to allow the scientific degree to become the stamp of state property? Will the lawyers and their international organizations be silent? I cannot be silent. I appeal! Scientists over the world help me! I can never get rid of my doctor's thesis. Does it mean I shall never see my son in Israel?

MARK AZBEL.
Professor, Doctor of Science.

STATEMENT OF SEVEN SOVIET JEWISH SCIENTISTS

JUNE 11, 1973.

For sometime past, officials of the Soviet Ministry of the Interior have established a practice of frankly explaining to scientists and specialists trying to leave for Israel that the reason for their detainment in the USSR is their professional qualifications. Pretense about secrecy is more and more often shed nowadays and motives of state interests and one's value as a specialist prevails. Thus, simultaneously with the suspension of the use of the education tax, it becomes all the more apparent that we are enslaved without the right of redemption. As most of the specialists lose their jobs when they apply for an exit visa, the state interest involved in our detainment is simply the right of the state to dispose of our fate at will. The fact that one of our colleagues, Yevgeny Levich, has been recently drafted arbitrarily as a soldier shows that the scope of our possible "usefulness" to the state is quite unlimited. For all we know this new kind of serfdom may be sanctified silently by many political leaders of the world. Relying, therefore, mostly upon ourselves, we intend to prove that we belong to nobody but ourselves. Being considered state property, we prefer, as a matter of principle and provided all other ways are exhausted, to destroy this property rather than recognize that anybody is entitled to our souls and bodies. As a first step we declare beginning the 10th of June a hunger strike of indefinite duration in protest against the principle of human beings as property, as manifested in our forcible detainment in the USSR. The place of the hunger strike is in Moscow.

Professor Mark Azbel, Physicist, age 41; Dr. Victor Brailovsky, Cybernetist, age 37; Professor Moses Ghiterman, Physicist, age 42; Master of Science Anatoly Libdober, Mathematician, age 24; Dr. Alexander Luntz, Mathematician, age 49; Dr. Vladimer Roginsky, Physicist, age 33; Professor Alexander Voronel, Physicist, age 42.

THE TRANS-ALASKA PIPELINE

Mr. STEVENS. Mr. President, I would like to share with my colleagues some of the many letters I recently received from companies which supply natural gas to consumers in the Midwest and Northeast. The message these letters carry is that prompt approval should be given to authorize the construction of the trans-Alaskan pipeline so that the vast oil and natural gas reserves of Prudhoe Bay can, as soon as possible, assist in solving the Nation's energy crisis. These letters emphasize that the energy shortage has now reached the point where sectionalism must be set aside in favor of the action necessary to protect the interests of our entire country.

It is interesting to note the tremendous support for the TAPS in the Midwestern part of the United States. Leaders in the Midwest who are supplying energy to keep that section of our Nation going emphasize that immediate construction of TAPS is of critical importance to their area.

Mr. President, I especially commend these letters to those Members of Congress from the Midwest who prefer to delay the Alaska pipeline hoping for a trans-Canadian oil pipeline. It is ironic, Mr. President, that although leaders in the energy fields in the Midwest seek immediate construction of the Alaska pipeline, some of their elected representatives in the Congress believe they know more about the issue than their constituents who work daily in the energy field.

I ask unanimous consent that three of the recent letters I received advocating TAPS be printed in the RECORD.

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

WISCONSIN FUEL AND LIGHT CO.,
Manitowoc, Wisc., June 4, 1973.

Senator TED STEVENS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR STEVENS: Thank you for your letter of May 24, 1973 concerning the Trans-Alaska oil pipeline. For the reasons discussed below we wholeheartedly support legislation to authorize the construction of that pipeline through Alaska.

Our company is a natural gas distribution company serving the principal cities and villages in Manitowoc and Marathon Counties, Wisconsin. Our sole supplier of natural gas is Michigan Wisconsin Pipe Line Company, a wholly owned subsidiary of the American Natural Gas Company. Because of Michigan Wisconsin's foresight in obtaining gas reserves and underground storage our company is still able to attach additional space heating customers, but it has been necessary for us to restrict the attachment of new large boiler fuel loads since July of 1971. The shortage of oil and propane in Wisconsin is even more acute than the shortage of natural gas as evidenced by the appointment May 31 by Governor Lucey of a State Agency Energy Committee and the statement attributed to Governor Lucey that there will be gasoline shortages this summer and that Wisconsin home owners will face a serious shortage of No. 2 fuel oil and propane gas this fall and winter.

Michigan Wisconsin Pipe Line Company was one of the organizers of the Northwest Project-Gas Arctic Study Group which is expecting to file an application this year to construct a 48 inch natural gas transmission line from the Prudhoe Bay area of Alaska and the Mackenzie Delta River area of Northwest Canada to a point on the United States Canadian border and to then distribute that natural gas to the Midwestern United States. Most or all of the gas and oil producers in the Alaskan-Canadian Northwest area are participating in this project as are all of the natural gas transmission companies presently serving the Midwestern United States. The line is proposed to be a common carrier and is absolutely essential if natural gas deliveries in the Midwestern United States are to be expanded or even continued at their present levels.

All parties involved unanimously agree that this gas pipeline cannot be constructed simultaneously with a Trans-Canadian oil line. The natural gas reserves in the Prudhoe Bay area are all associated with oil and none of those gas reserves can be produced until a means is provided for marketing the Prudhoe Bay oil. The Mackenzie River gas reserves in themselves are not sufficient to support the construction of the 48 inch Trans-Canadian gas line which will cost approximately $5 billion. It is, therefore, an unavoidable fact that locating the initial oil line through Canada would delay the introduction of Alaskan-Canadian gas to the Midwestern United States by the 5 to 7 years required to construct a Trans-Canadian oil line. It is, therefore, our firm conviction that the economy of the Midwestern United States absolutely requires the immediate authorization of the Trans-Alaskan route for the oil line from Prudhoe Bay to the Southern coast of Alaska.

There is one important reason why the proposed oil line should be built through Alaska rather than Canada, which I have not seen publicized. That is the desirability of routing that line through United States territory. While our relations with Canada have been cooperative for many years, nevertheless the Canadian government has very properly clearly stated that it is primarily interested in protecting the interests of Canadian citizens. Canada has permitted the export of natural gas only to the extent that it is surplus to the needs of Canada, and has clearly stated that it will insist upon a price for that gas which is as high as possible. If Alaskan oil is marketed through Canada the Canadian government will have the sole right to determine the volume of oil which is marketed and the price that is charged for its transportation through Canada. Marketing Alaskan oil through Southern Alaska will avoid that Canadian control. Additionally, the Trans-Alaskan oil line could quite possibly eventually be used for marketing oil from Northwestern Canada, which would give the United States considerable bargaining power with Canada on the marketing of Alaskan gas.

I think it is most unfortunate that a number of Senators and Representatives from the Midwest are opposing the Alaskan route for the oil line on the grounds that an all-Canadian oil line would benefit the Midwestern United States. Several years study have convinced me that exactly the opposite is true since it would delay construction of the gas line for 5 to 7 years. The transportation of oil is much more flexible than that of natural gas, and I am convinced that prompt authorization of the Alaskan route for the oil line and transportation of that oil to any portion of the United States would be of much greater benefit to the Midwestern United States than the delays which would be certain to result from an attempt to force construction of the oil line through Canada. Additionally, I think that the energy shortage in the United States has now reached the point where sectionalism must be set aside in favor of the action necessary to protect the interests of our entire country.

I have given a number of public talks on this subject over the last two years and have found my audiences unanimously in favor of prompt authorization of the Alaskan route for the Prudhoe Bay oil and the Canadian route for the Prudhoe Bay gas.

I am sending a copy of this letter to the Senators and members of Congress who represent our service area with the sincere hope that they will support legislation to permit the long delayed construction of the oil pipeline from Prudhoe Bay to a Southern Alaskan port and thereby facilitate the construction of the Trans-Canadian gas line. Both lines are urgently needed by consumers in our service area.

Sincerely,

HARRY K. WRENCH, Jr.,
President.

BATTLE CREEK GAS CO.,
Battle Creek, Mich., June 4, 1973.

Hon. TED STEVENS,
Senate Office Building,
Washington, D.C.

MY DEAR SENATOR STEVENS: That the U.S. is facing a critical energy shortage, especially in the natural gas sector, is not news to you.

However, to us in the distribution industry on the front lines facing the consumer—both domestic and industrial—we hear and read reports that makes us wonder.

Specifically, I am referring to S–1565 which calls for a nine-months study of a Trans-Canada pipeline route. S–1565 then requires a statutory delay of a minimum of 11 months before construction work is to be undertaken. The gas industry has spent 25 million dollars on studies of routes, ecology, and economics. The oil and gas is needed now, not five years from now. If construction began today as I write this letter, it would be

three to four years before the people and industries of Battle Creek could look forward to this company furnishing gas for heating of old and new homes or expansion of existing industrial production using gas energy.

The writer is well aware that you are under the guns of the well-intentioned but sometimes fanatical environmentalists who fail to place in a balanced equation the factor of the tremendous environmental benefits adequate natural gas supplies will bring to major metropolitan areas in the form of acceptable air pollution levels. This one factor alone should be considered equal to the disturbance of some Arctic wilderness life. Human life is in the balance, too!

In one major city during 1970, electric generating plants fired by coal and high sulfur oil emitted to the air 133,000 tons of SO_2 while selling 18.5 trillion BTUs of energy. During the same period, the major gas company emitted 44 tons of SO_2—due mainly to the warning agent for safety purposes—while selling 184 trillion BTUs of energy. This is a pollution ratio of 30,000 to 1. Think of it!

I do not wish to burden you or your staff with reams of data, statistics, or arguments. I only wish you to see the point of view from our side of the fence and consider them in your deliberation when voting on S–1565, which the writer believes is just another stumbling block on the road of eliminating the imbalance between supply and need to keep our country in the forefront of industrial nations of the world.

The writer certainly would support favorable Senate action on the Trans-Alaska pipeline as a vital necessity to alleviate the energy shortage in the Lower 48 states.

Most sincerely,

D. M. ECKMAN,
President.

[MAILGRAM]

INTERSTATE POWER,
Dubuque, Iowa.

Senator TED STEVENS,
Senate Office Building,
Capitol Hill, D.C.:

We wholeheartedly support the proposal of building the Trans-Alaska Pipeline now. Our customers in the Midwest cannot help but benefit by the quantities of oil and gas being brought to the lower 48 States.

R. W. STEELE,
President.

ROSE MATZKIN—ALWAYS ON THE GO

Mr. RIBICOFF. Mr. President, the New Haven Register recently published a most informative profile on the current president of Hadassah, Mrs. Rose Matzkin. This article not only enumerates Rose Matzkin's varied activities as president but reflects her personal commitment to helping others.

Mrs. Matzkin, who resides in Waterbury, Conn., heads up one of the largest women's organizations in the world, with more than 300,000 members, including 10,000 in Connecticut. This organization's valuable contributions and good works are today legendary. The world-renowned Hadassah Medical Center in Jerusalem is only one of the many worthwhile activities of this dedicated and energetic woman.

Rose Matzkin's own personal contributions to Hadassah are known and appreciated beyond the confines of her own organization. Connecticut has reason to be proud of Rose Matzkin and I wish her continued success in her many worthwhile endeavors.

I ask unanimous consent that the text of the article "Rose Matzkin Is Always on the Go as Hadassah's Head" be printed in the RECORD.

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

ROSE MATZKIN IS ALWAYS ON THE GO AS HADASSAH'S HEAD

(By Ruth G. Clouse)

The first non-New Yorker to serve as national president of Hadassah out of 15 leaders of the Women's Zionist Organization of America is a former New Havener and a graduate of Hillhouse High School, Mrs. Max N. Matzkin, the former Rose Cohen of Pendleton Street.

Her term of office comes at a time of great pride for Israel, which celebrates beginning at sundown tonight and continuing Monday the 25th anniversary of the nation. Mrs. Matzkin, just back from Israel, will attend the 25th anniversary ceremony and reception of the American Zionist Federation tonight in Philharmonic Hall at Lincoln Center, New York City, at which Ambassador to the U.S. Simcha Dinitz will be the guest of honor.

LIVES IN WATERBURY

The tall, blue-eyed president, whose ranch style home is at 157 Southwind Road, Waterbury, only a stone's throw from Post Junior College, has a studio apartment on First Avenue in New York. She is able to scoot over to the national headquarters at 65 E. 52nd St. to administer one of the largest women's organizations in the world.

Hadassah has chapters in 50 states and Puerto Rico with a membership of 325,000. The New Haven Chapter with a membership of over 1800 is one of 1400 chapters and groups. Twelve have 5,000 or more members.

Rose Matzkin gives credit where it is due. "I couldn't have thought of taking the job without the complete cooperation of my husband," she says. It was he, an oral surgeon, who insisted that she accept the nomination when it was proferred.

Dr. Matzkin, like many dentists, does not work on Wednesdays, so he is able to drive to New York in 1¾ hours and join his wife. She returns Thursday evenings, and Rose has the weekend at home, returning to New York Sunday night or early Monday morning.

It helps that their son, Dr. Michael C. Matzkin, is an oral surgeon, too, in practice with his father. He is affiliated with Waterbury, St. Mary's, St. Raphael's and Harlem Hospitals. He has two daughters, 3 and 6 months.

A daughter, Mrs. Barry Lavine, lives in Philadelphia, and has a 13-year-old daughter, Joan.

DATES AFIELD

It is far from a Waterbury to New York routine for the Matzkins, however. Those are almost the exceptional weeks. Rose Matzkin's calendar is dotted with dates far afield. Her trips back and forth to Israel are as common as the average suburban housewife's jaunts into town.

She has been to Israel three times so far this year. Her latest, last month, was highlighted by the dedication in Israel of a grove of trees given by the Connecticut Region in honor of her election to the national leadership. Her granddaughter, Miss Joan Lavine, planted the first tree. With her also were her husband, son-in-law and daughter.

Before leaving Israel she met with the Minister of Communication, Shimon Peres, for the issuing of the new stamps with a picture of the Chagall windows which are in the Hadassah Synagogue at the Medical Center at Ein Karem, Jerusalem.

Before going to Israel, she had been to England for meetings of the British Zionist Federation.

Last week she was in western Pennsylvania for a regional meeting, and this week she will be in Washington for a series of conferences.

NATIONAL CONVENTION

In August she will be in Denver for the national convention. She was elected last year to her high office. While election is for a one-year term, it is customary to continue for four.

Presiding at innumerable meetings comes easily for Rose Matzkin. In high school she was interested in speech and dramatics. In spite of the tight schedule, she has a serenity which gives her an easy platform presence. Whether she is in the presence of Golda Meir or Pat Nixon, with both of whom she has been photographed, she is as at ease as if she was serving coffee in the living room of her home, located only a few minutes from Naugatuck.

Walls of the Matzkin home are marked by modern paintings, including a number by John Massimino of this city, a teacher at Paier School of Art.

Long shelves along one end of the living room hold books, art objects from many lands, and elephants by the scores. "No political significance is indicated," she avers. "It just happens that my husband has been collecting them for years. They come from all over and are of every imaginable material. It's fun to have one object to look for wherever you are."

When Rose Cohen graduated from Hillhouse and went to the New Haven Normal School it was the deepest of the depression. Her first job was teaching in Lisbon (Conn., that is.) She also taught speech and dramatics under the WPA in West Haven.

Her father, Louis Cohen, who lived on Roydon Road, is retired from business and moved to Florida, where her brother, David, and brother-in-law and sister, Dr. and Mrs. Harold Rosenberg, live.

Rose joined Hadassah inconspicuously as a member of a study group of the Waterbury Chapter. Soon she was president of the overall chapter and then regional president. There are 10,000 women in the Connecticut Region, of which Mrs. Sidney Cohen of Manchester is president.

In 1955, Rose Matzkin began her career in the big time. She became a member of the national board at the Chicago convention of that year, becoming first a member-at-large. The next year she was American affairs chairman, then headed the tourism department, wills and bequests, and Zionist affairs.

Next came her leadership of Hadassah's Youth Aliyah program. Through this youth immigration movement, to which Hadassah is the largest contributor in the world, Hadassah has helped resettle and rehabilitate in Israel over 140,000 Jewish youths from 80 lands. Hadassah's founder, Henrietta Szold, was the first director of Youth Aliyah (wave of immigration) which cares for 12,000 wards annually at over 270 youth villages and all-day centers.

Rose Matzkin is on the board of governors of Hebrew University and sits on the board of the Hebrew University-Hadassah Medical School.

Sixty-one years ago, Hadassah was started by an American Jewish scholar, educator, writer and pioneer Zionist, Henrietta Szold of Baltimore. It evolved from a study group, and education is still a large part of the program, says Rose Matzkin.

Its first project, begun one year after it was founded, was a modest mother and child station in the Old City of Jerusalem. From this has come the internationally known Hadassah Medical Organization based, since

1961, in the Hadassah-Hebrew University Medical Center, Ein Karem, Jerusalem, to which are being added rebuilt and expanded facilities on Mt. Scopus, Hadassah's first "hill of healing."

The work being done at the Medical Center in Ein Karem is impressive by any standard. It includes the Rothschild-Hadassah-University Hospital, Rosensohn Outpatient Clinics, Henrietta Szold-Hadassah School of Nursing, Hebrew University-Hadassah Medical School, Adolf and Felicia Leon-Hadassah Mother and Child Pavilion, Hebrew University-Hadassah School of Dentistry, founded by Alpha Omega; John F. Kennedy Building, a reception and information center; Harry and Reva Lindenbaum-Hadassah Nurses Residence, the synagogue with the Chagall windows, and an administration building and schools of Pharmacy, Occupational Therapy and Public Health and Social Medicine.

Throughout the Medical Center and on Mt. Scopus, which was returned to the Jews after a 19-year interlude, following the Six-Day War, there are facilities for all disciplines.

Nor are these medical services the only programs about which Rose Matzkin must be knowledgeable. In addition to the American affairs program, Jewish education, and youth activities in this country, there are also, a land reclamation program, Youth Aliyah, and education services. By means of the latter, a newly created Hadassah Comprehensive High School/Seligsberg-Brandeis has resulted from a merger of boys' and girls' vocational high schools. Rose also attended the graduation last December of the first class from the new Hadassah Community College, held in conjunction with the dedication of the college cultural and social center.

So vast a program and so many travel demands are enough to turn anyone's hair gray over night. There is a sprinkling of gray in her smartly coiffed hair, but there are no signs that the task has given Rose Matzkin anything but happiness.

When she was a young girl living in New Haven, world leadership was probably far from her dreams. Without the apparent nervous drive which characterizes so many in high places, she is succeeding in bridging the distance between this country and Israel at a time of unparalled pressures.

DR. HAROLD J. WINSTON SELECTED AS PRESIDENT OF THE TENNESSEE OPTOMETRIC ASSOCIATION

Mr. BAKER. Mr. President, Dr. Harold J. Winston of Knoxville, Tenn., has recently been selected by his fellow optometrists of the Tennessee Optometric Association as their president for the 1973–74 term. The new president brings years of experience in community service as well as in his professions to this new position.

Dr. Winston has served as president of the Volunteer Lions Club, Junior Chamber of Commerce, Temple Beth El, Arnstein Jewish Community Center, B'nai B'rith, Knox Highway Safety Council. In the interests of ever elevating the standards of his profession, he has served as president of the Eastern Tennessee Optometric Association and as the chairman of the Optometric Extension Program Study Group. He is a member of the Tennessee Academy of Optometry, the American Optometric Association, a board member of the Southern Council of Optometrists. He also is a member of the Knox Chamber of Commerce.

He has managed no slight feat, these days, in inspiring the career choices of three of his four children. One is an optometrist, in practice with his father. Another is an optician and a third is a student at Southern College of Optometry, his alma mater.

The Tennessee Optometric Association has contributed greatly to the State of Tennessee in its pursuit of quality vision care for all. During the presidency of Dr. Winston, I am sure that the TOA will continue to achieve its goals and high standards.

AMBASSADOR HARRIMAN CALLS FOR TEST BAN DISCUSSIONS DURING BREZHNEV SUMMIT

Mr. MONDALE. Mr. President, the visit next week of Soviet General Secretary Brezhnev will hopefully be an opportunity for the President to take a major new initiative toward a comprehensive ban of the testing of nuclear weapons.

I wish to call to the attention of my colleagues a timely article by former Ambassador W. Averell Harriman, our principal negotiator of the Partial Test-Ban Treaty in 1963, entitled "The Right Time, the Right Place," which appeared in the New York Times on Sunday, June 10. Ambassador Harriman writes:

The time is opportune for President Nixon to announce the suspension of all nuclear testing as long as the Soviet Union shows similar restraint, coupled with a proposal for immediate negotiations for a comprehensive nuclear test ban including underground testing.

As one of 32 cosponsors of Senate Resolution 67, which proposes that the President announce the immediate suspension of all underground nuclear testing to remain in effect as long as the Soviet Union similarly abstains, and which urges the President to set forth a new proposal to the Soviet Government for a permanent treaty to ban all nuclear tests, I applaud Ambassador Harriman's recommendation that the President "take advantage" of the summit meeting to begin discussions on this "vital subject."

Ambassador Harriman concludes:

An announcement by President Nixon and Secretary Brezhnev of an agreement for moratorium in testing pending prompt negotiations for a comprehensive test-ban treaty would give new reassurance to the people of the United States and throughout the world that another important step was being taken to reduce the dangers of nuclear disaster and further the cause of peace.

Mr. President, I ask unanimous consent that Ambassador Harriman's article be printed in the RECORD.

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

THE RIGHT TIME, THE RIGHT PLACE

(By W. Averell Harriman)

WASHINGTON.—The forthcoming visit of Secretary Brezhnev gives President Nixon a unique opportunity for another important initiative in the control of nuclear weapons. The time is opportune for President Nixon to announce the suspension of all nuclear testing as long as the Soviet Union shows similar restraint, coupled with a proposal for immediate negotiations for a comprehensive nuclear test ban including underground testing. Ten years ago President Kennedy took a similar initiative which resulted in agreement within seven weeks on the partial test-ban treaty.

This treaty included a pledge to continue negotiations to ban all nuclear testing. This pledge was reaffirmed in the nonproliferation treaty negotiated under President Johnson and ratified by President Nixon. Thus three Administrations have undertaken this commitment and so have the Soviet leaders of the last decade as well.

Other countries of the world take this commitment of ours serious. It is doubtful that we can be successful in persuading certain potential nuclear powers to consider seriously adhering to the nonproliferation treaty as long as we continue extensive underground tests.

For many years—since 1958, in fact—it has been generally accepted that the comprehensive test ban would be in our national interest. The reason given for our inability to reach agreement on a comprehensive test ban has been our inability to obtain Soviet agreement on on-site inspection, once thought necessary to detect violation by clandestine underground testing. Whatever the merits of such a reason ten to fifteen years ago, it is not, in the judgment of experts, valid today.

There are two major reasons for the change. The first results from the continued advances in the field of detection and identification of underground nuclear tests by seismic means and other national means of detection.

Our national capabilities have advanced to a point where the risks of danger to U.S. security interests by clandestine Soviet underground tests is very limited. Any test that might escape detection and identification would be quite small, a relatively small fraction of the Hiroshima bomb and of relatively little importance in its possible effect on the strategic balance. Even with respect to tests of this size, there is sufficient uncertainty so that a potential evader could never be sure that any individual test would not be detected and identified.

The second reason results from the SALT agreements which provide that compliance will be verified by each side by national technical means, that neither side will interfere with the others national means of verification, and that a standing commission will be established to consider any suspected violation of the agreement. These provisions assure protection to our satellite photography and provide a forum for immediate consideration of any suspicious activity. While one can always point to a possible residue of uncertainty, the risks of undetected violation in the very low-yield range have been reduced to a point where they are far outweighed by the gains from such a treaty by the elimination of tests in the higher-yield range and in contributing in other important ways to our security.

A resolution is now before the Senate, with the support of 34 Senators from both parties, which proposes first, that the President announce the immediate suspension of all underground nuclear testing to remain in effect as long as the Soviet Union similarly abstrains, and second, urges the President to set forth promptly a new proposal to the Soviet Government for a permanent treaty to ban all nuclear tests. All other nations would, of course, be asked to join such a treaty.

It seems fitting that President Nixon

should follow this advice and take advantage of the Brezhnev visit to initiate discussions on this vital subject.

If we are prepared to abandon the controversial subject of on-site inspection, there are no insurmountable difficulties to overcome, providing both sides are prepared to enter such an agreement at this time. Of course, there are, in this country, those who still demand on-site inspection but the preponderance of scientific judgment appears to be that the risks of concealed evasion are limited and the advantages far outweigh any risk.

The SALT agreements impose quantitative restrictions on nuclear weapons but do not curb qualitative improvements. The SALT II discussions now commencing may in time result in further limitations. In the meanwhile, a comprehensive test ban is the most immediate way to further reduce the dangerous and costly nuclear arms race. With the will on both sides it could be achieved promptly.

An announcement by President Nixon and Secretary Brezhnev of an agreement for moratorium in testing pending prompt negotiations for a comprehensive test-ban treaty would give new reassurance to the people of the United States and throughout the world that another important step was being taken to reduce the dangers of nuclear disaster and further the cause of peace.

A CONCERT FOR THE NAVAJOS

Mr. DOMENICI. Mr. President, a setting of rugged mountains, cactus plants, small mud houses and desert air would at first thought seem to be quite an extraordinary backdrop for a cultural event. Especially when the audience is composed primarily of children—and Indian children at that. But on second thought, the picture is breathtaking. Can you envision the music of a professional symphonic orchestra rising in a setting of majestic rock formations, set against clear desert sky amidst desert flowers and sagebrush? It is indeed picturesque. And it is a picture that was captured recently in my beautiful State of New Mexico. Here in the East, we often take for granted the availability of opera performances, concerts and stage productions. But in New Mexico, especially in areas outside the main population centers, many residents have never had the opportunity to attend a live cultural event—at least, not until an innovative conductor recently decided to take such a performance to the people. The conductor and music director of the Albuquerque Symphony Orchestra, Mr. Yoshimi Takeda, took his orchestra to the Navajo Indian Reservation a month ago. The orchestra performed for the Indian students on the reservation a concert of "Music from around the world." They played a prelude from the opera, Lohengrin, by Wagner, they played music from Hungary by Brahms, a Spanish dance by de Falla, as well as music from Japan, Russia and Italy. Not only were the children able to hear a live symphony orchestra, but they also experienced types of music they had never heard before. The beauty of New Mexico, coupled with the beauty of our excellent symphony orchestra, was truly a breathtaking spectacle. I would like to commend Mr. Takeda and all of the many New Mexicans who contributed to the success of this 2 day concert tour and I would like to encourage more such performances in the future. I ask unanimous consent that two newspaper articles concerning these concerts be printed along with my statement in the RECORD.

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

[From the Albuquerque Tribune, May 10, 1973]

SYMPHONY MAKES HIT WITH NAVAJOS

(By Urith Lucas)

CROWNPOINT.—The Albuquerque Symphony Orchestra ensembles played on the Navajo Reservation today.

And the concert-sized ASO performed Wednesday night at Fort Wingate High School Auditorium. Earlier the full orchestra played at Crownpoint Indian Boarding School.

These musical meanderings were a dream come true.

For ASO Conductor Yoshimi Takeda it was a chance to enlarge the musical circle of his fine orchestra.

For many youngsters it was their first time to hear a live orchestra.

Folded, twisted and majestic rock formations, a bright blue sky dotted with fleecy white clouds made the two-day trip an unforgettable one for orchestra members.

The strong, warm sun beamed down on a land now freshening with green grass and desert flowers fed by the winter's rain and snow.

In most schools, the children were Navajo with glossy black, neatly combed hair. From the youngest to the eldest, they sat in courteous silence but their warm, brown velvet eyes sparkled at some pleasant sounds.

Some of the little girls held tiny hands over their ears in anticipation of the clang of the cymbals.

The children gave special applause to Darrel Moore, 14, who played a movement from Diro's Concerto for Accordion and Orchestra.

The trip across the Continental Divide into Navajoland was made possible from a matching funds grant from the National Endowment for the Arts in Washington, D.C., a federal agency.

Mrs. William Dolde, president of the ASO board of Directors, helped make the visit possible.

There were 41 members of the ASO on the trip. Egan Fellig was concertmaster for the tour.

At Fort Wingate, Mr. Takeda was welcomed by Bruce Footracer, the school's band director. Mr. Footracer, a full-blooded Navajo, is a graduate of Gallup High School. He is proud that he could return to his native home to teach after finishing his musical training at North Arizona University at Flagstaff.

The class of 1972 and the industrial arts students at Fort Wingate High gave a statue of Shush—Navajo for bear—with the inscription:

"Dedicated to Wingate students.

May they walk in beauty."

For the youngsters at the schools, listening to the ASO music was a sound of beauty.

The music was varied. There was Rossini's overture to "Barber of Seville," Goulds American Salute, Brahms Hungarian Dance No. 6, Strauss' "Tales From the Vienna Woods," the Japanese "Woodcutters Song by Koyama."

The orchestra closed with Rodgers and Hammersteins familiar selections from "Sound of Music."

Jeanne Grealish discussed the music played at the Crownpoint School.

Other areas visited were at Gallup, Chuska, Sanostee, St. Michael's Mission School, Ganado. Children from surrounding schools came in by bus to hear the nearest program.

The first day's visit also included Church Rock Elementary, Indian Hills Elementary, Sunnyside Elementary, Roosevelt Elementary and Red Rock.

[From the Albuquerque Journal, May 10, 1973]

CITY ORCHESTRA GIVES NAVAJOS MUSICAL TREAT

(By Jim Largo)

CROWNPOINT.—Albuquerque Symphony Orchestra conductor Yoshimi Takeda swung his baton up with his right hand to stress the string section, before looking to the bleachers, where a student audience from the Navajo country sat.

About 1000 young dark eyes were focused on him. Takeda, obviously pleased, smiled and continued leading the music in a concert at Crownpoint Boarding School gymnasium Wednesday morning.

About 400 students, mostly Navajos, from Crownpoint, Pueblo Pintado, Standing Rock, Lake Valley and local residents listened to the 40-member orchestra play "music around the world" in eight numbers.

The orchestra arrived earlier in two blue and silver buses. The chartered buses passed below pointed orange mesas and parked in front of the green buildings of the BIA Crownpoint Boarding School.

The members then walked into the gymnasium with instrument luggage and delighted the audience by setting up and tuning the instruments. The crowd seemed impressed with the brass section.

When the orchestra was ready, Sam Hamilton, principal of the school, introduced the narrator, Miss Jean Grealish, who also serves as the traveling representative for the orchestra.

Miss Grealish introduced the orchestra by saying, "Maybe some of you have never seen an orchestra before." She said the dictionary definition of an orchestra was not enough. "A symphony orchestra is a company of performers who play various instruments in symphonies. That's what you see before you."

Miss Grealish then told the students, "We will take you on a trip a round the world." The orchestra then played eight numbers including the "American Salute," "Hungarian Dance No. 6," "Spanish Dance No. 1," "Tales From the Vienna Woods," "Russian Sailors' Dance," "Japanese Woodcutter's Song," and "Sound of Music."

Miss Grealish explained each number to the students, ranging in age from 6 to about 13. Before the playing of "Tales From the Vienna Woods," Miss Grealish said: "Try to imagine in your mind what J. Strauss had in mind when he wrote this piece."

Students appeared attentive to the music, but more so to the method of how various instruments were being played. One student, pointing to an instrument, said, "That's a harp."

Two boys appeared attracted to the drummer, who did a chattering roll on the drums. The boys tried to imitate him and said, "He made it pretty good."

One girl sat bent over, with her hands on her chin and elbows on her knees. As the string section played, she appeared lost in imagination. When the orchestra stopped, she clapped loudly.

As the music ended, Miss Grealish told the students, "We want to thank you for being such a wonderful audience. We hope you will let us come back."

An orcehstra member Debbie McVeety,

said "they were a very good audience, especially on this side," pointing to the south bleachers.

Sherryl Martinez, a student at Crownpoint, said she liked the way the drummer played. She also said she liked the music.

A sixth grade teacher, Mrs. Gay Hargrove, said, "I thoroughly enjoyed it. I would like to see the concert come more often. I think the more exposure they (students) get, the more they can identify with. A lot of it is strange to them."

"The kids were tremendous," Takeda said. "I could tell. They were a great audience. I could tell. We should do more."

And, Principal Hamilton, said, "We really would like them to come back."

The orchestra is on a tour through the Navajo Reservation, a tour made possible by the National Endowment of the Arts and Humanities, a government agency, which decided to expose small communities to city orchestral music.

The 40-member orchestra went to Ft. Wingate during the afternoon and played for the boarding school, Wednesday evening at 8 p.m. The tour will continue today at St. Michael's Mission School, Chuska boarding school and Sanostee boarding school, all on the Navajo Reservation. The band will return this evening.

FEDERAL PROPERTY TAX ROLE

Mr. MUSKIE. Mr. President, it has long been the conventional wisdom that the property tax is solely the responsibility of State and local governments, and that the Federal Government has no role whatsoever in this field. Nationwide the property tax constitutes over 75 percent of all local government tax revenues. Consequently, the administration of this tax has been and continues to be primarily a function of local governmental units, with the State exercising supervisory powers.

Today, this basic assumption is being challenged. Though the consensus is still that the ultimate responsibility for administration of the tax lies with State and local units of government, it is becoming increasingly clear that some greater effort is needed in order to reform and strengthen the credibility and fairness of this most important source of revenue.

Extensive research by the Advisory Commission on Intergovernmental Relations has provided ample documentation that the property tax burden is highly regressive—too often—falling most heavily on those who can least afford to pay it.

A study conducted by the Senate Subcommittee on Intergovernmental Relations has demonstrated clearly that by and large, the States have not acted to eliminate the most inefficient and arbitrary aspects of the property tax structure.

Taken together, this body of evidence points to a growing need for a limited Federal involvement in the property tax field. To the extent that the property tax burden is distributed inequitably, the Federal commitment to alleviate poverty is undermined. To the extent that the property tax is administered inefficiently and arbitrarily, the credibility of all Government revenue-raising mechanisms is weakened.

In the face of this growing case for Federal involvement, the National Governors' Conference, at its annual meeting last week, voted to endorse the concept of a limited Federal role in the field of property tax relief and reform.

Noting that "improvements in State and local policies and procedures surrounding use of the property tax are critical if administration of the tax is to be fair, equitable and effective," the conference adopted a resolution which recognizes a legitimate Federal interest in property tax relief, and a proper, though limited, Federal role in promoting property tax reform.

I have introduced legislation in the Senate—S. 1255—which would promote just such a cooperative effort, and so I welcome the action taken by the Nation's Governors.

I ask unanimous consent that the text of this resolution adopted by the National Governors' Conference be printed in the RECORD.

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

STATE OF UTAH,
OFFICE OF THE GOVERNOR,
Salt Lake City, Utah, June 7, 1973.

HON. EDMUND S. MUSKIE,
U.S. Senate,
Washington, D.C.

DEAR ED: Thanks very much for your letter on S. 1255 to provide Federal incentives for state property tax relief and reform.

As you know, the issue of property tax relief and reform came before my National Governors' Conference Committee on Executive Management and Fiscal Affairs. This policy affirms that the administration of the property tax is and should remain the responsibility of state and local governments. However, the policy (1) recognizes the Federal interest in limiting the adverse impact of a property tax in certain classes of excessively burdened tax payers, and (2) states that Federal incentives promoting better assessment administration and encouraging states to assume greater responsibility for property tax matters are desirable. Enclosed is the policy statement adopted by the Annual Meeting and a brief background report.

I share your view that state activity in property tax relief and reform is a very difficult and important task. It is my hope that states will take appropriate initiatives with minimum Federal intervention.

Relative to S. 1255, the Committee was in general agreement that your legislation mandates an appropriate, indirect Federal role in property taxation.

Sincerely,

CALVIN L. RAMPTON,
Governor.

NATIONAL GOVERNORS CONFERENCE 1973–74—POLICY STATEMENT OF EXECUTIVE MANAGEMENT AND FISCAL AFFAIRS COMMITTEE

PROPERTY TAX RELIEF AND REFORM

In 1963 the Advisory Commission on Intergovernmental Relations completed a major report on the status of property tax administration at state and local levels. The report included twenty-nine recommendations aimed at clearly identifying state responsibilities in the property tax field and providing a basis for improved state and local performance in administering this important tax.

Since August 1971, when the California Supreme Court rendered its landmark decision in *Serrano vs. Priest*, the property tax as used to finance public education has been the subject of increasing attention and analysis. While the Serrano and Rodriquez school finance cases did not deal directly with the constitutionality of the property tax, they gave rise to increasing scrutiny of state and local administration of the tax.

During 1972 and 1973 major studies of the property tax have been carried out by the Advisory Commission on Intergovernmental Relations, the Education Commission of the States, and the Sub-Committee on Intergovernmental Relations of the U.S. Senate. All three reports deal with two major components of the tax—the manner in which it is administered, and relief from excessive burden created by the tax on certain categories of low income property owners.

The ACIR study was undertaken upon request of the President, and examined issues aimed at defining the appropriate federal role in achieving property tax relief, reform of property tax administration, and relieving intra-state fiscal disparities in financing education. The Commission concluded that federal role in any of the three areas was neither necessary nor desirable.

In reaching its conclusions, the Commission underscored its belief that these areas are state responsibilities and that federal entry into the field would be detrimental to the federal system. In evaluating the advisability of a federal role, two rigorous criteria were applied:

(1) The problem that precipitated the demand for federal intervention stems from a head-on conflict—a serious under cutting of a major federal program objective by policies of most states; and

(2) The intergovernmental conflict can be resolved only by Federal government action.

ACIR explicitly rejected proposals for even modest federal programs to assist States in providing limited property tax relief for low-income home owners and renters, and to encourage improved administration of the property tax.

The study carried out by the Education Commission of the States did not deal with the federal role, but did conclude that provisions for relief from excessive burden and current administrative practices are in need of major attention by the States.

Finally, a report prepared for the Senate Sub-Committee on Intergovernmental Relations found a need for major improvement in both assessment practices and relief mechanisms. The report, based upon a survey questionnaire mailed to each Governor, has resulted in the introduction of federal legislation which would offer assistance to States which make major strides in reforming their property tax systems.

The National Governors' Conference does not have policy in this important and controversial area. In view of increasing interest and debate surrounding the property tax, it is appropriate that the Conference consider the adoption of a new policy statement on property tax reform and relief.

PROPOSED POLICY POSITION

The National Governors' Conference notes increasing interest in the issue of property tax reform and relief. Studies and recommendations of the Advisory Commission on Intergovernment Relations, the Education Commission of the States, and the Sub-Committee of Intergovernmental Relations of the U.S. Senate underscore the importance of action aimed at strengthening and at the same time improving public acceptance of this important revenue device.

The Conference believes that the administration of the property tax is and should re-

main the responsibility of the States and their local governments.

However, the Conference recognizes the federal interest in limiting the adverse impact of the property tax on certain classes of excessively burdened taxpayers. But we believe that a federal effort in this area should avoid requirements for arbitrary national uniformity in use, impact and/or administration since such requirements would be an undesirable federal intrusion.

We further believe that federal incentives which would promote better assessment administration, or encourage the States to assume greater responsibility for property tax matters are desirable.

Therefore, the Conference supports a federal program to assist States in alleviating the regressivity of their property tax systems, and calls upon Congress to explore means by which the States may be encouraged to assume greater responsibility with respect to more equitable administration of property tax assessments and appeals.

The Conference further calls upon all States to review the policies and procedures which guide use of the property tax by all taxing jurisdictions within each State. Such a review should focus at a minimum upon:

(1) policies, practices, and standards of assessment and general administration.

(2) devices used to provide relief to certain classes of property taxpayers.

(3) identification of state and local programs financed by the property tax which would more equitably be financed by other sources of revenue.

(4) identification and measurement of the property tax base that has been eroded by exemption.

(5) alternate remedies for appealing assessments and adjustment of excessive assessments.

Improvements in state and local policies and procedures surrounding use of the property tax are critical if administration of the tax is to be fair, equitable, and effective.

PUBLIC LANDS WHICH POSSESS IMPORTANT MULTIPLE USE VALUES SHOULD BE INCLUDED WITHIN THE NATIONAL FOREST SYSTEM

Mr. STEVENS. Mr. President, I have received a resolution adopted by the Alaska Society of Professional Engineers. This urges the Joint Federal-State Land Use Planning Commission to recommend to the Secretary of the Interior that public lands which possess important multiple use values should be included within the National Forest system. A number of groups in Alaska have passed resolutions on the same subject.

The Alaska Society of Professional Engineers has a great deal of expertise and interest in this area and, I believe, represents the views of a large number of Alaskans. For this reason, I commend it to the attention of my colleagues and request unanimous consent that it be printed in the RECORD.

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

RESOLUTION

Whereas, the Alaska Native Claims Settlement Act of 1971 provides for the distribution of land ownership within the State of Alaska; and

Whereas, the Secretary of Interior is charged with the responsibility of recommending land use allocations of approximately 80 million acres of conservation system (d) (2) lands, in Alaska by the end of 1973; and

Whereas, these allocations will be made to conservation agencies, namely the U.S. Park Service, U.S. Forest Service, U.S. Fish and Wildlife Service, or the Wild and Scenic River System for management; and

Whereas, multiple use of resources provides for optimum social and economic benefits in the form of employment opportunities and raw materials necessary to support and improve the quality of life; and

Whereas, of the four conservation agencies, only the National Forest System has Congressional direction to practice multiple use management; and

Whereas, the professional engineers of the State of Alaska are concerned with land use and are generally charged with the design of developments which may prove to be feasible within the State of Alaska; and

Whereas, the Society of Professional Engineers believe the engineering profession, in concert with other professional disciplines, can design developments, in compliance with the National Environmental Policy Act of 1969, which utilize natural resources without destroying the recreational and environmental values of these (d) (2) lands, now therefore

Be it resolved that the Alaska Society of Professional Engineers urge that the Joint Federal-State Land Use Planning Commission and the Secretary of the Interior recommend to Congress that those (d) (2) lands possessing important multiple use values be included within the National Forest System; and

Be it further resolved that this resolution be presented by the Society's President of his designee at the Public Hearing to be conducted by the Joint Federal-State Land Use Planning Commission in Anchorage on April 23-24, 1973 and that copies be transmitted to Governor Egan, Secretary of Interior Morton, and Alaska's congressional delegation, Senators Stevens and Gravel and Representative Young.

DECISION OF THE DEFENSE DEPARTMENT TO CLOSE TWO MAJOR NAVY INSTALLATIONS IN THE STATE OF RHODE ISLAND

Mr. PELL. Mr. President, several times in the past 2 months I have taken the floor to protest the wrong and outrageous decision of the Defense Department to close two major Navy installations in my State of Rhode Island. Rhode Island and the U.S. Navy have shared in a partnership for national defense since the earliest days of our Nation and I believe it is reprehensible that one party to that partnership, the Navy, should unilaterally and without consultation or advance notice simply and brutally announce that the partnership is now dissolved.

We in Rhode Island have still not given up all hope of reversing or altering this decision. But if it must be, then we will all work together to ease the dreadful economic consequences as much as is possible.

The Navy, however, seems determined to add insult to injury. Several weeks ago the Navy announced that it intended to use an ocean area just a few miles off the coast of Newport—and just a few miles from the soon-to-be empty U.S. Naval Station at Newport—as a dumping ground for 2,800,000 cubic yards of polluted muck, silt, and sludge from the Thames River and Groton Harbor in adjacent Connecticut.

This decision, too, Mr. President, is an outrageous and wrong one. Fortunately our Federal laws and regulations regarding the environment offer more protection to the rights of States than do the laws regarding the location of military installations.

For this dumping project the Navy was required to produce an environmental impact statement, even though it did not have to produce an economic impact statement for its proposal to close the Navy bases. For the dumping project the Navy was required to seek comments from a variety of Federal and State agencies involved, even though the Navy faced no such requirements for its base closings proposal. And, finally, the Navy was required to hold public hearings on the dumping plan, even though no such hearings were ever even considered on the base closings plan.

One of the hearings was scheduled for tonight at the University of Rhode Island. However, it has been indefinitely postponed while the Navy considers a variety of factors in regard to this dumping plan.

I cannot help but believe that this period of possible reconsideration by the Navy also results from the vehemence of the reaction from within my own State.

The day of the announcement, one prominent Newport area fisherman was quoted as saying about the muck:

Connecticut doesn't want it, Massachusetts doesn't want it, New York doesn't want it. Why should we have to take it? It ruins the trap fishing, trawling areas, lobster fishing. It affects the whole fishing business.

This statement typifies the reaction of thousands of our Rhode Island citizens. Mr. President, I ask unanimous consent at this point that resolutions adopted by the City Council of Newport, R.I., and the Town Council of Middletown, R.I., protesting this dumping plan, be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. PELL. Mr. President, those of us who believe that an area of open ocean 4.6 nautical miles southeast of Brenton Light—an area heavily used for fishing, for boating, even for the America's Cup races—should not be ecologically destroyed by this polluted muck, do not say that the dredging project should be abandoned. I realize the importance to our national security that the *Trident* class of nuclear submarines be developed speedily and I am pleased that much of the work will be done at Groton with its large number of Rhode Island workers. We realize that the river and the harbor must be dredged to accommodate the submarine.

But there are certainly far more appropriate dumping sites than a much-used section of ocean so close to my State. The able director of natural resources in Rhode Island, Dennis J. Mur-

phy, and a noted marine biologist at the University of Rhode Island, Dr. Saul B. Saila, have both suggested that the Navy use an old ammunition dumping site 50 miles south of Narragansett Bay for the sludge. I strongly urge the Navy to give this suggestion the most serious consideration. I also urge the Navy to reconsider a number of other alternate dumping sites identified in its draft environmental impact statement.

That statement, Mr. President, makes it very clear indeed what the environmental impact of this dumping will be:

Ocean spoil disposal may disrupt and alter irreversibly the ecosystem of the dump site, possibly resulting in alterations of the ecosystem of a much larger ocean area.

The statement admits that the muck to be dredged contains high percentages of coliform bacteria, heavy metals, grease and oil and other pathogens. In other words, this muck is seriously polluted. And the statement concedes that this polluted muck would have an extremely adverse effect on finfish, shellfish and particularly on the tiny organisms that form a key element in the life and food cycle of ocean existence.

Mr. President, as I observed earlier, I consider this decision outrageous and wrong and I shall oppose it as forcefully as I can. I hope that the Navy's period of reconsideration will result in the abandoning of the plan to dump this muck off Rhode Island and the adoption of a new plan to dispose of this material elsewhere.

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

EXHIBIT 1

RESOLUTION OF THE COUNCIL, NO. 83-73

Whereas, the Navy Department has plans to dredge the Thames River in the State of Connecticut and dump the sludge to an ocean site off the shores of Newport; and

Whereas, this project would be most detrimental to commercial fishermen and lobstermen already harassed by Russian trawlers and foreign competition and would have an unfavorable impact on the environment, and contribute even more to rising prices in the fish and lobster market. Now, Therefore, Be It

Resolved: That the Council of the City of Newport vehemently protest this project and authorizes the City Manager or his designee to present the City of Newport's objections to this project at a hearing to be held June 14, 1973, at the University of Rhode Island.

TOWN OF MIDDLETOWN—RESOLUTION OF THE COUNCIL

Whereas: The Council of the Town of Middletown has been apprised that the Navy plans to dump 2.8 million cubic yards of sludge from a Connecticut dredging project at an ocean site off the shores of Aquidneck Island, and

Whereas: it has been sugested that ecological effects of the project are uncertain and that ocean disposal may disrupt and alter irreversibly the ecosystem of the dump site, possible resulting in the alteration of the ecosystem of a much larger ocean area and could result in very seriously affecting the activities of marine life, Now, Therefore Be It

Resolved: the Council of the Town of Middletown protests this dumping project and further requests that no work begin until the dangers of dumping have been analyzed and assessed and, if the dangers are real and serious, the Navy select another site for disposal of sludge, Be It Further

Resolved: that certified copies of this resolution, signed by the Honorable Robert M. Silva, President of the Town Council, be transmitted to members of the Rhode Island Congressional Delegation for such action as they deem appropriate.

AMERICAN FISHERIES IN TRANSITION

Mr. STEVENS. Mr. President, because seafood is increasingly in demand by consumers all over the United States the numerous conditions affecting its continued availability at reasonable prices are of national concern.

The actions, policies, and plans of our Federal Government are critical to the health of our fisheries industry. In view of this I call your attention to an address reflective of the administration's position on fisheries delivered in Los Angeles on May 11, 1973, before the National Fisheries Institute by Dr. Robert M. White, Administrator, National Oceanic and Atmospheric Administration.

Mr. President, I ask uanimous consent to have Dr. White's presentation, "American Fisheries in Transition," printed in the RECORD.

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

AMERICAN FISHERIES IN TRANSITION

I am honored to accept this magnificent crystal sculpture as a tribute to President Nixon from the National Fisheries Institute. He deeply appreciated his designation as "Man of the Year" by the NFI at a time when food availability has become a matter of general national attention. He asks that I convey to you the contents of a message which he has communicated to President Peterson and members of the National Fisheries Institute.

"The men and women of our nation's fisheries make a tremendous contribution to the health, welfare and enjoyment of our people by providing nutritious and tasty fish for their consumption. The National Fisheries Institute, representing a broad segment of the industry, is to be congratulated on the outstanding manner in which it serves both the industry and the public.

"Our fisheries deserve the best possible efforts of the federal government in protecting their interest, both internationally and domestically, and in preserving a precious resource. My Administration fully intends to continue its programs in this direction.

"We are pressing for passage by the Congress of the High Seas Conservation Act which will provide needed statutory authority to manage fisheries resources. I urge your wholehearted support of this important legislation.

"The honor you confer on me by naming me your Man of the Year is one that I cherish as a token of the special cooperation between the Executive Branch and the private sector in serving the well-being of our citizens. I regret that I cannot be with you on this occasion, but I am pleased that Dr. Robert White will be there to receive this prestigious honor on my behalf. May it be a successful and pleasant evening for all who attend."

The President's statement provides a perspective from which we in the Commerce Department and you in industry can assess the issues which today confront all segments of our national fishing industry—to ask whether the direction being taken by the government is one within which the industry can thrive as well as serve the nation.

I would like to touch on three major issues:

First: the conservation and management of our fish resources.

Second: the establishment of Federal policies that can foster the health and growth of the industry.

Lastly, insuring that quality products are available to the consumer at reasonable prices.

Let's take a look at the most fundamental question—that of the resource itself. In broadest terms, we are at a point of transition in the development and management of the world's fisheries resources.

There are disquieting signs. The concept of limitless resources, which induced many nations to increase their fleets enormously, has been proven a myth. The nations of the world today have the technological capacity to imperil many of the world's fishery resources, and for some species have already done so. We are now fishing many at maximum capacity and we are beginning to impinge upon the total limits of the ocean's productivity.

This is how the numbers add up. The world catch from the sea has increased by 350 percent since World War II. At the present time the world harvest in the oceans is 70 million metric tons and although there is disagreement as to the maximum possible harvest from the world's oceans, many experts believe the harvest can rise very little past 100 million tons on a sustained basis. Given the fishing effort of the nations of the world and its projected growth, we should reach this perilous outer boundary, where fishing capacity and fisheries resources are equal, sometime in the early 1980's. Until now the principal growth in the catch has been achieved by increasing the catch of familiar species. Most of them are being fished at their maximum sustainable yield, and in many cases beyond that limit.

This situation clearly calls for Federal policies that will insure the conservation of stocks and secure an adequate supply of fish. The problems we need to solve are both institutional and technical.

Our institutions for management of our fisheries, with a few notable exceptions, have failed to provide a structure for the preservation of resources and encouragement to our private enterprise system. Our management systems suffer from the deficiencies of overlapping jurisdiction, international mechanisms which fail to recognize the realities, and in some cases a total lack of adequate management authority. We need to do much better—and soon. We need to create management systems which will not only assure sustained availability of fish but an equitable, encouraging commercial climate. Such systems require cooperation between our states, between the states and the Federal government, between the Federal government and other nations, and between these government institutions and the industry which must operate within these management systems. Our policies must cope with short-term realities while laying a foundation for longer-term needs.

Enormous difficulties stand in our way. Creation of such systems will require wisdom, ingenuity, dedication and unselfishness. They will require that we all work closely together. Nobody likes the restraints that fisheries management inevitably brings—but the alternatives are worse—

gradual destruction of our fisheries and a further decline in the industry.

Do I appear pessimistic? I am not. I do not believe we will let it happen.

It is true that in the short-term we can expect our policies to provide only for partial help. But I am optimistic about the long-term outlook. Indeed, as I look back over the developments of the past several decades and forward to the next two I am led to believe that the fishing industry is undergoing a major transition from a bleak period for many segments to one in which all parts can be important, self-sustaining, economically vital forces. Rising world demand for protein foods, coupled with the fact that we are beginning to press on the limits of the world's total food output guarantee this outcome—but only if we manage wisely.

Let's look at some of the things that we are attempting to do. Our foremost goal is to secure appropriate national and international control of the common resource. Without effective control, management is weak—it is the lowest common denominator of competitive interests. As all of you know, our long-range approach is to secure international agreement on the jurisdiction and control over global marine fisheries resources through the United Nations Law of the Sea deliberations which finally start in New York this year. The position of your government is simple and firm. We seek coastal nation control over coastal species, coupled with a coastal nation preference to the fish, based on that country's capacity to harvest. We seek control by coastal nations of anadromous species and we seek international control over the species that are highly pelagic, such as tuna. Attainment of these objectives even under the best of circumstances is some years off. What about the interim?

We are moving immediately within our existing authorities to create a new state/Federal management program targeted for specific species within the territorial seas and the contiguous zone, and beyond. This program is now underway and we have under preparation management programs for the lobster, the surf clam, and the Dungeness crab, and we expect soon to look at other species. Our present authorities do not allow us to do the job fully. As a first step to securing adequate authority for both the state/Federal management program and international management efforts, President Nixon has this year submitted his High Seas Fisheries Conservation Act. He highlighted the importance of the act in his environmental message. Ladies and gentlemen it has taken six years to get this act up to the Hill for consideration. We cannot afford the luxury of more time.

The President, in submitting this legislation to the Congress, pointed out that fishing off our coasts is now only partially regulated, and that the U.S. has inadequate legislative authority to regulate its fishermen in these areas.

It is our strong hope that the Institute and its members after study of this bill, will agree that it is essential. We recognize that not all will agree with every provision of the bill. We hope for the sake of our fisheries and the industry that whatever modifications result from the political process of its deliberation on the bill, there will emerge a strong bill which provides the essential base for building rational fisheries management systems.

Problems however don't wait. And we are moving as best we can through present international bodies for managing fisheries to gain our ends. Because we regard the present situation as critical we are taking an increasingly firm attitude. We are insisting on meaningful conservation measures and a fair deal for Americans. We are all painfully aware of the dissatisfaction of our fishermen with the weakness and dilatory nature of many international fisheries commissions. We in the Federal Government have also been dissatisfied, and we are making our views known. We are working with all of these commissions to attain as many of our objectives as possible within the arrangements open to us today. These new attitudes are bringing results. The past two or three years have seen progress in, for example, the International Commission for the Northwest Atlantic Fisheries, in the establishment of both total and country quotas for all commercially important species.

However, we are not satisfied that country quotas for individual species, even in accordance with maximum sustainable yield concepts for particular species, are really conserving the resource. We have now begun to explore total effort controls in addition to catch controls.

We are also beginning to realize that the conservation problem is more complex—that it may be necessary to reduce individual species catches now fished beyond maximum sustainable yield if we are to preserve other species taken in large amounts as incidental catches.

Our drive to establish wise management programs cannot succeed unless we also foster scientific research and assessment efforts to provide the information base on which these policies depend. It is fundamental that we have adequate data on fish population dynamics, assessment of stocks, information on the effects of pollution upon fish, and so forth. We intend to insure that this nation has the scientific and technological base of knowledge vital to the development and prosecution of management policies.

In addition to these institutional measures, there are some technological avenues available to us for increasing the supply of products which should be more fully examined. For example, we must start developing fisheries and markets for latent stocks not presently widely used in the U.S. Many of these resources offer an excellent opportunity for expanded domestic and export sales. We in the National Oceanic and Atmospheric Administration believe this is an area for increased Federal attention. We have begun programs of resource assessment and research into new harvesting techniques, as well as new processing and handling technology.

Because of the special situation in New England and the need to provide immediately a much broader resource base for that part of the industry, we have taken steps to establish a special program for the development of latent resources there. It may serve as a model for larger programs.

When one talks about expanding the resource base available to us, one must consider the potential of mariculture. Although we have a long way to go in developing the science and technology of mariculture, there's no question in our minds that over the long term, it offers great hope for the controlled production of many different kinds of fish and shellfish. Initially they will be those of high economic value, but as we learn the technology of mass production of marine organisms, we may be able increasingly to move to those of lower value. It is clear to us, for example that the scientific understanding and the technology are now emerging for the mass artificial culture of salmon in pens, as is now being demonstrated in Puget Sound, and for the mass production of shrimp as well as shellfish. It is in this kind of new science and technology that the Federal Government can begin to make investments in collaboration with industry and the universities, which will enable private industry to move ahead by itself.

In NOAA we are making increasing investments in mariculture, through our Sea Grant Program and through our National Marine Fisheries Service. Today our Sea Grant Program maintains some 45 different aquaculture projects. Our National Marine Fisheries Service is devoting increasing attention to some of the associated basic scientific and engineering problems of aquaculture. We believe that the Federal government must go beyond the scientific demonstration that a species can be reared, and must begin to move into the engineering, technological, and economic areas to pave the way for industry.

What about other federal actions aimed at the health of the industry? I think we might first ask what is its pulse today? Today about 44 percent of the world's catch of edible seafood is consumed fresh. This is a significant reduction over the past quarter century when about 57 percent of the world's catch was consumed in fresh form.

The technology of preservation has had a great impact. First, it has permitted a considerable expansion of international trade. Twenty-five years ago only 20 percent of the world catch entered foreign trade. Today it has risen to 37 percent of the total catch, and as one might expect, the United States has become the largest single export market in the world. According to the latest available figures on total world fish trade it was at a level of 3.2 billion dollars in 1970. The United States accounted for about 1.1 billion dollars, or about ⅓ of the total world trade. While the United States is not the largest consumer of fish (total consumption in Japan is triple that of the U.S.), the United States is the largest importer in the world. Indeed, last year we ran a trade deficit in fisheries products of 1.3 billion dollars, a not insignificant contribution to the total national trade deficit.

But our expanding world trade has not been all bad for the American consumer. Indeed, he has benefitted greatly in some ways. It has provided him with a much greater choice. Without the availability of foreign products, we would not have an industry which last year produced nearly 2 pounds of fish sticks and fish portions for every man, woman and child in the United States. Because of such trade we have been able to expand our consumption well beyond the limits of some of our own domestic resources, as in lobsters, shrimp and tuna.

The growth of the processed fisheries industry has indeed been remarkable. These products have gone from $600 million at the end of World War II to over $2 billion last year, and the value of canned products doubled during this period. However, the fresh and frozen packaged fishery products have shown the greatest growth. They were valued at only $153 million 25 years ago; production now tops $900 million. Fresh and frozen products accounted for 25 percent of production after the war; today they account for about half.

It has been to no small degree through the efforts of members of the National Fisheries Institute that our consumers have had a growing variety of convenience seafood products available. Fish sticks and portions, for example, did not come into existence until 20 years ago; our annual production today is nearly 400 million pounds.

Breaded shrimp production has grown to 100 million pounds, and breaded fillets, either raw or cooked, have greatly simplified the housewives' and working mothers' chores. TV dinners, stuffed flounders, crab cakes, seafood cocktails and many other products have come onto the market in a relatively

few years. The industry now finds itself in a race for supplies.

In our latest issue of *Fisheries of the United States*, the first copies of which we are pleased to be able to distribute at this convention, you will find some revealing statistics. For example, last year per capita consumption of edible seafood in the United States jumped to 12.2 pounds, tying the record high set in 1927. People increasingly like seafood, they find much of it reasonably priced. Never has it had such a favorable national image, and we must keep it that way. We cannot allow fish to lose its attractiveness to the consumer. It should be available, and marketed, for every taste and every price. We must not price fish out of the reach of the people. It is a time for restraint, and for pricing policies based on the conviction that a fair deal to the consumer today will mean a fair deal from the consumer tomorrow.

Fiscal restraint is very important. And it is related to the broad problem of our National economy, which also affects what NOAA is doing in fisheries. We are seeing a great deal of fiscal restraint in the Federal Government these days—restraint designed to dampen the causes of inflation and avoid even heavier tax burdens. The greatest economic danger the nation now faces is the danger of living beyond its means. President Nixon has very forcefully expounded his views on the need to hold Federal spending in check as one of the principal ways in which we can avoid tax increases and provide for a sound economy. He is deeply convinced that a Federal budget higher than $250 billion, which he has proposed for 1973, and $268 billion which he has proposed for 1974, would clearly be out of line with the need to rein in our economy.

The President's new budget, now before the Congress, is very carefully balanced. Almost half of the budget is dedicated to human needs. Defense spending is down to 30 percent of the total budget. Even with the spending constraints placed on the budget by the President, it remains the highest level of Federal spending in our history. It is hardly a pinchpenny program. Inevitably, some worthwhile Federal efforts are being eliminated or reduced. President Nixon has frankly said only recently "No Federal programs, no matter how attractive they may be individually, can have a higher priority than the protection of the purchasing power of all of the people." The President, in short, is convinced that this nation must not live above its means and that your dollars are more fruitfully situated in your pocket than in Washington, where so many have gone for so long. The alternative to his budget is a tax increase and perhaps additional inflation, a cogent argument for economy. I know that the members of the Institute support this effort to keep Federal spending down, and I know you will make your views heard in support of the President's program.

The National Oceanic and Atmospheric Administration has, as a result of the national effort to hold spending in check, had to forego a number of programs which it considers worthwhile.

We do not believe, however, that any program vital to the maintenance of a vigorous and healthy fishing industry has been sacrificed. We shall have to go more slowly, make the best possible use of the resources which we have, and seek to be responsive to the highest priority needs of the industry and the resource.

Within the context of economic constraints, we are keenly aware of our obligation to assist you across a spectrum of activities important to your operations.

Let's take the matter of markets: There is considerable debate about the extent to which the government should venture into the area of domestic marketing. In spite of differences of view, we place significant emphasis upon marketing activities for domestic purposes, especially to alleviate supply/demand balances, and to begin to establish markets for under-utilized species.

However, I believe there is little disagreement on the role of the Federal Government in increasing export markets. With the growing demand for fisheries products around the world, even some of the traditionally self-sufficient countries such as Japan, are, on balance, becoming net importers. Given the resources off our coasts, many of which are of great interest to foreign nations, but at the moment of little domestic interest, we believe the development of export markets can represent a fine way of beginning to redress the present trade deficit and provide a substantial boost to many segments of our domestic industry. There are indications that with even a moderate effort, we can expand these markets. The recent devaluation of the dollar means industry and government should explore export possibilities even further, and we intend to do so.

We believe that the Federal Government has an important obligation in exploring and developing new harvesting and processing technologies to a point where they can be taken over by industry and used for routine production.

We believe that our technology ought to be focused on those areas not presently being otherwise developed, especially where success can make a substantial difference in the type of catch, economy of production, or some other key pressure point.

Let me repeat that it is important that we begin to emphasize those technologies that will enable us to develop and market latent resources, as we begin to press upon the limits of production of more accepted fish. New technology should allow us to use many more species than we presently do, and to make better use of those now utilized.

In the future we will approach a point where we cannot allow any of the edible flesh to be wasted.

The Institute has performed a valuable function in connection with the development of the new flesh separation technology. Last year, in cooperation with the National Marine Fisheries Service, it called together government researchers, industry, and equipment manufacturers to discuss the current state of the art and to make sure that industry was informed of the potential of this new technology.

There are many areas where government and industry can work fruitfully together. For example, let us join to scrap some of the sales-killing names with which the industry is burdened. Croaker, rattail, and dogfish can provide delicious food, but they suffer the curse of ungraceful names—an automatic turn-off at the fish counter. We in NOAA are prepared to work with you and with other Federal agencies on this effort.

Another such area deals with microconstituents in fish. About two years ago, with the inception of the mercury scare, NOAA commenced a long-range program to assess microconstituents in all fisheries products used in this country. In addition to analyzing for mercury, we have commenced a program to look at all of the heavy metals and many organic compounds.

If we had had such baseline information assembled before the emotional reactions to mercury in fish, we would have been able to tell the nation that much of that mercury is natural, does not come from man's contamination, and has always been there—a result of natural processes in the sea's food chain. We could have explained that mercury problems can be effectively managed, once one understands their nature. We could have been ready to manage mercury problems as we do with the halibut along the Pacific coast, and we would have prevented much of the upset that occurred.

Equally important is the need for NOAA to assume a watchdog role on the environmental impact upon our fisheries resources of man's activities. Under authorities of both the Fish and Wildlife Coordination Act and the National Environmental Policy Act we are daily reviewing any activities which might hurt our fisheries resources. We are identifying possible impacts and insuring that they be taken into account in public decision making. NOAA is most active in this process. Last year we reviewed over 1,000 applications for their environmental impact.

These are a few of the ways in which we believe that the Federal Government can assist the industry in meeting its problems. We are prepared to approach our task in a flexible manner. Our programs were instituted in response to needs. They can be changed to meet emerging problems; and it is our intention to make sure that our agency is always responsive.

For the past few moments I have dwelt upon NOAA's obligations to, and its relationships with, our nation's fisheries. NOAA is equally committed to serving the American consumer.

What does the consumer want from the fisheries of America?

Basically, high quality products at a sensible price. (I recognize that there may be several shades of opinion as to what constitutes a sensible price.)

The rapidity with which freshly caught fish loses quality is proverbial. Fortunately, the state of our technology of preservation and distribution is such that we are in a good position to protect that precious asset called quality. I should like to see this technology enhanced to the point where objective tests are developed and uniformly used to measure accurately and consistently the quality of fishery products. I urge you to spare no effort—on the boat, at dockside, in the plant and in the store—to continue to merit the trust of our consumers, and I have every conviction that those efforts will be made.

As you all know, we have a voluntary Government inspection program for fishery products. Unfortunately, no more than 10 percent of the fishery products passing to the consumer today are subjected to even this voluntary test. A total of only 350 million pounds of fish were subject to this inspection out of a total of 2½ billions which are consumed per year by American citizens. While this does not seem like much, the amount under inspection has grown substantially over the past ten years, when only 200 million pounds of fish were inspected.

Until a mandatory fish inspection system exists, we shall do the best we can in extending our voluntary inspection program. Unfortunately, we are not able to keep up with the growing demands for providing U.S. Government inspection services. Because we must keep down the number of people on the Federal payroll, we are not able to add people to our staffs. However, we can still do much to extend our inspection services.

One innovation is the concept of the inspected quality control program that can be used by approved plants. We are urging all of industry to consider the installation of programs that can meet standards being established by our National Marine Fisheries Service. We will be pleased to work with you in developing such a quality control plan for your plant. The benefits from this system can be many. With an approved plan it is not necessary for an inspector to be in the plant during the entire time of the operation. This means our force could cover many more

plants than it can today. On your part, it means that your costs of inspection could be reduced significantly. I am pleased to tell you that the first plant to operate under this system is here in the Los Angeles area.

Although the ultimate responsibility for quality rests with industry, another area where Government can be of assistance is in developing product standards. New products that will be coming from our underutilized resources will have a much more orderly development if they are produced according to standard. Standards cannot be developed overnight. They require a great amount of research and in this process of conducting the research we welcome cooperation with the industry.

We should also make a more positive effort to cooperate with States and foreign governments in any programs of standards and inspection. We are, as you may know, actively involved in developing, in cooperation with industry, international Codex standards for fish and fishery products. So far, as a part of the WHO–FAO Codex Alimentarious Commission, standards have been developed for canned salmon, frozen gutted Pacific salmon, canned shrimp, frozen fillets of cod and haddock, and frozen fillets of ocean perch. Standards are in preparation for frozen fillets of flatfish, hake, cod, haddock, and ocean perch blocks, frozen shrimp and a number of other products. An effective way in which your institute can cooperate is through the formation of commodity technical committees to provide advice based upon your experience.

We have much to do. Many problems confront us. They will require immense effort, and a capacity to look beyond tomorrow. None of it will be easy.

In the tasks ahead—and I know this to be President Nixon's wish—NOAA stands ready to help in every possible way. I confidently expect that we shall indeed be equal to our tasks.

A CRUEL PUNISHMENT FOR PROFESSOR LEVICH

Mr. CRANSTON. Mr. President, on previous occasions I have drawn the attention of the Senate to the case of Prof. Benjamin Levich, a distinguished electrochemist seeking to emigrate from the Soviet Union.

Sadly, a new form of repression—an especially cruel one—has fallen upon this unfortunate man whose only "crime" was applying for a visa to Israel. His son, Evgeny, who suffers from serious medical problems and who had been under treatment at the Moscow Cancer Dispensary, has apparently been kidnaped and sent to Siberia. He is cut off from any kind of communication with his family.

I appeal to my colleagues to do what they can to help secure the release of the Levich family from the repression and intimidation that surrounds them, so that they may begin a new life in Israel. I ask unanimous consent that a letter from Professor Levich, dated May 25, 1973, be printed in the RECORD.

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

LETTER

To the President of the American National Academy of Sciences, Dr. Philip Handler;
To the President of the Royal Society, Dr. Alan Hodgkin;
To all the National Academies of Sciences;
To the universities which have honoured me by inviting me as a visiting Professor;
To all those scientists who are concerned about my fate.

DEAR COLLEAGUES AND FRIENDS: You have already shown deep concern about my family's and my own fate, for which concern I am very grateful. That is why I am sure that this appeal of mine will be heard by you as well. At present, I am asking for more than your support; help me save my son. More than fifteen months have passed since I and my family applied for exit visas to Israel. Since then we have gone through all kinds of harassment and hardship. We have been suffering various persecutions, as is known to many of you. You may be aware that, on May 8th, a meeting of the Chemical Department of the Academy of Sciences was held, with the question of my expulsion from the Academy being discussed. I was officially alleged to damage this country by my "unworthy behaviour". This however, turned out to be not sufficient; for my son, Evgeny Levich, 25, an astro-physicist, Doctor of Sciences, was seized on May 16 in the street while on the way to the hospital, where he was sent by military authorities for a medical examination.

As has been officially confirmed, instead of being admitted to this hospital, Evgeny Levich was drafted as a private without any medical examination whatsoever. That same day he was taken away to Eastern Siberia. There is now some information * about his being sent out to a military unit, located on the shores of the Arctic Ocean, with extremely hard conditions of service. He is cut off from any kind of communication with us. Meanwhile, Evgeny Levich is seriously ill. According to medical data available, he has been suffering from ulcerous colitis and multiple diverticulosis of the bowels. Moreover, and this is the worst, a tumour was recently found in his rectum. Its nature is not not yet known, since the examination being performed by the Moscow Cancer Dispensary was interrupted because of the events described above. It is quite obvious to anyone that Evgeny is seriously ill and that his detention in such hard conditions creates a menacing situation.

Dear Colleagues and Friends, the very life of a young man is at stake and this is caused only by the fact that my family and I have dared to express an intention to realize the most fundamental of human liberties, the liberty to choose the country of residence. I have appealed to my colleagues, foreign and soviet scientists of high rank, for help. I have appealed to the high authorities of this country. All my requests to observe principles of humanism and legality have been in vain.

I believe that it is within your possibilities to convince the top authorities of this country that the cruel, inhuman actions described above, should not be put up with in a civilized society, and can hardly contribute to the development of mutual understanding and friendly co-operation between the world's scientific community and that of the USSR. I appeal to you to use all your influence possible in order to save the life of a young scientist.

Prof. BENJAMIN LEVICH.

MOSCOW, *May 25, 1973.*

Footnote by Prof. D. B. Spalding, Imperial College, London SW7 who received the above message by telephone from Moscow:

* It is now known that Evgeny has been sent to Tiksi, in the Arctic. No place more remote and severe could have been chosen. Together with the extraordinary manner of Evgeny's apprehension (the trick order to report to a hospital; the kidnapping on the street; the instant transportation to Siberia) this choice demonstrates at once the punitive, furtive and illegal nature of the operation. Telegrams to Mr. Brezhnev, with copies to the President of the Academy of Sciences of the USSR, are the best means of protest.

MOSS DEPLORES LABOR DEPARTMENT ATTEMPT TO SUBVERT WILL OF CONGRESS

Mr. MOSS. Mr. President, yesterday an official representative of the regional office of the Labor Department visited the Clearfield Job Corps Center in Utah and ordered the operators of that center to begin shipping corpsmen away from the Clearfield Center to other conservation centers. The orders were verbal and not written. The urgency to immediately dismantle Job Corps centers is an obvious move to splinter the program beyond repair before the proper Appropriations Committees of Congress can signify their intention as to the future of the Job Corps program.

Mr. President, this is the second blow which has staggered the Job Corps program in 2 days. The administration announced Tuesday a vast sweeping reduction of regional Job Corps centers throughout the country. The Clearfield Center in Utah is to be dropped from 1,320 students per year to 670. The administration has scheduled similar cuts throughout the country. Congress has previously spoken on this subject, and it clearly has shown a desire to continue the Job Corps program. Any attempt to cut that program back must go through the normal legislative process and be approved by cuts in appropriations. This has not happened, and I doubt that it will.

It is, therefore, arbitrary and capricious for the administration to propose such a reduction and then on the next day attempt to implement this cut in the most insensitive and heartless manner possible. The officials of the Clearfield center were instructed to transfer corpsmen immediately and when asked how this should be accomplished to protect best the corpsmen involved, they were told by the regional office official that "I don't care how you do it, just do it."

This procedure is a violation of the contract presently existing between the Labor Department and the Clearfield center and is an obvious attempt to bypass the due process of normal legislative consideration. If reductions are indeed approved, they should be accomplished by attrition and careful reassignment—not by hasty action taken to outflank the will of Congress.

Apparently the shockwaves that have traveled through the Nixon administration have not yet made sense to officials in the Labor Department. Apparently they are still operating under a procedure of bending laws, acting in a high-handed and arbitrary fashion, and appearing to believe they can get away with anything when acting under the umbrella of the executive branch of the Government.

Congress will determine whether or

not the Job Corps program is reduced, not some officials located somewhere in the Labor Department. And if the administration attempts to subvert the will of Congress, we will have to go to court to enforce that will.

There is strong indication that the Labor Department has paid little attention to cost effectiveness of different Job Corps Centers or to the overall impact on the Job Corps program that proposed cuts would have. The Job Corps Center at Clearfield is a useful case to examine. It has achieved a remarkable level of success. Since 1966, 17,000 corpsmen of all U.S. ethnic and geographical backgrounds have participated in the Clearfield program. Over 70 percent of the graduates of this program returned to school, received jobs or entered military service. The Northwest Accreditation Commission has given its stamp of approval to the high school degree program and the GED program operated by the center. Eighty percent of the students who have enrolled in the high school degree program completed it successfully. One thousand three hundred and ninety have received a GED certificate.

Congress must not stand idly by while arbitrary actions of the executive branch are proposed. I pledge to fight the cutbacks proposed by the Labor Department in this program and vigorously protest any attempts to splinter this program before Congress has a chance to work its will.

THE TRANS-ALASKA PIPELINE

Mr. STEVENS. Mr. President, the Seattle First National Bank has published a special May 1973, report on the trans-Alaska pipeline. This report indicates the reasons that the trans-Alaska pipeline must be built now. It discusses the alternatives.

In any event, whether a trans-Alaska or a trans-Canada route is built, Congress must amend section 28 of the Mineral Leasing Act of 1920. S. 1081 will do this.

This statement details the time difference for the construction of a trans-Alaska pipeline and a trans-Canada route. It estimates that it would be 10 years before the first oil would be delivered to Chicago were a trans-Canada pipeline built. It also states that a trans-Alaska route would be considerably cheaper. Finally, it discusses the environmental problems of a Canadian route. I ask unanimous consent that this special report entitled "Is There an Alternate" be printed in the RECORD.

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

IS THERE AN ALTERNATE?

The legal dispute involving the issuance of a pipeline right-of-way for the trans-Alaska pipeline continues. The Court of Appeals for the District of Columbia on February 9, 1973 reversed a lower court and ordered that the injunction on the issuance of the right-of-way permit be continued. The Court of Appeals ruled that the proposed right-of-way would be in violation of the Mineral Leasing Act of 1920 and that no consideration of any of the other issues could take place until this violation was cleared. As a consequence, the Appeals Court made no ruling on whether or not the Secretary of Interior had complied with the National Environmental Policy Act. Congress would have to amend the 1920 Mineral Leasing Act to correct the right-of-way width limitations to clear the way for the consideration of the environmental issues.

CONSIDER ALTERNATIVES

Congress is now reviewing the entire project in terms of alternate routes, environmental questions and of course, amendment to the Mineral Leasing Act. The question of alternative routes brings renewed focus on the possibility of a trans-Canadian pipeline rather than a trans-Alaska pipeline. Recently, testimony has been introduced in both the House and the Senate on this vital question. It appears appropriate to discuss whether the trans-Canadian pipeline is a viable alternate to the trans-Alaska pipeline. The discussion of this issue should concentrate on a number of the interrelating factors: time, cost of construction, oil value in terms of comparisons of Middle Eastern oil and mid-Western values versus West Coast, National and State of Alaska economic aspects, and of course, environmental concerns.

The trans-Canadian pipeline represents a proposal for the construction of a 48 inch pipeline from Prudhoe Bay south through the Brooks Range in the Richardson Mountains then to the MacKenzie River Valley and south to Edmonston, Alberta. From there it has been assumed in previous discussions that the oil would then connect with the existing pipeline grid for delivery into the Mid-West and Chicago markets. The existing pipeline system from Edmonston south is running at near capacity and additional line construction would have to take place for delivery of oil into the Chicago market. On this basis, the trans-Canadian pipeline represents some 3,200 miles from Prudhoe Bay to Chicago. No specific route has been set at this time, nor has an individual construction entity been established. Full authority from the Canadian Government has not been granted; however, some survey work has taken place. Gas line routing has been the subject of more extensive work than has been done for a hot crude line.

TIME ESTIMATES

Using a June 1, 1973 date for consideration for the two lines, the trans-Alaska pipeline could conceivably be in a construction phase assuming favorable consideration of the existing legislative and judicial processes by June of 1974. Construction would take three years for the system to be completed and oil delivered to the users on the West Coast of the United States. Delivery date would then be June, 1977. If the decision were made to establish a trans-Canadian pipeline on June 1, 1973 it would be ten years before oil would be ready for delivery into the Mid-West market. June, 1984 as opposed to June, 1977. The assumptions that establish a nine to ten year completion time involve comparisons with work efforts that have taken place in the trans-Alaska system.

Item 1

The route has not been firmly established through Canada at this time. The 789 mile proposed Trans-Alaska Pipeline System (TAPS) has required over three years to complete the route analysis, mile-by-mile design and negotiate with the various construction and equipment suppliers. It appears to be a natural assumption that equally thorough analysis for the much longer Canadian route will take at least as long if not longer to complete. The Canadian Government will be as concerned as its U.S. counterpart about environmental impact for the entire route including the area in the U.S. as well as through Canada. No negotiations have as yet been undertaken with provincial governments or with other Canadian authorities in regard to specific land use or treaty arrangements between the two countries for this project. The assumption is that these negotiations would run concurrent with the three year period required for the final determination of route and mile-by-mile design.

Item 2

An ownership organization must be established similar to the Alyeska Pipeline Services Company and its participating companies. The financing of this project would have to be evaluated and established in alignment with the agreements made between the U.S. Federal Government and the Canadian Governments.

Item 3

An issue that long delayed consideration of the TAPS system was the Alaska Native Claims Issue. Canadian natives are now bringing a pressure to support discussion involving aboriginal land claims in the Canadian territories. This issue has not been specifically approached by the Canadian Government. It must be resolved before actual construction and right-of-way negotiations take place. It is assumed that this issue would be determined during the design period, but it too could present a problem that would result in continued delay.

Item 4

Physical construction time for the Alaska pipeline is scheduled at three years. The northern segments of the Canadian pipeline involve comparable construction difficulty and the northern areas are twice that of the Alaskan pipeline. The lower areas from Edmonton south on through the U.S. do cover less difficult and less costly terrain. It is difficult to assume, however, that this pipeline, that is more than four times the entire length of the Alaskan line, could be built in less than five to six years. Current estimates indicate that there is not sufficient labor and equipment of the skill and standards required to accelerate construction time. Scheduled below is a bar-graph covering pertinent sections of consideration that lead to the ten year oil delivery schedule for a Canadian pipeline. Physical construction costs are an immediate point of comparison. Information prepared by Standard Oil Company of Ohio indicates a $7.2 billion cost to deliver oil through Canada to a Chicago terminal. This compares with a $5.2 billion cost of delivery of oil through a trans-Alaska pipeline to Valdez and to a Los Angeles port, via U.S. flag tankers. These two total capital cost figures include interest during construction and working capital requirements. This cost figure also includes the consideration of a 4 per cent per year escalation in the Canadian pipeline cost due to an assumed delay in construction of three years. This is consistent with the previous discussion in section 1 where design and right-of-way acquisition were assumed to take an additional three years. The 4 per cent escalation figure has been consistent with experience of cost escalation on the trans-Alaska system. Some cost comparisons between the two pipelines carry costs only to Edmonton. The cost comparison under discussion continues delivery with the construction of a new pipeline grid from Edmonton south to Chicago. As mentioned previously, the existing capabilities in the mid-continent pipeline grids are not sufficient to handle an additional flow of 1.2 million barrels per day, let alone a proposed capacity of 2 million barrels per day. An important, but unanswered question relates to the capability of the Canadian and U.S. interested parties in the oil industry in their ability to finance a $7.2 billion project.

Scheduled in Figure 2 are comparative cost break downs for the two pipelines using an initial base line figure for the Alyeska pipeline as the common cost figure for the northern section of the Canadian line.

COST PER BARREL

The per barrel cost of delivered oil through these two alternate systems is possibly the most important factor. The summary analysis in Figure 3 based on 2 million barrels per day throughput shows the relative advantage of the Alaska pipeline including the tanker system in terms of cost per barrel. In terms of need, the West Coast and the Mid-West are both short of oil. Imports from the Persian Gulf are flowing into the Mid-West at the present time. By 1978 the West Coast will be equally as short and in a position to absorb the entire production of the North Slope. It has been argued as well that the flow of North Slope oil into the Mid-West would significantly reduce oil costs in that area. In view of the overall U.S. crude oil deficiency, crude oil values will be set by the much greater volume of off-shore imports coming into the U.S. rather than an adjustment based on North Slope crude deliveries. The value of oil in the Mid-West will be adjusted by the equivalent of transportation costs from the Gulf Coast. On this basis Mid-West crude will consistently have a higher value than West Coast crude. The comparisons in the schedules do not include or consider this higher value of crude in Chicago. In addition, no compensation to Canada for the right-of-way use is reflected. Such compensations could become a major issue and cost of operation of a Canadian line.

FIGURE 2

TRANS-ALASKA LINE

	Millions of dollars	
	Cost per mile	Total[1]
I. Prudhoe Bay to Valdez (790 mi)	$4.02	$3,300
II. Terminal facilities		300
III. Tankers		1,600
Total		5,200

TRANS-CANADIAN LINE

I. Prudhoe Bay to Fort Simpson (1,100 mi)	$4.53	$4,980
II. Fort Simpson to Edmonton (600 mi)	1.56	935
III. Edmonton to U.S. border (768 mi)	.86	660
IV. Border to Chicago (789 mi)	.84	665
Total		7,240

[1] Figures include interest and escalation of 4 percent.

Source: Figures from Alyeska Pipeline Services Co.; Standard Oil Co. of Ohio.

FIGURE 3

THROUGHPUT COST PER BARREL

[Based on 2,000,000 barrels per day—20 years]

Transportation cost	Alaska line	Canadian line
Capital cost/ discounted barrel	$0.824	$1.157
Operating cost:		
Tanker	.220	
Pipeline	.090	.350
Total	.310	.350
Total, cost per barrel	1.134	1.507

NET ADVANTAGE OF TRANS-ALASKA PIPELINE RELATIVE TO TRANS-CANADIAN PIPELINE—2.0 MILLION BARRELS/DAY

Prudhoe Bay to Chicago via Canada	$1.507
Prudhoe Bay to Los Angeles	1.134
Cost Advantage TAPS	0.373
Less Cost to Transport oil U.S. Gulf to Chicago	$0.281
Net advantage Alaska Pipeline for crude delivery to Los Angeles and Chicago	0.092

(1) Information from Standard Oil Company of Ohio.

ENVIRONMENTALLY SPEAKING

Much has been said about environmental superiority of the trans-Canadian pipeline. Environmental characteristics of both lines are comparable. Permafrost must be crossed, rivers and wildlife habitats are involved. Potential seismic areas are also subjects of consideration. The assumption in the time delay discussion was that the trans-Canadian pipeline would be designed with the same analysis and mile-by-mile design criteria as established for the trans-Alaska pipeline. The environmental concerns should be evaluated on the basis of the net effect on the environment assuming that the best technological capability has been used to overcome the hazards as encountered. The same consideration for both lines would lead to the following areas for net consideration.

1. The trans-Alaska pipeline would necessarily involve the utilization of tankers for the continuance of its delivery system to actual user areas. Tankers are not involved in the trans-Canadian pipeline. Trans-Alaska pipeline emphasizes a new tanker program involving segregated ballast systems, sophisticated navigational equipment, U.S. flag tankers and strict controls. The Canadian route, although not using tankers direct, would not eliminate tanker traffic from the West Coast and would also allow, unless other steps are immediately taken, utilization of off-shore foreign tankers that are not subject to the strict controls that would be applied to U.S. flag carriers. It can be argued that the trans-Alaska pipeline would have a beneficial effect on marine activity on the West Coast and could be the incentive for improved maritime activity on a world wide basis.

2. The trans-Canadian route travels twice as much permafrost area as the TAPS line and due to its four times greater length necessarily covers wider areas for river crossings and animal habitat dislocation. Assuming equal care in design and construction of both systems, the trans-Canadian line would be environmentally inferior to the TAPS system only on the basis of its longer route.

3. Part of the environmental advantage attributed to the trans-Canadian route is the aspect of a common corridor for both a hot oil and a cold gas line. The Canadian Government has, as a result of early interest in the gas line, specified that there will be only one gas and one crude oil line in the north. These lines to be constructed within a corridor yet to be defined. If the common corridor is assumed to mean a common right-of-way with both lines being put into the same construction area at the same time, significant advantages would accrue. Given the cost of a combined gas and oil line estimated to be in excess of $12–$13 billion, it is difficult to project that both lines could be constructed and financed at the same time. Previously discussed limitations on construction equipment and labor availability dictate that the lines be done at different times. Joint use of haul roads, construction camps, etc. would accrue, even though the lines were built in different areas. Also, it should be considered that areas that would be appropriate for a cold gas line could be inappropriate for an oil line and vice-versa. A required wider corridor and double right-of-way would lessen the environmental advantage.

In the discussion of the time difference for effective delivery of oil between the two lines, nothing was said about the effect of the delay. Assuming the nine to ten year delay as scheduled for the Canadian pipeline, significant areas must be considered.

1. Oil delivered from the North Slope will reduce our dependence on foreign imports of oil. Valuing foreign crude oil at $3.50 per barrel, and assuming a 2 million barrel per day production, North Slope crude will reduce balance of payments outflow by approximately $2.5 billion on an annual basis. In view of the current pressures on the U.S. dollar, it has to be assumed that there would be a substantial benefit in the earlier production of North Slope oil and gas.

2. The current world wide and U.S. energy shortage has placed emphasis on new exploration for both oil and gas. Particular emphasis is placed here in the United States on the establishment of domestic sources. As a result in the delay in being able to bring North Slope oil to market, exploration activity in Alaska has virtually stopped. No change in this is anticipated until suitable means have been established to bring Alaskan Arctic oil to market. The trans-Canadian pipeline with its built-in delivery delay would reasonably be expected to delay the renewal of exploration activity as well. Alaska with its vast sedimentary basins is a prime area for petroleum exploration.

3. The Mid-West is currently extremely short of refining capacity. If a decision were made to build the trans-Canadian pipeline, additional refineries could be built in anticipation of delivery of North Slope crude. Sufficient time would be available to build these refineries but in the period until North Slope delivery, no additional crude would be available in the Mid-West. Crude currently is available only through the existing pipeline grid from the Gulf Coast and additional capacity would have to be built to increase crude oil flows in the Mid-West. A line built to serve the Mid-West for a short period may be only of limited value in the future. Producers in the area would be faced with much uncertainty as to their investments and their planning to meet Mid-West supply problems.

4. The economic interest of the State of Alaska is certainly an important factor. Although in 1969 Alaska received $900 million in oil lease proceeds, these funds will not last forever. Alaska, as an emerging state, is steadily increasing its budget as it improves the delivery of state services to its population and assumes from the Federal Government responsibility for activities consistent with those of the other 50 states. The budgetary levels and projections for the state are based on the development of its natural resources as a source of revenue, principally oil production. At the present time, no return is being made from North Slope oil reservoirs nor is any additional exploration taking place within the state to develop additional and continuing resource revenue. A delay to 1984 in the generation of revenues from the North Slope would have a serious affect on the economy of the State of Alaska.

SUMMARY

In summary this analysis indicates that the trans-Alaska pipeline is the superior route for early delivery of North Slope oil to the U.S. markets. The effects of a continued delay would not be felt. The international balance of payments situation would be improved at an earlier date. The overall economic interest would be best served by delivery of oil at its lowest cost base, i.e., to the West Coast and an immediate and more permanent solution to the Mid-West energy shortages could take place. Economic disruption within the State of Alaska would also be minimized. Marine transportation problems could be significantly improved on the West Coast, and finally, there is no real significant environmental superiority for either line assuming comparable design standards are maintained for each.

PERMIT IN 1974?

What is necessary then to move forward with the construction with the trans-Alaska

pipeline? The first step is the removal of the injunction on the Secretary of Interior for the issuance of the permit. To accomplish this, a change in the Mineral Leasing Act of 1920 must be made. The right-of-way of limitation of 50 feet is not sufficient to build the trans-Alaska pipeline or any other large, modern pipeline. Legislation is now in both the House and Senate to amend the Mineral Leasing Act to allow larger right-of-ways under the administration of the Secretary of Interior to enable modern construction techniques to be utilized for the construction of major pipelines throughout the United States.

If assumed that this legislation can be passed before the end of this session of Congress, the following is a suggested timetable. Legislation would probably he released from Congress late in the session which would bring us to September 1, as an effective date for the re-submission of the request to lift the injunction at the district court level. The technical exception of violation of the Mineral Leasing Act would no longer be involved and the issue would only be compliance with the National Environmental Policy Act and the adequacy of the environmental impact statement. Indications were made in the Court of Appeals, although they declined to consider in full the environmental issues, that there were several areas that could strengthen in the environmental impact statement.

During the balance of the summer the impact statement could be reviewed and areas strengthened in line with new information that is being developed. These re-reviewed areas would have to be submitted to the appropriate governmental agencies for their reconsideration. By September the entire statement and the request would be ready to resubmit to the district court. Although the District Court had originally ruled that the impact statement and the methods of administration by the Secretary of Interior were adequate, it is anticipated that the court would again take a reasonable length of time to review the entire issue. A decision could be anticipated by the middle of October or early November. Regardless of the decision, it would be appealed to the District Court of Appeals possibly by early December. It would appear reasonable for this court to take three to four months before handing down its decision. It is hoped that the decision would be timely enough that the possible consideration by the Supreme Court could be made and that court hand down its ruling before the summer recess. On this basis, mid-year 1974 would be the earliest that the Secretary of Interior could issue a right-of-way permit. Mobilization could begin promptly as continued delay in the project has enabled the oil companies to have their construction planning in a state of readiness. Although an earlier construction date and right-of-way permit would be pleasing to a number of parties, it is difficult to assume that this major project can move through the maze of both legislative and judicial activity any faster than the schedule proposed.

SENATOR RANDOLPH BELIEVES, IN THE FINAL ANALYSIS—PRIVATE INDUSTRY MUST BE ALLOWED FLEXIBILITY TO MEET OUR ENERGY DEMANDS

Mr. RANDOLPH. Mr. President, in recognition of energy supply shortages, last week, the Senate passed S. 1570, legislation establishing a mandatory allocation program in the event of a national energy crisis. This week, the administration is conducting hearings on its Voluntary Allocation program.

Unfortunately, neither of these programs will provide additional gallons of crude oil refined products for consumers. "Instead," as C. Howard Hardesty, Jr., the executive vice president of Continental Oil Co., told the Oil Policy Committee, on Tuesday, "allocations merely serve to spread the illness around. Our real challenge, therefore, is to find the solutions which will make allocations unnecessary." For, as long as allocation exists this means that there are energy supply shortages that are limiting our country's economic growth and constraining our economic viability.

Looking to the future, any long-term strategy to achieve adequate energy supplies must rely on the traditional societal institutions that have served us well. In the final analysis, this means that we ultimately must continue to rely on industry and the marketplace for our energy supplies and, in turn, for the allocation of available supplies.

To some degree, however, the marketplace has contributed, in part, to the present shortages. However, the major factor, in recent years, has been various Government actions. In an effort to reduce inflation, the supposed "free-market mechanism" has been constrained by price controls. As a consequence, industry is frequently unable to pass on to the marketplace the legitimate costs of doing business. For example, we should consider the increased prices for imported crude oil. What is frequently forgotten when implementing domestic price controls is that there are no price controls in the world market.

At a time when world energy prices are higher than in the United States, the only supplies available in sufficient quantities to meet current demands for gasoline and fuel oil are in Europe. However, the prices there are higher than in the United States. Therefore, if we are to acquire these foreign supplies, their market values must be reflected in U.S. consumer costs. These legitimate expenses for assuring energy supplies must be recoverable by industry.

Assurances are needed that actual increased costs associated with crude oil and refined products can flow through to the marketplace. Until this is possible, some existing refineries, rather than operate at a loss, may operate at less than capacity, and new refinery capacity needed to meet future growth in the demand for energy may not become a reality.

In effect, by Government action a market environment has arisen that is inadequate for stimulation of the investments required to avert the emerging shortages. Until it is fully recognized that increased energy supplies only can be achieved by increased investments by industry, we are deceiving ourselves.

Our country's leaders, and the American consumer, must recognize that, in the future, stable energy supplies will cost more than in the past. By continuing to ignore the fact that other countries are willing to pay more than us for limited international energy supplies, we are mortgaging this country's security and freedom, as well as our position as a world power.

In order to strengthen the security of our energy supplies, it is the obligation of Government to provide guidance for the operation of our traditional energy supply institutions. Federal officials, however, individually or corporately, would begin to function as industry's board of directors. There is every reason to believe that the options available for securing essential energy supplies would be reduced.

As agents of the American consumer, it is the responsibility of our national leaders and Government officials to assume a progressive and reasonable stance, particularly at this critical time. Unfortunately, some of our national leaders are taking a short-term, reactionary position, alleging, without evidence, that the emerging energy crisis is a conspiracy to drive up prices, to eliminate competitors, and to weaken environmental regulations. However, the accusatory act itself provides credence to the allegation. The consequence is a polarization of the affected parties, inhibiting the formulation of effective solutions to our supply shortages. In the final analysis, a disservice is done to our Nation—to the consuming public.

There may be companies who choose to take advantage of our current scarcity of energy supplies. We must not lose sight of the fact, however, that the shortages are there and industry must be encouraged to meet consumer demands. Statements that imply it is fictitious or concocted are causing confusion at a time when a public commitment is needed to positive programs. The energy crisis is here.

THE PUBLIC VIEW OF THE SPACE PROGRAM AND THE SHUTTLE

Mr. MOSS. Mr. President, later this month the Senate will consider the fiscal year 1974 NASA authorization bill reported by the Committee on Aeronautical and Space Sciences. As my colleagues prepare to address themselves to the Nation's space program, many, I am sure, will hear the opinion that the space program and the Space Shuttle are largely unknown quantities in the public view, that there remains neither support nor educated interest in this Nation's space program.

The dramatic come-back achieved with the Skylab mission has done much to again capture the attention and imagination of the American people. Skylab has done much to rekindle the kind of thoughtful public discussion of NASA's plans and programs so essential to the effective functioning of our representative democracy. Media coverage and editorial opinions have looked even beyond the tribulations and promise of the Skylab to rejuvenate public awareness of how much we have achieved with our investment in imagination and what may be the vistas of the future.

All this means that great scrutiny will be applied to our actions here in the Congress as we pass on the future of the space program. One piece disseminated to the public is a commentary broadcast across the Nation over stations affiliated with the Mutual Broadcasting System.

The commentary by Charles A. King draws some vivid contrasts between the past, present, and future of the Nation's space program and is based, in part, on hearings held before my committee this year. Mr. King holds up a mirror to us to relate—

The controversy (that) still swirls within Congressional chambers over NASA's next major endeavor—the Space Shuttle. Hearings by the Senate Committee on Aeronautical and Space Sciences—still echoed warm debate over the value of the program and more seriously, the question of authorizations and appropriations for the space agency in fiscal year 1974.

The commentary goes on to lay out the major arguments of both the opponents and proponents of the Space Shuttle before contrasting this debate with some larger realities that the public should consider:

One thing that has been forgotten is the fact that the NASA program is and has been successful—this in spite of the fact that the program has been cut and cut to the point where Cape Kennedy almost became a ghost area and in some areas of the nation—men of science have been reduced to waiting on tables and driving instead of riding in limousines and cabs because their contributions were ignored in an effort to save the necessary dollars.

If NASA has made a major mistake—it has been in taking little time through public relations to educate the public as to the benefits of the space missions and science to date.

This nation is first in the world with what we have accomplished through our space program—and it is always some consolation to warmly note that the men who were on the moon and the men now flying an extended mission around the earth were and are Americans.

Mr. President, I would suggest to my colleagues that this commentary is just one piece of evidence that NASA and the space program are very much in the public eye. The range of testimony received by my committee from organized labor, scientists, and other members further attests to this fact. I commend the broadcast commentary to the attention of my colleagues and ask unanimous consent that a transcript be printed in the RECORD.

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

MUTUAL BROADCASTING SYSTEM, INC.,
New York, N.Y., May 31, 1973.

(By Charles A. King)

As this particular commentary is being heard via tape—I'm in a press plane some two hundred and thirty miles under the Skylab Two, firmly attached to Skylab One circling the earth some 235 miles above those we have left behind.

This is about high enough for me—as the plane heads for Iceland and the press crew will follow the summit talks President Nixon plans with Premier Pompideau on Thursday and Friday.

Having just returned from Cape Kennedy, Florida—two remembrances still linger. First—the flight of the Skylab Two as the three Americans blasted into space—the trio on a known but uncertain mission—a house call on an ailing space station 235 miles above the earth.

The second—the sudden apathy at Cape Kennedy; not by those who are responsible for our leadership in space—but where 100,000 might have watched a manned launch to the moon just months ago—now it was old hat; this was just science and in spite of the fact that three men were involved and their lives were on the line—only about 20,000 were on hand as the men blasted into the heavens with the mission twofold. First—to repair the damage and next if successful—to find out how long man could sustain himself in the heavens.

Even now—as the three men circle the earth in less than ideal conditions—the controversy still swirls within Congressional chambers over NASA's next major endeavor—the space shuttle. Hearings conducted by the Senate Committee on Aeronautical and Space Sciences as recently as last month still echoed warm debate over the value of the program and more seriously, the question of authorizations and appropriations for the space agency in fiscal 1974.

The House has approved an over three billion dollar budget for NASA and even ignored an amendment that would have cut $500,000,000 earmarked for the space shuttle.

NASA is asking for $475 million for shuttle development alone in 1974 and that request could rise to one billion before the shuttle is even off the ground.

Those in favor of the shuttle say it is essential if the United States is to retain its lead in space activities, and the reusable laboratory and certain launching components will eventually result in huge savings.

On the other hand—others say the shuttle is not economical, its introduction is premature and it will deeply cut into other less glamorous but essential scientific activities.

There is really no question in the minds of those conversant with the subject as to the importance of the shuttle and Dr. Jack Schmitt, the geologist aboard the Apollo Seventeen mission called it the beginning of an "era of imagination." He said he himself envisioned the shuttle as a stepping stone to an orbiting educational facility for students of all nationalities and disciplines.

Others have said that the shuttle is akin to General Motors ceasing to build its present models and retooling to construct a steam-powered automobile.

There is also the argument that the project would give birth to international cooperation although nobody is ready to say what the Russians are planning along shuttle lines. Most certainly they are having problems with present space projects.

The question is sometimes asked—"Why does NASA so covet the shuttle project." The answer comes that the shuttle will ultimately save billions of dollars in launch costs and to would supply a means of repairing, refurbishing, re-using and launching satellites.

Administrator James Fletcher says that the cost-benefit ratio is not the crucial factor. It is rather "the capability the shuttle would give people to work quickly and routinely in space."

There are some loud and indignant voices in the Congress who would have us close up the whole NASA program and pour the money into social schemes. Congresswoman Bella Abzug, for instance, when she is not out to impeach a President at least twice every twelve months, holds no love for the space program. Other voices are strong in defense as some are in criticism.

One thing that has been forgotten is the fact that the NASA program is and has been successful—this in spite of the fact that the program has been cut and cut to the point where Cape Kennedy almost became a ghost area and in some areas of the nation—men of science have been reduced to waiting on tables and driving instead of riding in limousines and cabs because there contributions were ignored in an effort to save the necessary dollars.

In spite of all of the headaches—NASA through its administration in manned flights has created what must be the proudest and most efficient of all federal agencies.

To be most practical, there are irrelevant, motivations that favor the space shuttle. During the time of peak development through 1977—as many as 50,000 new jobs will be created.

Senator Barry Goldwater has said that he sees no other source of jobs for young men and women.

The President has spoken of the space shuttle as the "lift of a driving dream" and he sides with those in the Congress who want to see it accomplished.

If NASA has made a major mistake—it has been in taking little time through public relations to educate the public as to the benefits of the space missions and science to date. It is only because most do not know that which has been benefited from space science and space exploration that the critics outnumber those who favor further space exploration.

This nation is first in the world with what we have accomplished through our space program—and it is always some consolation to warmly note that the men who were on the moon and the men now flying an extended mission around the earth were and are Americans.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

DEPARTMENT OF STATE APPROPRIATIONS AUTHORIZATION ACT OF 1973

The PRESIDING OFFICER. Under the previous order, the Chair lays before the Senate the unfinished business, S. 1248, which will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 1248) to authorize appropriations for the Department of State, and for other purposes.

The PRESIDING OFFICER. The pending question is on the adoption of amendment No. 222, by the Senator from Michigan, to amendment No. 218, by the Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, the announcement by President Nixon last night of a freeze on all prices for up to 60 days, to be followed by a tougher, more comprehensive and more vigorous phase IV program, is good news. But it is of vital importance that the President's deeds match his words.

The freeze and the tougher followup program that he has called for are what we have been calling for in Congress for a long time. In early April, I offered an amendment which called for a 90-day freeze. Sixty days may be better.

At any rate, I have made it very clear that we invited the President to step in and do this himself. The President could do it better. He could announce it one day, as he did last night, and it would go into effect the next day, as it does today. If we in Congress do it, we have to debate it for days here, it has to be debated in the House, and then we have to have a conference. Meanwhile, what happens to prices? We have rollbacks after the bill is enacted. The whole action is far less efficient and can be an administrative nightmare.

So the President has taken the right first step. Whether or not this will do the

job, whether it will break the back of inflation and permit us to drop all controls at a reasonably early time, depends on 2 fundamental actions by this Government.

First, phase IV must indeed be a no-nonsense, vigorously-enforced, tough program. The President is doing just the right thing in sharply expanding enforcement personnel and making a prompt start in reviewing the sharp price increase since January 10, which seem obviously to have violated the phase III guidelines.

I do not know how anybody can look at what has happened to prices since January 10 without realizing that the guidelines must have been violated wholesale, and the President has indicated that the reason for determining the violation is to require a rollback. This could mean that the consumers of this country will be saved billions of dollars, if the President follows through with his commitment.

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

Mr. PROXMIRE. I yield.

Mr. HUMPHREY. One thing that worries me, even though I support the rollback idea, if the facts justify it, is that the consumer who bought the goods at a high price cannot get a refund.

Mr. PROXMIRE. That is true.

Mr. HUMPHREY. How does one come back and say, "I bought a shirt and lost my sales slip, but I paid $9 for it and it ought to be $8.50, so give me 50 cents"?

Mr. PROXMIRE. The Senator is correct, but I think he and I and everybody else will be better served if prices are rolled back so that they will be lower.

Mr. HUMPHREY. Absolutely.

Mr. PROXMIRE. And if subsequently we can buy at a lower price. We cannot reclaim what we have lost in the last 5 or 6 months. Nothing can be done about that, in most cases.

Mr. HUMPHREY. What has disturbed me about this—the Senator from Wisconsin has been in the forefront of the battle against inflation, and we are indebted to him—is that in all the hearings we have held before the Joint Economic Committee and the appropriate subcommittees, we have had Dr. Stein and others who just look at us cold-eyed and tell us that everything is going according to plan.

I had Dr. Stein before the Consumer Economic Subcommittee 10 days ago. He told me they were going to a 2.5 percent goal of inflation this year.

I said, "No matter what kind of mathematics you use, that is impossible."

He looked at me and said, "It is still our goal. It is still a probability."

Mr. President, when we get that kind of economic advice, we wake up to find that the President's program has been a failure. Holding to phase III was untimely. The Senator from Wisconsin has been saying so. He has been saying that phase III was a failure. Business Week said so. The Wall Street Journal said so. The top economists of the country have said so. One of President Nixon's own former advisers made a blistering statement awhile ago.

All the criticism by the Nixon administration has been nothing but cheap shots at the anti-inflation program. I, like the Senator from Wisconsin, am grateful for what the President said last night, but I cannot help saying, "My gracious! Why did we have to wait so long?"

Mr. CHURCH. Mr. President, will the Senator from Minnesota yield?

Mr. HUMPHREY. I yield.

Mr. CHURCH. Is it possible that the good doctor may not have meant in his determination to achieve a 2.5-percent goal that the cost of living, overall, would go up 2.5 percent this year?

Mr. HUMPHREY. I had not really explored that possibility. Maybe it was my mathematics. Maybe it was not multiplication but was addition.

Mr. PROXMIRE. Of course, the Senator from Minnesota is correct. It is unfortunate that the President did not act sooner. He should have acted sooner. It is unfortunate that on January 10 he made that fateful decision to go into phase III. I think it was an incredible action. What happened to prices, most economists say, is attributable largely to the dismal failure of phase III.

Mr. HUMPHREY. I thank the Senator from Wisconsin for pointing this out, at a time when the President's Council of Economic Advisers came before us. I can understand the administration saying, "These are Democrats; therefore, they are partisan." But some of the main economic writers in America, some of the finest in the world, have been saying for months, particularly since February, that phase III is a failure; it has resulted in the greatest distortions in the economy.

Mr. President, I protest the profiteering that has taken place. There has been too much profiteering. Many corporations have deliberately raised their prices. Some people feel that with a limitation of 1½ percent, there has been a gross violation. Everybody knows it. Is it any wonder that people think that corporations can get by with almost anything?

Mr. PROXMIRE. I thank the Senator from Minnesota.

Mr. President, as I have said, phase IV must indeed be a no nonsense, vigorously enforced, tough program. The President is doing just the right thing in expanding enforcement personnel and making a prompt start in reviewing the sharp price increases since January 10 which seem to have obviously violated the phase III guidelines.

It is good news for the consumer that the President has said that if price increases are found to be in violation of phase III regulations since January 10, 1973, the last day of phase II, they will be rolled back. If the President can get effective action, this could roll back prices sharply.

The second essential action the Government must take if this new anti-inflation program is to work is to use the vital 60-day period and the control period to follow to reduce the long-term inflationary features of our economy, and here the President's program is not adequate.

This is the time to move forcefully on antitrust, to begin an intensive program of training the unskilled unemployed so they can increase our supply of skilled workers which in some areas is in short supply. This period is the time to eliminate import restrictions that prevent the price reducing impact of foreign competition.

Mr. President, because this period beginning right now today is so vital, I am pushing for hearings in both the Senate Banking Committee and the Joint Economic Committee on the shape phase IV should take and action on legislation on the President's program. I hope both these hearings can take place promptly.

Mr. President, last night there were certain indications that the President's Phase IV program, that is, the program following the freeze, has not been determined; that it will be determined based on consultation with management, labor, Congress, and others. So we in Congress will have a chance to say something about what kind of program we should have. Above all it must be effective and tough as necessary so we can hold down prices and achieve a reasonable goal or modest and limited price increases, if any.

Our Joint Economic Committee is already working with the General Accounting Office to see if it would be feasible for them to make a study of phase II—to determine in what respects it worked well and in what respects it worked badly, and especially what lessons we can learn from phase II which we can apply in phase IV, and in moving out of phase IV to a system of no controls without serious inflation. We failed dismally to accomplish that when phase II was terminated. Phase III was a disaster. We should learn from that mistake. We hope the General Accounting Office study, the hearings of the Joint Economic Committee and the advice of the best economists in and out of Government can point the way.

That was suggested to our Joint Economic Committee by Ralph Nader and it makes a lot of sense. Phase II is over. We can study it as a historical development and we can learn a great deal from it. While some say it worked well, it could have worked better. Prices were rising at the end of phase II. With this knowledge we can have a far more effective system in phase IV and to know when we can move out of price controls to a free economy.

We hope to have hearings which will bring in not only the top economists in Government, but some of the top economists from outside Government.

As I understand it, the pending amendment is the Griffin amendment to the Proxmire amendment. I do think the amendment we proposed has some advantages over the President's proposal. But as I said, one of the principal purposes of the amendment was to do our best to persuade the President to act. He has acted and, while I criticized his proposal in some respects, he has done the right thing. For that reason I ask unanimous consent to withdraw my amendment. The yeas and nays already have been ordered so I understand I need unanimous consent.

Mr. President, I ask unanimous consent to withdraw my amendment.

The PRESIDING OFFICER. Is there objection? The Chair hears no objection, and it is so ordered.

The bill is open to further amendment.

Mr. ROBERT C. BYRD. Mr. President, I congratulate the distinguished senior Senator from Wisconsin (Mr. PROXMIRE) on his decision to withdraw his amendment. As he has very appropriately pointed out, the objective to which his amendment addressed itself has in considerable measure been realized now by virtue of the action taken by the administration and announced last evening by the President.

I also congratulate the distinguished senior Senator from Wisconsin on having introduced and fought for the amendment. The amendment addressed itself to the No. 1 problem that confronts the American people, and it did much to force the administration to take the action last night in executing a 60-day freeze on prices. The American people have been greatly benefited by virtue of the introduction of the amendment by the senior Senator from Wisconsin. Repeatedly he has stood on the floor of the Senate and called the attention of the administration to the necessity for action. He has pointed out, time and again, that phase III was a colossal failure and that strong action was long overdue.

He also addressed himself to this matter in recent days in a conference of Democrats in the Senate, and as a result of that action the conference went on record passing a resolution introduced by the able senior Senator from Wisconsin, joined in by the junior Senator from Minnesota (Mr. MONDALE), which directed action by the administration along the lines that the amendment, which has just been withdrawn, would have required. So, that I think that while the Senator has withdrawn his amendment, he achieved his purpose and accomplished his objective in large measure.

The administration should not have needed this pressure from the Senator and from the Congress. The American housewife has known for a long time that phase III was not working. The Senator is one of the foremost scholars and experts in the Senate, insofar as I am concerned, with respect to the economy, by virtue of his training and background, by virtue of his membership on the Committee on Banking and Currency, and by virtue of his membership on and vice chairmanship of the Joint Economic Committee. I think his proposal would have been better if it had been fully implemented by the administration.

Like the Senator from Wisconsin, however, I think the administration should be given credit for at least doing something, even though belatedly, about the Nation's No. 1 problem. And like the Senator from Wisconsin, I do not think that we should quibble on this or that or whether it is a 60-day or 90-day freeze. I also join him in hoping that the administration will come forward with an effective phase IV follow-on.

I have great personal esteem for the President of the United States. I recognize his many problems. I have tried to support him where I could, and I will continue to do so. But I deplore his reference to the Congress, as of last night, with respect to "budget busting" legislation. Of course, every housewife knows that the greatest budget buster was the premature lifting by the administration of phase II controls several months ago.

I congratulated the President in August 1971 when he applied the 90-day freeze, and I congratulated him on the phase II follow-on. I think that phase II was working well, and it is just inconceivable to me to comprehend the reasoning by which phase II was lifted 5 months ago. I said in March that lifting phase II was a mistake. Other Senators have said that it was a mistake. Every housewife has known it was a mistake by simply taking a look at her growing grocery bills. Certainly for the President to have referred to budget-busting bills in Congress was obviously an effort to shift the blame for rising food prices away from his administration.

The greatest budget-busting event that has occurred during the past year was the lifting of phase II controls prematurely by this administration. The housewives of America know that that action was a colossal mistake.

As to the President's reference in his nationwide telecast to vetoing budget-busting legislation, may I say that the present freeze and a phase IV follow-on would not have been necessary had the premature action of the administration in lifting the phase II controls in January been vetoed. That was the veto that would have meant something to the pocketbooks of every American worker and every American housewife. That was where the veto ought to have been applied. So any attempt now by the administration pot to point the finger at the congressional kettle and say the kettle is black, ought to fall on deaf ears.

As I have said on previous occasions, there is enough blame to go around. Mr. President, the success of the administration's action is going to depend upon the cooperation of everyone, including the Members of Congress, and I feel that the President will have that cooperation. It will also depend upon the content of the follow-on phase IV, and I shall await with interest, as will my colleagues, to see what constitutes the makeup of phase IV.

I hope that the administration will act with firmness and with decisiveness, where in recent months it has shown only hesitation and indecisiveness. The "stick in the closet" was a joke.

I certainly want to express my support of the President's decision to institute rollbacks where major companies have raised prices without due justification. I think that companies which have taken unfair advantage of the opportunity to raise prices without proper justification have been unjustly enriched, and they ought not be allowed to get away with it. The President is to be commended for his action concerning such rollbacks.

Again I want to personally commend the Senator from Wisconsin for the magnificent leadership which he has demonstrated in this matter; and for the pressure that he himself has applied, by virtue of the leverage of his amendment, on the administration to get it to act. He can take satisfaction in withdrawing the amendment, because, as I have stated, its purpose has been in considerable measure accomplished.

Mr. PROXMIRE. Mr. President, if the Senator from West Virginia will yield, I want to thank him from the bottom of my heart. Frankly, I was only able to press the amendment and the resolution in the caucus, along with the Senator from Minnesota (Mr. MONDALE), with the encouragement of the leadership. The Senator from West Virginia (Mr. ROBERT C. BYRD) was most helpful in this respect at all times.

I must comment, because I cannot resist it at this time, with respect to President Nixon's reference to the budget-busting Congress. I have just finished a hearing in which we had the Secretary of Commerce appear to testify on the Government's statistical programs. We were able to show the Secretary of Commerce that his agency gets out, at the taxpayers' expense, a statistical announcement, which is very good and very helpful, but it is followed at the same time the statistical announcement is made with a pitch saying, "President Nixon believes in holding down spending. Unless we can keep the budget-busting Congress from breaking through the budget, you are going to have a tax increase of 15 percent."

Aside from the fact that this is the rawest kind of partisanship, at the expense of the taxpayer, it is untrue, because the Senate has gone on record, by an overwhelming, bipartisan vote, with only some six or seven dissenters out of 100 Members of the Senate—8 to 1 or 10 to 1—in favor of a spending ceiling lower than the President has proposed.

We have different priorities than the President. Perhaps the President is right and we are wrong. Perhaps we are right and the President is wrong. We wish to spend less, by and large, with many exceptions, perhaps in the Defense area, perhaps in the space area. The President wishes to spend less in the health, education, and welfare area.

But, as I have said, that is a matter of priorities. It is not a matter of busting the budget. It would be just as true if a Senator got on the radio or on television and said, "We have got to stop the President from his reckless spending," because we agree that there should be a ceiling at about the level of $268 billion.

Not only does the President persist in making the false charge—he said it last night—but an agency within the Department of Commerce, subsidized by the taxpayers, supported by the taxpayers, sends out material at the expense of the taxpayers and it says, "We must assist the President to keep the spendthrift Congress from imposing a 15-percent tax increase."

So I am delighted that the Senator from Minnesota, and especially the Senator from West Virginia, have made these statements. Again I want to thank the Senator from West Virginia for his gracious remarks.

Mr. ROBERT C. BYRD. I thank the Senator.

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

Mr. PROXMIRE. I yield.

Mr. CHURCH. Mr. President, Senators in this body during the course of their service become known for the special contributions they make in particular fields, and I think the distinguished Senator from Wisconsin has established a great reputation as one of the foremost authorities in the Senate on the economic condition of the country.

I want to join with the distinguished assistant majority leader in commending him for his initiative in this instance and for the many other times in the past in which he has pointed out the great deficiencies of the administration's economic program, which is written plainly for all to see in the spiraling cost of living. Once again, through his great service, he has prodded the administration into action, and I congratulate him for it.

Mr. PROXMIRE. I thank the Senator.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield once again?

Mr. PROXMIRE. I yield.

Mr. ROBERT C. BYRD. Mr. President, may I say also that the Senator from Wisconsin has not been partisan in his efforts. Time and time again during previous administrations, some of which were Democratic, the Senator from Wisconsin never hesitated to stand on his feet and call to the attention of the Senate and the people of the country and the administration when he thought a particular administration was right and when he thought it was wrong. He has consistently steered an evenhanded, courageous, middle course in various administrations, but his eye has always been where his heart is, and that is on doing the right thing regardless of which political party is in power—the right thing for the people and the country.

Mr. PROXMIRE. I thank the Senator from West Virginia.

Mr. TOWER. Mr. President, I think I would be remiss if I did not say something about the Presidential action in instituting a price freeze to try to arrest the current inflation. The President has been pretty roundly criticized for having ended phase II, but it should be understood that phase II did actually result in some anomalies and distortions in the economy.

I think most of us who believe in a market regulated economy believe that Government controls should be only a last resort; that we should always allow the economy to function with as much freedom as possible.

The President has been criticized for waiting so long, but what he was trying to do was to see if the regulation of the marketplace would not be adequate, along with minimal Government controls, and, too, what was recognized was the fact that what we are in a demand-pull inflation rather than a cost-push inflation. We have to be careful how we deal with a demand-pull situation or we can exacerbate the very thing that results in a demand-pull situation, and that is a short supply of goods and services, inadequate to soak up the excess buying power.

Generally, the theory is, let the price of a high demand commodity or good or service go sufficiently high that it encourages expanded production in that area and then stabilizes the price.

So I think that there were some important considerations that had to be kept in mind on the part of the President and his economic advisers when they finally devised this means of trying to deal with the inflation.

I might note that by no means were all of the economic advisers who surrounded the President in total agreement. And that might be expected. What the President then must do is to listen to a number of people and get the best advice and information that he can and then act on that basis.

What should be understood about this worldwide inflation and this worldwide demand-pull inflation is that regardless of what one does to the domestic economy of the United States, he cannot alter the fact that the world operates on a market-regulated economy. European inflation is at a higher rate than that of the United States. Americans spend roughly only 16 percent of their consumable income for food. That is less than has ever been true in our history. It is less than is spent in that manner in any other country in the world.

But the Europeans and the Japanese with their affluence are willing to pay high prices for food. They are willing to pay a high percentage of their consumable income for food. The result has been a worldwide demand-pull situation. And we cannot alter that. So we have to deal very carefully with controls because we could, in effect, encourage short supply.

Of course, the President has asked, along with his controls—and I think wisely so—for some flexibility in dealing with export commodities and foodstuffs.

I intend to introduce this authorizing legislation today and hopefully the Committee on Banking, Housing and Urban Affairs will give it early consideration.

I think that because the President did not act precipitously, as many had urged him to do, he has probably acted wisely. And I think that now, rather than carp at him in Congress, we should give phase IV a chance to work.

QUORUM CALL

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

The PRESIDING OFFICER (Mr. CLARK). 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.

ORDER FOR TIME LIMITATION ON PROPOSED GRIFFIN AMENDMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at such time as the distinguished assistant Republican leader calls up an amendment which he proposes to offer to the pending measure, there be a time limitation thereon of 1 hour to be equally divided between the offeror of the amendment, the distinguished Senator from Michigan (Mr. GRIFFIN), and the distinguished Senator from Idaho (Mr. CHURCH), the acting manager of the bill; and that the time on any amendment to the amendment, debatable motion, or appeal in relation thereto be limited to 30 minutes to be equally divided in accordance with the usual form.

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

Mr. TOWER. Mr. President, I call up my amendment at the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On pages 6 and 7, strike out Section 8 in its entirety, and renumber the following sections accordingly.

The PRESIDING OFFICER. There is a time limitation of 2 hours on the amendment.

Mr. TOWER. Mr. President, I yield myself such time as I may require.

I offer this amendment out of my objection to the inclusion of section 8 in S. 1248.

Mr. President, certainly, we all wish to maintain the Senate's constitutional responsibility in foreign affairs. Certainly, each of us supports the principle of opposing further inroads by the executive branch into this body's important responsibility of ratification of treaties. However, it is my firm belief that the issue of executive agreements concerning military bases overseas does not constitute such an inroad. Our Government has made no political or defense commitments in the commission of these agreements. They are exactly as labeled, agreements arrived at between friendly countries with full recognition by the participating parties that institution of any provisions cannot precede congressional authorization and appropriation.

Obviously, it is the purpose of section 8 to defend a constitutional principle and I wish to make it clear that it is not that principle to which I am opposed. I maintain that it is the case at hand which is inappropriate and that the real effect of section 8 would not be a desirable one.

If legislation along the lines of section 8 were grounded upon a constitutional requirement, it would be constitutionally immaterial if a majority of both Houses enacts legislation to effectuate the purposes of those executive agreements. If not so grounded, however, and I submit that they are not, such bills are in essence attempts to amend the Constitution without following the procedures laid down in the Constitution for constitutional amendments and hence legally incompetent to alter the powers of the Congress. Moreover, since one Congress cannot bind a later Congress by internal rules—indeed, it cannot bind subsequent action by the same Congress—such bills if enacted could generate, rather than dispel, controversy.

What, for example, would be the legal status of an "executive agreement" which is submitted to the Senate for advice

and consent pursuant to legislation such as section 8 of S. 1248 and which fails to obtain an affirmative two-thirds vote in the Senate, if the Congress thereafter by majority vote nevertheless enacts the authorizations and appropriations needed to implement the agreement?

Mr. President, I hope that the arguments we will raise today against the inclusion of section 8 will be carefully considered by my colleagues. There are a multitude of reasons why section 8 should be stricken. And I can conceive of nothing but mischief and trouble coming from the enactment of section 8. It is my hope that the inclusion of section 8 will be defeated.

The PRESIDING OFFICER. Who yields time?

Mr. CHURCH. Mr. President, I yield to the Senator from New Jersey such time as he may require.

Mr. CASE. Mr. President, I thank the Senator from Idaho.

Mr. President, I do not know exactly how much time the Senator from Texas thinks might require on his part and on the part of those supporting his amendment. Does the Senator have any judgment on the matter?

Mr. TOWER. Mr. President, if the Senator will yield to me on my own time, we have 2 hours on the amendment. However, I doubt if that time will all be used. I do not think I can say at the moment as to a revision of the time agreement. I would be glad, however, to agree to one later on. I think there are an even half dozen Senators on this side who want to speak to the amendment.

Mr. CASE. Maybe I can proceed now as the Senator did, and then see what other Senators have to say.

Mr. TOWER. That would be all right.

Mr. CASE. The reason I ask the question is that I have an engagement with the Senator from Arkansas on a very important matter in the Appropriations Committee at 1:30 p.m. I did not know whether we might be through by then.

Mr. TOWER. I think it is altogether possible.

Mr. CASE. Mr. President, the Senate will soon vote on the amendment by the Senator from Texas (Mr. TOWER) which would strike section 8 from the State Department authorization bill. Section 8 was originally introduced by me in April 1972, as S. 3637, and it was added to the State Department authorization bill by the Foreign Relations Committee last month.

Furthermore, this legislation twice passed the Senate last year, and it would, indeed, be unfortunate if the Senate backtracked now and declared it was no longer interested in stopping the Executive's abuse of executive agreements.

If enacted, this section would block funds for future executive agreements that provide for the establishment of U.S. military bases abroad, unless those agreements were submitted to the Senate as treaties for advice and consent. The same procedure would also apply to executive agreements which renewed military base agreements. It should be emphasized that section 8 would not apply to any of our past agreements with foreign countries but only to new agreements.

This section is intended to reaffirm the constitutional principle that our system of checks and balances requires important international agreements to be approved by the Senate as treaties. The executive branch should not be able to skirt this explicit requirement simply by calling a pact with a foreign country an executive agreement.

The practice has become increasingly common under the last six administrations for important arrangements with foreign countries to be settled by executive agreements while treaties are used mainly in relatively unimportant matters. I would remind the Senate that in 1 week last year we voted on six treaties which dealt with, among other things, plant protection, extradition from Argentina, and the taking of evidence abroad in civil or commercial matters. There was not a dissenting vote to any of the six treaties, so one can assume that there was not too much controversy surrounding them.

I have no objection to the Senate being asked to approve matters of this sort because they fall within our constitutional responsibility. What I object to is that we are not normally called upon to give our advice and consent to more important agreements with foreign countries. This not only contravenes the Constitution but it contravenes the commonsense requirement that important decisions affecting our country's security should be shared by both the executive branch and the people's representatives in Congress. We do not have to look very far back in our history to see what happens when the Executive decides to involve the country in extensive commitments overseas with hardly a bow to the Congress.

All I can say about this past practice of Executive usurpation of foreign affairs decisions is: It's just no way to run a democracy.

If we in the Senate are serious about reasserting senatorial participation in foreign affairs, we have no choice but to specify clearly that executive agreements can no longer be used to settle matters which are vital to our national security. The stationing of American troops overseas certainly falls into this category. It can involve the United States in serious commitments overseas, and these commitments can ultimately lead to war.

During the last few years, we have been learning more and more about our Nation's commitments overseas. The Symington Foreign Relations Subcommittee on U.S. Security Agreements and Commitments Abroad made an extensive study of the foreign policy implications of the United States' foreign military installations. To quote that subcommittee's 1970 report:

> Overseas bases, the presence of elements of United States Armed Forces, joint planning, joint exercises, or extensive military assistance programs represent to host governments more valid assurances of United States commitment than any treaty or agreement. Furthermore, any or all of the above instances of United States military presence all but guarantee some involvement by the United States in the internal affairs of the host government.
>
> In November 1968 the then Chairman of the Joint Chiefs of Staff, General Earle Wheeler, in a statement delivered in Madrid to representatives of the Spanish General Staff, formulated better than any statement by the Subcommittee the concept being discussed here. At that time General Wheeler said, in a statement previously cleared by both the State and Defense Departments, that the presence of United States troops on Spanish soil represented a stronger security guarantee than anything written on paper.

I would remind the Senate that the Spanish base agreement was concluded as an executive agreement and not a treaty.

American military bases abroad demand closer scrutiny. The Senate has the constitutional power and duty to exercise this scrutiny, but heretofore we have abnegated our responsibility. The Senate now has an opportunity to take back this responsibility that the Constitution so clearly delineates.

However, it should be realized that there is no way the Senate can compel the Executive to submit certain agreements as treaties. On the other hand, the Senate does not have to vote funds to implement any agreement entered into unilaterally by the Executive which should have been in treaty form. Thus, section 8 uses the Congress ultimate weapon, the power of the purse, to insure that our constitutional role is preserved. If agreements on foreign military bases are not submitted as treaties, no money will be forthcoming to pay for their costs.

Most of us at one time or another have deplored the lack of senatorial participation in foreign policy matters, especially after having just discovered some new arrangement in which our Government was secretly participating. If section 8 is written into law, we shall again become full partners in a vital part of American foreign policy. Of course, this would entail a great responsibility for the Senate, but it is one which the Constitution places on us. Not only must we accept this responsibility, but we must insist on having it.

Mr. President, of all of the provisions in the bill having long-range and permanent importance, this section 8 may be the most important of all. It passed the Senate on two occasions last year, and I am certainly hopeful that the Senate will not backtrack this time.

Section 8 represents the majority position in the Foreign Relations Committee that legislation is needed to put on a constitutional basis the Senate's working arrangements with the Executive for the proper conduct of our foreign policy. The Executive must have the necessary freedom it needs to negotiate agreements and to carry out operations on a day-to-day basis, while the Senate must reassert the principle which the authors of the Constitution so wisely inserted that treaties should be made with the advice and consent of the Senate.

The question of what is a treaty we can debate now and we have debated it over the years. I know of no hard and fast rule that can be applied. I know of no tenet that can be drawn down from the skies and automatically placed on top of an agreement to determine whether it is a treaty or an executive agreement.

Certain things seem clear. Above all, it seems to me that the matter of the importance of the agreement is paramount. And there can be no more important agreement, I believe, than one which relates to the stationing of armed military forces of the United States in foreign nations.

It may be just a small force, or it may be a larger one, but whatever the size of the force, it has a potential for creating situations in which armed conflicts may very well result; and it seems to me, Mr. President, that the way for us to attempt to reconcile the roles of the Executive and the Congress in this matter, where they are in conflict, is to prevent situations from arising, at least on the initiative of the Executive alone, which may give rise to armed conflict.

The President, in the view of some, should have the authority to move the Armed Forces of the United States at will all over the world, in any numbers. I have heard the view expressed by some of our colleagues that this is an attribute of the President's role as Commander in Chief of the Armed Forces.

I do not suppose I could disagree with anything more than I do with that suggestion. I do not say that the President has no authority in this regard, but I do say that the stationing of U.S. troops abroad on a permanent basis in foreign military installations is the kind of thing which ought not to be done without the approval of the Senate.

I repeat, the way to prevent conflicts between the President and the Congress from arising as to the proper role of each in the division of authority on the warmaking powers is to prevent situations from arising from which war may result on the initiative of one or the other.

At this time, Mr. President, I understand that my colleague, the acting manager of the bill (Mr. CHURCH), has a remark or two that he would like to make. I am very happy, indeed, to yield to him, for the time being at least, for that purpose.

Mr. CHURCH. Mr. President, I thank the Senator very much, but I would prefer to withhold my remarks until the conclusion of the debate, and then summarize the position that the committee has taken with respect to this particular provision of the bill.

Mr. CASE. Does the Senator from Texas wish to proceed, then?

Mr. TOWER. Mr. President, I yield the Senator from Arizona such time as he may require.

Mr. GOLDWATER. I thank my good friend from Texas.

Mr. President, what we are going through here is a procedure that is not too obvious to most of the Members. I can well understand and in fact sympathize with the feelings of Members of this body and the other body and with American citizens who have some feeling that the power of war should not be vested in the President as the Constitution has vested it. This investiture, by the way, has been recognized throughout nearly the 200 years of the history of our Republic. I find much confusion on the subject, mostly because very little study has been given to it. Consequently, the average citizen firmly believes that only Congress can take this country to war, when that is not true at all.

Congress can declare war, and out of the nearly 200 times that the arms of this Nation have been called up, they have declared war five times—including twice in one war. However, while Congress can declare war every 15 minutes, only the President of the United States can call out the troops.

An attempt is being made, through language in the bill we are discussing today—and have been discussing and will be discussing—at reduction of the power of the President in war. I realize that the committee has virtually unanimously voted out a bill that will cover war powers of the Executive, and that we will have an opportunity to discuss that matter and vote on it later. But I find, in studying the bill that is before us today, even though the war powers bill will be brought up separately, that there are many restrictions on executive action put in the State Department bill which would accomplish most of what is wanted in the bill to reduce the power of the President.

For example, it would prohibit any funds for further U.S. military operations of any kind in all of Indochina.

Second, it would prohibit American troops from being stationed at any new foreign military bases unless the Senate approves the agreement, and even prohibit extending any existing base agreement without the Senate's approval.

Third, it would cut off funds for the State Department, USIA, AID, or the Disarmament Agency if one of these agencies fails to furnish any kind of document, paper, or report in its custody sought by a congressional committee, excluding only direct communications with the President himself. This covers internal working documents from ongoing negotiations and all cables from U.S. Ambassadors to the Secretary of State, as examples of the secretive materials the committee would reach.

Fourth, there is language which would stop all U.S. contributions to SEATO after June 30, 1974.

Now, I cannot find fault with using any weapons it has at hand in an effort to improve the will of this body—Congress, the Executive, and the people. But, as I have said in testimony before the committee, and have said repeatedly on this floor, understanding as I do the very sincere and convinced feeling that we do have the power of war in this body, I argue that the way to reach that change is not through legislative fiat but by submitting an amendment to the Constitution to the people of the United States, who would vote on it.

I daresay, before we change the power of the President in war, this procedure will have to be followed. I cannot conceive of a President's approving any bill that would question his constitutional authority. He cannot question a constitutional amendment. He can oppose it and so state it. But this, I suggest to my friends who believe that Congress either controls war or should control war is the proper way to go about it.

While I would not vote for such an amendment, I would do everything in my power to see that such a constitutional amendment is brought before the American people.

Now, Mr. President, I support the amendment offered by the Senator from Texas (Mr. TOWER) to strike section 8 of the bill, which would prohibit the expenditure of any funds to carry out any agreement providing for the stationing of American troops overseas unless the agreement is submitted to the Senate for its advice and consent. The amendment is claimed to reaffirm a constitutional principle that important international agreements must be approved by the Senate as treaties.

Mr. President, I will repeat today what I discussed during debate over the Azores Agreement, that the Constitution has never been interpreted in this manner. As this body knows, executive agreements are nothing new. In fact, during the first 50 years of government under the Constitution, the President entered into at least 27 international agreements without obtaining the consent of the Senate. This figure increased to 238 executive agreements in the second half-century under the Constitution and 917 during the third 50-year period of our existence as a Republic. During the modern period, beginning with 1946, over 5,500 executive agreements have been made by the President and there never has been any judicial decision which held that a single one of these agreements was invalid.

On the other hand, Mr. President, the U.S. Supreme Court has given specific recognition to the conclusion of international agreements by the President without the approval of the Senate on several occasions.

In one of these cases, *United States* v. *Pink*, 315 U.S. 203, 230 (1942), the Supreme Court endorsed a study of executive agreements by the great international law scholar, John Bassett Moore, which enumerated numerous examples of purely executive agreements which Presidents had reached throughout history on a wide range of topics, having far-reaching importance. The Court referred to this listing as correctly describing—

> The historic conception of the powers and responsibilities of the President in the conduct of foreign affairs.

Mr. President, Prof. Myres McDougal, who is likely the prominent contemporary scholar in the field of foreign affairs under the Constitution, wrote to me on January 12 of this year:

> It seems to me that our usage during the past twenty-five years strongly confirms that the President's independent powers over foreign affairs include a competence to make *important* agreements of substantial duration. Certainly, our experience as a nation in an increasingly dangerous world indicates that it is indispensable that he have such a competence. (Emphasis added.)

Mr. President, I wish it to be understood exactly how far the scope of section 8 would reach. If this provision had been in effect during the 1940's, President Roosevelt could not have sent American troops and ships under his own

authority, as he did, to occupy a number of points at military bases granted us on British soil along their possessions in the western Atlantic. In April of 1941, after the German invasion of Denmark, the U.S. Army could not have occupied Greenland under an executive agreement with the local authorities.

Nor, in July of 1941, could U.S. troops have occupied Iceland or, in November, Dutch Guiana under executive agreements with the local authorities. There certainly was no assurance at that time that the Senate would have approved each of these agreements in the form of a treaty and, indeed, I doubt that there was time to argue the case and await senatorial deliberations on which course America should follow.

Mr. President, never in the history of the United States has the Congress passed any statute faintly resembling the restrictions of section 8. The President has always been recognized as possessing the power to send troops and arms to such parts of the world as he determines necessary in the interest of American security. I recognize that there does exist among some, what a former Secretary of State has called "a virus of disbelief in danger and recoil from meeting it" which leads some to believe that our country can cripple its military arm and unilaterally induce a world peace into being. Oddly, it takes a citizen from a totalitarian society to expose the results of this kind of policy.

Alexander Solzhenitsyn wrote the following in his acceptance statement upon his award of the 1970 Nobel Prize for literature:

> The spirit of Munich has by no means retreated into the past: It was not merely a brief episode. I even venture to say that the spirit of Munich prevails in the 20th Century. The timid civilized world has found nothing with which to oppose the onslaught of a sudden revival of barefaced barbarity, other than concessions and smiles. The spirit of Munich is a sickness of the will of successful people; it is the daily condition of those who have given themselves up to the thirst after prosperity at any price, to material well-being as the chief goal of earthly existence. Such people—and there are many in today's world—elect passivity and retreat, just so as their accustomed life might drag on a bit longer, just so as not to step over the threshold of hardship today—and tomorrow you'll see, it will all be all right.

Mr. President, I think that history will show us that the failure to face up always results in evil.

Before I sit down, I want to make perfectly clear that my main quarrel with the proponents of this language and the proponents of other language in the bill is not with their desire. We may find, on study, that there is too much power in the President's hands in today's modern world.

My argument is that it cannot be done legislative-wise. If it is accomplished legislative-wise, it will be doomed to defeat by veto or by being overridden by the court, who could decide against it, because clearly, not in the mind of this layman, but in the opinion of nearly every expert with whom I have discussed the matter, including Secretaries of State and top legal experts from both sides of the aisle, it is unconstitutional.

I hope that the amendment of the Senator from Texas will prevail, and I also hope that amendments that will be offered to strike or to limit language found elsewhere in the bill will likewise succeed.

I thank the distinguished Senator from Texas for yielding me this time.

Mr. TOWER. Mr. President, I yield myself such time as I may require.

I thank my distinguished friend from Arizona, a man who has great insight into matter of this kind.

Mr. President, the current President of the United States is the most diplomatically astute President we have had in modern times. He is sophisticated in international matters. The highest achievements of this administration have been in the field of diplomacy.

Last November, the American people gave his foreign policy an overwhelming stamp of approval. The President was mandated by the people of this country to implement that policy.

Now what we are doing in Congress is trying to inhibit the President in the implementation of that policy. We are, I think, running contrary to the mandate that the overwhelming majority of the American people gave him. Infinite mischief is possible in pursuance of section 8.

The distinguished Senator from Arizona has noted that in a time of tension or in a time of imminent hostilities, the President might be paralyzed when he should be acting.

The Senator from Arizona has documented his case with all the things we could not have done at the beginning of World War II had section 8 been in effect at that time.

These executive agreements do not make policy. They just establish options for the use of military installations or options for placing military installations in various parts of the world. It is up to Congress to exercise the ultimate option, through the process of authorization and appropriation.

Do not hamstring the President by requiring him, every time he wants to get an option on the use of a base somewhere in the world, to conclude a treaty and bring it back here and go through lengthy hearings, which would inevitably become involved in the questions of policy and even face a possible filibuster. This certainly is no way to do business. Heads of state of other countries, when they read section 8, are going to question our capacity to lead.

It seems to me that a number of acts committed by this Congress, not wittingly but actually, are calculated to reduce the ability of the United States to act as the only free superpower in the world in providing the only hope for a world in which people can aspire to self-determination and have some reasonable hope of realizing that aspiration.

So I implore the Senate today to delete section 8. As I have said, these executive agreements do not make policy. Executive agreements do not even make the final determination as to how these installations abroad would be used. That must go through the Committee on Armed Services, action on the Senate floor, the Appropriations Committee, action on the Senate floor, and similar action in the House. So there certainly is a great deal of the congressional decision-making process that goes into the use of these installations.

I hope the Senate today will strike section 8, so that our President will not be further shackled—a man whose achievements in the field of international affairs have been notable, a man whose policies the people of the United States trust, whether some of us in Congress trust them or not. He certainly received a ringing mandate from the general citizenry of this country last year. Now we should let him carry it out.

The PRESIDING OFFICER. Who yields time?

Mr. CHURCH. Mr. President, I yield such additional time to the distinguished Senator from New Jersey as he may require.

Mr. CASE. Mr. President, I have only a couple of things to say. One is the very simple proposition that I just cannot accept the idea that to permit Congress to exercise its constitutional authority in the war-making area is going to weaken this country. There are times when Congress may be more belligerent than the President, as there are times, perhaps, when the President is more belligerent than Congress.

I think the point really is that the Founding Fathers intended—and I think wisely intended—that there should have to be a concurrence between the executive branch and Congress before the military might of the United States moved into action.

This does not trouble me one bit. I do not think foreign countries are going to regard the United States as weak or incapable of leading because we insist on the one essential difference between our form of government and the form of government that applied almost universally up to the time of our Nation: the separation of powers among our three branches of government.

The one thing that the Founding Fathers intended to do—and deliberately intended to do and did, in my opinion—in the Constitution, in respect of the Presidency, was to insure that the royal prerogative to declare war and make war should not be placed in the hands of the President of the United States. They made this very clear. It is perfectly true that on many occasions, Presidents have moved the American military forces around the world. It is perfectly true that Abraham Lincoln, when he was a Member of the House, took one view about the authority of the President in this regard and another view when he became President. This is not strange, and I do not think it is inexplicable. I think the position of Lincoln is a consistent one, if we find the key, and I think the key is this: that the rule ought to be the rule of the Constitution.

Exceptions have to be made by Presidents, and the President has to take the chance that his action in such exceptional circumstances will be ratified, but that does not mean we should change the rules. I think this is the only way we can really work out a relationship be-

tween the President and Congress for working purposes in this area.

It seems to me that when we singled out the establishment and the renewal of military bases abroad as a criterion for determining whether an agreement should be brought to the Senate for advice and consent as a treaty, we did a very right and wise thing. There are other areas, of course, and other kinds of agreements that ought to be considered as treaties; and we expressly say in the legislative history of this provision that by picking out military bases, we do not intend to suggest that this is the only subject on which agreements with foreign countries should be considered as treaties.

This is peculiarly appropriate, it seems to me. It is not intended to damage the President in his action in emergencies. It is intended to prevent him from creating situations in which Congress would be disabled from performing its constitutional responsibility so far as the war-making power is concerned. This seems to me to be clear.

It is almost inconceivable to me that the establishment of a military base would be of such an emergency nature that it ought to be done on very short notice. But if that were so, then the President—any President—would have to take such action as he deemed proper. Of course, we agree with that. And he would take that action. But he would take it on his own risk of being repudiated or supported by the Senate, and it would not be something that in the ordinary course of the exercise of Presidential authority he had the right to do.

Mr. President, I have no more to say at the moment.

Mr. GOLDWATER. Mr. President, will the Senator from Texas yield to me, so that I may reply to the Senator from New Jersey?

Mr. TOWER. I am delighted to yield.

Prior to yielding, I would like to say that Executive agreements are regarded as constitutional. They have been so held by the Supreme Court of the United States, and time and again they have been honored by Congress. So there is nothing unconstitutional about an Executive agreement.

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

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. GOLDWATER. Mr. President, in answer to the distinguished Senator from New Jersey I would like to point out a little history. Under the Continental Congress the power to make war was with the Congress; also the power to declare war. But Washington had such a disastrous, almost totally disastrous experience under congressional meddling near the end of the Revolution that we came very close to losing it. Consequently, when the Founding Fathers met to outline the Constitution they specifically gave to the President the power to make war, under the condition of his being Commander in Chief, and gave the power to declare war to Congress.

Now, declaring war and making war are two different things. We do not have the power to make war in this body. The Constitution never so intended. Oh, yes, we can control it. We could disband the Army, the Navy, the Air Force, the Marines, and so forth; we could cut off funds, as we are attempting to do in a certain instance; we could so promulgate regulations which we are required to prepare that it would make the conduct of war almost impossible. But I point out that this is the basic, fundamental point of disagreement: the Congress of the United States in no way under the Constitution has the power to go to war; only the President can do it.

There is argument as to whether there have been 190 or 200 different instances in the history of this country when the President has called out force, and only five times has Congress declared war—six if one wants to include the Gulf of Tonkin, and I have never looked upon it as such.

The distinguished Senator from New Jersey rightly pointed out what Abraham Lincoln almost did. I might remind my friend that the President can do this: He can put on 5 stars or 10 stars and march forth to battle. I think he would be out of his head if he did so. We nearly had that experience, and thank the Lord we did not.

I am convinced it would be healthy and wise for this argument to be extended, for the people in the media to come to some understanding of it and present to the American people just what it is we are talking about when we talk about the ability, the power to go to war or to declare war. I have argued this point time and time again. I find no disagreement with the commander in chief concept, even among those who feel that Congress does have the right to go to war.

Mr. TOWER. Mr. President, will the Senator yield for a question?

Mr. GOLDWATER. I am happy to yield.

Mr. TOWER. Is not the primary function of the possession of military force to give you the diplomatic bargaining power that you need to bring about agreements among nations?

Mr. GOLDWATER. There never has been a student of warfare in my studies that has not made the basic agreement that the possession of force and the willingness to use force and the recognition of both of these by any potential enemy has kept peace in the world. It is only when we have refused to realize—whether we like it or not, and I do not like it, but I recognize it—that force and the willingness to use it is recognized and respected by enemies. When we steer away from that concept, we get into trouble.

I am convinced we never would have had World War II if the United States had been substantially powerful, which it was not, and had she shown a willingness to use that power. This is the history of war and diplomacy, it is what we talk about when we go to Paris to talk to Hanoi, or when Brezhnev comes here to talk to the President, who has the muscle to make it work.

Mr. TOWER. Mr. President, would not the Senator agree that a shrinking from the use of military power can very often be more dangerous than committing military force? I think particularly of the 1930's, with respect to which the Senator brought up World War II. At that time, France and Great Britain were perfectly capable of keeping Hitler from entering the Rhineland, but they did not, and we had World War II.

Mr. GOLDWATER. I might add, in conclusion, that what bothers me about Congress ever having this power is that Congress is not what we call a continuing body. Ordinarily, we like to think of ourselves as such. But Congress changes every 2 years. Sometimes it changes very radically; so what might be a foreign policy subscribed to by the Senate or the House this year, 2 years from now might not represent that policy at all. But we do have a President elected for 4 years whose foreign policy is constant, and Congress only acts to back him up.

I agree with the Senator from New Jersey as to the right to advise and consent. I think that is proper. I think in most cases we do that. But a time comes at the approach of possible hostilities, such as we witnessed in World War II and, to some extent, in Korea, when prompt Presidential action is needed, while Congress might take weeks or a month to debate whether or not the war was in a strategic location, during which time would be of importance to us, and the whole conflict might be lost.

Mr. TOWER. Mr. President, I yield 5 minutes to the distinguished Senator from New York.

Mr. BUCKLEY. Mr. President, I not only support the amendment, but I ask that my name be added as a cosponsor of it.

I believe the amendment points to the extreme importance of such a proposal. It is one which is needed if we are to obtain the kind of businesslike approach to the implementation of the power of the President, on which the effective discharge of our responsibility depends, as the distinguished Senator from Texas pointed out in his opening statement.

There is nothing in our current procedure which is contrary to the Constitution of the United States, nothing that is derogatory to the full discharge by Congress of its own responsibility.

As the Senator pointed out, in most instances executive agreements are entered into pursuant to negotiation by the President.

Mr. TOWER. Mr. President, will the Senator yield for a moment so I may ask for the yeas and nays?

Mr. BUCKLEY. I yield.

Mr. TOWER. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. GRIFFIN. Mr. President, will the Senator yield to me for a request?

Mr. BUCKLEY. I yield.

Mr. GRIFFIN. Mr. President, I ask unanimous consent that it now be in order to ask for the yeas and nays on my amendment, which will be offered.

The PRESIDING OFFICER. Is there objection? Without objection it is so ordered.

Is there a sufficient second for the yeas and nays?

The yeas and nays were ordered.

Mr. BUCKLEY. Mr. President, the distinguished Senator from Texas has pointed out that, by and large, these

executive agreements are entered into pursuant to treaties that have been given full approval by the Senate and also that the Congress has always had, through the authorization and appropriation mechanism, the power to, in effect, nullify the effectiveness of these agreements by throttling off the flow of the funds required to sustain these bases.

But he also pointed out something that we must constantly remind ourselves of in these days when the spirit of detente has done so much to cloud our vision of the realities of the world in which we live today, and in which we will continue to live until such time as effective mechanisms are agreed to for the containment of aggression and the reduction of armaments; it is a fact that there are times when we must be capable of acting rapidly. There are times when the President must exercise his responsibility as Commander in Chief to establish bases, to mobilize and deploy American forces, in order to prevent the possibility of an outbreak of serious hostilities.

We have seen such power invoked in the case of crises such as the Six-Day War in the Middle East. We will see such occasions in the future.

I believe that if we take the world view—and I submit the United States has no option but to continue to take that world view—we cannot handcuff the President, whoever he may be, we cannot handcuff the Commander in Chief, whoever he may be, by stripping him of the power in the ordinary course of executive business to implement our foreign policy in an effective and flexible manner.

I therefore urge my colleagues to support the amendment.

The PRESIDING OFFICER. Who yields time?

Mr. TOWER. Mr. President, I yield 5 minutes to the distinguished Senator from Maryland (Mr. BEALL).

Mr. BEALL. Mr. President, I rise in support of the amendment offered by the Senator from Texas and agree wholeheartedly with arguments in support of striking section 8 from S. 1428.

Base agreements per se do not commit the United States to station its forces anywhere. It should be further emphasized that even construction of such bases cannot be begun unless or until Congress has authorized that construction and has appropriated funds with which to build. I suggest that this legislative control alone would be sufficient to assure acceptance of any congressional mandate. Without belaboring the issue, it is also a fact that Congress has the additional prerogative of funding, not only construction, but also and most importantly, operation of these bases. Without congressional approval, such military facilities as may be called for in executive agreements cannot be constructed, operated, maintained, or staffed.

In view of these facts, then, I ask my distinguished colleagues whether or not these are effective and constitutionally appointed controls on executive agreements involving military bases abroad. I submit that they are, and that they are not only effective but sufficient, and therefore I strongly question the necessity of instituting superfluous legislation.

I am also sure that my colleagues on the Armed Services and Appropriations Committees could readily demonstrate that these agreements are subject to full congressional scrutiny and that, by means of the actions taken by those committees, Congress does indeed meaningfully and thoroughly participate in the conduct of foreign relations and national security affairs. Section 8 of S. 1248 is not needed for exercising congressional jurisdiction over the military affairs aspects of such agreements.

Moreover, may I remind my colleagues that insofar as a particular base agreement might involve the furnishing of foreign assistance as a quid pro quo, the implementation of such an agreement would not only be dependent upon congressional authorization and appropriation of the construction that might be required, of the equipment to be procured for installation or deployment at the base, plus operation and maintenance costs, but also upon congressional authorization and appropriation of the foreign assistance. Such an agreement would, therefore, be subject to review and control by the Committees on Foreign Affairs, Foreign Relations, the Armed Services Committees of both Houses, and the House and Senate Appropriations Committees.

In summary, then, I reiterate that these agreements do not commit the United States to construct any bases, the United States would not be in default of any international obligation if the Congress rejected the President's request for authorization and funds, and the Congress is in no way obligated to approve these requests. In view of this obvious evidence of congressional prerogative to control the establishment of military bases overseas, it seems to me that the matter of these bases is not the proper vehicle for addressing the balance between the executive and legislative branches, and I would urge my colleagues most earnestly to help defeat inclusion of section 8 in this bill.

I yield back the remainder of my time to the manager of the bill on this side.

The PRESIDING OFFICER. Who yields time?

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

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

Mr. CHURCH. Mr. President, I yield to the distinguished Senator from Virginia (Mr. HARRY F. BYRD, JR.) such time as he may require in opposition to the amendment.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. HARRY F. BYRD, JR. Mr. President, I support the committee's position on this matter. I recognize it is very difficult to delineate as to which agreement should be in the form of a treaty and which could be made appropriately by an executive agreement, but it seems to me there have been too many major matters which have been handled as executive agreements. The Senate has been bypassed too many times, in my judgment, on major matters, and I have particular reference to the agreements which have been made with Spain.

I happen to be a strong supporter of the Spanish bases. I think they are important to us. I think they are important to Free Europe. I think they are important to the North Atlantic Treaty Organization, although Spain is not a member of that organization; but I feel that the agreements with Spain should have been submitted to the Senate in the form of a treaty rather than being put into effect as a result of an executive agreement.

As I read section 8 as it comes from the Foreign Relations Committee, I interpret it to mean that it applies to major military installations. If the language is considered somewhat broad, that could be worked out in conference. But so far as my interpretation is concerned, it applies to major, and is intended to apply to major, installations throughout the world, and major military commitments.

Mr. CHURCH. Mr. President, if the Senator will yield, may I just say to the Senator that his construction of the amendment is correct. That was the intent of the committee in drafting the language, and if it is necessary in conference to perfect the language to make that clear, I am sure such effort would have the full support of the Senate conferees.

Mr. HARRY F. BYRD, JR. Mr. President, I thank the Senator from Idaho.

Mr. President, with that understanding, I feel that this would be an appropriate provision for the Senate to enact. If something similar to this is not agreed to, I think we will continue to find that the Senate's role in foreign policy will be continually diminished.

I am glad today to support the committee's position and to oppose the amendment offered by the distinguished and able Senator from Texas (Mr. TOWER).

Mr. CHURCH. Mr. President, I thank the Senator from Virginia for the remarks he has made in support of the provision in the bill that would be stricken by the adoption of the pending amendment.

Mr. President, I yield myself such time as I may require. I do not intend to be long. Then the Senate can soon come to a vote on this issue.

Mr. President, the issue posed by the amendment of the Senator from Texas (Mr. TOWER) is very simple: "Does the Senate believe that agreements with foreign countries for establishing or continuing U.S. military bases abroad should be subject to approval by the Senate and not arranged solely by appointees in the executive branch?" In recent years the Senate has consistently said "yes" to that question, reaffirming the right of the Senate to participate in the decisionmaking process where major military bases abroad are concerned.

The amendment of the Senator from

Texas would have the Senate reverse that record.

The presence of American troops on foreign soil represents a formidable unwritten commitment by the United States to intervene to protect our men, our facilities, and the interests of the country where they are located.

I find it very difficult to believe that this proposition should not now be evident in light of our ordeal in Southeast Asia, where again and again the presence of American troops and American bases was used by the Executive as an excuse for prolonging our involvement in the war.

The distinguished Senator from Virginia (Mr. HARRY F. BYRD, JR.) referred to the case of Spain. I recall in that connection that General Earle Wheeler, then Chairman of the Joint Chiefs of Staff, assured Spanish officials in 1968 that the presence of American forces on Spanish soil represented a stronger security guarantee than anything written on paper. In effect, he said, it is better than a treaty for us to have the troops on Spanish soil. So I think we ought not to give serious attention to the argument that locating major American bases abroad constitutes no commitment on the part of the United States or is not a policy matter. Several Senators have urged that argument in support of the pending amendment.

Three years ago, by a vote of 70–16, the Senate passed the national commitments resolution which states:

Resolved, That (1) a national commitment for the purpose of this resolution means the use of the Armed Forces of the United States on foreign territory, or a promise to assist a foreign country, government, or people by the use of the Armed Forces or financial resources of the United States, either immediately or upon the happening of certain events, and (2) it is the sense of the Senate that a national commitment by the United States results only from affirmative action taken by the executive and legislative branches of the United States Government by means of a treaty, statute, or concurrent resolution of both Houses of Congress specifically providing for such commitment.

On December 11, 1970, in recognition of the practical validity of General Wheeler's statement with reference to our troops in Spain constituting a de facto commitment on the part of the United States to the defense of Spain, the Senate passed a resolution stating that the Spanish bases agreement was not to be construed as a national commitment to come to Spain's defense. A majority of the members of the Foreign Relations Committee made it clear that, in their opinion, the agreement should have been submitted as a treaty. On March 3, 1972, the Senate passed a resolution, by a vote of 50 to 6, urging that the Azores base agreement be submitted as a treaty. That plea was ignored.

In order to implement on a general basis the principle involved in these resolutions, last year the committee approved a provision, offered by Senator CASE, in both military aid bills which required that future military base agreements, such as those with Spain and Portugal, be submitted to the Senate for approval. No effort was made in the Senate to elimiate this provision from those bills, which is indicative of the strong support in this body for the principle at stake.

Only yesterday the Senate voted to uphold, in the case of the Azores base agreement, the principle involved here. To adopt this amendment would reject a long and undeviating series of votes by the Senate that these matters should be handled as treaties. I hope the Senate is not so inconsistent in its view of its responsibilities as to overturn those many votes.

There is no question that the drafters of the Constitution intended that all major agreements with foreign countries be treaties, subject to Senate approval. They would not have accepted the proposition that the executive branch has the option simply to call an important commitment an executive agreement and put it in effect without the participation of the Senate, where major understandings with foreign nations are concerned. This device of executive agreement, is a way to circumvent the Constitution of the United States, as the distinguished Senator from Virginia has so well pointed out.

Yet, it has become the current practice, increasingly, and it is in direct conflict with the system of checks and balances that the Founding Fathers so carefully wrote into the Constitution. Unless we are willing to insist upon our right to exercise constitutional powers that were vested in this body, then I am afraid that we will see our power continue to slip away.

Certainly there is no other branch of government that is going to undertake the responsibility of preserving the prerogatives of Congress, if Congress itself is unwilling to stand up and insist upon the exercise of its own power.

In recent years the Committee on Foreign Relations has devoted much study to the problem of how to restore Congress and, in particular, the Senate's proper role in the making of foreign policy. The committee believes that this provision, which the Senator from Texas and those who support him would strike from the bill, represents a significant step in the restoration process.

To give Senators some indication of the underlying problem, I point out that last year 282 executive agreements were entered into by the President. Only one of those, the interim arms limitation agreement with the Soviet Union, was submitted to Congress for approval. In that same year only 21 treaties were entered into, as compared to these 282 executive agreements, many of which related to matters of major importance to the United States. Listen to what some of those 21 treaties were all about:

Convention on Taking of Evidence Abroad in Civil or Commercial Matters, signed at The Hague on July 27, 1970.

Partial Revision of the Radio Regulations and Final Protocol, dated at Geneva on July 17, 1971.

Convention Establishing an International Organization of Legal Metrology, signed at Paris on October 12, 1955, as amended.

International Convention on Tonnage Measurement of Ships, signed for the United States at London on June 23, 1969.

Agreement between the Government of the United States of America and the Government of the Federative Republic of Brazil, concerning shrimp, signed at Brasilia on May 9, 1972.

Convention between the Government of the United States of America and the Government of Japan for the Protection of Migratory Birds and Birds in Danger of Extinction, and their Environment, signed at Tokyo on March 4, 1972.

Mr. President, without meaning to denigrate the subject matter of these particular treaties, it is obvious that as compared to major understandings reached between the United States and foreign governments, these treaties are comparatively insignificant. Yet these are the kinds of agreements that are entered into in treaty form and brought to the Senate of the United States for approval, while the major agreements, including the establishment of large American military bases on foreign soil, concerning which the United States might either be drawn into war by virtue of the presence of our troops abroad, or see a war prolonged as we have in the case of Southeast Asia—such agreements are not brought to the Senate at all.

Surely that was not intended by the Founding Fathers. Surely that was not what was meant when it was expressly provided in the Constitution that treaties would be entered into only by and with the advice and consent of the Senate.

So we would hope that the Senate would consider a military base agreement calling for the stationing of thousands of American servicemen on foreign soil as worthy of the Senate's attention as an agreement concerning the tonnage measurement of ships or an understanding with Brazil concerning shrimp.

All this provision requires is that the Senate be allowed to pass on these important agreements which tie us to the interests of foreign countries. Our country should not become entangled in such serious obligations as those incurred through stationing our forces at bases abroad without the approval of the legislative branch, and through it, the American people.

I hope that the amendment will be rejected.

I ask unanimous consent that pertinent information concerning U.S. military bases abroad be printed in the RECORD at this point.

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

U.S. OVERSEAS MILITARY FACILITIES AND BASES

[Supplied by Department of State]

At the end of Fiscal Year 1972, DOD had 1,963 installations and properties being used by the U.S. Forces in the territories, possessions and foreign countries. This number refers to all properties used by the U.S. Forces, including the minor parcels used for air base navigational aids, small areas used for radio relay sites, etc. As such, this total number of properties is not truly a reflection of the installations used by our forces overseas. Also of interest, the total number of installations and properties used by the U.S.

forces overseas has been reduced by over 15 percent during the past several years.

Primary installations used by U.S. Forces in the territories, possessions, and foreign countries number 321, excluding those in Southeast Asia. Of the 321, 25 installations are located in the territories and possessions. These 321 are considered the most important installations used by the U.S. Forces to support overseas missions. A list is attached. This list excludes South Vietnam and Thailand. As of April 1973, there were no U.S. military bases in South Vietnam, and U.S. forces were tenant on seven Thai airbases and one port complex in Thailand. The port complex is at Sattahip; the airbases are at U Tapao, Udorn, Ubon, Takhli, Nakhon Phanom, Nam Phong, and Khorat.

SELECTED MILITARY INSTALLATIONS OR ACTIVITIES OUTSIDE THE 50 STATES

Country and military department	Name of installation	Nearest city or location
Azores: Air Force	Lajes Field	Lajes.
Belgium: Army	Chievres Air Base	Mons.
Bermuda: Navy	Naval Air Station	St. George.
Canada:		
Navy	Naval Facility	Argentia, Newfoundland.
Air Force	Goose Air Base	St. Anthony.
Canal Zone:		
Army	Fort Amador	Balboa.
	Quarry Heights	Do.
	Fort Clayton	Do.
	Fort Kobbe	Do.
	Fort Davis	Cristobal.
	Fort Gulick	Do.
	Fort Sherman	Do.
Navy	Naval Communications Station	Balboa.
	Naval Ship Repair Facility	Panama.
	Naval Station	Rodman.
Air Force	Albrook Air Force Base	Balboa.
	Howard Air Force Base	Do.
Crete: Air Force	Iraklion Air Station	Gournes.
Cuba: Navy	Naval Base Complex	Guantanamo Bay.
Ethiopia: Navy	Communications Station	Asmara.
Germany:		
Army:		
Army training center	Pond Barracks	Amberg.
	South Camp Vilseck	Vilseck.
	East Camp Grafenwoehr	Grafenwoehr.
	Hohenfels Training Complex	Hohenfels.
	Camp Gates	Marktredwitz.
	Camp Pitman	Weiden.
Berlin area	Andrews Barracks	Berlin-Lichterfeld.
	U.S. Army Hospital	Berlin-Steglitz.
	McNair Barracks	Berlin-Lichterfeld.
	Turner Barracks	Berlin.
	U.S. HQ Compound	Berlin-Dahlem.
Bremerhaven area	Bremerhaven Complex	Bremerhaven.
Franconia: Wurzburg area	Emery Barracks	Wurzburg.
	Fraulenberg Kaserne	Do.
	Hindenburg Barracks	Do.
	Leighton Barracks	Do.
Aschaffenburg area	Fiori Barracks	Aschaffenburg.
	Graves Barracks	Do.
	Jaeger Barracks	Do.
	Ready Barracks	Do.
	Smith Barracks	Do.
Kitzingen area	Larson Barracks	Kitzingen.
	Harvey Barracks	Do.
Schweinfurt area	Conn Barracks	Schweinfurt.
	Ledward Barracks	Do.
Wertheim area	Penden Barracks	Wertheim.
Bad Kissingen area	Daley Barracks	Bad Kissingen.
Hesse: Giessen area	Ayers Kaserne	Kirchgoens.
	Schloss Kaserne	Butzbach.
	Ray Barracks	Friedberg.
	Pendleton Barracks	Giessen.
	General Depot	Do.
	Rivers Barracks	Do.
North Baden:		
Heidelberg area	Campbell Barracks	Heidelberg.
	U.S. Army Hospital	Do.
	Patton Barracks	Do.
	Tompkins Barracks	Schwetzingen.
Karlsruhe area	Neureut Kaserne	Neureut.
	Ordnance Depot	Germersheim.
	Rheinland Kaserne	Ettingen.
	Smiley Barracks	Karlsruhe.
Mannheim area	Coleman Barracks	Mannheim.
	Funari Barracks	Do.
	Gendarmerie Kaserne	Do.
	Hammond Barracks	Do.
	Turley Barracks	Do.
	Spinelli Barracks	Do.
	Ordnance Support Depot	Do.
	Sullivan Barracks	Do.
	Taylor Barracks	Do.
Worms area	Taukkuneu Barracks	Worms.
	De La Police Kaserne	Do.
North Bavaria:		
Nuernberg area	U.S. Army Hospital	Nuernberg.
	Merrell Barracks	Do.
	Johnson Barracks	Fuerth.
	Montieth Barracks	Do.
	Darby Kaserne	Do.
	O'Brien Barracks	Schwabach.
	Pinder Barracks	Zirndorf.
Ansbach area	Barton Barracks	Ansbach.
	Bleidorn Kaserne	Do.
	Hindenburg Kaserne	Do.
	EES Depot	Katterbach.
	Storch Barracks	Illesheim.
Hamberg area	Muna Storage Area	Bamberg.
	Warner Barracks I–II–III	Do.
	Harris Barracks	Coburg.
Bayrouth area	Christenen Barracks	Bayreuth.
	Scheem Kaserne	Do.
Erlangen area	Ferris Barracks	Erlangen.
	Herzo Base	Herzogenaurach.
Regensburg area	Pioneer Kaserne	Regensburg.
North Wuerttemberg:		
Stuttgart area	Boeblingen Ordnance Plant	Boeblingen.
	Panzer Kaserne	Do.
	Coffey Barracks	Ludwigsburg.
	Flak Kaserne	Do.
	Valdez Barracks	Do.
	Krabbenloch Kaserno	Do.
	Grenadier Kaserne	Zuffenhausen.
	U.S. Army Hospital	Bad Camistatt.
	Kelley Barracks	Moehringen.
	Ludendroff Kaserne	Kornweastheim.
	Wilkins Barracks	Do.
	Patch Barracks	Vaihingen.
	Robinson Barracks	Stuttgart.
	Wallace and McGee Barracks	Do.
Goeppingen area	Bismark Kaserne	Schwaebisch-Gmuend.
	Hardt Kaserne	Do.
	Equipment Maintenance Plant	Do.
	Cooke Barracks	Goeppingen.
Heilbronn area	Badenerhof Kaserne	Heilbronn.
	Wharton Barracks	Do.
	Ordnance Area	Siegelshach.
Schwaebisch Hall area	Dolan Barracks	Hessental.
	McKee Barracks	Crailsheim.
Palatinate:		
Kaiserslautern area	Ammunition Depot	Kriegsfeld.
	do	Miesau.
	General Depot	Kaiserslautern.
	Kleber Kaserne	Do.
	Equipment Maintenance Center	Do.
	Rhine Ordnance Barracks	Do.
	Panzer Kaserne	Do.
	Daenner Kaserne	Do.
	Kapaun Barracks	Do.
	U.S. Army General Hospital	Landstuhl.
	Medical Depot	Einsiedlerhuf.
	Pulaski Barracks	Do.
Pirmasens area	U.S. Army Hospital	Muenchweiler.
	Ordnance Depot	Dahn.
	General Depot	Pirmasens.
	Husterhoch Kaserne	Do.
	Kruezberg Kaserne	Zweibruecken.
Rhineland:		
Bad Kreuznach area	Des Gouttes Kaserne	Bad Kreuznach.
	U.S. Army Hospital	Do.
	Rose Barracks	Do.
	Anderson Barracks	Dexheim.
	De La Marne Kaserne	Bingen.
Baumholder area	Smith Barracks	Baumholder.
	Faulenberg Kaserne	Do.
	U.S. Army Hospital	Do.
	Stassburg Kaserne	Idar-Oberstein.
	U.S. Army Hospital Neubruecke	Hoppstaedten.
	General Depot	Nahbollenback.
Mainz/Weisbaden area	U.S. Army Airfield	Finthen.
	Lee Barracks	Gonsenheim.
	McCully Barracks	Wackernheim.
	Dragoner Kaserne	Mainz.
	Ordnance Depot	Do.
	Hindenburg Kaserne	Biebrich
	Camp Pieri	Weisbaden.
South Bavaria:		
Augsburg area	Gablinger Kaserne	Augsburg.
	Flak Kaserne	Do.
	Reese Barracks	Do.
	Sheridan Kaserne	Do.
	Troop Housing Area	Memmingen.
Bad Toelz area	Flint Kaserne	Bad Toelz.
Berchtesgaden area	Camp Area Stauggas	Berchtesgaden.
	Strub Kaserne	Do.
Garmisch area	Hawkins Barracks	Oberammergau.
	Sheridan Barracks	Garmisch.
Munich area	Eastman Barracks	Dachau.
	Max II Kaserne	Munich.
	McGraw Kaserne	Do.
	U.S. Army Hospital	Do.
Ulm area	Nelson Barracks	Neu-Ulm.
	Wiley Barracks	Do.
Taunus:		
Frankfurt	Drake Barracks	Frankfurt.
	Gibbs Barracks	Do.
	Gutieut Barracks	Do.
	U.S. Army Hospital	Do.
	I. G. Farben Complex	Do.
	McNair Barracks	Frankfurt-Hoech.
	Michael Barracks	Do.
	Ordnance Facilities	Roedelheim.
	Camp King	Oberursel.
Darmstadt	Cambral Fritsch Kaserne	Darmstadt.
	Ernst Ludwig Kaserne	Do.
	Hale Area	Do.
	Kelley Barracks	Do.
	Kaserne Babenhausen	Babenhausen.
	Ordnance Plant	Ober-Ramstad.
	Ammunition Depot	Muenster.
Volksberg:		
Hanau	Armstrong Barracks	Buedingen.
	Coleman Barracks	Gelnhausen.
	Grossauheim Kaserne	Grossauheim.

Country and military department	Name of installation	Nearest city or location
	Argonner Kaserne	Do.
	Francois Kaserne	Hanau.
	Hessen Homburg Barracks	Do.
	Hutier Barracks	Do.
	Pioneer Kaserne	Do.
	Wolfgang Kaserne	Do.
	Yorkhof Kaserne	Do.
	Fliegerhorst Kaserne	Do.
Fulda	Camp Wildflecken	Wildflecken.
	Downs Barracks	Fulda.
	McPhesters Barracks	Bad Hersfeld.
Air Force (10)	Bitburg Air Base	Bitburg.
	Echterdingen Air Base	Stuttgart.
	Hahn Air Base	Hahn.
	Lindsey Air Station	Weisbaden.
	Weisbaden Air Base	Do.
	Ramstein Air Base	Landstuhl.
	Rhein Main Air Base	Frankfurt.
	Spangdahlem Air Base	Spangdahlem.
	Tempelhoff Airport	Berlin.
	Zweibrucken Air Base	Zweibrucken.
Greece (2):		
Navy (1)	Naval Communications Station	Nea Makri.
Air Force (1)	Athenai Airport	Athenai.
Greenland (1): Air Force	Sondrestrom Air Base	Holsteinberg.
	Thule Air Base	Thule.
Iceland (1): Navy	Naval Station	Keflavik.
Italy (7):		
Army (2)	Camp Ederle	Vincenza.
	Camp Darby	Livorna.
Navy (4)	Naval Air Facility	Sigonella, Sicily.
	Naval Hospital	Naples.
	Naval Support Activity	Do.
	Naval Air Facility	Do.
Air Force (1)	Aviano Air Base	Roveredo In Piano.
Japan (31):		
Army (19)	Camp Asaka	Asaka.
	Camp Zama	Sagamihara.
	Camp Fuchinobe	Do.
	Sagami General Depot	Do.
	Akizuki Ammunition Depot	Eta Jima.
	Hiro Ammunition Depot	Hiro-Machi.
	Tama Ammunition Depot	Tokyo.
	U.S. Army Depot	Tokorozawa.
	Yamada Ammunition Storage Annex	Kokora-Shi.
	Camp Kue	Koza, Okinawa.
	Camp Sukiran	Do.
	Camp Sausone	Do.
	Chibana Ordnance Ammunition Depot	Koza City, Okinawa.
	Site Hanza	Naha, Okinawa.
	Machinato Area	Do.
	Naha POL Facilities	Do.
	Port	Do.
	Futema Annex	Do.
	Ordnance Ammunition Depot	Henoro, Okinawa.
Navy (7)	Marine Corps Air Station	Iwakuni.
	Naval Fleet Activity	Sasebo.
	Naval Fleet Activity Complex	Yokosuka.
	Ikego Ammunition Depot	Zushi City.
	Oppama Ammunition Area	Kanagawa-Ken.
	Marine Corps Air Facility	Futema, Okinawa.
	Marine Corps Camp Butler	Tengan, Okinawa.
Air Force (5)	Fuchu Air Station	Tokyo.
	Misawa Air Station	Missawa.
	Yokota Air Base	Fussa-Machi.
	Kadena Air Base	Koza, Okinawa.
	Naha Air Station	Naha, Okinawa.
Korea (30):		
Army (28)	Camp Ames	Taejon.
	Camp Carroll	Waegwan.
	Taegu POL Facility	Do.
	Camp Casey	Tongduchon-Ni.
	Camp Hovey	Do.
	Camp Henry	Taegu.
	Camp Walker	Taego City.
	Camp Howard	Song Hwan Myon
	Camp Howze	Kumchon-Ni.
	Camp Humphreys	Pyong Tack.
	Camp Jerome E. Sears	Uijong-Bu.
	Camp Red Cloud	Do.
	Camp Stanley	Do.
	Tobong-San Ammunition Center	Do.
	Camp Long	Won Ju City.
	Camp Randall E. Coiner	Seoul.
	Camp William H. Colbern	Do.
	Yongsan Reservation	Do.
	Yongsan South	Do.
	Camp Tyler	Bupyong.
	Grant	Do.
	Hayes	Do.
	Hialeah	Pusan.
	Supply Point 48	Do.
	Pohang POL Depot	Pohang.
	SASP II	Anyang-Up.
	Wolmi-Do	Inchon.
	Yuma	Do.
Air Force (2)	Kunsan Air Base	Kunsan.
	Osan Air Base	Song Tan.
Marianas (8):		
Navy (7)	Naval Magazine	Guam.
	Naval Station	Do.
	Naval Supply Depot	Do.
	Naval Air Station	Agana.
	Naval Hospital	Do.
	Naval Ship Repair Facility	Do.
	Naval Communications Station	Fiuegeyan.
Air Force (1)	Andersen Air Force Base	Agana.
Midway (1): Navy	Naval Station	Midway.
Morocco (2): Navy	Naval Communications Station	Sidi Yahia.
	Naval Activity	Kenitra.
Netherlands (1): Air Force	Soesterberg Air Base	Soesterberg.
Philippines (6):		
Navy (5)	Naval Communications Station	San Miguel.
	Naval Air Station	Cubi Point.
	Naval Station	Subic Bay.
	Naval Supply Depot	Do.
	Naval Ship Repair Facility	Do.
Air Force (1)	Clark Air Base	Angeles.
Puerto Rico (3):		
Navy (2)	Naval Communications Station	San Juan.
	Naval Station	Roosevelt Roads.
Air Force (1)	Ramey Air Base	Aguadilla.
Spain (5):		
Navy (3)	Naval Station	Rota.
	Naval Communications Station	Do.
	Nava Fuel Depot	Do.
Air Force (2)	Torrejon Air Base	Torrejon De Ardoz.
	Zaragoza Air Base	Zaragoza.
Taiwan (3):		
Navy (1)	Naval Support Activity	Taipei.
Air Force (2)	Ching Chuan Kang Air Base	Pu Tzu Chien.
	Taipei Air Station	Taipei.
Turkey (3): Air Force	Incirlick Air Base	Incirlick.
	Karamursel Communications Station	Karamursel.
	Ankara Air Station	Ankara.
United Kingdom (10): Navy (4).	Naval Support Activity	London.
	Naval Communications Station	Londonderry, Ireland
	Communications Station	Edzell, Scotland.
	Naval Activity	Greenock, Scotland.
Air Force (6)	RAF Alconbury	Alconbury.
	RAF Bentwaters	Woodbridge.
	RAF Woodbridge	Do.
	RAF Lakenheath	Lakenhealth.
	RAF Mildenhall	Mildenhall.
	RAF Upper Heyford	Upper Heyford.
Wake Island (1): Air Force	Air Facility	Wake Island.

Note: Total, 321—Army, 233; Navy, 45; Air Force, 43.

TABLE 6.—*Department of Defense Fiscal Year 1973 Estimated Annual Operating Costs of Maintaining U.S. Military Forces in Foreign Countries and Areas*

	Millions
South Vietnam	$583
Thailand	731
Japan	446
Philippines	287
Ryukyu Islands	455
Korea	626
Taiwan	134
Forces Afloat-West Pacific	359
Forces Afloat-Western Europe	218
Belgium	25
Cyprus	2
France	1
Germany	2,740
Greece	43
Greenland	6
Iceland	39
Italy	141
Netherlands	22
Portugal (including Azores)	30
Spain	128
Turkey	$90
United Kingdom	276
Forces Afloat-Near East/South Asia	8
Ethiopia	14
Iran	7
Saudi Arabia	2
Forces Afloat-Other Pacific	74
Australia	9
New Zealand	1
Forces Afloat-South America	1
Brazil	2
Canada	32
Other	121
Total	7,653

NOTES

Excludes U.S. territories and special locations, i.e., Alaska, Hawaii, Guam, Canal Zone, Cuba, Puerto Rico, etc.

Department of Defense accounting records are not maintained to reflect total U.S. costs on an area basis. Operating costs for fiscal year 1972, therefore, were estimated by using appropriate factors. Included are the costs of all military and civilian personnel located overseas and the cost of operating and maintaining facilities overseas. These estimates do not include indirect logistic and administrative costs for support from outside of the country, nor do they include major procurement or military construction costs.

Includes estimates for Jan. 1, 1973 pay raise.

(Tables 7 and 8 are classified and in the committee files.)

The PRESIDING OFFICER. Who yields time?

Mr. TOWER. Mr. President, I am prepared to yield back the remainder of my time, but I would simply like to point out that an executive agrecment giving us the option to have a military installation in a foreign country is not an authorization for stationing anyone abroad. Not one member of the armed services of the United States is stationed abroad unless it has been authorized that he be there and the money for that purpose

appropriated by the Congress of the United States.

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

Mr. CHURCH. Mr. President, I am prepared to yield back the remainder of my time also, except to say to the Senator from Texas in response to his final remark that I think he knows, and experience has borne out, that once the President of the United States enters into an executive agreement committing the United States to the establishment of a military base on foreign soil, we are then told in Congress that we are obligated by virtue of that agreement to furnish the money necessary to keep the commitment. Therefore, I reject the argument of the Senator from Texas, and I yield back the remainder of my time.

The PRESIDING OFFICER (Mr. ABOUREZK). All remaining time having been yielded back——

Mr. TOWER. Mr. President, I have not yielded back my time yet.

Mr. CHURCH. Then I withhold yielding back my time, Mr. President.

Mr. TOWER. I would observe, Mr. President, that maintaining a military installation abroad is something we do as a concomitant of our agreements with other countries such as the North Atlantic Treaty Organization and SEATO. If there are those in this body who would wish to renege on our treaty commitments and withdraw the American presence in this world, let us propose that right here in the Senate and deal with the idea on its merits, and not try the back door approach of trying to hamstring the administration and the armed services in maintaining military bases abroad to contribute not only to the defense of our friends, but to the defense of the United States as well.

It is an eternal verity that it is incumbent upon a nation to maintain its defense perimeter as far from its own shores as possible and as close to any potential enemy's shore as possible.

That is what we do with our bases. We are serving the defense of the United States.

Mr. CHURCH. Mr. President, just one final remark. It is quite wrong, and related in no way to the facts of the case, to suggest that this provision in the bill is a backhanded way to undercut commitments that the United States has made by way of treaty. We have many bases, sadly, on foreign soil unconnected with any treaty. The Spanish base is a good example. We have no treaty by which the United States undertakes to defend Spain. We are told by the State Department that there is no commitment at all on our part to defend Spain, but we have major bases in Spain which were put there by executive agreements, and we have the authority of no less a personage than General Wheeler, when Chairman of the Joint Chiefs of Staff, to the effect that the agreement stationing troops in Spain was a better and more reliable commitment to the defense of Spain than any formal treaty we could enter into.

So I say let us get back to the Constitution, and insist that executive agreements of such major importance as those which establish American military bases on foreign soil be brought in treaty form to the Senate for ratification.

I hope that the amendment will be rejected.

OVERSEAS BASE AGREEMENTS

Mr. DOLE. Mr. President, I wish to discuss a matter which is of serious concern to me and which if the basic issues are understood and their underlying connotations recognized, should equally disturb anyone who is concerned with the conduct of our foreign and national defense policies. I am referring to the section of S. 1248 which stipulates that no overseas base agreements may be made without the prior consent of the Senate.

The central premise of section 8, which contains this restrictive provision, is that the constitutionally mandated balance between the Congress and the President has been eroded by Presidential usurpation, that Congress does not currently play any meaningful role with respect to such agreements, and that "forceful action" is required to restore congressional prerogatives.

It is my firm belief that advocates of this view are mistaken. I am convinced, Mr. President, that, regarding this particular matter, the congressional "issue" is completely groundless. There is no constitutional confrontation between the Congress and the executive branch, because Congress already plays a meaningful role concerning such executive agreements. If my colleagues were to review the issue thoroughly, they would recognize their current participation and thereby recognize the empty controversy surrounding section 8.

These executive agreements are already subjected to intense congressional scrutiny. Between 1946 and 1972, of the 5,590 executive agreements concluded, only 64 were concluded solely on the basis of the President's constitutional authority, and further, only a small percentage of that number related to national security matters. As a case in point, Congress has to provide authorization for executive agreements concerning foreign aid for such agreements obligate the United States only to the extent that Congress authorizes and appropriates funds for these purposes. I would remind my colleagues that insofar as agreements involving executive branch commitments for future year funds are concerned, they are routinely and expressly conditioned upon the continued existence of congressional appropriations. I stress here, too, that Congress is in no way committed to provide these funds.

The point I am trying to make, Mr. President, is that with respect to agreements for military bases overseas, the Congress plays no less significant a role than it does in the case of foreign aid. These base agreements do not require the United States to maintain its troops abroad or even to utilize a particular facility. They are merely options for the use of real estate, implementation of which depends wholly upon congressional sanction.

I hope this discussion has been helpful in putting this argument into perspective and the Senate will realize, with respect to military base agreements, the prerogatives of the legislative branch have neither been violated nor abused or are they threatened with violation and abuse, I would urge support of an amendment striking section 8 from S. 1248.

Mr. TOWER. I yield back the balance of my time.

The PRESIDING OFFICER. All time having been yielded back——

Mr. TOWER. Mr. President, I wonder whether we could withhold that and let me suggest the absence of a quorum with the time to be charged equally against both sides.

The PRESIDING OFFICER. The Senator may do that, even though all time has been yielded back.

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

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

The question is on agreeing to the amendment of the Senator from Texas (Mr. TOWER).

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 Arkansas (Mr. FULBRIGHT), the Senator from Indiana (Mr. HARTKE), the Senator from Louisiana (Mr. JOHNSTON), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Rhode Island (Mr. PASTORE), and the Senator from Alabama (Mr. SPARKMAN) are necessarily absent.

I further announce that the Senator from Wyoming (Mr. MCGEE) 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 Rhode Island (Mr. PASTORE), and the Senator from Arkansas (Mr. FULBRIGHT) would each vote "nay."

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. BELLMON), the Senator from Kentucky (Mr. COOK), the Senator from Oregon (Mr. HATFIELD), and the Senator from Ohio (Mr. SAXBE) are necessarily absent.

The Senator from New Hampshire (Mr. COTTON) is absent because of illness in his family.

The Senator from Ohio (Mr. TAFT) is absent on official committee business.

The result was announced—yeas 28, nays 58, as follows:

[No. 197 Leg.]

YEAS—28

Aiken	Domenici	McClure
Allen	Dominick	Scott, Pa.
Baker	Fannin	Scott, Va.
Bartlett	Fong	Stafford
Beall	Goldwater	Stevens
Bennett	Griffin	Thurmond
Brock	Gurney	Tower
Buckley	Hansen	Young
Curtis	Helms	
Dole	Hruska	

NAYS—58

Abourezk	Hart	Moss
Bayh	Haskell	Muskie
Bentsen	Hathaway	Nelson
Bible	Hollings	Nunn
Biden	Huddleston	Packwood
Brooke	Hughes	Pearson
Burdick	Humphrey	Pell
Byrd, Harry F., Jr.	Inouye	Percy
	Jackson	Proxmire
Byrd, Robert C.	Javits	Randolph
Cannon	Kennedy	Ribicoff
Case	Long	Roth
Chiles	Magnuson	Schweiker
Church	Mansfield	Stevenson
Clark	Mathias	Symington
Cranston	McClellan	Talmadge
Eagleton	McGovern	Tunney
Eastland	Metcalf	Weicker
Ervin	Mondale	Williams
Gravel	Montoya	

NOT VOTING—14

Bellmon	Hatfield	Saxbe
Cook	Johnston	Sparkman
Cotton	McGee	Stennis
Fulbright	McIntyre	Taft
Hartke	Pastore	

So Mr. TOWER's amendment was rejected.

Mr. CHURCH. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. CASE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MESSAGES FROM PRESIDENT

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

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer (Mr. BARTLETT) 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. Hackney, one of its reading clerks, announced that the House had passed a bill (H.R. 8410) to continue the existing temporary increase in the public debt limit through November 30, 1973, and for other purposes, in which it requested the concurrence of the Senate.

ENROLLED BILL SIGNED

The message also announced that the Speaker had affixed his signature to the enrolled bill (H.R. 4682) to provide for the immediate disposal of certain abaca and sisal cordage fiber now held in the national stockpile.

The enrolled bill was subsequently signed by the President pro tempore.

HOUSE BILL REFERRED

The bill (H.R. 8410) to continue the existing temporary increase in the public debt limit through November 30, 1973, and for other purposes, was read twice by its title and referred to the Committee on Finance.

DEPARTMENT OF STATE APPROPRIATIONS AUTHORIZATION ACT OF 1973

The Senate continued with the consideration of the bill (S. 1248) to authorize appropriations for the Department of State, and for other purposes.

Mr. GRIFFIN. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER (Mr. BARTLETT). The amendment will be stated.

The assistant legislative clerk read as follows:

On page 8, strike everything beginning with line 22 up to and including line 6 on page 10. (Sec. 11 of the Bill), and renumber the succeeding sections accordingly.

The PRESIDING OFFICER. Is this the amendment of the Senator from Michigan on which there is 1 hour?

Mr. GRIFFIN. It is.

The PRESIDING OFFICER. Who yields time?

Mr. GRIFFIN. Mr. President, I yield myself such time as I may require.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. GRIFFIN. Mr. President, I invite the attention of the Senate to the provisions of sections 11 of the bill, beginning at the bottom of page 8, and running over to page 9. This language was inserted in the committee and it represents, I suggest, a very drastic and inappropriate approach to the problem of executive privilege. I question whether this should be adopted in a cavalier manner, as it would be in the absence of my motion to strike and some debate on it.

Mr. President, this provision should be carefully examined because it raises constitutional questions which are troubling. It raises serious questions about the appropriations process that should be of particular concern to the members of the Committee on Appropriations.

I understand that under the circumstances which prevail there is considerable temptation for Senators to try to think up imaginative ways to subject the executive branch to the will of Congress. As much as many of my colleagues, I share the feeling that a better balance between the two branches is needed, particularly in the field of foreign relations.

Mr. CHURCH. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. The Senate will be in order.

Mr. GRIFFIN. Mr. President, as much as anyone else in this body, I reject the assertions made earlier this year by a former Attorney General concerning the extent and scope of executive privilege, but the answer to what we may regard as errors on the part of the other branch is no reason for us to commit a serious error ourselves. We should have careful and responsible deliberations on the issue of executive privilege.

Mr. President, the existing law provides that with respect to foreign aid, information of the types referred to in section 11 shall be provided to the Congress, unless the President certifies in writing that there is reason not to provide such information and sets forth his reasons for not furnishing the information.

To be sure, perhaps it is possible and constitutional to go further than that, but I do not believe we should legislate in the manner provided and prescribed in section 11 without careful consideration. To me this clearly precipitates a constitutional confrontation between the executive and the legislative branch, and I do not believe on very sound and reasonable grounds. I believe it would be well to remind ourselves at this point that the Founding Fathers established the executive branch and the legislative branch as two separate and coequal branches. The Constitution does not specify one branch shall be subordinate to others, but this legislation, as spelled out in section 11, purports, in effect, to subordinate the executive branch of government.

I think it goes too far. I think we would lose in this constitutional confrontation and even more serious is the fact that we would be doing violence to the appropriations process.

Members of the Senate should take a good look at the language of this sentence. It states that if any committee of Congress having jurisdiction over the Department of State, the USIA, the Agency for International Development, the U.S. Arms Control and Disarmament Agency, ACTION, or the Overseas Private Investment Corporation makes a request for any document, and requested information is not furnished within 35 days, funds of that agency are automatically cut off.

It is a very novel and interesting way to approach the problem but it certainly does undercut the appropriations process. It means that a majority of those on the Committee on Foreign Relations, whenever they are in disagreement with appropriations for one of these agencies, could conceivably direct an inappropriate request for information to the agency, and if it were not provided in 35 days, funds for that agency would be cut off. It seems to me this is overkill of the worst kind in the matter of dealing with executive privilege. It also would place in the hands of some bureaucrat in the agency who might be neglectful the responsibility for having funds for the organization cutoff.

The only exception in section 11 is provided for beginning on line 17 of page 9 relating to a communication directed by the President himself to a particular office or employee of such department. That, in effect, recognizes there is some executive privilege, but it attempts to limit it to a communication in which the President himself is a party.

I do not know. There are some Members of the Senate who might not agree to that definition of executive privilege, but I think we are taking a broad and important step when we seek in legislation of this kind to define the scope of executive privilege.

In 1948, President Truman directed that security and loyalty information

could not be made available to persons outside the executive branch. President Eisenhower directed the nondisclosure of information, conversations, or communications between high U.S. and foreign officials, the disclosure of which would adversely affect the willingness of foreign officials to engage in the exchange of views.

I am not at all sure that communications and information of that kind are not properly a matter of executive privilege, even though it does not involve a communication by the President himself. Yet, by adopting this section, he would set up a situation where the funds of an agency automatically would be cut off if within 35 days any information of any kind were not furnished.

I realize the frustration of Members of the Senate who want to do something about the situation that now exists. But I remind them there are three subcommittees of the Senate which at the present time are holding hearings on the subject of executive privilege, and seeking to develop legislation of a broad and general nature which would define the extent of executive privilege. As I understand it there is a subcommittee headed by the Senator from Massachusetts (Mr. KENNEDY), another subcommittee headed by the Senator from North Carolina (Mr. ERVIN), and a subcommittee chaired by our colleague from Maine (Mr. MUSKIE); and that on the 26th of this month these three subcommittees will hear testimony by Attorney General Richardson on this matter of executive privilege. These committees are deliberating with a view of developing legislation in a responsible way on the scope of executive privilege. I think they are going about it in the right way.

For the Committee on Foreign Relations to write language of this kind in a bill, and have it sail through with most Senators not knowing it is in the bill, is the wrong way to deal with a most serious and basic constitutional issue. Realizing the responsibility that is ours, I hope the Senate will support this amendment and strike the language from the bill.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. CHURCH. Mr. President, I yield myself such time as I may require.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. CHURCH. Mr. President, first of all I wish to commend the distinguished Senator from Michigan for the restrained and well-reasoned manner in which he presented the case in opposition to this provision in the pending bill. I would, however, hasten to say that the committee did not insert this provision in the bill hastily or without having given the matter careful consideration.

Indeed, it is only after a long series of what can only be regarded as provocations, the refusal on the part of agencies over which the committee has jurisdiction to furnish the committee information that it felt indispensable if it was to discharge its responsibility, that we finally came to the action that is represented by section 11 of the bill, which appears in the text of the bill under the caption, "Access to Information."

First of all, let me point out that the committee does not attempt to settle this general question for the whole of the Congress. This provision is limited simply to agencies over which the committee itself exercises jurisdiction. The committee seeks to solve its problem within the scope of the committee's own responsibilities, and goes no further.

If the amendment offered by the Senator from Michigan were to be adopted, it would strike the whole section that appears under the caption, "Access to Information," and it would thus leave the Foreign Relations Committee in the same untenable position it is in now concerning access to material in the hands of the executive branch.

All that we seek is the necessary information that we feel we must have in order to legislate, in order to bring to the Senate recommendations that we feel are worthy of the confidence of this body as a whole.

There is no new or novel policy consideration here. Congress in the past, specifically when it established the General Accounting Office, sought to give that office, as an arm of the Congress, authority to secure from the other, the executive branch of Government the necessary and relevant information that it needed. The provision of the law as it relates to the basic authority of the GAO to access to records in government agencies is contained in section 313 of the Budget and Accounting Act of 1921, and it reads as follows:

> All departments and establishments shall furnish to the Comptroller General such information regarding the powers, duties, activities, organization, financial transactions, and methods of business of their respective offices as he may from time to time require of them, and the Comptroller General or any of his assistants or employees, when duly authorized by him, shall for the purpose of securing such information have access to and the authority to examine any books, documents, papers, or records of any such department or establishment.

What we sought to do for the General Accounting Office, we ought to at least do for ourselves. Yet the GAO tells us in this report that it cannot get the information, despite this provision of the law; and the weakness in the existing law is that there is no penalty, there is no way to enforce the provision, against the executive agencies of Government which simply refuse to divulge the information requested.

The same is true of the Foreign Relations Committee. The same is true of any other committee of the Senate or of the House of Representatives. The same is true of the entire Congress. We cannot get the information we want if the executive decides not to give it to us. And we are a long, long way from exactly defining the extent and scope of "executive privilege."

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

Mr. CHURCH. Yes, I am happy to yield to the distinguished Senator from Minnesota.

Mr. HUMPHREY. I just want to add to what the distinguished Senator from Idaho is saying so appropriately here on this matter that not only is he correct in terms of the inability of the committee, in this instance the Foreign Relations Committee, to receive certain documents and information it requests in its legitimate function as a legislative committee, but under the Reorganization Act of 1970, which requires the Comptroller General, the Director of the Office of Budget and Management, and the Secretary of the Treasury to get together in terms of providing a system of information gathering, collection of that information, collating of the information, indexing, and the computerizing of that information, the executive branch has not been willing to agree with the Comptroller General to accomplish this purpose. In fact, 39 U.S. Senators have signed a letter relating to this matter, asking the Office of Management and Budget to perform the duties under the law of 1970.

I only add this as an extra element of the refusal of cooperation on the part of executive officers.

Mr. GRIFFIN. Mr. President, will the Senator yield to me for a brief comment?

Mr. CHURCH. On the Senator's time.

Mr. GRIFFIN. On my time.

I agree with the Senator that there is a need for some action to be taken. But I should like to have Senators look at what we are doing in this section and consider whether it is an appropriate way for us to deal with the problem.

Mr. HUMPHREY. Mr. President, if the Senator will permit this one other observation: This part, as the Senator from Michigan knows—he is a member of the Committee on Foreign Relations—was a matter of long discussion, not only one time, but months back. Really, it is a result of experience—a frustrating experience.

I think this is the only way we can get at it. It is not a question of getting even; it is a question of whether the committee will get the information it needs, because time after time the committee has been told that we do not understand the facts; time after time we have been told that we do not understand what this is all about.

This attitude is characteristic not only of this administration; it has been characteristic over a few years for certain departments of the Government who have a lack of faith in the legislative branch, and are unwilling to share and unwilling to cooperate.

Mr. CHURCH. I thank the Senator from Minnesota very much, because his remarks have been most helpful.

Under the provision adopted by the committee, without any opposition, as I recall, an appropriate congressional committee or the General Accounting Office could ask for documents or materials from the foreign affairs agencies, and if the material requested were not finished within 35 days, funds for the agency would be cut off. Under this provision, the President can still refuse to provide the document requested, but only within proper constitutional limits, which we undertake to spell out within the language of the section itself.

As it is now, the President can say, "No," and that is that.

Twice within the last 2 years the President has refused requests for information by the Committee on Foreign Relations by claiming "executive privilege," a claim without any constitutional foundation. The committee did not ask for private communications between the President and his officials or for potentially embarrassing material that would be made public. The committee asked, in the first case, for the Pentagon's 5-year plans for the foreign military aid program so that it could appraise foreign aid requests in a long-range context. The President denied the information to the committee, saying:

The President has the responsibility not to make available any information and material which would impair the orderly function of the executive branch of the Government.

Mr. President, I am sure that the people in the White House consider that the Ervin committee impairs the "orderly function of the executive branch." Do Senators think that is a justification for calling off the investigation?

In the second instance, the committee asked for the USIA's country program memoranda, which the USIA said were designed to show how the USIA's operations in a country were integrated with overall U.S. objectives—in other words how the USIA fitted into overall U.S. policy picture. The President claimed "executive privilege" again on the grounds that to release the country program memoranda would "impair the orderly function of the executive branch." I ask unanimous consent that the texts of both of those decisions, as well as information concerning problems the General Accounting Office has encountered in this area, be printed in the RECORD after my remarks.

The PRESIDING OFFICER (Mr. BARTLETT). Without objection, it is so ordered.

(See exhibit 1.)

Mr. CHURCH. Mr. President, can any Member of this body justify denying this type of material to Congress?

Under the present situation Congress gets its information from executive branch agencies at the sufference of the President. If he chooses to say that a document Congress has asked for is an "internal working paper," that is that. The legislative branch now allows the executive branch to write the rules—and enforce them also—on what information Congress can and cannot obtain in the course of carrying out its responsibilities. That is ridiculous. The President can, if he chooses, greatly handicap any congressional investigation of an executive branch agency simply by claiming executive privilege on any documents requested.

All of the arguments raised by the executive branch on issues of this sort have the underlying assumption that Congress is irresponsible and cannot be trusted with information. I not only resent that assumption, but I also reject it. There are far more self-serving leaks out of the executive branch in a day than there are out of Congress in a month. If one wants proof of that, all he has to do is read the papers.

At last there are signs of life in this body. I think we are making a beginning. We are beginning to act like Senators again. And that is the reason that the committee has inserted this provision in the pending bill. It is but another step toward restoring the integrity of the Congress as a coequal branch of the Government of the United States under the Constitution.

For these reasons, Mr. President, I do hope that the Senate will reject the amendment offered by the Senator from Michigan (Mr. GRIFFIN).

Mr. President, I reserve the remainder of my time, if I have any.

EXHIBIT 1

THE WHITE HOUSE,
Washington, March 15, 1972.

MEMORANDUM FOR THE SECRETARY OF STATE, THE DIRECTOR, U.S. INFORMATION AGENCY

As you know, by a memorandum of August 30, 1971 to the Secretary of State and the Secretary of Defense, I directed "not to make available to the Congress any internal working documents which would disclose tentative planning data on future years of the military assistance program which are not approved Executive Branch positions." In that memorandum, I fully explained why I considered that the disclosure of such internal working papers to the Congress would not be in the public interest.

I have now been informed that the Senate Foreign Relations Committee and the House Foreign Operations and Government Information Subcommittee have requested basic planning documents submitted by the country field teams to the United States Information Agency and the Agency for International Development, and other similar papers. These documents include all USIA Country Program Memoranda and the AID fiscal year 1973 Country Field Submission for Cambodia, which are prepared in the field for the benefit of the agencies and the Department of State and contain recommendations for the future.

Due to these new requests for documents of a similar nature to those covered by my August 30, 1971 directive, I hereby reiterate the position of this Administration so that there can be no misunderstanding on this point.

My memorandum for the Heads of Executive Departments and Agencies, dated March 24, 1969, set forth our basic policy which is to comply to the fullest extent possible with Congressional requests for information. In pursuance of this policy, the Executive Departments and Agencies have provided to the Congress an unprecedented volume of information. In addition, Administration witnesses have appeared almost continuously before appropriate Committees of the Congress to present pertinent facts and information to satisfy Congressional needs in its oversight function and to present the views of the Administration on proposed legislation.

The precedents on separation of powers established by my predecessors from first to last clearly demonstrate, however, that the President has the responsibility not to make available any information and material which would impair the orderly function of the Executive Branch of Government, since to do so would not be in the public interest. As indicated in my memorandum of March 24, 1969, this Administration will invoke Executive Privilege to withhold information only in the most compelling circumstances and only after a rigorous inquiry into the actual need for its exercise.

In accordance with the procedures established in my memorandum of March 24, 1969, I have conducted an inquiry with regard to the Congressional requests brought to my attention in this instance. The basic planning data and the various internal staff papers requested by the Senate Foreign Relations Committee and the House Foreign Operations and Government Information Subcommittee do not, insofar as they deal with future years, reflect any approved program of this Administration, but only proposals that are under consideration. Furthermore, the basic planning data requested reflect only tentative intermediate staff level thinking, which is but one step in the process of preparing recommendations to the Department heads, and thereafter to me.

I repeat my deep concern, shared by my predecessors, that unless privacy of preliminary exchange of views between personnel of the Executive Branch can be maintained, the full frank and healthy expression of opinion which is essential for the successful administration of Government would be muted.

Due to these facts and considerations, it is my determination that these documents fall within the conceptual scope of my directive of August 30, 1971 and that their disclosure to the Congress would also, as in that instance, not be in the public interest.

I, therefore, direct you not to make available to the Congress any internal working documents concerning the foreign assistance program or international information activities, which would disclose tentative planning data, such as is found in the Country Program Memoranda and the Country Field Submissions, and which are not approved positions.

I have again noted that you and your respective Department and Agency have already provided much information and have offered to provide additional information including planning material and factors relating to our foreign assistance programs and international information activities. In implementing my general policy to provide the fullest possible information to the Congress, I will expect you and the other Heads of Departments and Agencies to continue to make available to the Congress all information relating to the foreign assistance program and international information activities not inconsistent with this directive.

RICHARD NIXON.

COMPTROLLER GENERAL OF THE UNITED STATES,
Washington, D.C., March 20, 1972.

Hon J. W. FULBRIGHT,
Chairman, Committee on Foreign Relations, U.S. Senate.

DEAR MR. CHAIRMAN: We have your letter of March 17, 1972, requesting our views by March 20 as to how the President's memorandum of March 15, 1972, to the Secretary of State and the Director, United States Information Agency, may affect the General Accounting Office's capacity to carry out its responsibilities to the Congress for investigations involving the two programs to which it relates.

The President's memorandum directs the Secretary of State and the Director, United States Information Agency" . . . not to make available to the Congress any internal working documents concerning the foreign assistance program or international information activities, which would disclose tentative planning data, such as is found in the Country Program Memoranda and the Country Field Submissions, and which are not approved positions."

One of the most important duties of the General Accounting Office is to make independent reviews of agency programs and to report to the Congress on the economy and effectiveness with which Federal departments and agencies carry out programs authorized by the Congress. Our responsibilities

are not limited to financial transactions but cover both the efficiency and effectiveness of agency programs. This was clearly established by the Congress when it enacted section 312 of the Budget and Accounting Act, 1921, and was reiterated by Congress when it enacted the Accounting and Auditing Act of 1950 and section 204(a) of the Legislative Reorganization Act of 1970. The Congress in establishing the General Accounting Office recognized that the Office would need to have full access to the records of the Federal agencies, and provided the basic authority in section 313 of the Budget and Accounting Act, 1921 (31 U.S.C. 54):

"All departments and establishments shall furnish to the Comptroller General such information regarding the powers, duties, activities, organization, financial transactions, and methods of business of their respective offices as he may from time to time require of them; and the Comptroller General or any of his assistants or employees, when duly authorized by him, shall, for the purpose of securing such information, have access to and the right to examine any books, documents, papers, or records of any such department or establishment."

Such access to documents and records is an essential ingredient of our broad responsibility to review and evaluate, to draw conclusions, and to report to the Congress on the results of Government programs and activities.

Any action by the executive agencies to withhold information or documents from GAO as a result of the President's directive of March 15, 1972, would impair our capability to carry out the responsibilities of the Office. The degree of such impairment will hinge on the interpretations and resultant actions taken within the executive agencies concerned.

Sincerely yours,

ELMER B. STAATS,
Comptroller General of the United States.

Mr. ELMER B. STAATS,
Comptroller General, General Accounting Office, Washington, D.C.

DEAR MR. STAATS: In preparing for consideration of the legislation to authorize appropriations for the United States Information Agency, the Committee requested from the Agency copies of its Country Program Memoranda, whose purpose, as described in an Agency publication, are ". . . to integrate country planning with resource usage, analyze the country situation and define USIS capability to help achieve U.S. foreign policy objectives. The Committee also requested copies of Agency "Planning Papers" which were described as ". . . detailing program plans and resource usage in the worldwide programs and support services."

On March 15 the President directed the Secretary of State and the Director of the United States Information Agency ". . . not to make available to the Congress any internal working documents concerning the foreign assistance program or international information activities, which would disclose tentative planning data, such as is found in the Country Program Memoranda and the Country Field Submissions, and which are not approved positions." I enclose a copy of this memorandum for your information.

As you can see, the scope of this directive is quite broad, and, in my opinion, could seriously impair Congress' ability to exercise effective oversight over the foreign assistance and international information programs which, aside from their foreign policy aspects, account for billions of dollars in government spending each year. In considering the implications of this decision and possible remedies to correct the access to information problem, it would be helpful to the Committee to have your views as to how this directive may affect the General Accounting Office's capacity to carry out its responsibilities to the Congress for investigations involving these two programs. I would appreciate having your comments on this matter by 10:00 A.M. on Monday, March 20, if at all possible in view of the fact that the Director of the U.S. Information Agency is scheduled to testify before the Committee on that date.

Sincerely yours,

J. W. FULBRIGHT,
Chairman.

THE SECRETARY OF DEFENSE,
Washington, D.C., August 31, 1971.

Hon. J. W. FULBRIGHT,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: With reference to your letter of August 6th, the President has directed the Secretary of State and me not to make available to the Congress any internal working documents which would disclose tentative planning data on future years of the military assistance program which are not approved Executive Branch positions.

Enclosed is the President's memorandum, dated August 30, 1971.

Sincerely,

MELVIN R. LAIRD.

THE WHITE HOUSE,
Washington, D.C., August 30, 1971.

MEMORANDUM FOR THE SECRETARY OF STATE AND THE SECRETARY OF DEFENSE

It has been brought to my attention that the Senate Foreign Relations Committee has requested various internal working papers and planning data of the Executive Branch relating to the Military Assistance Program.

As you know, the policy of this Administration, as directed in my memorandum for the Heads of Executive Departments and Agencies, dated March 24, 1969, is to comply to the fullest extent possible with Congressional requests for information. In pursuance of this policy, the Executive Departments and Agencies have provided to the Congress an unprecedented volume of information. In addition, Administration witnesses have appeared almost continuously before appropriate Committees of the Congress to present pertinent facts and information to satisfy Congressional needs in its oversight function and to present the views of the Administration on proposed legislation.

The precedents on separation of powers established by my predecessors from first to last clearly demonstrate, however, that the President has the responsibility not to make available any information and material which would impair the orderly function of the Executive Branch of the Government, since to do so would not be in the public interest. As indicated in my memorandum of March 24, 1969, this Administration will invoke Executive Privilege to withhold information only in the most compelling circumstances and only after a rigorous inquiry into the actual need for its exercise. I have accordingly conducted such an inquiry with regard to the Congressional requests brought to my attention in this instance.

The Senate Foreign Relations Committee has requested "direct access to the Executive Branch's basic planning data on Military Assistance" for future years and the several internal staff papers containing such data. The basic planning data and the various internal staff papers requested by the Senate Foreign Relations Committee do not, insofar as they deal with future years, reflect any approved program of this Administration, for no approved program for Military Assistance beyond the current fiscal year exists. Furthermore, the basic planning data requested reflect only tentative intermediate staff level thinking, which is but one step in the process of preparing recommendations to the Department Heads, and thereafter to me, for one-year programs to be approved for the ensuing budget year.

I am concerned, as have been my predecessors, that unless privacy of preliminary exchange of views between personnel of the Executive Branch can be maintained, the full frank and healthy expression of opinion which is essential for the successful administration of Government would be muted.

I have determined, therefore, that it would not be in the public interest to provide to the Congress the basic planning data on military assistance as requested by the Chairman of the Senate Foreign Relations Committee in his letters of July 28 and August 6, 1971, to the Secretary of Defense.

I, therefore, direct you not to make available to the Congress any internal working documents which would disclose tentative planning data on future years of the military assistance program which are not approved Executive Branch positions.

I have noted that you and your respective Departments have provided much information and have offered to provide additional information including planning material and factors relating to the military assistance program to the Senate Foreign Relations Committee. These planning materials and factors will enable the Congress to consider current year approved programs in light of considerations bearing on the future which can now be foreseen. In accordance with my general policy to provide the fullest possible information to the Congress, I will expect you and the Secretaries of other Executive Departments to continue to make available to that Committee all information relating to the military assistance program not inconsistent with this letter.

RICHARD NIXON.

STATEMENT BY SENATOR J. W. FULBRIGHT ON THE RELEASE OF A REPORT BY THE GENERAL ACCOUNTING OFFICE ON ITS PROBLEM ON ACCESS TO INFORMATION

Early this year the Committee on Foreign Relations asked the General Accounting Office to compile a list of recent instances where it had been denied access to information on matters involving government programs abroad. Of the eight overseas reviews cited in the report, five were conducted at the request of the Committee and three were initiated by GAO.

As to the GAO's basic right to access to Executive Branch materials the report stated:

"We believe the Budget and Accounting Act of 1921, as reinforced by recent expressions of intent by congressional committees, leaves no doubt but that Congress and GAO are expected to have access to all records, documents, or papers necessary to effectively evaluate the various programs of the Executive Branch."

The report listed the following types of information which the GAO considered necessary to carry out its responsibilities to Congress which "have not been provided promptly or refused outright."

1. future planning information and documents, both formal and informal;

2. internal working papers and staff recommendations relating to programs planned or in process;

3. negotiation documents, papers, memorandums, and working papers, before, during and after negotiations, regardless of whether or not the information is considered sensitive;

4. management reports including recommendations or conclusions reached, whether approved or unapproved by higher authority, field trip reports, observations, and records of conversations pertinent to the matters under review;

5. access to records, documents or papers originated or directly related to foreign gov-

ernments but in the possession of United States agencies, when they relate to programs in which the United States has a direct interest; and

6. access to all United States supported bases and installations regardless of the geographical location.

The report emphasizes that outright denials of information are rare but that delays and referrals of requests to "higher authority" which result in "de facto denial of records" is the standard tactic. "Normally the regulations and directives (regarding GAO access to information)," the report said, "do not state that GAO cannot be furnished the information, but rather that their personnel in the field cannot furnish the information unless authorization is received from higher authority; this normally means officials of the Departments in Washington."

As an example, the report cited a directive of the U.S. European Command Headquarters listing material which chiefs of military aid missions could not release to the GAO without "approval from higher authority." Prominent on the list was "The Military Assistance Five-Year Plan for a particular country . . .", the type of plan which the Department of Defense recently told the Committee did not exist.

The report contains the following example of the delaying tactics used by the Departments of State and Defense:

"In connection with our current review of utilization of excess defense articles in MAP, we requested a country-to-country agreement between the United States and Australia on March 31, 1971. The agreement involves the overseas procurement transaction for the acquistion of trucks and trailers in Australia for delivery to Cambodia. The purpose for the request was to enable us to ascertain why the arrangement was made in lieu of alternatives available and whether, in fact, the agreement was a form of consideration to the Australian Government for their participation in the support of our efforts in Vietnam.

"We first made our request for the agreement to the Department of State on March 31, 1971. On the same date the Department of State informed us that the agreement was dated March 4, 1971, and that they believed the document was unclassified but that our request should be channeled to the Department of Defense, rather than to them. Upon addressing our request to the Department of Defense on April 6, 1971, they referred us back to the State Department because State clearance was necessary for release of the agreement. The Department of State advised us on the same day that they were unable to release the document until they acquired clearance from the Australian Government through the Australian Embassy. On April 14, 1971, the State Department advised us that the Department of Defense had sought this clearance from the Embassy, however, on the same date, we received a denial from the Department of Defense on any such communication with the Australian Embassy. On April 15, 1971, the State Department informed us that the Department of Defense had received the Australian Government's clearance but that the Department of Defense must first present a written request for State Department clearance. On the same date, April 15, the Department of Defense told us the Australian clearance was still pending. Four days later, the Department of Defense told us that more internal coordination was necessary before a release was possible. In a follow-up concerning the status of our request, on April 28, 1971, the Department of Defense official whom we had contacted stated he had forgotten our request.

"Finally, on May 5, 1971, DOD provided the agreement as requested. The agreement provided to GAO was classified although the agreement on file in the legal section of DOD was not so classified. In our opinion, the material included in the agreement does not appear to be of such a nature that the interests of the United States would be adversely affected if its contents were released to the public."

I believe the GAO has rendered a significant service to Congress and the general public in bringing together these examples of how Executive Branch agencies have hampered its effectiveness in insuring that the public's tax monies are spent as Congress intended. The report shows that Congress' watching on the Treasury has been defanged in investigating programs involving the expenditure of hundreds of millions of dollars. The legislative process is a travesty as long as Congres votes in the dark on these vast foreign programs. Congress should not appropriate the public's money without having adequate information on which to base its decisions. Congress must act to end this arrogance by the Executive Branch. Passage of my bill, S. 1125, laying down guidelines for Congressional access to Executive Branch personnel and information, would be a good first step and I am pleased that the GAO has given it such a strong endorsement.

COMPTROLLER GENERAL OF THE UNITED STATES,
Washington, D.C., September 10, 1971.

Hon. J. WILLIAM FULBRIGHT,
Chairman, Committee on Foreign Relations, U.S. Senate.

DEAR MR. CHAIRMAN: On February 25, 1971, you wrote to our Office concerning executive branch denial of access to records. You pointed out that in recent years the Committee has been denied access to many documents and other materials and that such denials preclude effective legislative oversight of executive branch performance.

The basis for the executive branch denial of information to the Congress is the constitutional doctrine of separation of powers which is interpreted by the executive branch as granting it a privilege to withhold information where such action is deemed necessary in the best interest of the country.

You ask that our Office analyze the matter and furnish a compilation of summaries of all significant instances in recent years when we have been denied access to executive branch records or materials. You also ask that we submit our legislative recommendations to insure that the Congress cannot be denied access to executive branch documents unless the President exercises executive privilege.

As evidenced by the enclosed compilation and by recent testimony of officials of our Office, insofar as GAO is concerned, absolute denial by the executive branch of access to records has in recent years been quite rare. For example in testifying on your bill S. 1125, 92d Congress, before the Subcommittee on Separation of Powers of the Senate Judiciary Committee, copy enclosed, the Deputy Comptroller General on July 28, 1971, characterized our current problems on access as being those of frustrations and delays in carrying out our statutory responsibilities rather than those attending outright refusal of access on claims of executive privilege.

With regard to legislative recommendations, the Deputy Comptroller General stated in that testimony that the enactment of S. 1125 should result in a freer flow of information to the Congress and its committees except in those cases where the President himself has decided that disclosure shall be precluded on the ground of executive privilege. Specifically, he stated that, under the procedures contemplated by the bill, if the privilege is to be exercised by the President there should be no delays in the hearing processes and if the privilege is not to be claimed there is no basis remaining that we can see which would justify failure to testify. We therefore feel that the enactment of S. 1125 should go a long way to reduce the problems of access to records by the Congress and its committees, and, aside from endorsement of S. 1125 we have no recommendations to make concerning this aspect of the problem.

With regard to the delays that hinder effective performance of the duties of our Office, we feel that your Amendment No. 343 to S. 1125 of July 29, 1971, would help avoid these delays and we are unable to fashion legislative recommendations which we feel would be more salutary than the language of your amendment.

This amendment would impose a sanction along the lines of that now providing for a cut off of foreign assistance funds under section 634(c) of the Foreign Assistance Act of 1961, 22 U.S.C. 2394(c). Specifically, the amendment would provide that upon a determination by the General Accounting Office that any information requested of the executive branch by a committee or subcommittee of the Congress or the General Accounting Office has not been made available within sixty days after the request has been received and if during such period the President has not signed a statement invoking executive privilege, no funds made available to the agency involved shall be obligated or expended commencing on the seventieth day after such request is received by such agency unless and until such information is made available or the President invokes executive privilege with respect to such information. In addition to helping to alleviate the problems that we have had in delays in obtaining access to information your amendment would also assist the Congress and its committees in day-by-day operations which require information, independent of the hearing processes.

It is hoped that this letter and its enclosure will assist the Committee in its consideration of this very important problem. We would of course be pleased to further assist the Committee in any way that we can.

Sincerely yours,

R. F. KELLER,
Acting Comptroller General of the United States.

COMPILATION OF GAO ACCESS TO RECORDS PROBLEMS ENCOUNTERED IN MAKING AUDITS OF FOREIGN OPERATIONS AND ASSISTANCE PROGRAMS

In response to the request of the Chairman, Senate Foreign Relations Committe of February 25, 1971, we have made an analysis of the access to records problem, including a compilation of specific instances where the General Accounting Office (GAO) has been denied access or delayed in obtaining access to Executive Branch records or materials during recent years.

We have cited examples of denials of information and delaying or hindering actions that have taken place during eight overseas reviews conducted by GAO's International Division during approximately the last two years. Five of the reviews were conducted at the request of your Committee and the remaining three were initiated by GAO.

We believe the Budget and Accounting Act of 1921, as reinforced by recent expressions of intent by congressional committees, leaves no doubt but that Congress and GAO are expected to have access to all records, documents, or papers necessary to effectively evaluate the various programs of the Executive Branch.

However, the Departments of State and Defense have in many instances taken the position that certain information is not releasable to GAO and the Congress. Information has been denied our auditors both in the field and at the Washington level and in certain cases, information has been supplied only after time consuming reviews by

successively higher organizational levels within the Departments. The time-consuming processes employed by the Departments in many cases have hampered our auditors in the discharge of their duties to the point that audit teams in the interest of our economical use of manpower resources had to be withdrawn from the audit site prior to a decision being made by the Departments as to whether our request to examine documents would be approved or denied. In other cases, information was provided on a piecemeal basis and certain documents were withheld which would have provided the continuity of Departmental actions necessary in our evaluation of the overall program under review.

In our opinion, the delays result in a de facto denial of records which should be made available in accordance with our legislative authority and the intent of Congress.

Following is a list of types of information that we believe are necessary in the conduct of an audit but have not been provided in a timely manner or refused outright:

1. Future planning information and documents, both formal and informal;

2. Internal working papers and staff recommendations relating to programs planned or in process;

3. Negotiation documents, papers, memorandums, and working papers, before, during and after negotiations, regardless of whether or not the information is considered sensitive;

4. Management reports including recommendations or conclusions reached, whether approved or unapproved by higher authority, field trip reports, observations, and records of conversations pertinent to the matters under review;

5. Access to records, documents or papers originated or directly related to foreign governments but in the possession of United States agencies, when they relate to programs in which the United States has a direct interest; and

6. Access to all United States supported bases and installations regardless of the geographical location.

Following is a discussion of GAO's authority under the Budget and Accounting Act of 1921, and the Foreign Assistance Act of 1961; Department of State and Department of Defense (DOD) and their various organizational elements, regulations, directives, or messages on GAO's right of access to information; and examples of denials and delays of information by the Departments of State and Defense.

GENERAL ACCOUNTING OFFICE AUTHORITY

The position of GAO is that full and complete access to all records pertaining to the subject matter of an audit or review is required. This is required in order that GAO can fully carry out its duties and responsibilities. The intent of the various laws assigning authority and responsibility to the GAO is clear on this point. This policy does not admit the propriety of any restrictions on GAO's legal authority other than that specifically contained in law. The right of generally unrestricted access to needed records is not only based on laws enacted by the Congress but is inherent in the nature of the duties and responsibilities of the GAO.

The basic authority governing GAO's access to records of Government agencies is contained in section 313 of the Budget and Accounting Act, 1921, (31 U.S.C. 54) as follows:

"All departments and establishments shall furnish to the Comptroller General such information regarding the powers, duties, activities, organization, financial transactions, and methods of business of their respective offices as he may from time to time require of them; and the Comptroller General or any of his assistants or employees, when duly authorized by him, shall, for the purpose of securing such information, have access to and the right to examine any books, documents, papers, or records of any such department or establishment * * *"

The more important factors underlying the laws and GAO's policy of insisting on generally unrestricted access to pertinent records of agencies and contractors in making GAO audits and reviews are summarized below:

1. The making of an adequate, independent, and objective examination contemplates obtaining a comprehensive understanding of all important factors underlying the decisions and actions of the agency or contractor management relating to the subject of GAO examinations.

2. Enlightened management direction and execution of a program must necessarily consider the opinions, conclusions, and recommendations of individuals directly engaged in programs that are an essential and integral part of operations; knowledge of this type is just as important in making an independent review as it is in making the basic management decisions.

3. Withholding information could permit concealment of adverse conditions by responsible officials. The denial of information developed in an internal review to higher authority, or any other official properly concerned, hampers the external review and independent consideration of the effectiveness and efficiency of the activities, and necessitates a duplication of effort and increased costs.

4. Internal reviews on behalf of agency management are highly desirable. Such reviews represent one of the methods by which management can keep informed of how large and complex activities are being carried out. Management should take vigorous corrective action on any deficiencies disclosed. However, the effectiveness of a program of self-evaluation and management improvement is not dependent upon restricting the information developed to the individuals or departmental level responsible for the activity under examination. Such information is of great importance to higher administrative levels of review having a legitimate interest or concern in the subject. The effectiveness with which internal review activities are carried out and the effectiveness with which corrective action is implemented is clearly of interest and concern to the GAO in the performance of its statutory responsibilities and reporting to the Congress.

5. There is no basis in law or logic for a distinction between factual information and internal opinions, conclusions, and recommendations insofar as our authority and need for information is concerned. A sharp distinction between these categories is not only difficult to make but physical segregation of them is impractical.

6. The disclosure to the GAO of frankly stated internal opinions, conclusions, and recommendations is not contrary to the public interest. The system of management control which results in such internal communications should be properly conceived, administered, and dedicated to efficient and effective operations rather than oriented toward a defense of possible criticism. Under these circumstances, the requirement of disclosure should tend to improve the caliber of the internal opinions, conclusions, and recommendations rather than impair their usefulness to the management because of softened criticism, avoidance of doubtful matter, and general restraint.

7. All books, documents, papers, and other records relating to the costs borne by the United States are records relating directly to the financial interest of the United States. Such records are not limited to formal agreements or contracts and the supporting data, but include all underlying data concerning the need, utilization, and disposition of funds which afford the basis for or are involved in any way with the incurrence of costs by the United States. Pertinent records may include, but are not limited to records in support of (a) future plans and programs, (b) internal working papers, observations and trip reports of advisers and (c) evaluations, recommendations and conclusions of internal evaluation groups.

A remedy bearing on our access to records of Government agencies is contained in section 634c of the Foreign Assistance Act of 1961, as amended. Section 634c states that:

"None of the funds made available pursuant to the provisions of this Act shall be used to carry out any provision of this Act in any country or with respect to any project or activity, after the expiration of the thirty-five-day period which begins on the date the General Accounting Office or any committee of the Congress charged with considering legislation, appropriations or expenditures under this Act, has delivered to the office of the head of any agency carrying out such provision, a written request that it be furnished any document, paper, communication, audit, review, finding, recommendation, report, or other material in its custody or control relating to the administration of such provision in such country or with respect to such project or activity, unless and until there has been furnished to the General Accounting Office, or to such committee, as the case may be, (1) the document, paper, communication, audit, review, finding, recommendation, report, or other material so requested, or (2) a certification by the President that he has forbidden the furnishing thereof pursuant to request and his reason for so doing."

The above section applies only to funds appropriated under the Foreign Assistance Act; it is not applicable to the military service appropriations.

DEPARTMENT OF DEFENSE AND DEPARTMENT OF STATE RESTRICTIVE REGULATIONS

Both the Departments of Defense and State and their various organizational elements recognize GAO's rights to documents, records and papers as contained in the Budget and Accounting Act of 1921, but at the same time the Departments have directed that certain types of information not be furnished to GAO. Normally these regulations or directives and implementing messages do not state that GAO cannot be furnished the information, but rather that their personnel in the field can not furnish the information unless authorization is received from higher authority; this normally means officials of the Departments in Washington.

Following are pertinent excerpts from regulations, directives, and implementing messages of the Departments of State and Defense and their various organization elements restricting GAO's right to records.

DEPARTMENT OF DEFENSE

The Department of Defense's basic policy guidance on cooperation with GAO and access to records is contained in DOD Directive Number 7650.1, dated July 9, 1958. Although the directive was not agreed to by us, it sets forth the working arrangement under which we have operated. That directive contains three categories of information that DOD considers to be essentially nonreleasable to GAO—those are (1) budgets for future years' programs, (2) reports of non-Department of Defense agencies, and (3) reports of Inspector General and criminal investigation organizations.

However, in some cases implementing messages from DOD and regulations by the military services and major commands have placed additional restrictions on GAO's access to records. The restrictions vary somewhat among the military services and commands. We believe the following two illustrations demonstrate the restrictions imposed by DOD on access to records necessary for GAO to make effective evaluation of DOD programs.

1. U.S. European Command Headquarters, Directive Number 50–5 dated June 18, 1971:

The appendix to the above directive contains a listing of documents and categories of information which the chiefs of Military Assistance Advisory Groups and missions may not release to GAO without approval from higher authority. They are as follows:

(a) Recommended changes to force objectives.

(b) Host country replies to NATO questionnaires and related MAAG analyses.

(c) Information relating essentially to military or international planning considerations and pertaining to matters of strategy, such as war plans or memorandums leading to the formulation of such plans.

(d) The Military Assistance Five-Year Plan for a particular country except data included in the military assistance program which has been initially justified before the Congress.

(e) The quantity and projected delivery of items and services included in a specific fiscal year military assistance program prior to the initial justification of the program before the Congress.

(f) Operational status reports concerning tactical effectiveness of host country forces. (Factual data, such as personnel strengths and allowances and equipment inventories and allowances, may be extracted from these reports and furnished the GAO in response to a specific request for such data from the GAO.) Note: This restriction excludes combat capability ratings assigned by chiefs of Air Force sections of the MAAGs.

(g) Reports of the Inspector General, Foreign Assistance, Department of State.

(h) USEUCOM command Inspection reports (Factual data specifically related to the area of the GAO audit may be extracted from these reports and furnished in response to a specific request for such data from the GAO).

(i) Documents related to intelligence collection and analysis.

(j) Host country documents, reports, and data.

2. Joint State-Agency for International Development-Defense Message dated December 18, 1970:

This message, which was drafted by DOD, was directed to the American Embassies in Bangkok, Manila, Saigon, and Seoul, and the Pacific Command in Hawaii. It stated, missions and commands should not, without specific Washington authority, allow GAO personnel to consult or otherwise have access to the following:

(a) Documents relating to war plans, future military assistance service funded or U.S. military operations budgets and planning data.

(b) Confidential correspondence exchanged between heads of State.

(c) Presidential memoranda.

(d) Reports of the Inspector General.

(e) Performance Evaluation Reports.

(f) Internal executive branch working papers and memoranda.

(g) Telegrams, memoranda or other documents revealing sensitive information about the conduct of United States negotiations with participating countries or South Vietnam.

(h) Other material which the Ambassador or major military component commanders consider may be sensitive and could, if revealed, have a serious adverse effect on the conduct of United States Government relations with the participating countries or with other countries or might otherwise prejudice the national interests of the United States.

The message also contained a statement that GAO representatives will have no need to consult participating country or Government of Vietnam officials or agencies for purposes of present review since such contacts could have adverse consequences.

In reviewing the military service regulations it is interesting to note that the military service regulations were revised between July and September 1970 which allows GAO access to planning estimates for specific programs. This revision, however, has not been incorporated in DOD regulations and implementing instructions.

DEPARTMENT OF STATE

The Department of State's basic overall policy guidance for making documents available to GAO is contained in their Foreign Affairs Manual, (FAM), Volume 4, Section 934. The FAM quotes the pertinent part of section 313 of the Budget and Accounting Act, and states it is the State Department's policy to cooperate by making available to GAO representatives their documents.

However, the FAM further states that Department of State approval is to be obtained first when in the opinion of the ambassador or bureau head any document requested by GAO is of such significance that:

1. Its disclosure would seriously impair relations between the United States and other countries in the conduct of foreign affairs, or otherwise prejudice the best interests of the United States.

2. It is a document directed to the President, the National Security Council, or a similar White House board.

3. It is a document relating to formulation of sensitive substantive policy (as distinguished from a statement of or implementation of policy).

4. It is a document that is generally restricted, such as personnel security files, records relating to citizenship of individuals, Foreign Service inspectors' reports, visa records, intelligence and investigative records, and classified material of other agencies except in accordance with the applicable regulations and consent of the originating agency.

In a November 17, 1970, message from the Department of State to all diplomatic and consular posts, the State Department restated their guidance on the release of information and documents to GAO. The message emphasized that while GAO has a statutory basis for requesting information and access to documents, the President at the same time, enjoys the historic privilege of withholding certain information the disclosure of which would be incompatible with the public interest.

The message enumerated the restrictions on GAO's access to records as contained in the FAM and also stated that sensitive information about the conduct of United States negotiations with foreign countries may come within the category of information restricted to GAO. The message also stated that should GAO representatives indicate an intention to approach the host government, they should be discouraged from doing so, unless contrary guidance is received from the State Department.

In a letter dated December 16, 1970, the Comptroller General requested the Secretary of State to rescind the additional restrictions placed on GAO's access to records as contained in the November 17, 1970, message from the Department of State. The Comptroller General noted in his letter that the new instructions would compound the problems that GAO has been experiencing in obtaining access to records pertinent to our reviews. A copy of the Comptroller General's letter was also forwarded to the Assistant to the President for National Security Affairs on December 19, 1970, in view of the fact that the Secretary of State's message was cleared by the White House prior to release.

On January 22, 1971, the State Department replied to the Comptroller General that it was not the intention of the State Department to issue more restrictive regulations regarding GAO's request in the field for access to documents, but rather to remind their overseas locations of the existing procedures as contained in the FAM on access to sensitive documents.

At the request of the Comptroller General, the State Department informed all diplomatic and consular posts on February 16, 1971, that it was not the intention of the November 17, 1970, message to impose additional restrictions on GAO's access to records.

The Assistant to the President for National Security Affairs replied on February 27, 1971, to the Comptroller's letter of December 19, 1970, and stated that the policy of the Administration remains one of the fullest cooperation with the Congress and with the GAO. The letter, however, noted that in regard to the requirement for United States missions in the field to refer sensitive decisions back to Washington, that this seems a reasonable administrative procedure, and that it remains incumbent upon the departments to assure that such referrals are handled with dispatch here in Washington.

Based upon the delays that occurred in GAO's gaining access to records during our reviews, we believe that the implementing restrictions of November 17, 1970, to the FAM did in effect result in additional restrictions on GAO's access to records. Examples are included in the following section.

EXAMPLES OF DELAYS AND DENIALS OF INFORMATION BY THE DEPARTMENTS OF DEFENSE AND STATE

The Departments by their regulations, directives, and implementing messages have established hierarchic systems which have seriously restricted their field organizations in responding to requests for certain types of information. In many instances, after long delays occasioned by the referral of GAO requests to Washington, the information requested was received. However, by that time our field auditors were no longer at the site and were not in a position to properly evaluate the information in conjunction with other material at the site and could not readily obtain the views of the personnel most familiar with the information.

In addition to these delaying tactics, which hindered an effective timely evaluation of United States programs overseas, we were also denied other pertinent and significant information needed to properly carry out our statutory responsibilities. In one instance we were denied the right to conduct a review, while in two other instances we were denied the right to visit United States supported military bases in Vietnam.

Shown below are a few examples of the denials and delaying tactics encountered by GAO during eight overseas reviews conducted during the last two years.

DEPARTMENTS OF DEFENSE AND STATE REFUSAL TO ALLOW GAO TO VISIT U.S.-SUPPORTED BASES IN VIETNAM

The Departments of Defense and State have denied permission to GAO to visit the Thai and Korean camps in Vietnam. Our reasons for requesting the visits were to observe the large amount of United States equipment and supplies provided to the Thai and Korean troops and to talk with United States military liaison personnel stationed at the camps as to their duties and responsibilities. An additional reason for our requests to visit the camps was the fact that we had observed during a visit to the Thai Overseas Replacement Training Center in Thailand on September 18, 1970, what appeared to be large amounts of excess equipment.

On September 21, 1970, we verbally requested permission from the Commander, U.S. Military Assistance Command, Vietnam, to visit Camp Bearcat, location of the Thai contingent. We were informed by the Commander on September 23, 1970, that the visit would not be authorized without prior clearance from higher headquarters and that our request should be submitted in writing which we did on September 25, 1970. While our request stated that we did not intend to talk to any Thai personnel during the visit to the camp, nevertheless, United States military officials in Vietnam, with concurrence of United States Embassy officials in

Bangkok and Saigon, denied us permission to visit the installation at that time without clearance from higher authority. The reason cited for denying our request was that GAO should have no need to consult host country officials or agencies and that such contacts could have adverse consequences.

The Department of State sent a message dated November 17, 1970, to all of its diplomatic and consular posts which provided guidance to the posts for handling GAO examinations. Among other things, the guidance stated that GAO representatives should be discouraged from consulting host country officials or agencies, unless contrary guidance was received from the Department. A joint State-Agency for International Development-Defense message, dated December 18, 1970, reaffirmed this guidance. (See page 10).

The Comptroller General, in a letter to the Secretary of State, dated December 16, 1970, pointed out that GAO has regularly made visits to host government installations to see how assistance financed by the United States is being used. He stated that such inspections are essential if GAO is to carry out its responsibilities for evaluating the effectiveness and improving the management of United States programs. He further stated that any contacts GAO might have with host country officials are arranged through United States country team channels, and that we know of no problem that has arisen as a result of this phase of our reviews.

On February 5, 1971, our office in Saigon requested permission from the Commander, U.S. Military Assistance Command, Vietnam, to visit the Korean Base Camp at Qui Nhon, Vietnam. As with the Thai base camp request, our office stated that we did not intend to contact Korean personnel or review Korean records, but that we wished to make some visual observations of the condition and utilization of United States provided facilities and equipment. However, on March 6, 1971, a message from the Secretary of Defense to Commander in Chief, Pacific (CINCPAC) stated that the requested GAO visit was disapproved, and that GAO should be satisfied to interview United States military liaison personnel at some U.S. facility, other than Qui Nhon.

Contrary to DOD's opinion, the proposal was not satisfactory for purposes of auditing. It would not enable us to make a first hand observation of the existence, condition, and utilization of United States property provided the Korean forces for their use. We believe that the disapprovals of our requests to visit the Thai and Korean base camps in Vietnam were not justified. Furthermore, the disapprovals effectively prevented GAO from exercising its statutory responsibilities.

REFUSAL OF THE STATE DEPARTMENT TO ALLOW GAO TO CONDUCT AN OVERSEAS REVIEW

In March 1971, 13 months after GAO informed the United States Embassy in Germany that we planned to conduct a review of United States occupation costs in Berlin, we were informed by the Department of State that we would not be permitted to do so.

Our proposed review was designed to assure ourselves and the Congress that the United States occupation costs in Berlin which are properly chargeable to the Federal Republic of Germany are in fact borne by them, and that U.S. Government financial interests are being properly protected. Accordingly, in February 1970, we informed the United States Embassy in Germany and U.S. Army officials of our plan to review the United States occupation costs in Berlin. At the time, U.S. Army officials interposed no objections to our examination of their records and processes. However, a United States Embassy official expressed a reservation that the basic audit agreement on Berlin did not permit an independent review by any of the powers' supreme audit organizations. In our discussion with Embassy and Department of State officials, we emphasized that our review would be limited solely to United States occupation costs and would be based on records available in the United States agencies.

In our attempt to resolve the issue, an official of our Office, in May 1970, formally requested that the Department of State authorize access to the pertinent records so that we could proceed with our review. In June 1970, we were advised by the Deputy Under Secretary for Administration and the Assistant Secretary for European Affairs, Department of State, that we could anticipate a reply to our request soon. After we had pressed for an answer over a period of nine months through letters, telephone calls, and meetings, we were officially advised in March 1971 that access was denied.

In denying us access, the response by the Department of State made no reference to invoking executive privilege; the Department of State does not have authority to deny us the right to examine the records or to conduct the review.

The General Accounting Office has the authority and responsibility to audit United States records relating to expenditures and receipts of the United States. Refusal on the part of the Department of State to permit our staff to review the necessary records concerning occupation costs in Berlin precludes us from carrying out our responsibility for audits as provided by the Congress under Section 305 of the Budget and Accounting Act, 1921. This section states that:

"All claims and demands whatever by the Government of the United States or against it, and all accounts whatever in which the Government of the United States is concerned, either as debtor or creditor, shall be settled and adjusted in the General Accounting Office."

Thus, the right of the General Accounting Office to unrestricted access to pertinent records is not only based on laws enacted by the Congress but is also inherent in the nature of the duties and resopnsibilities assigned by the Congress to the General Accounting Office.

In the latter part of April 1971, we reported this matter to eight committees of the Congress as well as to the Secretary of State. Following issuance of the report, the Chairman, Senate Committee on Foreign Relations addressed a letter to the Secretary of State requesting an explanation of the matter. As of June 1971 GAO has not been advised of a Department of State response.

MANAGEMENT REPORTS, TRIP REPORTS, AND SO-CALLED INTERNAL WORKING PAPERS DENIED TO GAO

The GAO during its review and evaluation of United States programs, whenever possible, utilizes the various reports prepared by Executive Branch personnel to avoid duplication of effort, and to ascertain the degree of internal management control exercised by Executive Branch personnel over the various programs involving United States expenditures.

The denial of these reports to GAO, including the recommendations and conclusions reached by personnel preparing the reports, seriously hinders the GAO from being responsive to Congressional requests in a timely manner, and results in duplication of effort and expenditure. Following are a few examples of this type of information denied to GAO.

Management reports

In connection with our review of the administration of the military assistance training program, we requested access to CINCPAC Personnel Evaluation Group reports for Korea, Thailand, and China. These Performance Evaluation Group reports are a product of a CINCPAC evaluation group responsible for evaluating the effectiveness of the Military Assistance Program and the various military assistance organizations in the Pacific Command. Therefore, in order for us to ascertain any program weaknesses and duplications of effort, the reports prepared by this internal management group were essential.

In March 1969 CINCPAC denied us access to the evaluation reports for Korea. We made a formal request to the Secretary of Defense for reports pertaining to Korea, Thailand, and China. Four months after our request, the Secretary of Defense, in a letter dated August 4, 1969, informed us that the reports were not releasable at that time. The Secretary of Defense gave approval on November 25, 1969, for CINCPAC to furnish briefings on the "salient training facts" in the evaluation reports. On December 16, 1969, our Far East Branch received a CINCPAC briefing covering the Military Assistance Program training data reportedly contained in the 1969 reports for Korea, China, and Thailand. We advised the DOD personnel briefing us that the general information provided in the briefing was of little value to us in performing our review due to lack of detailed data. We were told that CINCPAC policies and instructions prevented the release of necessary portions of the evaluation reports involving opinions, evaluations, and future planning data.

Trip reports

In connection with our review of the use of Department of Defense excess defense articles in military assistance activities, we were denied access to official trip reports by DOD officials in Greece. The reason for our request was that trip reports, in addition to the factual matters contained in the reports, also contained opinions, observations, and recommendations submitted by subordinates making field inspections. Unless we receive access to the factual information and related interpretations we are inhibited in identifying problem areas.

Because of this need, our European Branch representatives requested copies of the Army advisors' trip reports on March 8, 1971. On March 11, 1971, the Joint United States Military Advisory Group, Greece, agreed to try and extract for our use, certain portions of the trip reports. Headquarters, U.S. European Command Directive 50–5 permits the release of trip reports after opinions, observations and recommendations, which do not represent final actions, have been removed. However, on March 19, 1971, on the basis of a cable received from the Department of Defense providing guidance on GAO access, the Joint United States Military Advisory Group, Greece, informed us that they would not provide any portion of the trip reports that we had requested.

Contents of the DOD cable which established this guidance for the Joint United States Military Advisory Group, Greece, was not made available to us.

Internal working papers

In connection with our review of United States assistance to Thailand in consideration of their deployment of forces to Vietnam, the Departments of Defense and State have refused us access to a document outlining the criteria for payments to the Thai Government. The document is referred to as the "Scope" document. It is our understanding that this document sets forth the financial framework within which the United States and Thailand operate and the specific commitments and activities the United States engages in relative to support to Thai troops participating in the Free World Military Assistance Program in Vietnam.

The Department of Defense refused us access to the Scope document on the basis that it was an internal working agreement, and the Department of State on the basis that the document did not originate with them.

The Scope document according to information provided to us in Thailand, has been used by a United States Committee in Thai-

land to evaluate claims for reimbursement submitted by the Thai Government in connection with their forces serving in Vietnam. In our opinion we must know the criteria used by the Committee as established in the Scope document if we are to determine that the Committee is properly evaluating the Thai claims.

We first requested the Scope document from military officials in Thailand on July 21, 1970. On August 11, 1970, our on-site auditors were informed by the Military Assistance Command, Thailand, that decision on release of the Scope document has been referred to higher authority. We were also informed verbally that the United States Embassy in Bangkok was objecting to the release of the document. We contacted State Department officials on August 26, 1970, and they stated they had the document, but that since it was a DOD document they could not release it to us.

On September 1, 1970, we verbally requested that DOD furnish us a copy of the Scope document and on September 9, 1970, we made the request in writing. In reply to our request DOD on November 4, 1970, stated the following:

"The Scope document is a draft internal working agreement between the United States and the Royal Thai Government (RTG) concerning reimbursement rates and procedures, which is still under negotiation. Therefore, since it has no official status, the "Scope" document is not considered suitable for release to the GAO."

In our opinion the Scope document was clearly a working document needed in our review and should have been made available to us. It is interesting to point out that the DOD refusal as quoted above was classified when initially transmitted to us by DOD, and was not declassified until we specifically requested DOD to declassify the statement.

PERTINENT PLANNING DATA NOT PROVIDED TO GAO

GAO, in its reviews of overseas programs, very often needs to know the future planning information of the Departments of Defense and State to properly evaluate the effectiveness of current programs. This planning data often shows the justification or rationale for current programs, and the planned methods or programs to solve deficiencies or shortfalls.

For example, during our review of the use of DOD excess defense articles in Greece, which began in Greece on February 17, 1971, we requested data used by the Joint United States Military Advisory Group in programming excess material for Greece under the Military Assistance Program. Some of the data requested included Military Assistance Program force objectives, annual future year planning data, equipment authorization documents, and assets and delivery data to support requirements. The information requested was required in order to properly validate the basis upon which the requirements for excess materials were computed and to evaluate the utilization of the material by the recipient country.

GAO was subsequently denied the requested planning data although some consolidated requirements and asset data was provided. The accuracy of the limited data provided could not be verified because Military Assistance Program supported listings and equipment authorization documents were not made available.

Due to restricted access, the GAO field team suspended its review efforts in Greece on March 27, 1971, pending resolution of the access problems. At the time of its departure from Greece, 24 written requests for information which had been submitted by the staff to the Joint United States Military Advisory Group, Greece, were still unanswered.

The termination of the work in Greece was followed by a series of discussions and correspondence between the GAO field staff and the U.S. European Command in an attempt to reach an agreement on the access problem. The GAO staff in Washington also requested the assistance of the office of the Assistant Secretary of Defense for International Security Affairs. Throughout these discussions, the withholding of information from GAO was defended by DOD officials primarily because it was (1) closely related to Joint Chiefs of Staff objectives which were not releasable to GAO, (2) host country developed data which could be released only with country concurrence, or (3) North Atlantic Treaty Organization information not releasable by the joint United States Military Advisory Group, Greece.

On May 5, 1971, an understanding was reached as to the additional information which would be made available to GAO in both Greece and Turkey. The extent of the additional information to be released was not acceptable to GAO, since it represented abstracted data which could not be verified against source documentation. Moreover, the release of much of the supporting data for requirements computations which was to be provided, remained subject to the approval of the host countries, and under the ground rules established by the U.S. European Command, virtually no evaluative data would be made available. However, in order to obtain as much information as possible on the use of excess material, the GAO field staff returned to Greece on May 24, 1971, to resume the review work which had been suspended almost two months earlier.

At the request of the Chairman, Senate Committee on Foreign Relations, GAO, in January 1969, undertook a major review of the Military Assistance Training Program in ten countries, including China and Thailand. In the initial phases of the review GAO had a number of problems in obtaining information necessary for the review. As a result, the Chairman, Senate Committee on Foreign Relations, in a letter to the Secretary of Defense, dated May 21, 1969, requested that the Secretary of Defense insure that GAO be given access to planning information and all other pertinent information.

On June 26, 1969, the Secretary of Defense replied to Chairman Fulbright's letter of May 21, 1969. The Secretary of Defense stated that the formal Five Year Plan for the Military Assistance Program had not, in the past, been made available to GAO or to the Chairman, House Committee on Foreign Affairs, because the Plan is regarded as a staff study, an entirely tentative planning document at the staff level, and is usually extensively adjusted when the size of the budget submission is decided on by the President. The Secretary of Defense also stated that he, in order to fully cooperate with the Committee, would have DOD officials give detailed briefings on the Plan, as it relates to training, to anyone designated by Senator Fulbright.

On August 4, 1969, the Secretary of Defense sent a message to the Unified Commands, stating that GAO could be briefed on the Military Assistance Program five-year training program, comprising for the most part five-year dollar projections. The message further stated that this guidance was based on the Secretary of Defense reply to Senator Fulbright's May 1969 inquiry as to the release of information to GAO.

In a message dated September 21, 1969, CINCPAC informed the Secretary of Defense that the GAO representatives in China and Thailand had requested access to the Military Assistance Program Planning Reference Books for those countries. The messages stated that CINCPAC, in accordance with DOD guidance, would advise CINCPAC representatives in those countries to provide narratives of the books, provided that extensive editing would not be required to eliminate future planning information. The message concluded by requesting that the Secretary of Defense formally refuse GAO's request for the books because only the Secretary of Defense could properly do so, in accordance with a DOD directive.

On September 26, 1969, the Secretary of Defense advised CINCPAC that the guidance furnished on August 4, 1969, still applied, and that if GAO representatives requested additional future planning information beyond that authorized, the request should be made to DOD through GAO in Washington, since only the Secretary of Defense can deny such a request.

A month later, October 27, 1969, the Military Assistance Command, Thailand, received approval from CINCPAC to release edited versions of the Military Assistance Program planning books.

In our opinion, receipt of information which has been edited and then provided GAO in briefings does not provide the substantive in-depth information required for our evaluative purposes. We believe that the unexpurgated versions of narrative sections of the plan should be made available to us so that we can review and analyze the reasoning and justification of actions taken or proposed with background data that DOD had reference to on making their judgments and decisions.

In our review of military assistance to the Republic of China in 1970, we were denied access by the DOD to a military air defense study for the island of Taiwan (as well as the Joint Strategic Objectives Plan for the Republic of China). We were told by DOD that the two documents contained contingency war plans as well as future year planning and were internal management working documents; therefore, they could not be released to us. This denial inhibited our evaluation of the integration, coordination, and contribution of DOD's planning to the achievement of overall United States objectives.

DELAYING TACTICS OF THE DEPARTMENTS OF DEFENSE AND STATE

The Departments of Defense and State have instructed their field personnel not to provide sensitive information to our field auditors, but to refer the request to Washington. The Departments in their guidance provided examples of some categories of information, such as negotiation documents, and agreements with foreign governments which are to be considered sensitive, but the decision on the classification of documents as sensitive in respect to non-releasability to GAO apparently rests with appropriate responsible officials in the field. As a result of this guidance, our auditors have been unable to obtain needed information when requested. Documents classified as sensitive have been subject to many levels of reviews, and often before a decision was reached in Washington many months elapsed and our field auditors had left the field site when a decision to release the information had finally been reached. For instance:

In early 1970, we undertook a review of the U.S. assistance to the Philippine Government in support of the Philippine Civic Action Group at the request of the Chairman, Subcommittee on U.S. Security Agreements and Commitments Abroad, Committee on Foreign Relations, U.S. Senate. The Departments of State and Defense delayed our work on this assignment to the extent that we had to curtail the scope of our review and qualify our report to the Chairman.

Members of our staff were required to wait for periods of two weeks to two months to look at some documents they had requested and frequently the documents proved to be of little value for our purposes. We were also restricted by ground rules established unilaterally by the Departments that effectively limited our review in the field to the Departments' very narrow interpretation of what it judged to be the scope of our review. This was perhaps the most restrictive limitation placed on our work, and it completely frustrated our attempts to review assistance to

the Philippines that was not funded in the military functions appropriations.

Our audit staff members in the field were advised that documents which they requested that were releasable to us under the restrictions of the so-called ground rules had to be dispatched to Washington for Departmental clearance. By early May 1970, only four of 12 documents which were requested by our staff members on January 28, 1970, had been released to them in Manila.

In our review involving United States assistance to Thailand, our Far East Branch requested on July 30, 1970, certain adjutant general documents and message logs from the Military Assistance Command, Thailand. The message logs were requested in order to identify documents, records, or messages pertinent to our review. The Military Assistance Command advised us in the latter part of August 1970, that it had been necessary to request guidance from higher authority as to releasability of the information and suggested that GAO, also, contact such authority at the Washington, D.C., level. Following their suggestion, we addressed our request to the Department of Defense in Washington on September 9, 1970. We learned that following our request in August, the Military Assistance Command officials had referred our request to the Embassy in Bangkok, who in turn referred the request to the State Department on August 31, 1970. The Department had informed the Embassy in Bangkok that they had no basic objection to the release of the logs; however, since they had not seen the logs, the Embassy would have to decide as to whether to release the logs. In a letter dated November 4, 1970 to GAO the Department of Defense stated that their decision was that access to the logs was authorized, provided the contents were releasable in accordance with existing guidance. However, by this point in time, the GAO audit staff had left the audit site where the logs were located. Thus, the purpose in examining the logs was as effectively defeated by the delays encountered as if an outright denial by the Departments had been made initially.

In connection with Thailand's involvement with free world forces in Vietnam, we requested information from the Department of the Army on October 6, 1970, concerning the computations by which they had arrived at certain amounts shown in quarterly reports to the Congress. This request was made in order that we might evaluate the validity and accuracy of the amounts shown in the quarterly reports submitted by the Department of Defense to the Congress. Although this information was prepared by October 23, 1970, it was not released until March 19, 1971. In a similar request for data made on October 12, 1970, the response was not furnished until March 25, 1971, even though we had made repeated attempts to elicit the information:

"In connection with our current review of utilization of excess defense articles in MAP, we requested a country-to-country agreement between the United States and Australia on March 31, 1971. The agreement involves the overseas procurement transaction for the acquisition of trucks and trailers in Australia for delivery to Cambodia. The purpose for the request was to enable us to ascertain why the arrangement was made in lieu of alternatives available and whether, in fact, the agreement was a form of consideration to the Australian Government for their participation in the support of our efforts in Vietnam.

"We first made our request for the agreement to the Department of State on March 31, 1971. On the same date the Department of State informed us that the agreement was dated March 4, 1971, and that they believed the document was unclassified but that our request should be channeled to the Department of Defense, rather than to them. Upon addressing our request to the Department of Defense on April 6, 1971, they referred us back to the State Department because State clearance was necessary for release of the agreement. The Department of State advised us on the same day that they were unable to release the document until they acquired clearance from the Australian Government through the Australian Embassy. On April 14, 1971, the State Department advised us that the Department of Defense had sought this clearance from the Embassy, however, on the same date, we received a denial from the Department of Defense of any such communication with the Australian Embassy. On April 15, 1971, the State Department informed us that the Department of Defense had received the Australian Government's clearance but that the Department of Defense must first present a written request for State Department clearance. On the same date, April 15, the Department of Defense told us the Australian clearance was still pending. Four days later, the Department of Defense told us that more internal coordination was necessary before a release was possible. In a follow-up concerning the status of our request, on April 28, 1971, the Department of Defense official whom we had contacted stated he had forgotten our request.

"Finally, on May 5, 1971, DOD provided the agreement as requested. The agreement provided to GAO was classified although the agreement on file in the legal section of DOD was not so classified. In our opinion, the material included in the agreement does not appear to be of such a nature that the interests of the United States would be adversely affected if its contents were released to the public."

During our review of financial and material assistance provided to the Thai Government by the United States, our Far East Branch representatives requested, on July 21 and July 28, 1970, sixteen messages from the Military Assistance Command, Thailand, that were not received until January 27, 1971. The messages were originated by the Commanders, United States Military Assistance Commands, Thailand and Vietnam, the Secretary of Defense, the Department of the Army, and the Joint Chiefs of Staff during the latter part of 1967 and early 1968. Each of these messages was vital to our effective evaluation of United States assistance to the Thai government. Their contents dealt with pertinent areas of our review, such as a HAWK missile system which the United States agreed to provide to the Thais, training and equipping of Thai forces, U.S. support related to a Thai Army Division and its deployment to South Vietnam, and the possibilities of further Thai contributions to free world forces in Vietnam.

As of August 28, 1970, the messages had not been received or made available for our review. Military Assistance Command, Thailand officials advised us that they had requested guidance from higher authority as to the releasability of the messages, and suggested we contact such authority at the Washington, D.C., level.

On September 9, 1970, we readdressed our request for the messages to the Department of Defense. Nearly two months later, on November 4, 1970, DOD responded, advising us that only two of the subject messages had been located. DOD stated that the two messages had been authorized to be released to our Far East representatives.

Finally, on January 27, 1971, DOD provided copies of the 16 requested messages. We believe that the 6-month delay, before we finally obtained all of the messages, was inexcusably long and seriously impeded our review.

On December 11, 1970, our representatives in Korea requested from the Provisional Military Assistance Advisory Group, Korea, the Provisional Military Assistance Advisory Group, Korea Military Assistance Plan Fact Book for 1969 Defense Ministers Conference. Since our representatives in Korea did not receive the document, a similar request was addressed to the Department of Defense in Washington on January 26, 1971. On January 29, 1971, our representatives in Korea were formally informed that the subject request had been referred to higher authority for determination as to releasability.

The document was provided to us in Washington on April 9, 1971, by the Department of Defense. Due to the delay of approximately four months involved in our acquisition of the document and the fact that our representatives had departed from the audit site by the time of receipt, we were denied the opportunity to analyze and discuss the material with appropriate host country officials.

SOME COMMITTEE REQUESTS FOR INFORMATION WHICH WERE DENIED BY THE EXECUTIVE BRANCH

	REASON FOR DECLINING
I. STATE DEPARTMENT	
1. Copy of National Security Council Study on Brazil (Senator Church's subcommittee meeting May 11, 1971).	"The document concerned was an internal working paper for the use of the Executive Branch." (Abshire letter, June 28, 1971.)
2. Text of messages from U.S. posts in East and West Pakistan (requested at Committee meeting April 30, 1971).	Supplying "internal working papers" would not "safeguard the efficiency, the integrity and the independence of the Department and of its individual officers in the decision making and policy recommending process." (Letter from Rogers, July 6, 1971.)
3. GAO request for information regarding U.S. occupation costs in Berlin.	"We must always bear in mind that in particular situations of General Accounting Office examination, review and audit could cause serious misunderstanding abroad." (Hillenbrand letter to GAO, March 8, 1971.)
4. Report by Sir Robert Thompson on the situation in Vietnam (requested December 3, 1970).	Report "was prepared for the President personally." (Abshire letter, February 12, 1971.)
II. DEFENSE DEPARTMENT	
1. Monthly Report on Certain Operations in Laos and Cambodia (requested Jan. 27, 1971, April 20, 1971).	"Not be appropriate to discuss or disclose" this type of information "outside the Executive Branch." (Letter from Nutter, April 10, 1971; additional denial May 5, 1971.)
2. Internal defense plans for foreign governments which are prepared by the U.S. (Sept. 29, 1969).	"Viewed as tentative planning documents the release of which outside the Executive Branch could risk adverse reactions by the governments concerned." (Letter from Richard A. Ware, Dec. 18, 1969.)
3. Details on U.S. air operations in Cambodia (Letters—June 23, 1970, Sept. 24, 1970).	"Operational procedures and methods involving the risk of life or safety of military personnel [are] not to be disseminated outside the Executive Branch. . . ." (Letter from Dennis Doolin, Sept. 24, 1970.)

DEPARTMENT OF STATE,
Washington, D.C., July 28, 1972.

Hon. J. W. FULBRIGHT,
Chairman, Committee on Foreign Relations, U.S. Senate.

DEAR MR. CHAIRMAN: Thank you for your letter of June 30 regarding provision to the Committee of the reports prepared by the Bureau of Intelligence and Research.

As Mr. Ray S. Cline said in his response to questions from the Committee during the authorization hearings on March 10, 1972, neither INR nor the Department of State has unilateral authority to distribute to the Committee all of the intelligence produced by the Intelligence Community. INR's points of guidance for distribution of its products are consistent with the responsibility of the Director of Central Intelligence for the protection of sensitive intelligence sources and methods imposed upon him under the National Security Act of 1947.

Also, INR has a responsibility to the Department and the Executive Branch to handle its reports related to sensitive matters of policy in the process of formulation in such a way as to protect and not handicap the decision-making process. I regret, therefore, that we are unable to commit ourselves to provide a comprehensive listing of all studies prepared by the Bureau.

However, while obliged to keep the above considerations in mind, INR is making every effort to provide the Committee with the maximum possible amount of information and has increased the flow of its intelligence reporting.

As I am sure you know, we have recently begun sending INR Intelligence Notes to the Committee on Foreign Relations and Foreign Affairs. These reports, in addition to the longer-range, more detailed Research Studies and External Research Studies the Committees previously received, provide brief analytical comments on current situations related to our foreign policy. Arrangements have been made to deliver these reports to the Committees in a timely fashion.

I regret that we cannot be completely responsive to your request, but assure you that we will continue our efforts to maximize the flow of intelligence material to the Committee.

Sincerely yours,

DAVID M. ABSHIRE,
Assistant Secretary for Congressional Relations.

JUNE 30, 1972.

Hon. WILLIAM P. ROGERS,
Secretary of State,
Washington, D.C.

DEAR MR. SECRETARY: The Committee appreciates receiving copies of selected research studies prepared by the Department of State's Bureau of Intelligence and Research. It occurs to me that there may be other studies which the Committee has not received which would also be of interest to us. I would appreciate, therefore, your asking the Bureau to provide the Committee with a list of all types of studies being prepared by them together with the titles of all studies produced this year.

Sincerely yours,

J. W. FULBRIGHT,
Chairman.

OFFICE OF THE SECRETARY OF DEFENSE,
Washington, D.C., January 24, 1973.

Hon. J. W. FULBRIGHT,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This is in answer to your letter regarding "a Pentagon study relative to the capacity of Taiwan to defend against amphibious assault. . . ." The "study" referred to in the Jack Anderson column of March 4, 1972 is not in the files of the Defense Department. However, we have located an internal working document which in some ways resembles the information published in Mr. Anderson's column.

Since the document is an internal working level paper prepared some years ago and has never received any approval or implementation in the department, its use would serve no purpose.

We regret the inordinate delay in replying to your request.

Sincerely,

RADY A. JOHNSON,
Assistant to the Secretary for Legislative Affairs.

MEMORANDUM

To All Members of the Foreign Relations Committee.

From Carl Marcy, Chairman.

In view of the Committee's continuing problems in obtaining access to documents and materials from the Executive Branch, I think you will be interested in the attached exchange of correspondence between the Chairman and the Department of State.

U.S. SENATE,
Washington, D.C., May 1, 1971.

Hon. JOHN N. IRWIN II,
Under Secretary of State,
Washington, D.C.

DEAR MR. SECRETARY: In the absence of Secretary Rogers, I address this letter to you and ask that the reply come from you or the Secretary.

Mr. Van Hollen, Deputy Assistant Secretary of State for Near Eastern and South Asian Affairs, has doubtless informed you of his Executive Session meeting with the Committee on Foreign Relations of Friday, April 30.

During the course of the discussion, Mr. Van Hollen made it clear that he was under instructions not to make available or to read to the Committee from any reports or communications related to the situation in Pakistan. He also confirmed that from time to time on a selective basis classified documents, telegrams, and similar materials have been made available to the Committee or to selected Members (in the Committee's opinion, when it has served the Department's purposes.).

The Committee would like to have a full, forthright, unequivocal statement of departmental policy with respect to the kinds of information which it will make available to this Committee or to any Member thereof, and to the circumstances under which such information will be made available or denied. This statement of policy should also make it clear whether under any circumstances such information is made available to any non-governmental officials including consultants, advisors, members of advisory commissions, scholars, and the like. In order to determine its future course of action, the Committee feels strongly that it must have such a statement on an urgent basis.

Sincerely yours,

J. W. FULBRIGHT,
Chairman.

THE SECRETARY OF STATE,
Washington, D.C., July 6, 1971.

Hon. J. W. FULBRIGHT,
Chairman, Committee on Foreign Relations, U.S. Senate.

DEAR MR. CHAIRMAN: I understand and I am sympathetic with your need for a full flow of information from the Department of State. It is the President's wish and my intention to accommodate the needs of your Committee to the greatest extent possible and consistent with the practical needs of confidentiality in the conduct of our foreign relations.

It is because of our awareness of your needs that I will continue to make every effort to respond to requests for information and will re-examine our procedures in this regard. I have tried to provide the best informed officials of the Department to testify in both public and executive sessions. Since December 1, I have appeared three times in Executive Session, and three times in Open Session before your Committee. I have made responsible and informed officials available to the Committee as a whole, to individual members and to members of the staff to provide information at our disposal. I have supplemented such oral communication with many letters and reports prepared especially for the Committee at its request. The situation reports on Greece and on East Pakistan are two examples. I have called back Ambassadors and other senior officials to meet with the Committee whenever that has been feasible. Officers returning for leave and reassignment, most recently Consul General Blood, have also appeared before the Committee.

In such ways, I have tried to make available to the Committee, its members and its staff the most complete and the most comprehensive account of developments and policies in our foreign relations.

It has seemed to me best to provide information by one of these methods rather than to supply copies of field reports and internal memoranda concerned with policy in the process of formulation, or other internal working papers that have been prepared for Executive Branch use. This is to safeguard the efficiency, the integrity and the independence of the Department and of its individual officers in the decision-making and policy recommending process.

I hope that you will understand the need for confidentiality as an element of this process. It is important that officers reporting from the field and making recommendations in Washington should feel free to give me their candid views, whether or not they agree with policy at the time, and to know that such views will not be widely circulated.

We certainly do not intend for this practice to have the effect of denying to the Committee the substance of the information contained in classified material. We hope that the Department will be able to provide very complete information by one of the methods presently employed.

It is with these considerations as guidance that we weigh specific requests for classified documents. Our rule has been to comply whenever feasible. It was on this basis that we provided classified documents during the Committee's inquiry into United States commitments to other countries.

As a result of the President's initiative in January of this year, the subject of classification of documents has been under review within the Department. We are re-examining our policies and procedures concerning classification, declassification and handling of documents governed by Executive Order 10501. I hope that these efforts will lead to a more expeditious exchange of information between the Congress and the agencies and departments of the executive branch.

I am anxious to cooperate with you in other ways to improve the regular provision of information. You may recall that I spoke of this when I met with your Committee on May 14. I suggested, by way of example, that we begin regular private briefings on current developments by the regional Assistant Secretaries for the full Committee or for regional Subcommittees, if that would be preferable. We are also reviewing whether additional documents analyzing international developments from our Intelligence and Research Bureau may be made available.

The provision of classified information to non-governmental officials such as consultants, advisors, members of advisory panels, scholars and the like is somewhat different. Here the Department's policy is to make classified information available to the extent and of the kind required for them to carry out their functions in accordance with their

individual authorizations and security clearances. It is, of course, the policy of the Department to declassify classified materials for scholarly use to the greatest extent possible consistent with the effective conduct of our foreign relations. As I indicated earlier, these procedures are also under review.

I hope that you will find this statement responsive to your inquiry.

Sincerely,

WILLIAM P. ROGERS.

The PRESIDING OFFICER. Who yields time?

Mr. GRIFFIN. Mr. President, I yield myself such time as I may consume.

Mr. President, the distinguished Senator from Idaho says that there are no new or novel policy questions involved in section 11. However, I suggest most respectfully that there are, for this section confers upon the Foreign Relations Committee as a committee, not the Senate or the Congress, the power to precipitate an automatic cutoff of funds.

I think that is very important and novel policy consideration.

I can understand the frustration of the Foreign Affairs Committee in particular instances, and the Senator from Idaho has referred to a couple of times when requests have been made and the information sought was not furnished. However, this question is not limited to those particular kinds of situations. It refers to any document, paper, communication, audit, review, finding, recommendation, report or other material of any kind.

If we are talking about coequal branches of the Government, I wonder if we would extend that kind of reasoning and approach in the direction of the judicial branch of the Government. Members of the Supreme Court of the United States, as I understand it, meet regularly in executive sessions and discuss the cases and decide who is going to write the opinions and make certain decisions with regard to the cases before them.

Would it be reasonable, for example, for Congress to demand the minutes of the Supreme Court meetings? I have never heard anyone suggest that. However, it would be just as logical to do so as it would be to say that we are entitled to access to every single bit of information, communication, or otherwise within the executive branch of the Government. Certainly for the orderly function of the executive branch of the Government, the officers and employees of the executive branch of the Government have to be candid with one another in submitting evaluations. There must be some degree of confidentiality. And that line is a very difficult line to draw. It ought to be better delineated than it is now.

I suggest that this is surely not the way to go about it. The only thing I ask is that the Senate proceed in an orderly way.

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

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. GOLDWATER. Mr. President, once again I rise in a way to protest what is going on, though I realize it will do no good.

The pending bill, the State Department Authorization Act, seeks to cut the war powers of the President. We ought to get a bill passed that is proper to put on the Calendar later. However, any committee chairman can use any muscle he finds in the rulebook.

In 1926 the Supreme Court held that—

The plan of government desired by the Framers of the Constitution . . . could never have been intended to leave to Congress unlimited discretion to vary fundamentally the operation of the great independent executive branch of government and thus most seriously to weaken it. *Myers* v. *United States*,, 272 U.S. 52, 127.

Yet, this is exactly what the Senate Foreign Relations Committee proposes to do in section 11 of the pending bill.

This provision would require that the Department of State and other foreign affairs agencies must furnish any document, paper, report, or other material in its custody or control upon request from committees of Congress, or the funds for that agency would be cut off. Only direct communications with the President would be exempted. This provision is allegedly necessary to fulfill the congressional power of legislative inquiry.

Mr. President, what this provision does is to say that the executive branch has no separate entity. It directs that whatever is of the Executive belongs to the Congress.

It makes no matter that these documents may be the personal security file on some individual whose right of privacy is at stake, nor that Congress may be inquiring into the internal working papers of the Government, such as the recommendations, advice, or suggestions that one government employee might pass on to his superiors about a question of policy. Why the Foreign Relations Committee has actually gone so far in this provision that it collides with the objections of the American Civil Liberties Union—and that takes a little doing—whose general counsel testified that Congress should not be able to obtain personal dossiers or to question an employee on these kinds of internal deliberations.

In addition, under section 11 any committee of Congress attempting to run foreign negotiations could demand all working documents accompanying an ongoing international conference. Section 11 would even cover communications between U.S. Ambassadors abroad and the Secretary of State. It would include information furnished to the Government from foreign embassy sources, who may have furnished our officials with material having significant insight into some third nation's position on a policy matter and who would thus be highly embarrassed should this fact become known.

In other words, section 11 denies the existence of any right of the Executive branch to keep information confidential from Congress except for communications to and from the President himself.

Mr. President, I disagree strongly with this view. I believe and always have that there are some areas within the operations of government, particularly in the sphere of foreign and military policy, that the Executive may withhold when he determines that disclosure of particular matters would be harmful to the national interest. In the words of Justice Stewart and Justice White, concurring in a recent decision:

It is elementary that the successful conduct of international diplomacy and the maintenance of an effective national defense require both confidentiality and secrecy. Other nations can hardly deal with this Nation in an atmosphere of mutual trust unless they can be assured that their confidences will be kept. And within our own executive departments, the development of considered and intelligent international policies would be impossible if those charged with their formulation could not communicate with each other freely, frankly, and in confidence. In the area of basic national defense the frequent need for absolute secrecy is, of course, self-evident. *New York Times v. United States*, 403 U.S. 713, 728 (1971).

I might add, Mr. President, that where the security of the Nation is at stake, secrecy with respect to highly sensitive papers and deliberations of this sort would affect not Congress alone, but all but a minuscule number of the employees and officials of the executive branch itself.

Also, I believe it is essential the President should have the undivided counsel of his advisors, who must be free to give candid opinions without feeling that they will be second guessed immediately thereafter by Congress or the press. Certainly, the Executive must also be able to withhold information which might relate to pending investigative files that are a part of ongoing court litigation preparation.

All the above categories of information are in my opinion areas where executive privilege is firmly rooted both in historical precedence and in principle. In fact, these areas are analogous to the same sort of confidentiality which Senators and Representatives may expect from their assistants, and judges from their law clerks. Furthermore, there is a clear similarity between executive privilege and congressional committees which meet in closed session to mark up certain bills, of judges of the Supreme Court and other appellate courts who meet in closed session to decide on the outcome of particular cases.

The truth is, Mr. President, any independent branch of the Government must be able to withhold, at least for a limited period of time, a narrow scope of information which involves the very integrity of the decisionmaking process for that branch, where the right of personal privacy applies, or where the basic national defense is at stake. These powers are implicit in the creation of our divided form of government, with the executive, legislative, and judicial responsibilities going into three great and separate branches. Congress cannot violate this division by legislating its own definitions of the boundaries between the three branches.

Mr. President, another thing we should understand is that the Presidency generally operates in a spirit of good cooperation with Congress in which most documents and testimony sought are given by each department and agency. Even a leading critic of executive privilege, Prof. Raoul Berger, who has published a voluminous study of the subject, concedes that:

Over the years the vast bulk of congressional requests for information have met with compliance.

Historically, this is true. For example, a recent Library of Congress study on the usage of executive privilege, which was printed in the CONGRESSIONAL RECORD of June 20, 1972, disclosed that between 1961 and 1972, there were only 27 instances on which Presidents Kennedy, Johnson, and Nixon combined had withheld records or witnesses from congressional committees. It may interest my colleagues to know that President Johnson used the privilege 3 times, President Nixon 11 times, and President Kennedy 13 times.

Now this does not seem earthshaking to me and I cannot for the life of me see why the Senate would get so upset about this situation that it would propose shutting off the entire funds for a department's or agency's operation out of pique at not receiving information on so few occasions.

Furthermore, I must warn my colleagues that there are no judicial cases which uphold the proposition that Congress can compel the production of documents or testimony by officials of the executive branch. This is the conclusion of a Library of Congress legal memorandum, dated June 7, 1971, and I believe it is shared by most commentators in the field.

On the other hand, in the case of United States against Reynolds, the Supreme Court has recognized the authority of the executive branch to withhold information from the compulsory process of the courts in the interests of national security—345 U.S. 1, 10 (1953). There is no reason why this holding is not equally applicable to the compulsory process of Congress.

In fact, the Supreme Court has expressly remarked that the scope of the congressional power of inquiry "is not without limitations." More specifically, the Court has said Congress—

Cannot inquire into matters which are within the exclusive province of one of the other branches of the Government. . . . [It cannot] supplant the Executive in what exclusively belongs to the Executive. *Barenblatt v. United States*, 360 U.S. 109, 111, 112 (1959).

Moreover, Mr. President, there is no statutory precedent for the kind of disclosure which section 11 seeks to require. Contrary to the statement contained in the report of the Committee on Foreign Relations, a 1789 Act of Congress creating the original Department of the Treasury does not stand as a precedent for requiring the furnishing of any information which the executive branch determines should be kept confidential.

It is true that this statute includes a provision stating that it—

Shall be the duty of the Secretary of the Treasury * * * to make reports, and give information to either branch of the legislature in person or in writing (as he may be required)—

The debate on this measure, however, makes it absolutely clear the provision was not aimed at dragging information out of the Executive, but rather that it was drafted by Alexander Hamilton, who anticipated that he could thereby provide advice at will to Congress.

The report of the Foreign Relations Committee contains a partial quotation from Representative Roger Sherman which might indicate otherwise if one did not know that this has been taken totally out of context and given a tortured construction. The full weight of the legislative debate on the Treasury Act of 1789, as articulated by speaker after speaker, proves that the Members of the First Congress gave no thought to the statute as covering information which the Secretary would not choose to communicate, but had in mind only information which the Secretary would furnish voluntarily or indeed might thrust upon them.

The Members of the First Congress, including Roger Sherman, feared the Secretary of the Treasury might, by proposing plans of revenue to Congress, abridge the privilege of the House to originate all bills for raising revenue. The entire thrust of the debate was over the broad scope of authority given to the Secretary, not to any requirement on his part to furnish information against his will. The Members wanted to restraint the advice which Hamilton could give and they attempted to do this, in effect, by providing that he should give only such information as he may be required and no more.

Professor Berger, who testified on Executive privilege at a 1971 hearing of Congress, explained that—

Hamilton really wanted to be in a position to intrude, to offer his advice. He wanted to have a pipeline into the Congress, so he could come in and advise the Congress about financial matters . . . The provision for a call for information was merely designed to bar Hamilton's unsought intrusions.

To which, I might add, Mr. President, that Hamilton, the first Secretary of the Treasury, was quoted by Jefferson as construing this same act as not making him—

Subject as to be obliged to produce all papers [Congress] might call for.

The writings of Thomas Jefferson 190 (Ford ed., 1892). From this, Mr. President, it is quite clear that the act of 1789 was not conceived as imposing any requirement on the Secretary, but was feared to establish a matter of right for the Secretary to intrude his plans and advice on Congress.

Mr. President, in order to leave no question about the interpretation which Congress gave to this statute, I ask unanimous consent that the proceedings in the House of Representatives on the original Treasury Department Act be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER (Mr. BARTLETT). Without objection, it is so ordered.

(See exhibit 1.)

Mr. GOLDWATER. In summary, Mr. President, there is no precedent, constitutional, statutory, or judicial, which supports section 11, and I strongly recommend that we strike the provision entirely.

EXHIBIT 1

[From Vol. I—Gales and Seaton's History of the Debates and Proceedings in the Congress of the United States, pages 615–631 (1834 edition)]

PROCEEDINGS IN THE HOUSE OF REPRESENTATIVES, THURSDAY, JUNE 25, 1789

TREASURY DEPARTMENT

The House then resolved itself into a Committee of the whole on the bill for establishing the Treasury Department, Mr. TRUMBULL in the chair. The second clause being under consideration.

Mr. PAGE objected to the words making it the duty of the Secretary to "digest and report plans for the improvement and management of the revenue, and the support of the public credit;" observing that it might be well enough to enjoin upon him the duty of making out and preparing estimates; but to go any further would be a dangerous innovation upon the constitutional privilege of this House; it would create an undue influence within these walls, because members might be led, by the deference commonly paid to men of abilities, who give an opinion in a case they have thoroughly studied, to support the minister's plan, even against their own judgment. Nor would the mischief stop here; it would establish a precedent which might be extended, until we admitted all the ministers of the Government on the floor, to explain and support the plans they have digested and reported: thus laying a foundation for an aristocracy or a detestable monarchy.

Mr. TUCKER.—The objection made by the gentleman near me is, undoubtedly, well founded. I think it proper to strike out all the words alluded to, because the following are sufficient to answer every valuable purpose, namely, "to prepare and report estimates of the public revenue and public expenditures." If we authorize him to prepare and report plans, it will create an interference of the executive with the legislative powers; it will abridge the particular privilege of this House; for the constitution expressly declared, that all bills for raising revenue shall originate in the House of Representatives. How can the business originate in this House, if we have it reported to us by the Minister of Finance? All the information that can be required, may be called for, without adopting a clause that may undermine the authority of this House, and the security of the people. The constitution has pointed out the proper method of communication between the executive and legislative departments; it is made the duty of the President to give, from time to time, information to Congress of the state of the Union, and to recommend to their consideration such measures as he shall judge necessary and expedient. If revenue plans are to be prepared and reported to Congress, here is the proper person to do it; he is responsible to the people for what he recommends, and will be more cautious that any other person to whom a less degree of responsibility is attached. Under this clause, you give the Secretary of the Treasury a right to obtrude upon you plans, not only undigested, but even improper to be taken up.

I hope the House is not already weary of executing and sustaining the powers vested in them by the constitution; and yet it would argue that we thought ourselves less adequate to determine than any individual what burthens our constituents are equal to bear. This is not answering the high expectations that were formed of our exertions for the general good, or of our vigilance in guarding our own and the people's rights. In short, Mr. Chairman, I can never agree to have money bills originated and forced upon this House by a man destitute of legislative authority, while the constitution gives such power solely to the House of Representatives; for this reason, I cheerfully second the motion for striking out the words.

Mr. BENSON.—If the proposed amendment prevail, the bill will be nearly nugatory. The most important service that can be rendered by a gentleman who is at the head of the Department of Finance, is that of digesting and reporting plans for the improvement of

the revenue, and supporting public credit; and, for my part, I shall despair of ever seeing your revenue improved, or the national credit supported, unless the business is submitted into the hands of an able individual. I thought this subject was well understoood, from the debate on the original motion. It was then insisted upon by an honorable gentleman, Mr. GERRY, who opposed the appointment of a Secretary of the Treasury, that his important duties ought to be "to consider of the means of improving the revenue, and introducing economy into the expenditures, and to recommend general systems of revenue." Now, what more than this is required by the clause?

For my part, I am at a loss to see how the privilege of the House is infringed. Can any of the Secretary's plans be called bills? Will they be reported in such a form even? But admitting they were, they do not become bills, unless they are sanctioned by the House; much less is the danger that they will pass into laws without full examination by both Houses and the President. From this view of the subject, so far is the clause from appearing dangerous, that I believe it discovers itself to be not only perfectly safe, but essentially necessary; and without it is retained, the great object of the bill will be defeated.

Mr. GOODHUE.—We certainly carry our dignity to the extreme, when we refuse to receive information from any but ourselves. It must be admitted, that the Secretary of the Treasury will, from the nature of his office, be better acquainted with the subject of improving the revenue or curtailing expense, than any other person; if he is thus capable of affording useful information, shall we reckon it hazardous to receive it? For my part, when I want to attain a particular object, I never shut my ears against information likely to enable me to secure it.

Mr. PAGE.—I can never consent to establish, by law, this interference of an executive officer in business of legislation; it may be well enough in an absolute monarchy, for a minister to come to a Parliament with his plans in his hands, and order them to be enregistered or enacted; but this practice does not obtain even in a limited monarchy like Britain. The minister there, who introduces his plans, must be a member of the House of Commons. The man would be treated with indignation, who should attempt in that country to bring his schemes before Parliament in any other way. Now, why we, in the free republic of the United States, should introduce such a novelty in legislation, I am at a loss to conceive. The constitution expressly delegates to us the business of the revenue; our constituents have confidence in us, because they suppose us acquainted with their circumstances; they expect, in consequence of this knowledge, we will not attempt to load them with injudicious or oppressive taxes; but they have no such security, if we are blindly to follow perhaps an unskilful minister. It does not answer me, Mr. Chairman, to say the House has a right of deliberating and deciding upon these plans, because we may be told, if you prune away this part or that part of the system, you destroy its efficiency. Therefore we must act with caution; we must either take or reject the whole; but if we reject the whole, sir, we are to depend upon ourselves for a substitute. How are we to form one? For my part, I should not despair, that the united wisdom of this House could procure one; but if we are to do this in the second instance, why cannot we attempt it in the first? I have no objection to our calling upon this or any other officer for information; but it is certainly improper to have him authorized by law to intrude upon us whatever he may think proper. I presume, sir, it is not supposed by the worthy gentleman from New York (Mr. BENSON) that we shall be at a loss to conceive what information would be useful or proper for us to require, that we must have this officer to present us with what he chooses. When the President requires an opinion of him, the constitution demands him to give it; so under the law, let him send his opinion in here, when it is asked for. If any further power is given him, it will come to this at last: we, like the Parliament of Paris, shall meet to register what he dictates. Either these reports of the Secretary are to have weight, or they are not; if they are to have weight, the House acts under a foreign influence, which is altogether improper and impolitic; if they are to have no weight, we impose a useless duty upon the officer, and such as is no mark of our wisdom.

Mr. AMES hoped the subject might be treated with candor and liberality; he supposed the objections were made on those principles, and therefore required a serious answer. The worthy gentleman who first expressed his aversion to the clause seemed to be apprehensive that the power of reporting plans by the Secretary would be improper, because it appeared to him to interfere with the legislative duty of the House, which the House ought not to relinquish.

Whenever it is a question, Mr. Speaker, said he, whether this House ought, or ought not, to establish offices to exercise a part of the power of either branch of the Government, there are two points which I take into consideration, in order to lead my mind to a just decision; first, whether the proposed disposition is useful; and, second, whether it can be safely guarded from abuse. Now I take it, sir, that the House, by their order for bringing in a bill to establish the Treasury Department in this way, have determined the point of utility; or, have they erred in adopting that opinion, I will slightly make an inquiry. How does it tend to general utility? The Secretary is presumed to acquire the best knowledge of the subject of finance of any member of the community. Now, if this House is to act on the best knowledge of circumstances, it seems to follow logically, that the House must obtain evidence from that officers; the best way of doing this will be publicly from the officer himself, by making it his duty to furnish us with it. It will not be denied, sir, that this officer will be better acquainted with his business than other people can be. It lies within his department, to have a comprehensive view of the state of the public revenues and expenditures. He will, by his superintending power over the collection, be able to discover abuses, if any, in that department, and to form the most eligible plan to remedy or prevent the evil. From his information respecting money transactions, he may be able to point out the best mode for supporting the public credit; indeed, these seem to me to be the great objects of his appointment.

It is, perhaps, a misfortune incident to public assemblies, that from their nature they are more incompetent to a complete investigation of accounts than a few individuals; perhaps in a Government so extended, and replete with variety in its mode of expenditure as this, the subject may be more perplexing than in countries of smaller extent, and less variety of objects to guard. The science of accounts is at best but an abstruse and dry study; it is scarcely to be understood but by an unwearied assiduity for a long time; how then can a public body, elected annually, and in session for a few months, undertake the arduous task with a full prospect of success? If our plans are formed upon these incomplete investigations, we can expect little improvement; for I venture to say, that our knowledge will be far inferior to that of an individual, like the present officer. Hence I contend, sir, that the Secretary is a useful and invaluable part of the Government.

I would not have it understood that I am against an inquiry being made into this subject at every session of the Legislature. I think such a practice highly salutary, but I would not trust to a hasty, or perhaps injudicious examination of a business of this magnitude; on the contrary, I would take every precaution in ascertaining the foundation upon which our revenues are to stand.

If we consider the present situation of our finances, owing to a variety of causes, we shall no doubt perceive a great, although unavoidable confusion throughout the whole scene; it presents to the imagination a deep, dark, and dreary chaos; impossible to be reduced to order without the mind of the architect is clear and capacious, and his power commensurate to the occasion; he must not be the flitting creature of a day, he must have time given him competent for the successful exercise of his authority. It is with an intention to let a little sunshine into the business that the present arrangement is proposed; I hope it may be successful, nor do I doubt the event. I am confident our funds are equal to the demand, if they are properly brought into operation; but a bad administration of the finances will prove our greatest evil.

But is our proposed arrangement safe? Are the guards sufficient to prevent abuse? I am perfectly satisfied it can be made so, and hope the united exertions of both Houses will effect it. How is the power complained of by the honorable gentleman over the way (Mr. PAGE and Mr. TUCKER) unsafe? We are told, the plans reported may have an undue influence. Upon what ground is this opinion rested? Do the gentlemen apprehend the facts will be fallaciously stated? If so, I would ask, cannot they be detected? If facts are faithfully stated, and the deductions are fair, no doubt the plan will be patronized; and will the gentleman say that it ought not? I believe there is little danger of imposition, for a person in this situation would hardly run the risk of detection, in a case where detection might be easy by an examination of the books and vouchers, and his reputation be destroyed.

What improper influence could a plan reported openly and officially have on the mind of any member, more than if the scheme and information were given privately at the Secretary's office?

Nor, Mr. Chairman, do I approve what the gentlemen say with respect to calling on the Secretary for information; it will be no mark of inattention or neglect, if he take time to consider the questions you propound; but if you make it his duty to furnish you plans of information on the improvement of the revenue and support of public credit, and he neglect to perform it, his conduct or capacity is virtually impeached. This will be furnishing an additional check.

It has been complained of as a novelty; but, let me ask gentlemen, if it is not to an institution of a similar kind that the management of the finances of Britain is the envy of the world? It is true, the Chancellor of the Exchequer is a member of the House that has the sole right of originating money bills; but is that a reason why we should not have the information which can be obtained from our officer, who possesses the means of acquiring equally important and useful knowledge? The nation, as well as the Parliament of Britain, holds a check over the Chancellor: if his budget contains false calculations, they are corrected; if he attempts impositions, or even unpopular measures, his administration becomes odious, and he is removed. Have we more reason to fear than they? Have we less responsibility or security in our arrangement of the Treasury department? If we have, let us improve it, but not abridge it of its safest and most useful power. I hope the committee will refuse their approbation of the present motion.

Mr. LIVERMORE.—I shall vote for striking out the clause, because I conceive it essentially necessary so to do. The power of originating money bills within these walls, I look

upon as a sacred deposit which we may neither violate nor divest ourselves of, although at first view it may appear of little importance who shall form a plan for the improvement of the revenue. Although every information tending to effect this great object may be gratefully received by this House, yet it behooves us to consider to what this clause may lead, and where it may terminate. Might it not, by construction, be said, that the Secretary of the Treasury has the sole right of digesting and reporting plans for the improvement of the revenue? This construction may appear a little extraordinary, but it is not more so than some constructions heretofore put upon other words; but however extraordinary it may be, it may take place, and I think the best way to avoid it, will be to leave out the words altogether. It is certainly improper that any person, not expressly entrusted by our constituents with the privilege of taking their money, should direct the quantum and the manner in which to take it.

But if there is not the danger I have mentioned, of giving power exclusively to this officer, I would ask gentlemen, and I submit it to their candor to say, whether it must not have a tendency to render the minds of the members indifferent on the subject, if the business is to be arranged and conducted by another, who, we are told, is better capable of understanding it than ourselves? Certainly, we shall hardly think it worth while to trouble our heads about the business. How far this will disappoint the object of our election, may be plainly seen. For my part, I think the power too great to be entrusted in any hands but those of the representatives of the people, where the constitution has deposited it, unless it be to a committee specially appointed by the House for that purpose.

Some allusions, Mr. Chairman, have been made with respect to the origin of this power. Gentlemen have intimated that it was copied from the powers vested in the First Lord of the Treasury. I am not of this opinion. I rather believe the committee, in searching for precedents, have turned to the former appointment of a Superintendent of Finance under the late Confederation, and, having discovered this enumerated among his powers, have copied it into the bill, not adverting to the different circumstances of the present and former Congress; for to them alone was not confined the power of originating revenue plans. Besides, it might be safe in them, because they possessed the legislative and executive power; they could abolish his plans and his office together, if they thought proper; but we are restrained by a Senate, and the negative of the President. We have no power over him, therefore we ought to be cautious of putting dangerous powers into his hands.

Mr. SEDGWICK.—If the principle prevails for curtailing this part of the Secretary's duty, we shall lose the advantages which the proposed system was intended to acquire. The improvement and management of the revenue is a subject that must be investigated by a man of abilities and indefatigable industry, if we mean to have our business advantageously done. If honorable gentlemen will for a moment consider the peculiar circumstances of this country, the means of information attainable by the individual members of this House, and compare them with the object they have to pursue, they will plainly perceive the necessity of calling to their aid the advantages resulting from an establishment like the one contemplated in the bill; if they weigh these circumstances carefully, their objections, I trust, will vanish. Coming, Mr. Chairman, as we do, from different parts of the Union, from States where the objects of revenue are different, where the circumstances and views of the people are different, and in a great degree local, it appears to me that no one member can be so fortunate as to possess the extensive knowledge attainable by this officer. Another circumstance induces me to draw the same conclusion. We shall find systems adopted to defeat the collection of the revenue, but it will be impossible for any of us to become so well acquainted with these machinations as to defeat their object; but from the advantageous position we give the Secretary of the Treasury, and the multifarious objects of his attention, he may watch over and detect their plans; he will have a better capacity to propose a remedy than any member of the Legislature.

I do not apprehend any undue influence operating on the members of this House, because I am persuaded there will ever prevail an independent and indignant spirit within the walls of Congress, hostile to every venal attempt. Nor do I believe it possible to color, with a semblance of justice, either false or base measures against the public welfare; the wisdom of this House can never be thought so meanly of. I trust a majority will always be found wise and virtuous enough to resist being made the tools of a corrupt administration. I, therefore, with confidence, approve the object of the clause.

I will mention one other circumstance, of no inconsiderable force, in favor of the bill. Coming, as I said we do, from districts with different ideas, perhaps different objects to pursue, much time will necessarily be consumed before a current is found in which the mind of the majority will run; and even then, gentlemen will not be certain they have procured all the information that could be obtained. It appears, therefore, to me, from the reason and nature of things, to be our duty, as wise legislators, to form such a reservoir for information as will supply us with what is necessary and useful at all times.

Mr. BOUDINOT.—A proper jealousy for the liberty of the people is commendable in those who are appointed and sworn to be its faithful guardians; but when this spirit is carried so far as to lose sight of its object, and instead of leading to avoid, urges on to the precipice of ruin, we ought to be careful how we receive its impressions. So far is the present measure from being injurious to liberty, that it is consistent with the true interest and prosperity of the community. Are gentlemen apprehensive we shall be led by this officer to adopt plans we should otherwise reject? For my part, I have a better opinion of the penetration of the representation of the people than to dread any such visionary phantom.

Let us consider whether this power is essentially necessary to the Government. I take it to be conceded by the gentlemen, that it is absolutely so. They say they are willing to receive the information because it may be serviceable, but do not choose to have it communicated in this way. If the Secretary of the Treasury is the proper person to give the information, I can see no other mode of obtaining it that would be so useful. Do gentlemen mean that he shall give it piecemeal, by way of question and answer? This will tend more to mislead than to inform us. If we would judge upon any subject, it would be better to have it in one clear and complete view, than to inspect it by detachments; we should lose the great whole in the minutiae, and, instead of a system, should present our constituents with a structure composed of discordant parts, counteracting and defeating the operation of each other's properties.

Make your officer responsible, and the presumption is, that plans and information are properly digested; but if he can secrete himself behind the curtain, he might create a noxious influence, and not be answerable for the information he gives. I conceive this great principle of responsibility to be essentially necessary to secure the public welfare: make it his duty to study the subject well, and put the means in his power; we can then draw from him all the information he has acquired, and apply it to its proper use. Without such an officer, our plans will be ineffectual and inconsistent. I have seen too much the want of a like officer in the State Legislatures, not to make me very desirous of adopting the present plan. It has been said, that the members coming from the different parts of the Union are the most proper persons to give information. I deny the principle. There are no persons in the Government to whom we could look with less propriety for information on this subject than to the members of this House. We are called from the pursuit of our different occupations, and come without the least preparation to bring forward a subject that requires a great degree of assiduous application to understand; add to this the locality of our ideas, which is too commonly the case, and we shall appear not very fit to answer the end of our appointment. Witness the difficulty and embarrassments with which we have hitherto been surrounded. If we had the subject digested and prepared, we should determine with ease on its fitness, its combination, and its principles, and might supply omissions or defects without hazard; and this in half the time we could frame a system, if left to reduce the chaos into order.

Mr. HARTLEY rose to express his sentiments, as he did on every occasion, with diffidence in his own abilities; but he looked upon the clause as both unsafe and inconsistent with the constitution. He thought the gentleman last up proved too much by his arguments; he proved that the House of Representatives was, in fact, unnecessary and useless; that one person could be a better judge of the means to improve and manage the revenue, and support the national credit, than the whole body of Congress. This kind of doctrine, Mr. Chairman, is indelicate in a republic, and strikes at the root of all legislation founded upon the great democratic principle of representation. It is true, mistakes, and very injurious ones, have been made on the subject of finance by some State Legislatures; but I would rather submit to this evil, than, by my voice, establish tenets subversive of the liberties of my country.

Notwithstanding what I have said, I am clearly of opinion it is necessary and useful to take measures for obtaining other information than what members can acquire in their characters as citizens; therefore, I am in favor of the present bill; but I think these words too strong. If it was modified so as to oblige him to have his plans ready for this House when they are asked for, I should be satisfied; but to establish a legal right in an officer to obtrude his sentiments perpetually on this body, is disagreeable, and it is dangerous, inasmuch as the right is conveyed in words of doubtful import, and conveying powers exclusively vested by the constitution in this House.

One gentleman (Mr. AMES) has said, that the Secretary would be responsible for the plans he introduces. Very true; but how are we to detect the impositions they contain; for, he says, we require more time and leisure to make the scrutiny than falls to our lot, so that it does not afford the degree of responsibility which his observations supposed.

Mr. GERRY expresed himself in favor of the object of the clause; that was, to get all the information possible for the purpose of improving the revenue, because he thought this information would be much required, if he judged from the load of public debt, and the present inability of the people to contribute largely toward its reduction.

He could not help observing, however, the great degree of importance they were giving this, and the other executive officers. If the doctrine of having prime and great ministers of state was once well established, he did not doubt but we should soon see them distinguished by a green or red ribbon, or other

insignia of court favor and patronage. He wished gentlemen were aware of what consequences these things lead to, that they might exert a greater degree of caution.

The practice of Parliament in Britain is first to determine the sum they will grant, and then refer the subject to a Committee of Ways and Means; this might be a proper mode to be pursued in this House.

Do gentlemen, said he, consider the importance of the power they give the officer by the clause? Is it not part of our legislative authority? And does not the constitution expressly declare that the House solely shall exercise the power of originating revenue bills? Now, what is meant by reporting plans? It surely includes the idea of originating money bills, that is, a bill for improving the revenue, or, in other words, for bringing revenue into the treasury. For if he is to report plans, they ought to be reported in a proper form, and complete. This is giving an indirect voice in legislative business to an executive officer. If this be not the meaning of the clause, let gentleman say what is, and to what extent it shall go; but if my construction is true, we are giving up the most essential privilege vested in us by the constitution. But what does this signify? The officer is responsible, and we are secure. This responsibility is made an argument in favor of every extension of power. I should be glad to understand the term. Gentlemen say the Secretary of the Treasury is responsible for the information he gives the House—in what manner does this responsibility act? Suppose he reports a plan for improving the revenue, by a tax which he thinks judicious, and one that will be agreeable to the people of the United States; but he happens to be deceived in his opinion, that his tax is obnoxious, and excites a popular clamor against the minister—what is the advantage of his responsibility? Nothing. Few men deserve punishment for the error of opinion; all that could be done would be to repeal the law, and be more cautious in future in depending implicitly on the judgment of a man who had led us into an impolite measure. Suppose the revenue should fall short of his estimate, is he responsible for the balance? This will be carrying the idea further than any Government hitherto has done. What then is the officer to be responsible for, which should induce the House to vest in him such extraordinary powers?

It was well observed by the honorable gentleman over the way (Mr. PAGE), that when his bill or plan is before the House, we must take or reject the whole; for if the individual members are so uninformed on the subject as they have been represented, it will be next to presumption to prepare an alteration; we should be told it was his duty officially to present plans, and our duty officially to pass them; that he is better informed than any other man, nay, better than the collective wisdom of the country. But this argument goes further still, and it may be justly asked, what occasion is there for a session of Congress? It incumbers the nation with a heavy expense, without rendering it any service. For, if we can neither alter nor improve the Secretary's plans, we can only consume our time to no avail. Under these circumstances, it will be patriotic to lay down our authority and vest it in the great minister we have established.

Mr. LAWRENCE.—I do not see consequences so dangerous as some gentlemen seem to apprehend; nor did they appear to them, I believe, when the subject was last under consideration. I recollect, Mr. Chairman, that some difficulty was made about establishing this office, because it was feared we could not find men of sufficient abilities to fill it. The duties were then properly deemed of a high and important nature, and enumerated as those proposed in the bill. It was supposed by an honorable gentleman, that the powers here expressed might be lodged in a board, because an individual was incompetent to undertake the whole. But now we have the wonderful sagacity of discovering, that if an individual is appointed, he will have capacity to form plans for improving the revenue in such an advantageous manner, as to supersede the necessity of having the representatives of the people consulted on the business; he will not only perform the usual duties of a Treasury Board, but be adequate to all purposes of legislation. I appeal to the gentleman for his usual candor on this occasion, which will assure us that he has wiredrawn his arguments.

I hope, sir, if we give this power to an individual, we shall have judgment enough to discover whether his plans are consistent with the public happiness and prosperity; and while we exercise this judgment, there can be no cause to apprehend the chimerical effects portrayed by the gentleman last up.

It is said to be giving him the power of legislation. Do we give him the power of deciding what shall be law? While we retain this power, he may give us all the information possible, but can never be said to participate in legislative business; he has no control whatever over this House. I see no danger, but a great deal of benefit, arising from the clause; by making it his duty to study the subject, we may reasonably expect information.

How is it said, that the power of reporting plans for the improvement of the revenue, is the power of originating money bills? The constitution declares that power to be vested solely in this House. Now, will gentlemen say a money bill is originated by an individual member if he brings it forward? It cannot be originated, in my opinion, until the sense of the House is declared; much less can a plan for the improvement of the revenue be said to be a money bill.

Mr. GERRY admitted that he gave it as his opinion, that it was not an easy thing to find a proper person for conducting the finances in this country; there were but few in Europe who possessed abilities equal to the undertaking. He said before, that he knew but one in America, and believed there were not many to be found. These were his sentiments then, and he had made no discoveries since that warranted a change of opinion. But perhaps the advocates of the bill are acquainted with a gentleman fit for the business; if they are, it is more than he pretended to be, unless, as he said before, it was an honorable member of the Senate, who had made more progress in acquiring a knowledge of this difficult science, than any other person he had heard of.

He would not proceed on this subject, because the House had determined to appoint such an officer, and thereby put an end to the debate. By that vote, they supposed they could find a man equal to the task; he hoped they might, but he was really apprehensive of a disappointment, when he considered the confused and embarrassed state of our public debts and accounts; however, he submitted to the voice of his country.

The gentleman last up, said he, did me the honor of noticing what I said on a former occasion; but I appeal to himself whether my words were conveyed in the language of the bill. Did I advise any thing like this? Has not the gentleman sagacity enough to discover that my arguments went no further than this, that he was the proper person to give information respecting the public revenues and expenses, the mode of collecting, and the probable remedy for abuses?

But certainly, this House contains more information relative to the proper means of supporting the national credit, and how far our constituents are capable of sustaining an increase of taxes, or which mode of assessment would yield most satisfaction. Yet gentlemen propose to give the power of advising the House, in all these cases, to the Secretary of the Treasury. It was always my opinion, that the representative body, from their sense of feeling, was a better judge of taxation than any individual, however great his sagacity, or extensive his means of information.

The gentleman says, we only give him power to give information; that is what I wish, but the clause goes further. Is digesting and reporting plans merely giving information? These plans will have to undergo the consideration of the House, I grant; but they must have some influence coming from such high authority, and if they have this in any degree whatever, it is subversive of the principles laid down in the constitution.

The gentleman says, a bill is not originated until it has obtained the sense of the House; what is it then? The bill now under consideration has not obtained the sense of the House, yet I believe that gentleman himself conceives it to be a bill; he uses the term when he is speaking of it, and will hardly deny that it has originated. I think, sir, whenever the House order a committee to bring in a bill, or give leave to a member to read one in his place, that by that order they originate the bill; and here it is that I am apprehensive of a diminution of our privilege. By this law you give the Secretary the right of digesting and reporting all plans, which is but another word for bills, for the management and improvement of the revenue, and supporting public credit. To what an extent these last words may reach, I shall not pretend to say; but certainly they may include the operations of more departments than one. If the clause will bear the construction I have mentioned, it is altogether unwarrantable. I said, I differed from the gentleman with respect to the origin of bills, but perhaps this phrase may be applicable to a bill on its passage; all bills, from the time they are admitted before the House, may be said to be on their passage; but they are originated, as I take it, at their introduction.

Mr. FITZSIMONS was not certain that he understood the objections which were made against the clause; but if he did, it was a jealousy arising from the power given the Secretary to report plans of revenue to the House. No gentleman, he believed, had objected to his preparing a plan, and giving it in when it was called for. If this were the case, perhaps harmony might be restored to the committee by changing the word report into prepare; he would therefore move that amendment, in order to try the sense of the House.

Mr. MADISON.—After hearing and weighing the various observations of gentlemen, I am at a loss to see where the danger lies. These are precisely the words used by the former Congress, on two occasions, one in 1783, the other in a subsequent ordinance, which established the Revenue Board. The same power was also annexed to the office of Superintendent of Finance, but I never yet heard that any inconvenience or danger was experienced from the regulation; perhaps, if the power had been more fully and frequently exercised, it might have contributed more to the public good.

There is a small probability, though it is but small, that an officer may derive a weight from this circumstance, and have some degree of influence upon the deliberations of the Legislature; but compare the danger likely to result from this clause, with the danger and inconvenience of not having well-formed and digested plans, and we shall find infinitely more to apprehend. Inconsistent, unproductive, and expensive schemes, will be more injurious to our constituents than the undue influence which the well-digested plans of a well-informed officer can have. From a bad administration of the Government, more detriment will arise than from any other source. The want of information has occasioned much incovenience and unnecessary burdens under some of the State

Governments. Let it be our care to avoid those rocks and shoals in our political voyage, which have injured, and nearly proved fatal to, many of our contemporary navigators.

A gentleman has asked, what is meant by responsibility? I will answer him. There will be responsibility in point of reputation, at least a responsibility to the public opinion with respect to his abilities; and supposing there is no personal responsibility, yet we know that men of talents and ability take as much care for the preservation of their reputation as any other species of property of which they are possessed. If a superior degree of wisdom is expected to be displayed by them, they take pains to give proofs that they possess it in the most unequivocal manner; this of itself will ensure us no small degree of exertion.

With respect to originating money bills, the House has the sole right to do it; but if the power of reporting plans can be construed to imply the power of originating revenue bills, the constitution is inconsistent with itself, in giving the President authority to recommend such measures as he may think expedient or necessary; but the construction is too unnatural to require further investigation.

I have admitted there is a small probability of a small inconvenience, but I do not think it any more an argument against the clause, than it would be an argument against having windows in a house, that it is possible the wind and the rain may get in through the crevices.

Mr. LIVERMORE expressed an apprehension that the clause originated from a clause in an ordinance of the former Congress; he found now he was not mistaken; but he wished gentlemen to distinguish, in the manner he had attempted to do, between properties of this Congress and that, from which they might discover the impropriety of adopting it.

He thought gentleman had sufficiently extolled the excellence of this office, and its advantages. He remembered that the grant of this power to the officer who formerly presided at the head of the finances, had produced some morsels of this kind; the five per cent, impost, a poll tax, and a land tax, if his memory served him right, were submitted; how far these were likely to meet the approbation of the Union, he did not say; but certainly one of them would meet few patrons. From this specimen, he did not form so favorable an opinion as some gentlemen expressed of the revenue plans, prepared, digested, and reported by a Secretary of the Treasury.

Mr. PAGE added, that the late Congress were obliged to submit their plans to the State Legislatures; consequently, there was less danger of undue influence. As this was his principal fear, he would vote against every thing like giving him authority to bring his plans before the House.

Mr. LIVERMORE declared the amendment proposed by Mr. FITZSIMONS unsatisfactory, and by no means removing the ground of complaint.

Mr. TUCKER likewise objected to the amendment, because its effect would be precisely the same with the words standing in the bill. Why, said he, should the Secretary be directed to prepare plans, unless it is intended that the House should regularly call for them? The views of the gentleman are to have a uniformity in the system of finance; but how can this be effected, without the plans are always brought before us? Whatever the House shall presume to do on independent principles, may break in upon the Secretary's system, or make him vary his propositions, in order to accommodate them to what we have done. If we must adopt plans for the sake of uniformity, we must adopt them at all times, or lose our object.

However useful it may be to obtain information from this officer, I am by no means for making it a matter of right in him to intrude his advice. I admit, information may at all times be acceptable, but I think advice should never come but when required. Are we to be advised on all occasions, because we don't know when to require it? Are the members of this House incapable of asking for assistance when they want it? Why have we not affronted the other branches of the Government, as well as this House? Why have we not said that the Secretary of Foreign Affairs should prepare and digest plans for the formation of treaties, and report them to the President and Senate, who are exclusively to manage that concern? The cases are exactly similar; but we did not choose to offer them such an indignity. If it is right in one instance, it is equally so in every other. We ought to have given the Secretary at War an opportunity of exercising his ingenuity, in devising plans of fortifications to strengthen our shores and harbors; we ought, in every case, where we have to decide, appoint officers with the same view to aid our deliberations, and, in fine, to perform the whole duties for which we were elected.

Mr. HARTLEY expressed himself satisfied with the amendment proposed by Mr. FITZSIMONS.

Mr. STONE was not afraid of giving the officer the power of reporting plans, because he was sure Congress would, in every case, decide upon their own judgment. A future Congress would not pay such a deference, even to their predecessors, as to follow in their footsteps, unless they were convinced of the good policy of their measures. He thought, if the House wanted to make use of the information acquired by the Secretary, they ought to give him notice of their intention; consequently, something of this kind was proper in the bill.

Mr. SHERMAN thought the principle held up by the clause, was absolutely necessary to be received. It was of such a nature as to force itself upon them; therefore it was in vain to attempt to elude it by subterfuge. It was owing to the great ablities of a financier, that France had been able to make the exertions we were witnesses of a few years ago, without embarrassing the nation. This able man, after considerably improving the national revenue, was displaced; but such was the importance of the officer, that he has been restored again.

The honorable gentleman, said he, from South Carolina, (Mr. TUCKER) has asked why we did not make a similar provision in the case of the Departments of Foreign Affairs, and of War, to assist the President. If he had consulted the constitution, he would have found it unnecessary, because it is there made the duty of the heads of departments to answer the inquiries of the President in writing. It is the proper business of this House to originate revenue laws; but as we want information to act upon, we must procure it where it is to be had, consequently we must get it out of this officer, and the best way of doing so, must be by making it his duty to bring it forward.

I do not contend for a word; if the spirit of the clause is retained, I am satisfied.

Mr. BALDWIN.—I do not see what we are guarding against by striking out the words, unless gentlemen mean to go so far as to introduce a prohibitory clause, and declare that the Secretary of the Treasury shall be restrained from digesting or preparing plans for the improvement of the revenue. If there is any evil in having him attend to this branch of the business, I cannot see how to avoid it. Suppose the officer is a bad man, and there are others like him in this House, (for this must be what the gentlemen are afraid of;) and suppose he has prepared a scheme for speculation, which he hopes to get adopted by making dupes of the honest part; how are you to hinder it from being brought forward? Cannot his friends introduce it as their own, by making and seconding a motion for that purpose? Will you restrain him from having access to the members out of doors? And cannot he infuse his dangerous and specious arguments and information into them as well in the closet, as by a public and official communication? But, Mr. Chairman, can this House, or if it can, will it, prevent any of their constituents from bringing before them plans for the relief of grievances or oppressions? Every individual of the community can bring business before us by petition, memorial, or remonstrance, provided it be done in a decent manner. How then do you propose to restrain the Secretary of the Treasury?

I think the clause is very well as it stands, and shall therefore be against the amendment.

Mr. PAGE's motion for striking out the clause being put and negatived:

The question on Mr. FITZSIMON's motion to amend the bill, by striking out the word report, and inserting prepare, was taken and carried by a great majority.

After which the House adjourned.

Mr. CHURCH. Mr. President, how much time remains to me on the amendment?

The PRESIDING OFFICER. Sixteen minutes remain to the Senator from Idaho.

Mr. CHURCH. Mr. President, I yield myself such additional time as I may require.

I can understand why a president, a king, an emperor, or a sultan would want to do all within his power to enfeeble the legislature. If there has been one historic contest through the years, about which all of us know through our study of government, it is the eternal struggle between the legislature and the executive, regardless of the form of government. If a government is sufficiently free to have a legislature at all, then such a struggle inevitably occurs.

Much of the history of England and its acquisition of freedom has to do with the struggle between the House of Commons and the prerogatives of the British King.

Thus, I can understand why the Executive and those who speak for him would want to enfeeble Congress, but I cannot understand why Members of Congress insist so on reducing the effectiveness of the legislative branch by adopting so completely the arguments put forward by the Executive.

I can only think of the three monkeys, one who covers his eyes, another who covers his ears, and another who covers his mouth—"See no evil, hear no evil, speak no evil."

I am certain that the ideal state of affairs as viewed from the top, by those who act for and speak for the Executive, would be to reduce the Congress ultimately to that condition, where the Congress would not see, would not hear, and would not speak if it were adverse to the interests of the Executive.

Really, all the provision seeks to do is to use the power that Congress already has, the one power that still resides in this body—namely, the power of the purse—in order to force the executive branch to divulge to the Congress information we need if we are not to be blinded by a lack of information.

Now on the question that the Senator from Arizona speaks to, that of Execu-

tive privilege, there is no reference in the Constitution of the United States to Executive privilege. It is true that over the years, out of a spirit of comity, Congress came to observe that there was a certain area within which the Executive should be privileged—and I have no argument with that, as it was construed responsibly through the years—but the Executive's conception of its privilege today bears no relationship to the historic origin of that particular concept.

Originally, Congress held that the President should be entitled to the privilege of communication with members of his staff, with his own appointees, just as a lawyer has privileged communication with a client and as a doctor has privileged communication with his patient. It was acknowledged that the President should have the right to assert executive privilege if the information deals with a private communication between the President and those who act for him, or conversations that take place between them.

But, today, Mr. President, the Executive claims that executive privilege covers everything. Any time some agent of the President, no matter how low down the bureaucratic ladder he may be, decides that he, for some reason, does not want to give information to Congress, that department invokes executive privilege. We sit up here and do not do a thing about it; or, when we try, we are told that we are being naughty.

Well, the committee has tried. After having been refused information to which we had every right, we are trying now to use the power that is left in Congress to force the Executive to give us that information.

The Senator from Arizona says we might request information that would do grave damage to the country. We might ask for something that, in the interests of the Nation, we ought not have because it is so delicate, it is so secret, it is so sensitive. Well, if our kind of government is going to work, there has to be some confidence in discretion and in judgment. There has to be some comity. It cannot be just a one-way street in which all the powers are at 1600 Pennsylvania Avenue.

I would think that those of us who serve in Congress would at least consider that the committees of Congress would use their power in a responsible way.

If the time comes when a committee exceeds the bounds of discretion in insisting upon information from the executive branch, then is the time for the Senate to act. We have no such case before us now. All the abuses of discretion have been on the part of the executive branch. Otherwise, we would not have to bring this provision to the floor of the Senate to try to force the executive to give us information we need in the very area of our responsibility.

So I hope that the Senate will finally begin to assert some of its own prerogatives and be not so excessively concerned with what the executive branch tells us are the prerogatives of the Presidency. We have our rights, too, under the Constitution, if we assert them.

I have no fear that if this provision remains in the bill it ever will become a problem for Congress because the Committee on Foreign Relations has abused its discretion under the language of the bill. If that ever were to happen, then there would be time enough for the Senate to reconsider it.

Mr. GOLDWATER. Mr. President, will the Senator from Michigan yield?

Mr. GRIFFIN. Mr. President, how much time do we have remaining?

The PRESIDING OFFICER. Two minutes.

Mr. GRIFFIN. I yield 2 minutes to the Senator from Arizona.

Mr. GOLDWATER. I ask the Senator if he can furnish a list of the requests which have been turned down.

Mr. CHURCH. I will be happy to furnish additional examples. As a matter of fact, I have already referred to two requests on which the President claimed executive privilege and other problems encountered by the GAO. They are already a part of the record. I will be glad to add other specific examples.

Mr. GOLDWATER. Only 27 times has Congress been denied this information in 13 years. I do not look on that as calamitous.

For example, when a written request is made for the furnishing of any document, paper, communication, audit, review, finding, recommendation, report, or other material in its custody, I think that is asking for trouble.

I do not have to remind a member of the Committee on Foreign Relations that the revelations by a man named Ellsberg caused embarrassment between our country and another country because those revelations divulged third party operations on which we have to depend. These are the areas.

I do not think any committee, regardless of whether it is the Foreign Relations Committee or the Armed Services Committee, has any right to get information from the executive branch if the executive branch feels that that information is secret and they so regard it.

I might suggest that if you cannot get information from the Department of State, you might try the New York Times. They have some pretty good taps.

Mr. CHURCH. That is the position to which Congress has been reduced by virtue of arguments such as those just made by the Senator from Arizona: Look to the New York Times for your information, if you cannot get it from the executive branch.

Mr. President, let there be no misunderstanding. This provision in the bill has nothing to do with secrecy. It does not say that we are entitled to take secret information and make it public. It just says that we are entitled to the information if we think it is required. We will keep it secret.

The Ellsberg case was not a case of a Member of Congress divulging to the public secret information. It was the case of a man who worked for the Pentagon and who got so sick of the policy that he could not take it any longer and his conscience could not take it any longer. I make no argument for or against him here. But it was not a Member of Congress.

All I am speaking of and for is the right of Congress to the information it needs under the Constitution to discharge its legislative duties responsibly. If we are not going to ask for it and insist upon it, we ought to close up shop.

Mr. GOLDWATER. In closing, this is just another case of where the Foreign Relations Committee is trying, by running around the barn, to get legislation they would have a difficult time getting were it offered under its true name, which is an attack upon the powers of the President.

I hope the Members of this body will support the amendment to knock out section 11. I think that section is very dangerous—not that I do not trust the members of the Foreign Relations Committee; but it seems that material from our committees—I do not care whether it is the Foreign Relations Committee or the Armed Services Committee or what—has a way of leaking out to the public through favored members of the press. I just do not have the faith and trust in people handling this type of material, which can have a decided effect on whether this country can stay at peace and help keep the world at peace.

Mr. CHURCH. Mr. President, I find the final argument of the Senator from Arizona unconvincing. The principal case he cited is one involving an employee of the Pentagon. Would he want the Pentagon deprived of information because some of its employees cannot be trusted? That is the logical conclusion.

I think the New York Times reveals far more instances of leaks from the executive branch revealing secret information than any leaks that have occurred in Congress. I think the record of Congress compares very favorably with that of the executive branch in this regard.

One final comment. The Senator has referred to 27 instances and said that these constitute the only times Presidents have refused to give Congress information it requested. I must point out that the 27 instances are cases where the President, himself, invoked executive privilege; but there are hundreds of cases, thousands of cases, in which executive departments, as distinguished from the President, have undertaken to refuse information, utilizing the general language that it was inconvenient to the executive branch or contrary to policies of the executive branch, or some other such excuse. Therefore, the figure "27" has no relevancy in this debate.

The PRESIDING OFFICER. All time has expired.

The question is on agreeing to the amendment of the Senator from Michigan. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Florida (Mr. CHILES), the Senator from Indiana (Mr. HARTKE), the Senator from Louisiana (Mr. JOHNSTON), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Rhode Island (Mr. PASTORE), and the Senator from Alabama (Mr. SPARKMAN) are necessarily absent.

I further announce that the Senator from New York (Mr. McGEE) 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 Florida (Mr. CHILES), the Senator from Arkansas (Mr. FULBRIGHT), and the Senator from Rhode Island (Mr. PASTORE) would each vote "nay."

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. BELLMON), the Senator from Kentucky (Mr. COOK), the Senators from Oregon (Mr. HATFIELD and Mr. PACKWOOD) and the Senator from Ohio (Mr. SAXBE) are necessarily absent.

The Senator from New Hampshire (Mr. COTTON) is absent because of illness in his family.

The Senator from Ohio (Mr. TAFT) is absent on official committee business.

If present and voting, the Senator from Oregon (Mr. PACKWOOD) would vote "nay."

The result was announced—yeas 33, nays 51, as follows:

[No. 198 Leg.]

YEAS—33

Aiken	Dominick	Pearson
Allen	Fannin	Percy
Baker	Fong	Roth
Bartlett	Goldwater	Scott, Pa.
Beall	Griffin	Scott, Va.
Bennett	Gurney	Stafford
Brock	Hansen	Stevens
Buckley	Helms	Talmadge
Curtis	Hruska	Thurmond
Dole	McClellan	Tower
Domenici	Montoya	Young

NAYS—51

Abourezk	Gravel	Metcalf
Bayh	Hart	Mondale
Bentsen	Haskell	Moss
Bible	Hathaway	Muskie
Biden	Hollings	Nelson
Brooke	Huddleston	Nunn
Burdick	Hughes	Pell
Byrd, Harry F., Jr.	Humphrey	Proxmire
	Inouye	Randolph
Byrd, Robert C.	Jackson	Ribicoff
Cannon	Javits	Schweiker
Case	Kennedy	Stevenson
Church	Long	Symington
Clark	Magnuson	Tunney
Cranston	Mansfield	Weicker
Eagleton	Mathias	Williams
Eastland	McClure	
Ervin	McGovern	

NOT VOTING—16

Bellmon	Hatfield	Saxbe
Chiles	Johnston	Sparkman
Cook	McGee	Stennis
Cotton	McIntyre	Taft
Fulbright	Packwood	
Hartke	Pastore	

So Mr. GRIFFIN's amendment was rejected.

Mr. CHURCH. Mr. President, I move that the vote by which the amendment was rejected be reconsidered.

Mr. MANSFIELD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HUDDLESTON. Mr. President, one of the items in S. 1248, the Department of State Authorization Act of 1973, relates to the upcoming round of trade negotiations which will begin later this year in Geneva under the auspices of the General Agreement on Tariffs and Trade.

These trade negotiations will be one of the most important matters in which our Nation is involved during the year. International trade is a fact of life. It is fundamental to the continued provision of a multitude of raw and manufactured products needed and desired by peoples in various nations throughout the world.

The impending trade negotiations are, however, of particular significance to our Nation at this time. They come at a time when we are faced with the need to import additional energy resources. They come at a time when our balance of trade and our balance of payments are in disequilibrium. They come at a time when they must, to an extent, be linked to questions regarding the role the United States should play in the world at-large and the relationships it is to have both with those nations which have traditionally been called its friends and those who have been called its adversaries.

They also, however, come at a time when they offer the potential of expanded markets abroad. In the field of agriculture, this is particularly true. The American farmer is the most efficient farmer in the world. He is capable of producing large amounts of wheat, feed grains, and cotton, at competitive prices, providing the products of other nations are not unrealistically subsidized. He is capable of producing additional foods at a lower cost than paid by consumers in many parts of the world. He is, however, hampered in too many cases by restrictive actions by nations abroad. It is to those restrictive, nontariff policies that the upcoming trade negotiations must address themselves in detail.

It has almost become a cliche to say that the Kennedy Round of trade negotiations failed to do agriculture justice. U.S. farm products simply did not receive the attention which they deserved. Thus, at this time, when this Senate is authorizing special and additional funds for the upcoming trade negotiations, I believe it is important to reemphasize the necessity for the farmer to be adequately and well represented this time around.

Furthermore, in addition to seeing that agriculture is fairly and adequately represented at the negotiations, we must also seek to see that the results of those negotiations are fair and adequate.

I am well aware that trade is a two-way street. I want it to remain a two-way street—but I also want to insure that traffic moves both ways.

It is, perhaps, easiest to demonstrate the importance of two-way traffic by looking at some specifics of the trade situation. The Kentucky League of Women Voters, earlier this year, released a report relating to the effect of exports and imports on the State of Kentucky.

This report indicates that, in 1969, $437 million worth of goods were exported from the State. This included $345 million in manufactured goods and $92 million in agricultural commodities. Five commodities accounted for the major portion of Kentucky's exports: chemical and allied products, nonelectrical machinery, tobacco products, transportation equipment, and electrical machinery.

Agricultural commodities were of special significance in that they provided one-tenth of all Kentucky farm income for that year. Tobacco was the principal export crop, accounting for about half of all agricultural exports from the State. A second important crop—and one which should prove increasingly important in the future—was soybeans.

At the same time, the report pointed out that a Kentucky citizen may awaken to a Sony clock-radio, drink coffee from Brazil, eat cereal with bananas and sugar from Central America, read a newspaper printed on newsprint from Canada, wear a suit containing wool from Australia, and drive a Volkswagen to work.

Thus, the two-way aspects of the street become obvious. Our Nation's overall interests and the interests of many individual citizens are involved. The scheduled trade negotiations offer great promise, but we must at the same time take the necessary steps to guarantee that we will get a fair deal for all our manufactures and for all our farmers who were not so lucky in the previous round. While these issues will be debated in more detail as trade legislation is considered in the Congress, it is incumbent upon us all to examine the various aspects of trade and their effects upon our States and citizens.

Mr. President, I ask unanimous consent that excerpts from the report of the Kentucky League of Women Voters be printed at this point in the RECORD.

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

KENTUCKY IN THE WORLD MARKET

Kentucky's economy benefits from world trade through export of manufactured products, agricultural commodities and minerals, employment directly connected with exporting in industry, transportation, mining and farming, and indirectly through jobs generated by export trade in other industries and services. Importing also accounts for jobs in Kentucky. Kentucky's consumers and manufacturers benefit from world trade through imports—raw materials for manufacturers and manufactured products and agricultural products for consumers. Kentucky's citizens benefit from world trade, also, as a part of the overall picture in which world trade helps to create harmony among nations and enhances the chances for peace around the world. The life of every person in Kentucky is affected by world trade every day in some way.

EXPORTS

The economy of Kentucky was boosted by an estimated $437 million dollars in 1969 from exports to foreign markets, as shown by statistics from the U.S. Department of Commerce, Export Origin Series, compiled every three years. Manufactured goods were valued at $345 million in 1969 and agricultural commodities at $92 million in 1969–70.

For a more realistic picture, the Department of Commerce points out that the state's economy benefits from goods produced not only for direct shipment to foreign countries, but also for ultimate export through other states. This applies particularly to industries whose products require further processing or constitute components and parts for assembly into machinery or transport equipment. To avoid duplication in reporting, the finished products delivered abroad by exporters are credited at their full value to the state responsible for the final manufacturing process.

Kentucky's export trade in manufactures

almost doubled in value in the period of 1960–69. The five most important manufactured exports from Kentucky, those with export value of $35 million or more, include chemicals and allied products, non-electrical machinery, tobacco products, transport equipment and electrical machinery.

A substantial part of Kentucky's manufactured products for export has always been produced in the industrial center of Louisville, with more than seventy-two firms located there with export business. Increasingly, communities throughout the state are benefiting from plants in their localities whose business includes exporting. The northern Kentucky area of Boone, Campbell and Kenton counties list twenty-one; Lexington, ten; Frankfort, ten; Bowling Green, six; Paducah, Hopkinsville, Winchester, Ashland and Georgetown all have at least four industries with export business, and at least forty-two other communities in Kentucky are credited with having at least one manufacturing plant with export business.

In agricultural commodities, more than fourteen agricultural products raised in Kentucky are exported. One-tenth of Kentucky farmers' income is from foreign sales. In 1969–70, the estimated value of $92 million, more than double the level at the start of the decade. Tobacco is the main export crop, accounting for nearly half of Kentucky's total farm exports in 1970. Soybeans grown in western Kentucky is the next most important crop for export and promises to increase in value as the world demand is strong, the supply short, and the price high. Feed grains also is a significant export commodity.

Kentucky's foreign sales of bituminous coal fell from $34 million in 1966 to an estimated $10 million in 1969. Exceptionally cold weather in Europe in 1966 had boosted the foreign demand for coal. Most of Kentucky's coal for export is mined in the eastern part of the state.

Dairy exports virtually disappeared during the decade, falling from $6.6 million to $0.1 million in 1969–70.

In fishery exports, Kentucky exported an estimated $65,000 of non-edible shells in 1969, a three-fourths decline from 1966.

IMPORTS

Trade is a two-way street and the other side is imports. If we sell abroad, we must expect to buy abroad. A Kentucky citizen may awaken to a Sony clock-radio, drink coffee from Brazil, eat cereal with bananas and sugar from Central America, read a newspaper printed on newsprint from Canada, wear a suit containing wool from Australia, and drive a Volkswagen to work. The same story could be told in England, Germany, France and many other countries, where the clock-radio and automobile might well be tagged "Made in the USA", but the coffee, bananas, sugar and wool would not bear that tag.

Many imports are products not produced at all in the United States, or not in sufficient quantities to satisfy our needs. This would include thirty-one of the forty minerals needed by manufacturers in Kentucky and the nation, as well as significant quantities of other basic industrial raw materials. Household appliances, tools, and machinery manufactured in Kentucky require many imported materials. Three-fourths of our newsprint is imported and a great amount of oil. Coffee, tea, bananas, cocoa, and spices must all be supplied by other countries, and our domestic supply of sugar, fish, canned meat and even fresh fruits and vegetables in off-seasons must be supplemented by importing.

Other products are imported which benefit consumers in Kentucky and the United States by offering a widened choice of goods at competitive prices. Imported textiles and shoes are of particular benefit to families of lower incomes because they are available at lower prices than many domestic products in these categories. By 1970, imports accounted for twelve percent of the textile goods and apparel sold in the U.S. and thirty percent of shoes. Some interesting figures in imports show that foreign markets now supply fifty percent of the U.S. market in cameras, black and white television sets, and sporting goods. The percentage is even higher in some specific items such as baseball gloves, motorcycles, radios, portable tape recorders, microscopes, 35 mm still cameras, tennis rackets, wigs and umbrellas.

The dollar value of U.S. imports grew from $23 billion in 1961 to $65 billion in 1971. This figure includes raw materials and products we cannot produce. Imports exceeded exports in 1971 by $2 billion, the first trade deficit in the United States in nearly a century.

STATE OF KENTUCKY ESTIMATED EXPORTS OF MANUFACTURED PRODUCTS

[In millions of dollars]

Industry group	1969	1966	1963	1960	Percent change		Percent of U.S. exports
					1966 to 1969	1960 to 1969	
Total	345.4	299.5	200.5	179.9	15	92	1.2
Chemicals and allied products	66.2	59.3	44.5	46.0	12	44	2.2
Nonelectrical machinery	58.9	75.2	42.2	29.7	22	98	1.0
Transport equipment	(53–68)	(36–41)	12.1	11.7	(1)	(1)	(1)
Tobacco products	43.6	28.9	35.7	44.5	51	2	6.5
Electrical machinery	34.5	33.1	(10–25)	(1)	4	(1)	1.4
Food and kindred products	15.5	16.0	24.1	12.3	3	26	.7
Fabricated metal products	14.1	15.1	6.6	6.3	7	124	1.2
Stone, clay, glass products	10.8	5.4	4.5	4.5	100	140	3.2
Primary metal products	(10–25)	(5–10)	(1–5)	(1)	(1)	(1)	(1)
Lumber and wood products	(5.10)	(1–5)	2.5	1.8	(1)	(1)	(1)
Textile-mill products	(1–5)	(1–5)	.7	.7	(1)	(1)	(1)
Apparel and related products	(1–5)	(1–5)	2.4	2.0	(1)	(1)	(1)
Paper and allied products	(1–5)	(1–5)	2.3	1.8	(1)	(1)	(1)
Printing and publishing	(1–5)	(1–5)	.4	(0–1)	(1)	(1)	(1)
Rubber and plastic products	(1–5)	(1–5)	(1–5)	(1)	(1)	(1)	(1)
Leather and leather products	(1–5)	(0–1)	.4	(.1)			
Instruments and related products	(1–5)	(1–5)	.6	(1)			
Miscellaneous manufactures and ordnance	(1–5)	(1–5)	2.3	(1)			
Furniture and fixtures	(.1)	(0–1)	0.4	(.1)			
Petroleum and coal products							
Undistributed by industry group	101.8	66.5	18.7	18.6			

[1] Comparable data not available; not applicable.

Source: Survey of the Origin of Exports by Manufacturing Establishments, 1969.

AGRICULTURE PRODUCTS EXPORTED FROM KENTUCKY

[In millions of dollars]

	1970	1971
Tobacco	45.0	36.4
Soybeans	13.0	16.8
Total feed grains	11.6	5.0
Lard and tallow	1.8	5.8
Protein meal	3.8	5.1
Wheat and flour	3.7	4.9
Meats and meat products	1.7	3.2
Soybean oil	1.7	3.2
Hides and skins	1.1	.3
Dairy products	.1	.2
Cotton	.2	.2
Fruits and fruit preparations		.2
Poultry products		.1
Vegetables	.2	.1
Other	8.5	6.9
Total	92.4	91.1

Note: Total U.S. agricultural exports: 1970, $6,646,000,000; 1971, $7,752,000,000.

Source: Foreign Agricultural Trade of the United States.

Mr. CASE. Mr. President, I am extremely pleased to know that such a clear majority of the Senate favors the Case-Church amendment that no effort has been made to strike it from the State Department authorization bill.

This amendment would cut off all funds for continued American participation in the Indochina War, without specific congressional authorization.

It is a measure whose time has obviously come.

Both Houses of Congress have, in recent weeks, voted to cut off funds for the bombing of Cambodia and Laos. In the Senate, the margin was overwhelming. In the House, a clear majority has supported this position.

What is more, the majority of the American people now are opposed to continued American fighting in Indochina. The latest Gallup poll shows that by a 57 percent to 29 percent margin, the public is opposed to the bombing of Cambodia; that by 59 percent to 26 percent, the public thinks that the bombing will lead to the reinvolvement of American troops in Indochina; and that by 76 percent to 13 percent, the public believes that "further military action in Southeast Asia should require a vote of approval by Congress." It is this last set of figures which is especially significant for us today because it shows that the American people by an overwhelming margin support the principle that Senator CHURCH and I advocate—that continued American participation in the war should be contingent on congressional approval.

Now that all American troops have been withdrawn from Indochina and

the Tonkin Gulf resolution has been repealed, there is no legal justification for American military forces to be fighting in that part of the world. That is a constitutional fact, for only the Congress has the power to declare war. The President does not have this power, nor should he have. But our system of checks and balances has gotten out of whack in recent years. Formulations like "presidential war" and "secret war" have been introduced into our vocabularies. The time has come for us to relegate these phrases to the history books, to remove them from current usage.

The Congress has been derelict in the past in letting the Executive usurp foreign policy and warmaking powers which rightfully belong to the Congress. We have ourselves to blame for our failure to live up to our constitutional responsibilities. There is no point in reliving the past. What is encouraging about the present is that the views of a majority of the Congress and a majority of the American people have changed. There is a general recognition that Congress must participate in vital issues affecting our national security. We see this on many fronts. In the next months, Congress will almost certainly pass a bill defining and limiting the President's powers to make war. I am hopeful that my own proposals to limit Presidential abuses of executive agreements will also be successful.

The experience of the United States in Indochina has been the catalyst for many of us in the reassertion of congressional responsibility in the foreign policy field. So it is appropriate that with the passage of Case-Church, the Senate will be indicating that we are indeed serious in reestablishing Congress constitutionally mandated role in this area.

I have heard reports that the President might veto legislation containing a fund cutoff for the war. I can only hope that this will not occur. The United States should not—it must not—participate in a war that the majority of the Congress and the American people oppose.

If a case can be made for continued U.S. military actions in Indochina—and in the present circumstances I do not believe that it can be—then the President should come to Congress with such a request. Congress will listen carefully and then express its will.

But without specific congressional approval, the President is without authority to commit U.S. forces to combat in Indochina.

By upholding the Case-Church amendment today, the Senate will make clear its determination that no more Government funds shall be expended to pay for a war which is being waged in violation of the Constitution.

The PRESIDING OFFICER. The bill is open to further amendment.

If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The amendment, as amended, was agreed to.

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

Mr. CHURCH. Mr. President, I ask for the yeas and nays on final passage.

The yeas and nays were ordered.

Mr. CHURCH. Mr. President, if our constitutional processes were in proper working order there would be no need to consider a prohibition on the expenditure of funds for the conduct of U.S. military operations in Indochina. The fact that 42 Members of this body have found it necessary to propose—and many more to vote for—such a law is indicative of the extent to which our constitutional processes have been corrupted during the course of the war in Indochina.

The burden of argument concerning this proposal should rest solely upon the executive branch. Properly speaking, the administration should today be defending a bill to authorize the President to bomb Cambodia and to resume bombing the other Indochina countries at his discretion.

In order to defend and justify such a proposal, the administration's supporters should have to demonstrate that the civil war in Cambodia constitutes a threat to the security of this country, that the collapse of the Lon Nol government would jeopardize our vital national interests, or that bombing Cambodia will insure peace and stability in Indochina. I doubt that any Member of this body would be prepared to defend such propositions and I find it significant that no Member has offered an affirmative proposal to grant the President the unlimited authority which he has arrogated to himself.

If a proposal were made to vest in the President complete discretion to order the resumption of bombing in Laos, South Vietnam and North Vietnam, the proponents of such a measure would have the task of persuading their colleagues to disavow their constitutional authority to declare war. Furthermore, they would be required to argue, in the face of the tragic experience of the last 10 years, that the executive branch should be given unlimited authority to commit U.S. forces in Southeast Asia in any way it saw fit.

Rather than seeking authority to continue bombing in Cambodia and taking upon itself the burden of justifying its actions, the administration asserts, in effect, that it can continue bombing until and unless the Congress prohibits it. Moreover, recent statements by the then Secretary of Defense Elliot Richardson seem to indicate that the administration may seek to continue bombing, even if the Congress declares itself against such action.

As evidenced by recent votes in the Senate, the administration's arguments on these same issues in connection with the Eagleton amendment to the supplemental appropriation bill were far from persuasive. We were told then, and doubtless will be told again, that reaffirmation of the Congress authority over the use of our Armed Forces will tie the hands of our negotiators. What this argument portends is that the administration is prepared to continue indefinitely the use of U.S. forces to sustain the present Governments of South Vietnam, Cambodia and Laos, pending the completion of negotiations that may be neither consummated nor kept, if signed.

It is apparent from the fact that the Canadian Government has decided to withdraw its representatives from the ICCS and from our recognition of the necessity to enter into another agreement, "phase 2" "Peace with honor," in Paris, that the cease-fire is in grave trouble. The reason why the cease-fire is threatened is because the agreement did not resolve the underlying political issues which have kept Indochina in turmoil ever since the end of World War II. We must ask ourselves, at this late date, after having finally extricated our ground forces from Southeast Asia and our prisoners of war from North Vietnamese prisons, whether there is any reason to believe that more bombing, which will mean more casualties and more prisoners, will bring about a stable peace.

In announcing the Vietnam cease-fire in January, the administration made much of the claim that it had succeeded in dealing with military issues separately from political issues, and that our forces and prisoners would be totally extricated without the compromise of the administration's policy purposes. The fact that the administation's supporters argue today in behalf of continued bombing reveals how much was left unsettled by the January cease-fire.

What that agreement did seem to promise, and indeed what the American people were told it would accomplish, was an end to direct American military involvement in Indochina. Unfortunately, this has not yet come to pass. American planes are still bombing Cambodia, American lives are still being lost, and hundreds of millions of dollars are still being spent. Unless the President's vast concept of his own authority—which permits him to believe that he alone can decide to prosecute war in Cambodia—is circumscribed through the reassertion of congressional authority, there will be nothing to prevent him from returning our forces to action in or over Laos, South Vietnam or North Vietnam.

By acting to cut off all funds for continued American military involvement anywhere in Indochina without prior congressional approval, we can insure that this will not happen and, in so doing, act to restore a proper constitutional balance to the Government.

PROGRAM

Mr. SCOTT of Pennsylvania. Mr. President, I rise to ask the distinguished majority leader what the program is for the rest of the day and the rest of the week.

ORDER FOR CONSIDERATION OF S. 268, LAND-USE POLICY

Mr. MANSFIELD. Mr. President, in response to the question raised by the distinguished Republican leader, first I ask unanimous consent that at the conclusion of the business today, there be laid before us S. 268, a bill to establish a national land-use policy, so that it will be the pending business tomorrow.

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

PROGRAM

Mr. MANSFIELD. Mr. President, at the conclusion of the pending business, it is the intention of the joint leadership to take up Calendar 188, S. 797, a bill in which the distinguished Senator from Maryland (Mr. BEALL) is interested, and on which there is a time limitation.

On Friday we will take up Calendar No. 191, S. 1413, a bill by the distinguished Senator from New York (Mr. JAVITS).

On either today or Friday, depending on developments, we will take up Calendar 205, H.R. 7357. We need clearance from the Republican side before that can be done, but at least consideration is being given to it at the moment.

It is the intention of the leadership next week to put into effect the two-track system of legislation, and on the first track, and beginning on Monday, will be Calendar No. 159, S. 925, and at an appropriate time, Calendar No. 164, S. 907.

It is anticipated that on Wednesday we will take up the NASA authorization bill.

From there on out, we are going to have to play it by ear.

Mr. SCOTT of Pennsylvania. I thank the distinguished majority leader.

LEAVE OF ABSENCE

Mr. SCOTT of Pennsylvania. Mr. President, I ask unanimous consent that on Friday next, I may have leave of absence on official business.

Mr. MANSFIELD. Mr. President, I make the same request.

May I say on behalf of both of us, as long as the Senator from Pennsylvania mentioned it, if there are any votes on any amendments, go right ahead and have them, even though we are not here.

Mr. SCOTT of Pennsylvania. I did not mean to encourage the distinguished majority leader to that extent.

The PRESIDING OFFICER. Is there objection to the requests of the Senator from Pennsylvania and the Senator from Montana? Without objection, it is so ordered.

DEPARTMENT OF STATE APPROPRIATIONS AUTHORIZATION ACT OF 1973

Mr. CHURCH. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 190, H.R. 7645, to authorize appropriations for the Department of State, and for other purposes.

The PRESIDING OFFICER. The clerk will read the bill by title.

The legislative clerk read the bill by title, as follows:

A bill (H.R. 7645) to authorize appropriations for the Department of State, and for other purposes.

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

There being no objection, the Senate proceeded to consider the bill.

Mr. CHURCH. Mr. President, I ask unanimous consent that all after the enacting clause of H.R. 7645 be stricken, and that the provisions of S. 1248, as amended by the Senate, be substituted therefor.

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

Mr. CHURCH. Mr. President, I ask unanimous consent that the order for the yeas and nays on S. 1248 may now be vacated and applied instead to H.R. 7645.

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

The amendment was ordered to be engrossed, and the bill to be read a third time.

The bill (H.R. 7645) was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass? On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Florida (Mr. CHILES), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Indiana (Mr. HARTKE), the Senator from Louisiana (Mr. JOHNSTON), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Alabama (Mr. SPARKMAN), the Senator from South Dakota (Mr. ABOUREZK), the Senator from California (Mr. TUNNEY), and the Senator from Rhode Island (Mr. PASTORE) are necessarily absent.

I further announce that the Senator from Wyoming (Mr. MCGEE) 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 South Dakota (Mr. ABOUREZK), the Senator from Florida (Mr. CHILES), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Rhode Island (Mr. PASTORE), the Senator from New Hampshire (Mr. MCINTYRE), and the Senator from California (Mr. TUNNEY) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. BELLMON), the Senator from Kentucky (Mr. COOK), the Senators from Oregon (Mr. HATFIELD and Mr. PACKARD), and the Senator from Ohio (Mr. SAXBE) are necessarily absent.

The Senator from New Hampshire (Mr. COTTON) is absent because of illness in his family.

The Senator from Ohio (Mr. TAFT) is absent on official committee business.

If present and voting, the Senator from Kentucky (Mr. COOK) and the Senator from Oregon (Mr. HATFIELD) would each vote "yea."

The result was announced—yeas 67, nays 15, as follows:

[No. 199 Leg.]

YEAS—67

Aiken	Biden	Case
Allen	Brooke	Church
Baker	Burdick	Clark
Bayh	Byrd, Harry F., Jr.	Cranston
Beall	Byrd, Robert C.	Domenici
Bentsen	Cannon	Eagleton
Bible	Ervin	Eastland
Fong	Long	Proxmire
Gravel	Magnuson	Randolph
Griffin	Mansfield	Ribicoff
Gurney	Mathias	Roth
Hart	McClellan	Schweiker
Haskell	McGovern	Scott, Pa.
Hathaway	Metcalf	Scott, Va.
Hollings	Mondale	Stafford
Huddleston	Montoya	Stevens
Hughes	Moss	Stevenson
Humphrey	Muskie	Symington
Inouye	Nelson	Talmadge
Jackson	Nunn	Weicker
Javits	Pearson	Williams
Kennedy	Pell	Young
	Percy	

NAYS—15

Bartlett	Dole	Helms
Bennett	Dominick	Hruska
Brock	Fannin	McClure
Buckley	Goldwater	Thurmond
Curtis	Hansen	Tower

NOT VOTING—18

Abourezk	Hartke	Pastore
Bellmon	Hatfield	Saxbe
Chiles	Johnston	Sparkman
Cook	McGee	Stennis
Cotton	McIntyre	Taft
Fulbright	Packwood	Tunney

So the bill (H.R. 7645) was passed.

Mr. CHURCH. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CHURCH. I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the engrossment of the Senate amendment to H.R. 7645.

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

Mr. CHURCH. I move that the Senate insist on its amendments and request a conference with the House of Representatives 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. FULBRIGHT, Mr. SPARKMAN, Mr. CHURCH, Mr. PELL, Mr. AIKEN, Mr. CASE, and Mr. JAVITS conferees on the part of the Senate.

Mr. CHURCH. I move that S. 1248 be indefinitely postponed.

The motion was agreed to.

Mr. MANSFIELD. Mr. President, I should like to commend Members on both sides of the aisle for a rewarding and productive week's work. Thanks to the cooperation and efforts of all hands we have been able to complete a number of important measures.

In addition to the major bill covering State Department authorizations, we have passed measures on territorial franchising, the national wheat marketing quota, stockpile disposal, international travel exhibits, and agreed to conference reports on the Peace Corps authorization and foreign service buildings authorization.

In connection with the discussion and debate on the State Department authorization, I wish especially to express my thanks to the distinguished Chairman of the Foreign Relations Committee, the Senator from Arkansas (Mr. FULBRIGHT) for his management of this measure. We are indebted as well to the number of other Senators who contributed their thoughtful and strongly felt views on this

very important issue. The Senate can be proud of the thorough, yet expeditious, manner in which this bill reached final passage. I extend my gratitude to the Senator from Alabama (Mr. SPARKMAN), the Senator from Vermont (Mr. AIKEN), the Senator from Wisconsin (Mr. PROXMIRE), the Senator from Michigan (Mr. GRIFFIN), the Senator from Texas (Mr. TOWER), the Senator from Massachusetts (Mr. BROOKE), the Senator from Minnesota (Mr. HUMPHREY) and all others who contributed to the excellent bipartisan effort on this bill.

In addition to the aforementioned measures, the Senate this week, in a very important vote, decided to recommit the nomination of Mr. Morris to be a member of the Federal Power Commission. I wish to thank the Senator from Washington (Mr. MAGNUSON) for his invaluable contribution to the debate on and for the contribution that his entire Committee on Commerce made toward enlightening the Senate about this nomination.

Once again I should like to thank all Members for their attention to this week's work, and reiterate my appreciation for the excellent spirit of cooperation evidenced here.

Mr. CHURCH. Mr. President, I call the attention of the Senate to the fact that the bill just passed contains the most sweeping prohibition against the use of funds for further American involvement in warfare in Indochina of any legislation that has yet passed this body. That provision, the Case-Church amendment, appears as section 13 of the bill, and reads as follows:

Notwithstanding any other provision of law, upon enactment of this Act, no funds heretofore or hereafter appropriated may be obligated or expended to finance the involvement of United States military forces in hostilities in or over or from off the shores of North Vietnam, South Vietnam, Laos, or Cambodia, unless specifically authorized hereafter by the Congress. Notwithstanding any other provision of law, upon enactment of this Act, no funds heretofore or hereafter appropriated may be obligated or expended for the purpose of providing assistance of any kind, directly or indirectly, to or on behalf of North Vietnam, unless specifically authorized hereafter by the Congress.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Berry, one of its reading clerks, anounced that the House had agreed to the concurrent resolution (S. Con. Res. 27) to observe a period of 21 days to honor America, with an amendment, in which it requested the concurrence of the Senate.

HIGH-SPEED TRANSPORTATION SYSTEMS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of Calendar No. 188, S. 797.

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

The assistant legislative clerk read as follows:

A bill (S. 797) to direct the Secretary of Transportation to make a comprehensive study of a high-speed ground transportation system between Washington, District of Columbia, and Annapolis, Maryland, and a high-speed marine vessel transportation system between the Baltimore-Annapolis area in Maryland and the Yorktown-Williamsburg-Norfolk area in Virginia, and to authorize the construction of such systems if such study demonstrates their feasibility.

The PRESIDING OFFICER (Mr. BARTLETT). Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Commerce with amendments, on page 3, after line 9, insert:

(d) There is authorized to be appropriated for purposes of this section a sum not to exceed $300,000.

And on page 4, after line 2, strike out:

SEC. 4. There are authorized to be appropriated such amounts as are necessary to carry out the provisions of this Act.

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Bicentennial Advanced Technology Transportation System Demonstration Act".

SEC. 2. (a) For the purpose of providing the millions of citizens of the United States and foreign nations who will visit the National Capital area during the Bicentennial of American Independence celebration with a pleasant, efficient, and unique way of seeing the historic cities and sights of such area and providing practical demonstrations of technologically advanced transportation systems which will attract national and international attention and recognition and demonstrate to the world that the United States will continue its leadership in the world of tomorrow, the Secretary of Transportation is hereby authorized and directed to make an investigation and study for the purposes of determining the feasibility, social advisability, environmental impact, and economic practicability of (1) a tracked air-cushioned vehicle or other high-speed ground transportation system between Washington, District of Columbia, and Annapolis, Maryland, with appropriate intermediate stops, and (2) a surface effect vessel or other high-speed marine transportation system between the Baltimore-Annapolis area in Maryland and the Yorktown-Williamsburg-Norfolk area in Virginia.

(b) In conducting such investigation and study, the Secretary—

(1) shall consult with appropriate Federal, State, local, and District of Columbia agencies; and

(2) may enter into contracts or other agreements with public or private agencies, institutions, organizations, corporations, or individuals wthout regard to sections 3648 and 3709 of the Revised Statutes (31 U.S.C. 529; 41 U.S.C. 5).

(c) The Secretary shall report the results of such investigation and study, together with his recommendations, to the President and the Congress no later than nine months after the enactment of this Act

(d) There is authorized to be appropriated for purposes of this section a sum not to exceed $300,000.

SEC. 3. If after carrying out the investigation and study pursuant to section 2, the Secretary of Transportation recommends the establishment of either the transportation system described in subsection (a) (1) or (a) (2) of such section or both such systems, he may, to the extent funds are appropriated for the purpose of this section, enter into such contracts and other arrangements as necessary for the construction and operation of such system or systems, except that the system described in such subsection (a) (1) may not be constructed unless the State of Maryland furnishes the necessary rights-of-way, to the extent such rights-of-way are presently owned by such State within existing highway alinements or acquired by such State with funds authorized under this Act and determined usable for such system by the Secretary of Transportation.

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

The PRESIDING OFFICER. One hour on the bill, 30 minutes on each amendment except one by the Senator from Wisconsin (Mr. PROXMIRE), on which there is a time limitation of 1 hour.

Mr. BEALL. Mr. President, for the edification of my colleagues, I do not expect to use anywhere near the 1 hour on the bill, and I would expect that I would not use the major portion of my time on the amendment to be offered by the Senator from Wisconsin.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that it be in order to order the yeas and nays on the amendment which will be proposed by the Senator from Wisconsin (Mr. PROXMIRE) to the pending bill.

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

Mr. PROXMIRE. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. BEALL. Mr. President, I urge favorable action by the Senate on S. 797, the Bicentennial Advanced Technology Transportation System Demonstration Act.

This measure is reported to the Senate with the unanimous recommendations of the Senate Commerce Committee. The legislation was introduced by me on February 7, 1973 and was cosponsored by Senators CASE, CRANSTON, DOMINICK, EAGLETON, FANNIN, GOLDWATER, GRAVEL, HATFIELD, HUMPHREY, JAVITS, MATHIAS, METCALF, RANDOLPH, and SCOTT of Pennsylvania.

This proposal has two basic purposes. First, it will provide the millions of visitors who are expected to visit the National Capital area during the Nation's 200th birthday with an exciting and efficient way of seeing this historic region. Secondly, the proposal will provide in the Nation's Capital area during the Bicentennial observation, a practical demonstration of an advanced transportation system that will provide maximum visibility to transportation innovation and provide the impetus for the development and deployment of new approaches in high-speed land and water transportation in the country.

S. 797 authorizes and directs the Secretary of Transportation to undertake an investigation and study of the feasibility of first, a high-speed ground transportation system between Washington, District of Columbia, and Annapolis, Md., with appropriate stops and, second, a high-speed marine transportation system between the Baltimore-Annapolis area of Maryland and the Yorktown-Williamsburg-Norfolk area in Virginia.

The feasibility study is to be completed no later than 9 months after the enactment of the legislation and will determine the feasibility, social advisability,

economic practicability and environmental impact of the proposed water and ground transportation system. During the investigation and study, the Secretary is expected to consult with the appropriate State and local governments.

For the purposes of carrying out the feasibility study, the bill authorizes not to exceed $300,000. After the completion of the study, the Secretary is required to report the results of the study to the President and the Congress and he may recommend the establishment of either the ground or water system, or both. If the Secretary recommends the establishment of either segment of this transportation system, or both, he is further authorized, to the extent that Congress appropriates funds, to enter into arrangements for the construction of the land or water vehicle, or both. This procedure is necessary if we are to save time and have the project in place by the Bicentennial. I believe that the prerogatives of the Congress are adequately protected as we will have a second look at the project when we examine the report and recommendations of the Secretary and a final say on whether the project will proceed through the appropriations process.

With respect to the ground segment of the proposal there is a further requirement that the State of Maryland furnish the necessary rights-of-way, to the extent such rights-of-way are presently owned by Maryland within existing highway alinement or required by such State with funds authorized under this act and determined usable for such system by the Secretary of Transportation. The Secretary would also be free to arrange cooperation with any private system which may be set up to provide service on the same routes.

This proposal originated with the AFL–CIO Maritime Committee. I particularly want to express thanks to Mr. Hoyt Haddock and Mr. Joseph Salzano for their work with the AFL–CIO Maritime Committee and for their help in advancing this innovative proposal.

S. 797 is substantially similar to S. 4023, which was introduced in the previous Congress and which was the subject of a full day of hearings by the Senate Commerce Committee on December 7, 1972. During this hearing, the committee heard testimony from Congressman LARRY HOGAN of Maryland, the Federal Railroad Administration of the Department of Transportation, the Department of Navy, the State of Maryland, the AFL–CIO Maritime Committee, and representatives of various industries active in the high-speed land and water transportation fields. The hearings demonstrated strong support for the proposal and there was agreement that it was technologically feasible to have this futuristic transportation system in place for the Bicentennial.

While no position was taken by the administration, Mr. Milton Klein, Associate Administrator for Research Development and Demonstration of the Federal Railroad Administration did indicate the project was technologically feasible and pointed out the importance of developing high-speed ground transportation system as follows:

> We view the area of high-speed ground transportation as very important to our Nation's growing transportation demands. It is a mode that was relatively neglected for sometime. Yet, it is a mode which offers great promise in alleviating growing congestion in other modes and is very attractive from environmental and land-use standpoints. And, like other transportation advances in the past, it could well provide new opportunities for our future economic and social development . . . Certainly we do look to a demonstration program at some point for these systems. We believe in general that a demonstration is very important before such a system will go into widespread use, that it is necessary to go through a demonstration step.

The witnesses, however, did emphasize that time was of the essence. Because of the time problem, it is imperative that Congress move quickly to enact this measure and also that the Department of Transportation thereafter move with dispatch to implement the legislation.

I want to emphasize that the bill says up to 9 months for the completion of the study. Nine months, then, is the maximum time allowed.

We believe that the Department can and should complete the study in a shorter period.

We have given the Department the flexibility and needed authority to move quickly on this study. The Department of Transportation is authorized by this legislation to enter into agreements and contracts without regard to the usual prohibitions on advancement of public moneys and without regard to the provisions requiring advertisement of bids on Government contracts. As the committee's report states:

> These provisions are in accord with the intent of the Committee that the Secretary should move as rapidly as possible in completing the study, in order to insure that the system, if constructed, will be fully operational and reliable in time for the Bicentennial.

Mr. President, during the last summer the Washington area on a number of occasions suffered under a blanket of pollution. Fortunately, to the great relief of the area's residents, nature came to our rescue and the pollution was pushed away.

In addition, traffic congestion continues to plague our citizens as they inch their way to work each day. This year, in addition to the pollution and traffic congestion problems, we are also faced with a growing energy problem, necessitating that we conserve our energy resources.

All of these problems serve to underscore the desperate need to accelerate the country's search for alternatives and better methods of moving citizens, particularly in the population centers of our Nation.

Also, in 3 years the Nation will celebrate its 200th birthday. During this Bicentennial observation over 40 million visitors are expected to come to the Nation's Capital area. As I stated when I introduced this bill in the Senate:

> I believe the Bicentennial events and the transportation needs of the Nation combine to give us a unique opportunity to create a transportation showplace that will provide the many visitors to the Capital area with an exciting means of seeing the historical cities and sights of the region, as well as the opportunity to provide a practical demonstration of a technologically advanced intermodal transportation system which will attract national and international attention and recognition and demonstrate to the world that the United States will continue its leadership in the world of tomorrow.

As a member of the Commerce Committee that has been wrestling with the Northeast railroad problem in general and the Penn Central in particular, I can say there is considerable contrast between what transportation is and transportation should be. This proposal gives us the opportunity to look to the future and to advance technology in the transportation field, while we are looking back and observing our Bicentennial.

I urge enactment of this measure.

I ask unanimous consent that excerpts from the report of the Commerce Committee be printed in the RECORD.

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

BRIEF DESCRIPTION

S. 797 directs the Secretary of Transportation to conduct an investigation and study of the feasibility of two integrated high speed transportation demonstration projects for use in conjunction with the Bicentennial celebration.

One system would be comprised of a high-speed ground transportation demonstration project, such as a tracked air-cushioned vehicle, which would operate between metropolitan Washington, District of Columbia, and Annapolis, Maryland, with appropriate intermediate stops.

The second system the Secretary is directed to study is a high-speed marine transportation system which would operate between the Baltimore-Annapolis area in Maryland and the Yorktown-Williamsburg-Norfolk area in Virginia. The marine transportation system under study would make use of new concepts in high speed marine transportation, such as the surface effect vessel, vessels utilizing hydrofoils, or hovercraft.

Upon completion of the investigation and study the Secretary could recommend the establishment of the first system comprising of a high-speed ground transportation demonstration project; the second system of high-speed marine transportation; or both such systems. Also, the Secretary may, to the extent funds are appropriated, enter into arrangements for the construction of such system or systems, except that the high-speed ground transportation system may not be constructed unless the State of Maryland furnishes the necessary rights-of-way, to the extent presently owned or after acquired pursuant to the provisions of the act and determined usable for such a system by the Secretary. The Secretary would also be free to arrange cooperation with any private system which may be set up to provide service on the same routes.

BACKGROUND AND NEED

S. 797 was introduced on February 7, 1973 by Senator Beall, and was cosponsored by Senators Case, Cranston, Dominick, Eagleton, Fannin, Goldwater, Gravel, Hatfield, Humphrey, Javits, Mathias, Metcalf, Randolph, and Scott of Pennsylvania.

Except for technical changes, S. 797, as introduced, was identical to S. 4023, which was proposed by Senator Beall in the 92d Congress and which was the subject of a full day of hearings by the Surface Transportation Subcommittee of the Commerce Committee on December 7, 1972. Testimony at this hearing was received from Congressman Larry Hogan of Maryland, and witnesses representing the Federal Railroad Administration of the Department of Transportation, the Department of the Navy, the State of Maryland, the AFL–CIO Maritime Committee, and representatives of various industries

active in the high-speed land and water transportation fields. During the hearing, strong support was given to the proposal and there was agreement that construction of the proposed transportation system would be technologically feasible in time for the Bicentennial. Although no position was taken by the Administration on the merits of the legislation, Administration witnesses did describe to the Committee the state of the art, their present efforts in high-speed transportation, and concurred that the project was technologically feasible.

In introducing S. 797, Senator Beall stated:

". . . the bicentennial event and the transportation needs of the Nation combine to give us a unique opportunity to create a transportation showplace that will provide the many visitors to the Capital area with an exciting means of seeing the historical cities and sights of the region, as well as the opportunity to provide a practical demonstration of a technological advanced intermodal transportation system which will attract national and international attention and recognition and demonstrate to the world that the Unied States will continue its leadership in the world of tomorrow."

There are a number of new transportation systems under study and development by the Federal Government and by private enterprise. S. 797 will provide an opportunity to develop an actual demonstration of a high speed, intermodal transportation system.

Mr. Milton Klein, Associate Administrator for Research, Development and Demonstrations of the Federal Railroad Administration, during his testimony in hearings on this proposal pointed out the potential importance of developing high speed ground transportation systems:

"We view the area of high-speed ground transportation as very important to our Nation's growing transportation demands. It is a mode that was relatively neglected for some time. Yet, it is a mode which offers great promise in alleviating growing congestion in other modes and is very attractive from environmental and land-use standpoints. And, like other transportation advances in the past, it could well provide new opportunities for our future economic and social development . . .

"Certainly we do look to a demonstration program at some point for these systems. We believe in general that a demonstration is very important before such a system will go into widespread use, that it is necessary to go through a demonstration step."

The system to be studied by the Secretary may also help provide a focus for the Bicentennial celebration. Transportation exhibits and demonstration projects have played an important and valuable role in exhibitions of the past, such as the Seattle World's Fair of 1962. If the system contemplated in S. 797 is constructed, it could also provide the millions of visitors who are expected to visit the National Capital area during the Bicentennial with an exciting and efficient way of seeing this historical region. A practical demonstration of an advanced transportation system during the Bicentennial events in the Nation's Capital area will provide maximum visibility to transportation innovation and provide the impetus for the development and deployment of new approaches in high speed land and water transportation in the Nation. The problems of pollution, traffic congestion and energy conservation underscore the need for the development of new approaches in transportation.

PURPOSE AND EXPLANATION OF THE BILL

The purpose of S. 797 is to provide for a comprehensive investigation and study by the Secretary of Transportation of the feasibility and desirability of constructing either or both high-speed demonstration projects for use as part of the Bicentennial celebration. Subject to the Secretary's recommendation, and to the extent funds are appropriated, the Secretary would be authorized to enter into arrangements for the construction of such system or systems.

An integral part of the study mandated by the bill would consider questions of social advisability, environmental impact, and economic practicability of the systems under consideration. When determining feasibility, the Secretary would be required to look at the relevant time constraints which are necessarily involved in trying to set up any such system for the Bicentennial. Since a major purpose of the demonstration project would be to transport and expose Bicentennial visitors to new transportation concepts, it is anticipated that the Secretary would not recommend any project as "feasible" if a reliable operational system could not be constructed in time for the Bicentennial.

In studying the social advisability and environmental impact of the proposed project, the Secretary should give consideration to such items as possible growth plans resulting from construction of such a system in the communities served by it, the effect on competing transportation modes, and whether or not such a system could more profitably be placed at some other location. The high speed ground system is not expected to come into downtown Washington. Rather, it is contemplated that the high speed land vehicle will join with the Washington Metropolitan area mass transit system at an appropriate subway station. A number of witnesses during the hearing on the proposal urged the New Carrollton station as the appropriate location. The study should give careful consideration to the New Carrollton site, as well as other locations. By not coming into downtown Washington, the demonstration system will not only avoid difficult and costly condemnation problems, but also save considerable funds.

It is anticipated that the determination of environmental impact would be done in much the same manner as an environmental impact statement under the National Environmental Policy Act. Since the Secretary will be required to file such an impact statement if the project goes ahead, a thorough consideration of environmental factors at an early stage will avoid duplicative work in the environmental area and assist the Secretary in preparing and filing the environmental impact statement.

The Secretary's determination of economic practicability should examine not only the degree to which such a system can become operationally self-sustaining through user fees, but also to the extent to which, if any, the government might be reimbursed for part or all of the capital costs resulting from construction of the demonstration project. The Committee is especially concerned that the construction of this system does not lead to the need for continual operational subsidies. The study, therefore, should carefully assess the "post-Bicentennial" market for the system's economic viability after the rather special market which will be produced by the millions of visitors during the Bicentennial and after it has ended.

The bill specifically provides, in paragraph 1 of subsection (b) of section 2, that the Secretary of Transportation shall, in conducting the study, consult with appropriate Federal, State, local and District of Columbia agencies. Paragraph 2 of the same subsection gives the Secretary authority to enter into contracts or other agreements with public or private agencies, institutions, organizations, corporations, or individuals. This provision was included to ensure that the Secretary would have complete freedom in arranging for the study and investigation. For example, the Secretary may want to enter into an agreement with a private group operating high speed marine service as described in section 2 to assure that any such private group will cooperate with governmental efforts to establish a coordinated demonstration system.

The freedom of the Secretary to enter into contracts is further enhanced by the provisions contained in paragraph 2 of subsection (b) of section 2 which specifies that the Secretary may enter into contracts "without regard to sections 3648 and 3709 of the Revised Statutes (31 U.S.C. 529; 41 U.S.C. 5)." This authorization will allow the Secretary to enter into agreements and contracts without regard to the usual prohibition on advancement of public monies, and without regard to the provisions requiring advertisements of bids on government contracts. These provisions are in accord with the intent of the Committee that the Secretary should move as rapidly as possible in completing the study, in order to insure that the system, if constructed, could be fully operational and reliable in time for the Bicentennial.

If the Secretary recommends the establishment of either high speed transportation system, the Committee expects that the Secretary will also submit with his report an estimate of the cost of carrying out his recommendations.

Also, it should be noted that there is a specific limitation contained in Section 3 which prohibits the construction of the high speed ground demonstration system described in subsection (a)(1) of section 2 if the State of Maryland does not furnish the certain right of way under its control. Secretary Hughes, representing the State of Maryland at the hearings on this proposal, indicated the willingness of Maryland to make such rights-of-way available.

COMMITTEE AMENDMENTS

The Committee amended the bill to delete section 4 which provided for an "open-ended" appropriation authorization (i.e., "such amounts as are necessary") and added a new subsection (d) to section 2 authorizing an appropriation of not to exceed $300,000 for the feasibility study provided for in that section. This appropriation authorization for the feasibility study provided for in section 2 is not to be construed as a limitation upon any subsequent funds sought to be appropriated by the Secretary after carrying out the requisite investigation and study.

Rather, the Committee felt that the Secretary's report required pursuant to section 2(c) should include within the recommendations an estimate of the cost of constructing such system or systems as he, the Secretary, might recommend. And, that since such cost would be predicated upon the Secretary's report and recommendations it would be impracticable for the Committee at this time to authorize the appropriation of a specific sum for construction. Accordingly, the Committee, recognizing the need for expeditious action if the Secretary's report does recommend moving forward with either or both systems, provided the Secretary with permissive authority to proceed to the extent that funds are appropriated, affording the Congress to examine both the Secretary's report with his recommendations and any resulting funding request during the appropriation process.

COST

Pursuant to Section 252 of the Legislative Reorganization Act of 1970, the Committee estimates that the cost of the study authorized by this Act will be no more than $300,000. The cost of a completed system, if it is to be built, would be dependent upon the results of the investigation and study by the Secretary of Transportation and his recommendations, including cost estimates based thereon. Therefore, it is impracticable for the Committee to estimate any such cost at this time. The Committee knows of no cost estimate by any Federal agency which varies with this estimate.

CHANGES IN EXISTING LAW

The enactment of this bill would not change any existing law.

AGENCY COMMENTS

On February 21, 1973, comments on S. 797 were requested from the Interstate Commerce Commission and the Department of Transportation. However, no comments have been received.

Mr. BEALL. Mr. President, I ask unanimous consent that in addition to Joseph Carter, Tom Allison, and Malcolm Sterrett of the Commerce Committee staff be permitted the privilege of the floor during the consideration of this measure.

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

Mr. SCOTT of Virginia. Mr. President, will the Senator from Maryland yield?

Mr. BEALL. I yield.

Mr. SCOTT of Virginia. Mr. President, I should like to commend the distinguished Senator from Maryland for sponsoring this bill especially since it includes consideration of transportation to and from part of historic Virginia—the Yorktown and the Williamsburg areas.

Let me comment briefly on the question of timing, the Bicentennial year of 1976 is almost upon us. It is only 2½ years away. I am quite aware that an amendment will be offered to require an authorization of plans that are developed by the Department of Transportation. I would hope that that would not be adopted, because if the Department of Transportation should use the 9 months for study of feasibility, even if this bill were immediately passed, we would only have about 1¾ years left to put these projects into operation by the first of the year 1976. I believe Congress, by passing this authorization, and then through the appropriation process, first, by appropriating for the study, and second, by appropriating funds to carry out the plans made by the Department of Transportation, would be giving its stamp of approval. I believe we should be doing more planning toward our Bicentennial year.

I even have a bill under which the Government would establish a national park in Fredericksburg, at Ferry Farm, George Washington's boyhood home. Congress has not yet seen fit to adopt this. But, it is another example of the action we should take.

We will be celebrating the 200th birthday of our Nation in just 3 years. I think this measure is a step in the right direction, and I compliment the distinguished Senator for proposing this bill. I hope the Senate sees fit to adopt it.

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

Mr. BEALL. I am happy to yield to my distinguished colleague.

I thank the Senator from Virginia for his very generous remarks in support of this measure.

Mr. MATHIAS. Mr. President, I rise in support of this bill. I can think of very few proposals which have been brought before the Senate which, in a single package, address themselves to so many of the problems we have today.

I do not suppose there is any question that is asked of public officials in the United States more often at this moment than, "What are you doing about the gasoline problem? What are you doing about the transportation problem? What are you doing about making it easier for people to get from their homes to their jobs?" They are told that gasoline prices will have to go up because of the rising international cost of petroleum, because of the lack of refinery capacity, because of crowded highways, and because of the other complex conditions of life. This is a bill that addresses itself to that particular problem.

At the same time, people will say, "What are you doing that is new and different in the way of transportation?" This bill has within it the concept of a new and innovative approach to transportation on an experimental basis, and I think it is important for that reason.

Third, there is widespread questioning about the progress we are making as a nation toward some meaningful commemoration of the National Bicentennial, and this bill proposes a practical answer to that question.

So I commend my distinguished colleague from Maryland for his foresight in introducing this measure, and I am very happy and proud to be a cosponsor of it.

It seems to me that high-speed ground transportation, particularly in the National Capital area, is of critical importance. We have been told for the last 10 or 15 years that the great cities of America are going to be strangled by the increasing growth of traffic on our streets and on our approach highways.

I, for one, can say that I have witnessed this happening. When I first came to Congress 12 years ago, I was able to commute from my home in Frederick, Md., about 50 miles away; but after the first 5 years, the gradual growth of traffic increased the time that was required for that trip, so that it no longer became a practical way to live. So I have gradually experienced this strangulation. I know that the time is certainly here, if not past, for doing something practical and urgent about high-speed ground transportation systems.

With the gasoline problem, with the possibility of rationing staring us in the face, with the inevitability of higher prices for gasoline, I think public interest should be at an all-time high in finding some alternatives to moving rapidly, efficiently, and economically from one point to another, particularly within and between metropolitan areas.

Some may question the concept of high-speed marine transportation, but of course this is not novel in other parts of the world. Outside of Geneva, Switzerland, for example, it is commonplace to see people get on a hydrofoil ferry and in a matter of a few minutes go from one side of that very large lake to the other, uniting metropolitan communities, with a very modest cost and with very little expenditure of time.

The Bicentennial, it seems to me, is a concept of importance which is included in this bill. I can think of nothing more futile or nothing more useless than for this great Republic to commemorate its 200th anniversary simply by firing a few guns in the air and people putting on white wigs and Revolutionary uniforms. I am sure we will have some of that—and perhaps some of that could be enjoyable—it seems to me that to do that alone would make a mockery of our commemoration.

What we need to do is to indicate that the Republic, after 200 years, is still vital and living, is still moving forward, is still advancing the quality of life. Any innovative ideas that can be advanced as a part of the Bicentennial celebration are exactly in line with my views of what needs to be done, and this bill includes such ideas.

So I am happy to support the bill, and I again commend my colleague for its introduction.

Mr. BEALL. I thank the Senator for his support of the proposal. His comments are always eloquent and his contributions and support were important in advancing this proposal.

The Senator's comments about the use of hydrofoil water transportation in other parts of the world brought to mind a recent trip some of us took behind the Iron Curtain. On our way to Moscow, we spent one night in Copenhagen, Denmark, where there was a hydrofoil vessel that left Copenhagen, I believe, on the hour and went back and forth to Sweden. It was operating very profitably, carrying thousands of people daily between those two countries.

Later in the trip, I noted a hydrofoil traveling on the Danube River between Budapest, Hungary, and Vienna; and this, too, carries many people on a regular schedule. It just shows the potential of this form of high-speed water transportation.

I think the Senator's observation is very pertinent, and I thank him for his remarks.

Also, I have been informed by the staff that there is a hydrofoil that runs between Hong Kong and Macao, for which one has to get a reservation a week in advance. This shows the interest and potential for this form of transportation. We have not taken advantage of it, and I think the time is here when we should.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. BEALL. Mr. President, I ask unanimous consent that the committee amendments be considered and agreed to en bloc.

The PRESIDING OFFICER. Without objection, the committee amendments are considered and agreed to en bloc.

Mr. PROXMIRE. Mr. President, I send to the desk an amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 3, beginning with line 12, strike out all through line 2 on page 4.

Mr. PROXMIRE. Mr. President, the bill before the Senate is one that may be worthy, and I hope I can vote for it on final passage.

I have no objection to the main thrust of the bill. I do have very serious objection, however, to how this would mandate us to spend as much as $300 million without adequate consideration by Congress.

Mr. President, before proceeding further, I ask unanimous consent that my

staff assistant, Tom van der Voort may be allowed on the floor during the debate and also during the rollcall.

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

Mr. PROXMIRE. Also, I wish to correct the information sheet that is on the desk of each Senator. Where it refers to S. 4023, which was the number last year, it should refer to S. 797.

The act itself would authorize the appropriation of up to $300,000 for an investigation and study by the Secretary of Transportation of a high-speed ground transportation system in combination with a high-speed marine system. The ground system would run between Washington and Annapolis, Md. The marine system would run between the Baltimore-Annapolis area in Maryland and the Yorktown-Williamsburg-Norfolk area in Virginia.

Not only would the legislation authorize a study, and here is where I express my reservations, it would also authorize the construction of such a system—at a cost of hundreds of millions of dollars—if the Secretary of Transportation recommended a land system combined with a water system, or either system separately, as a result of the study.

Mr. President, this is the part of the bill by amendment would strike, for reasons I shall explain in some detail. But first let us focus on the justification for this excessive haste. Why must we authorize in this legislation a study and then go on to authorize the construction of the system under study before the study itself has even been started?

Apparently the only rational answer is that the system is meant to provide, and I quote from the bill:

> The millions of citizens of the United States and foreign nations who will visit the National Capital area during the Bicentennial of American Independence celebration with a pleasant, efficient, and unique way of seeing the historic cities and sights of such area and [provide] practical demonstrations of technologically advanced transportation systems which will attract national and international attention and recognition and demonstrate to the world that the United States will continue its leadership in the world of tomorrow.

Now this is a mighty tall order, with or without the construction authorization contained in section 3 of this bill. If this legislation passed both Houses today and was signed by the President tomorrow with the funds being appropriated for the study next week we would have between 2½ years and 3½ years to conduct the feasibility study and finish construction of a highly advanced system to transport the millions of citizens that will be visiting the Washington area in the Bicentennial year of 1976.

Mr. President, one of the most consistent developments I have seen in the 15 years I have been here is not only that these projects cost far more than they are supposed to, but also that they are uniformly late. I have yet to see any program come in early and most are very late indeed not months late but years late.

Six months ago hearings were held on this legislation. At that time a number of witnesses emphasized the difficulty of setting up such a system, especially on anything more than a pilot basis, in the short time remaining before the Bicentennial. I emphasize that this was 6 months ago.

Milton Klein, Associate Administrator for Research Development, and Demonstrations, Federal Railroad Administration, Department of Transportation, had this to say when Senator BEALL asked him about the possibility of having a high-speed ground transportation system in operation in time for the Bicentennial:

> I think, Mr. Chairman, that it is technically feasible to be ready. But the controlling factor in my mind would be the time it takes really to build the infrastructure, the route, the guideway, and of course how quickly one can get started. It is a tight time scale in any event.

A Department of the Navy witness, in discussing a marine system had this to say:

> I believe the technological base is adequately established in U.S. industry for passenger-carrying, high-speed marine vehicles in the size range of 50 to 200 tons displacement; but time is very short, as other witnesses have noted this morning, to achieve a realistic capability in hand by 1976.

I remind my colleagues, again, that this testimony was given 6 months ago.

How about the testimony of witnesses who would be providing the hardware and expertise—the contractors who might be expected to profit from this proposal. As might be expected, they were somewhat more sanguine, but even here certain witnesses expressed serious doubts about the possibility of setting this system up in time for the Bicentennial. Rear Admiral Ralph K. James, USN retired, a private marine consultant, said it would take an effort similar to those efforts associated with Manhattan Project—the atomic bomb project—or the development of the Polaris submarine. Do my colleagues here today really want to commit themselves to that kind of an effort in the absence of a feasibility study?

After all, this is a project that could be useful and which might be shown to be feasible, but it is not as if this country were fighting for its life in a war.

Mr. Tobias of aerospace and marine systems group testified that:

> It would take about 8 years to perform the design and complete the construction and trials of the first ship. This means that the detail design and construction contract award must be made by mid-1973.

This is clearly impossible. Testimony from Bell Aerospace said 2½ years would be required for the delivery of a marine vehicle. Others put delivery time at 2 years. But we have yet to authorize a feasibility study.

In conclusion, a close look at the 6-month-old hearing record convinces me, and should convince other Senators, that there is no hope of finishing this project in time for the Bicentennial. This is particularly true if we are to have a system that would transport millions of Americans and foreign visitors safely, quickly, and at moderate operating expense. It just is not in the books for 1976.

But even if there were a chance that a feasibility study could be completed and a system constructed in less than 3 years there are several other compelling reasons for having the results of the feasibility study in hand before authorizing the construction of such a system.

Why can we not rely on the appropriations process to handle this question of approving final construction many ask?

I think that will be the main point made by my good friend from Maryland. There are two answers to this question. First construction could be started without the necessity for going through the traditional appropriations process. Using the justification of the need for speed to have the system ready for the Bicentennial, the Secretary of Transportation could simply decide to reprogram funds already appropriated. This would avoid the necessity for full congressional approval. Only the concurrence of the chairmen of the House and Senate Transportation Appropriations Subcommittees would be needed. Once these initial funds were committed the Congress would be locked in. The argument would be made that funds already committed would be down the drain if we did not continue with the system.

Even if funding is provided only through the normal appropriations process, this program would only be one item among dozens. It just would not receive the scrutiny that a major initiative of this sort should receive.

That is why we have an authorization process and an appropriation process. Having served 10 years on the Committee on Appropriations and with great pride in the effort that members of the Committee on Appropriations make and that the staff makes, there is serious question that the Committee on Appropriations should be asked to assume this kind of responsibility. One of the difficulties on the Committee on Appropriations is that we will have one staff man for an appropriation bill that is as much as $20 billion. I handle appropriations for housing, urban affairs, space, veterans, and independent agencies. That is a $20 billion matter.

I have one staff man. The Transportation Subcommittee is in the same difficult position. To expect the Appropriations Committee to do the kind of hard, tough work that would provide the basis for a reasoned decision on this $300 million project being proposed here, and many other projects, and to expect them to move ahead without an authorization, is asking too much and putting us in a situation where we have to proceed without the kind of knowledge that Congress ought to have before we spend the public's money.

Let us look at some of the questions that would be raised by the initiation of this project—questions that should be answered before we authorize construction, questions that can only be answered through a feasibility study.

There is the question of the rights of way for the ground transportation system. During the hearings John B. Buchram, Jr., Vice Chairman of the Washington Suburban Transit Commission, put it this way:

> Again, the proposal for a high-speed system between urban areas is one which I find most attractive. But I wish to state that

there may be troubles in finding an appropriate alignment for such a system through the urban area in Washington to an agreed upon terminus within the city.

There are also the questions surrounding the marine transportation route. Admiral Halvorson raised the following points to be taken into consideration in the feasibility study:

The study should take into account, among other things, the hydrographic aspects of these waterways, and the added requirements for safe navigation at high speeds. Similarly the design of terminal facilities and logistics support requirements will have to be established.

Hydrographically speaking, any of these ships that travel at 50, 60, 70, or 80 knots in a restricted waterway have to have both onboard the ship, and on the shoreline, good navigation facilities in order to be safe.

Frankly I do not see how the Congress can begin to have an appreciation of the complexity and the cost of this project in the absence of a good feasibility study. The cost could be as high as $300 million. I think it could be a great deal more. Yet if we fail to strike section three, as my amendment would do, we would be authorizing this huge and complex program on the basis of 1 day of hearings which appear to have been attended by only one Senator—I have the hearing record here; Senator BEALL was the only Senator who was there—and a committee report of less than 6½ pages.

Then we impose on the Appropriations Committee the responsibility for proceeding on this $300 million project without an opportunity to have an authorization which would inform them as to whether or not, on the basis of the judgment of our colleagues in the Senate, we should move ahead.

Not only is the record very scanty. It includes no administration comments on the proposal. Comments were requested from the Interstate Commerce Commission and the Department of Transportation, but none were received.

They would move ahead with an authorization, in effect, of $300 million without knowing what the administration and the experts in our Government think about it.

How can we authorize a project that could cost hundreds of millions of dollars in the absence of a feasibility study with a scanty hearing record, compelling evidence that the project will be costly and too time-consuming to complete in time for the Bicentennial, and, finally, in the absence of any hint as to how the administration feels about the proposal?

Many sins are committed in the name of the Bicentennial. This has been used as an alibi for all kinds of spending. I do not know how we can justify moving ahead with this project, which will cost many times the entire income of the country in 1776, and say this action is in honor of the geniuses who founded our Republic. I think the best thing we can do in honoring our forefathers who founded our Republic is reduce spending. I am sure if those men had the opportunity to pass on many of these projects, arts and humanities and public works of this kind, justified in their name, they would say, "One favor you could do, if you want to keep the kind of Republic we founded and the kind of democracy we would like to see, and that is hold down spending, and not justify it in our name."

I hope my colleagues will join me in acting responsibly by striking section 3 of this legislation and waiting until we have a good feasibility study before making a final decision on construction.

Mr. BEALL. Mr. President, I appreciate the remarks of the Senator from Wisconsin, who always expresses a legitimate concern about the cost of various projects that come to our attention and also the procedures we use in supporting these projects.

Before going to my main comments, I notice the Senator ended his remarks by saying what he thought our Founding Fathers would have done had this question come up in 1776. I suggest that those men had an exploring spirit and were men who took risks in, for example, scaling the Appalachian mountains and finding a new gateway to the West, because they were interested in opening up new lines of communication. We may never have found Wisconsin if it had not been for them.

Mr. PROXMIRE. Mr. President, if the Senator will yield, I agree wholeheartedly that they might very well have proceeded with this project, but they would have done so deliberately. They would not have done so on the basis of undue haste of action and then pursued it in the Appropriations Committee and acted without an authorization.

Mr. BEALL. They always acted deliberately, and I hope we act that way. They established our Constitution and established our form of government with a fair amount of haste, but they did it expeditiously and with safeguards. Be that as it may, they were creative and inventive people and anxious to establish new modes of transportation and they took great risks for the benefit of the whole populous. I think we are acting deliberately, but in recognition of the real time problems acknowledged by Senator PROXMIRE. The committee had only one hearing but that hearing was a thorough one which lasted all day long. An examination of the hearing record will demonstrate the comprehensiveness of those hearings. We asked all the tough questions. It is an excellent hearing record.

I think that what we are doing here is something that has to be done, and that is to develop new methods of ground and water transportation, because one of the great problems we have is to move great numbers of people, at high speed,

Getting to the point raised by the Senator from Wisconsin in his amendment that would strike section 3, I agree that this is a different procedure than we generally use in our procedures around here, but I suggest to the Senator that since time is of the essence, that is the reason why we are using this procedure. I think it is advisable that we use the Bicentennial, if at all possible, to demonstrate this kind of project.

What we are proposing is that the Congress authorize a feasibility study and if the study demonstrates the project's feasibility, the Department of Transportation would then be required to make a recommendation to the Congress, that it is a worthwhile project and we should move ahead. If it is a worthwhile project, they would come back, through the appropriation process, to get the funds to proceed with the construction.

I would suggest to the Senator that, under those circumstances, this is an adequate amount of caution and safeguards. I would suggest that time is of the essence. I would suggest also that world expositions have served in the past as catalyst enabling us to telescope time to get a worthwhile project accomplished.

Mr. PROXMIRE. Mr. President, if the Senator will yield, we might be able to abbreviate the debate, and perhaps I will withdraw the amendment, if the Senator will agree to this proposition.

Mr. BEALL. I am always interested in listening to propositions.

Mr. PROXMIRE. As I understand it, the Senator's whole argument for speed, the whole reason why we do not have an authorization for a feasibility study to be made, is that the Senator feels very strongly this project should be made available for the Bicentennial. It should not go through the authorization process, which will delay it further and will give it much less chance for having this system available before the Bicentennial. Is that correct?

Mr. BEALL. That is correct.

Mr. PROXMIRE. Would the Senator accept an amendment with this language? I will read the amendment and then explain it. On page 3, line 16, after the word "systems," insert the words "and finds that the system or systems can be completed by July 4, 1976."

If the Senate will adopt this amendment I will then withdraw my amendment that I previously offered to strike the section that would short circuit the authorizing process.

And there will be no question that the project can proceed provided the Secretary of Transportation finds it is possible to make this facility available by July 4, 1976, in time for the Bicentennial.

If the Senator will accept that amendment, I will withdraw my amendment after having asked unanimous consent to void the yeas and nays and the bill can then be passed immediately.

Mr. BEALL. Mr. President, the Senator says system or systems. The intention of the amendment, I hope, and I will accept the amendment if such is the case, that if either the water or ground segments are feasible we could proceed. The amendment would not wipe out the entire project if both the water and ground system could not be completed, but one could.

Mr. PROXMIRE. It would not. What I am saying is that either the ground or water transportation part will be feasible, one or the other.

Mr. BEALL. Mr. President, I think that amendment would be acceptable. Let me read from the report on the legislation where we say in the report that it is anticipated that the Secretary would not recommend any project as "feasible" if a reliable operational system could not be constructed in time for the Bicentennial.

We say that on page 5, at the bottom of the first paragraph.

Mr. PROXMIRE. Then there is no objection to accepting my amendment.

Mr. BEALL. Not at all. I will accept the amendment.

Mr. PROXMIRE. Mr. President, is this amendment in order while my amendment is pending? Could I offer this amendment to the other amendment or do I have to take down my amendment first?

Let me do it in this way. Mr. President, I ask unanimous consent that the pending amendment may be temporarily laid aside.

The PRESIDING OFFICER. Is that for the purpose of taking up another amendment?

Mr. PROXMIRE. That is for the purpose of taking up another amendment.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. PROXMIRE. Mr. President, I send to the desk an amendment.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 3, line 16, after "systems," insert the words "and finds that the system or systems can be completed by July 4, 1976."

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

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

Mr. PROXMIRE. Mr. President, I ask for a vote on the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Wisconsin (putting the question).

The amendment was agreed to.

Mr. PROXMIRE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BEALL. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. PROXMIRE. Mr. President, I congratulate the distinguished Senator from Maryland.

Mr. President, I ask unanimous consent that my other amendment be withdrawn.

Mr. President, let me explain this to the distinguished chairman of the Appropriations Committee, since he has an interest in this matter, too.

I have just agreed with the Senator from Maryland that if he would accept my amendment, I would withdraw my other amendment. That has now been done. We have written it into law. If the Secretary of Transportation finds that either a marine or ground system of transportation is feasible and can be constructed fully by July 4, 1976, he may go ahead and recommend that particular but only that particular system. In other words if the Secretary of Transportation finds that the marine system can be completed by July 4, 1976, the appropriations can go forward for that marine system but not for the ground system without an authorization. The ground system could proceed only if the Secretary of Transportation finds that particular system could be completed by July 4, 1976.

I am convinced that there is no way the Secretary of Transportation can tell us for sure that either system is going to be awarded and ready to use by July 4, 1976. So I am convinced the system will have to approve authorization. The Senator from Maryland disagrees.

Mr. McCLELLAN. Mr. President, is the Senator authorizing the Secretary of Transportation to make a commitment that would bind the Congress to spend the money on his judgment of what is feasible?

Mr. PROXMIRE. We are only authorizing the Secretary of Transportation to make a feasibility study. It is then up to the Congress to appropriate the money.

Mr. McCLELLAN. Mr. President, does he have the authority to draw up a contract and obligate the Congress?

Mr. PROXMIRE. No. I raised the point that he might request authority to reprogram funds. However, that would be up to the House and Senate Appropriation Subcommittee chairman to approve, as I understand it. Certainly the Secretary would not request reprograming unless he could assure completion of work on the system by July 4, 1976.

Mr. McCLELLAN. This is a pretty bad practice. What is the unanimous-consent request?

The PRESIDING OFFICER. The unanimous-consent request is to withdraw his amendment.

Mr. McCLELLAN. That would be all right.

Mr. PROXMIRE. Mr. President, I thank the Senator from Arkansas.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Wisconsin? The Chair hears none, and it is so ordered.

The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill (S. 797) was ordered to be engrossed for a third reading and was read the third time.

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

Mr. ROBERT C. BYRD. Mr. President, on behalf of the majority leader, I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back. The question is, Shall the bill pass?

The bill (S. 797) was passed, as follows:

S. 797

An act to direct the Secretary of Transportation to make a comprehensive study of a high-speed ground transportation system between Washington, District of Columbia, and Annapolis, Maryland, and a high-speed marine vessel transportation system between the Baltimore-Annapolis area in Maryland and the Yorktown-Williamsburg-Norfolk area in Virginia, and to authorize the construction of such system if such study demonstrates their feasibility.

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 "Bicentennial Advanced Technology Transportation System Demonstration Act".

SEC. 2 (a) For the purpose of providing the millions of citizens of the United States and foreign nations who will visit the National Capital area during the Bicentennial of American Independence celebration with a pleasant, efficient, and unique way such area and providing practical demonof seeing the historic cities and sights of strations of technologically advanced transportation systems which will attract national and international attention and recognition and demonstrate to the world that the United States will continue its leadership in the world of tomorrow, the Secretary of Transportation is hereby authorized and directed to make an investigation and study for the purposes of determining the feasibility, social advisability, environmental impact, and economic practicability of (1) a tracked air-cushioned vehicle or other high-speed ground transportation system between Washington, District of Columbia, and Annapolis, Maryland, with appropriate intermediate stops, and (2) a surface effect vessel or other high-speed marine transportation system between the Baltimore-Annapolis area in Maryland and the Yorktown-Williamsburg-Norfolk area in Virginia.

(b) In conducting such investigation and study, the Secretary—

(1) shall consult with appropriate Federal, State, local, and District of Columbia agencies; and

(2) may enter into contracts or other agreements with public or private agencies, institutions, organizations, corporations, or individuals without regard to sections 3648 and 3709 of the Revised Statutes (31 U.S.C. 529; 41 U.S.C. 5).

(c) The Secretary shall report the results of such investigation and study together with his recommendations, to the President and the Congress no later than nine months after the enactment of this Act.

(d) There is authorized to be appropriated for purposes of this section a sum not to exceed $300,000.

SEC. 3. If after carrying out the investigation and study pursuant to section 2, the Secretary of Transportation recommends the establishment of either the transportation system described in subsection (a)(1) or (a)(2) of such section or both such systems, and finds that the system or systems can be completed by July 4, 1976, he may, to the extent funds are appropriated for the purpose of this section, enter into such contracts and other arrangements as necessary for the construction and operation of such system or systems, except that the system described in such subsection (a)(1) may not be constructed unless the State of Maryland furnishes the necessary rights-of-way, to the extent such rights-of-way are presently owned by such State within existing highway alinements or acquired by such State with funds authorized under this Act and determined usable for such system by the Secretary of Transportation.

Mr. BEALL. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. 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. ROBERT C. BYRD. Mr. President, the amendment of the distinguished Senator from Wisconsin (Mr. PROXMIRE) having been withdrawn and the order for the yeas and nays having fallen with the withdrawal of that amendment, there will be no more yea-and-nay votes today.

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.

LAND USE POLICY AND PLANNING ASSISTANCE ACT

The PRESIDING OFFICER. Pursuant to the previous order, the Chair lays before the Senate S. 268, which the clerk will report.

The assistant legislative clerk read as follows:

Calendar No. 186 (S. 268) a bill to establish a national land use policy, to authorize the Secretary of the Interior to make grants to assist the States to develop and implement State land use programs, to coordinate Federal programs and policies which have a land use impact, to coordinate planning and management of Federal lands and planning and management of adjacent non-Federal lands, and to establish an Office of Land Use Policy Administration in the Department of the Interior, and for other purposes.

The Senate proceeded to consider the bill, which had been reported by the Committee on Interior and Insular Affairs with an amendment, to strike out all after the enacting clause and insert:

That this Act may be cited as the "Land Use Policy and Planning Assistance Act".

TITLE I—FINDINGS, POLICY, AND PURPOSE

FINDINGS

SEC. 101. (a) The Congress hereby finds that there is a national interest in a more efficient system of land use planning and decisionmaking and that the rapid and continued growth of the Nation's population, expanding urban development, proliferating transportation systems, large-scale industrial and economic growth, conflicts in patterns of land use, fragmentation of governmental entities exercising land use planning powers, and the increased size, scale, and impact of private actions have created a situation in which land use management decisions of wide public concern often are being made on the basis of expediency, tradition, short-term economic considerations, and other factors which too frequently are unrelated or contradictory to sound environmental, economic, and social land use considerations.

(b) The Congress finds that the task of land use planning and management is made more difficult by the lack of understanding of, and the failure to assess, the land use impacts inherent in most public and private programs and activities.

(c) The Congress finds that adequate data and information on land use and systematic methods of collection, classification, and utilization thereof are either lacking or not readily available to public and private land use decisionmakers.

(d) The Congress finds that a failure to conduct competent land use planning has, on occasion, resulted in delay, litigation, and cancellation of proposed significant development, thereby too often wasting human and economic resources, creating a threat to public services, and invoking decisions to locate activities in areas of least public and political resistance, but without regard to sound environmental, economic, and social land use considerations.

(e) The Congress finds that significant land use decisions are being made without adequate opportunity for property owners, users of the land, and the public to be informed about the alternatives to such decisions or to meaningfully participate in such decisions.

(f) The Congress finds that many Federal agencies conduct or assist activities which have a substantial impact on the use of land, location of population and economic growth, and the quality of the environment, and which, because of the lack of consistent land use policies, often result in needless, undesirable, and costly conflicts between Federal agencies and among Federal, State, and local governments, thereby subsidizing undesirable and costly patterns of development.

(g) The Congress finds that, while the primary responsibility and constitutional authority for land use planning and management of non-Federal lands rests with State and local government, the manner in which this responsibility is exercised has a tremendous influence upon the utility, the value, and the future of the public domain, the national parks, forests, seashores, lakeshores, recreation and wilderness areas, wildlife refuges, and other Federal lands; and that the failure to plan or, in some cases, the existence of poor or ineffective planning at the State and local levels poses serious problems.

(h) The Congress finds that intelligent land use planning and management can and should be a singularly important process for preserving and enhancing the environment, encouraging beneficial economic development, and maintaining conditions capable of improving the quality of life.

STATEMENT OF POLICY AND PURPOSE

SEC. 102. (a) To promote the general welfare and to provide full and wise application of the resources of the Federal Government in strengthening the environmental, recreational, economic, and social well-being of the people of the United States, the Congress, recognizing that the Nation's land is its most valuable national resource and that the maximum benefit to all from this resource can be achieved only with the development and implementation of sound and coordinated land use policies, declares that it is the continuing policy of the Federal Government to cooperate with and render assistance to State and local governments in the development and implementation of the policies which will govern the wise and balanced use of the Nation's land resource.

(b) It is the purpose of this Act to—

(1) encourage and assist the several States to more effectively exercise their constitutional responsibilities for the planning and management of their land base through the development and implementation of State land use programs;

(2) establish a grant-in-aid program to assist State and local governments and agencies to hire and train the personnel, collect and analyze the data, and establish the institutions and procedures necessary to develop and implement State land use programs;

(3) establish a grant-in-aid program to encourage cooperation among the States concerning land use planning and management in interstate regions;

(4) establish a grant-in-aid program to assist Indian tribes to develop land use programs for reservation and other tribal lands and to coordinate such programs with the planning and management of Federal and non-Federal lands adjacent to reservation and other tribal lands;

(5) establish the authority and responsibility of the Executive Office of the President to issue guidelines to implement this Act and of the Secretary of the Interior to administer the grant-in-aid and other programs established under this Act, to review, with the heads of other Federal agencies, statewide land use planning processes and State land use programs for conformity to the provisions of this Act, and to assist in the coordination of activities of Federal agencies with State land use programs;

(6) develop and maintain sound policies and coordination procedures with respect to federally conducted and federally assisted projects on non-Federal lands having land use implications;

(7) facilitate increased coordination in the administration of Federal programs and in the planning and management of Federal lands and adjacent non-Federal lands;

(8) provide for meaningful participation of property owners, users of the land, and the public in land use planning and management;

(9) provide for research on and training in land use planning and management;

(10) promote the development of systematic methods for the exchange of data and information pertinent to land use decisionmaking among all levels of government and the public; and

(11) study the feasibility and possible substance of national land use policies which might be enacted by Congress.

TITLE II—PROGRAMS OF ASSISTANCE TO THE STATES

PART A—STATEWIDE LAND USE PLANNING PROCESSES AND STATE LAND USE PROGRAMS

GRANTS TO STATES

SEC. 201. (a) The Secretary of the Interior (hereinafter referred to as the "Secretary") is authorized to make annual grants to each State to assist each State in developing and administering a State land use program meeting the requirements set forth in this Act.

(b) Prior to making the first grant to each State during the three complete fiscal year period following the enactment of this Act, it shall be determined in accordance with the procedures provided in section 306 that such grant will be used in a manner to meet satisfactorily the requirements for a statewide land use planning process set forth in section 202. Prior to making any further grants during such period, it shall be determined in accordance with the procedures provided in section 306 that the State is adequately and expeditiously proceeding to meet the requirements of section 202.

(c) Prior to making any further grants after the three complete fiscal year period following the enactment of this Act and before the end of the five complete fiscal year period following the enactment of this Act, it shall be determined in accordance with the procedures provided in section 306 that the State has met and continues to meet the requirements of section 202 and is adequately and expeditiously proceeding to develop a State land use program to meet the requirements of sections 203, 204, 402, and 505.

(d) Prior to making any further grants after the five complete fiscal year period following the enactment of this Act, it shall be determined in accordance with the procedures provided in section 306 that the State has met and continues to meet the requirements of sections 203, 204, 402, and 505.

(e) Each State receiving grants pursuant to this part A during the five complete fiscal year period following enactment of this Act shall submit, not later than one year after the date of award of each grant, a report on work completed and scheduled toward the development of a State land use program to the Secretary for determination of State eligibility or ineligibility for grants pursuant to this part A in accordance with the procedures provided in section 306. For grants made after such period, the State shall submit its State land use program not later than

one year after the date of award of each grant to the Secretary for determination of State eligibility or ineligibility for grants pursuant to this part A in accordance with the procedures provided in section 306: *Provided*, That if no grant is requested by or active in any State after five fiscal years from the date of enactment of this Act, such State shall submit its State land use program within ninety days thereafter to the Secretary for determination of State eligibility or ineligibility for grants pursuant to this part A in accordance with the procedures provided in section 306: *And provided further*, That, should no grant be requested by or active in any State during any two complete fiscal year periods after five fiscal years from the date of enactment of this Act, such State shall submit its State land use program within ninety days from completion of such period to the Secretary for determination of State eligibility or ineligibility for grants pursuant to this part A in accordance with the procedures provided in section 306.

STATEWIDE LAND USE PLANNING PROCESSES

SEC. 202. (a) As a condition of continued eligibility of any State for grants pursuant to this part A after the three complete fiscal year period following the enactment of this Act, it shall be determined in accordance with the procedures provided in section 306 that the State has developed an adequate statewide land use planning process, which process shall include—

(1) the preparation and continuing revision of a statewide inventory of the land and natural resources of the State;

(2) the compilation and continuing revision of data, on a statewide basis, related to population densities and trends, economic characteristics and projections, environmental conditions and trends, and directions and extent of urban and rural growth;

(3) projections of the nature, quantity, and compatibility of land needed and suitable for recreation, parks, and open space; scientific and educational purposes; protection of areas of critical environmental concern; conservation and preservation of natural resources; agriculture, mineral development, and forestry; industry and commerce, including the development, generation, and transmission of energy; solid waste management and resource recovery; transportation; urban development, including the revitalization of existing communities, the development of new towns, and the economic diversification of existing communities which possess a narrow economic base; rural development, taking into consideration future demands for and limitations upon products of the land; and health, educational, and other State and local governmental services; such projections to include consideration of multiple-use siting of facilities and activities;

(4) the preparation and continuing revision of an inventory of environmental, geological, and physical conditions (including soil types) which influence the desirability of various uses of land;

(5) the monitoring of land use data periodically to determine changes in land usage, the comparison of such changes to State and local land use plans, programs, and projections, and the reporting of the findings to the affected local governments, State agencies, and Federal agencies by request;

(6) the preparation and continuing revision of an inventory of State, local government, and private needs and priorities concerning the use of Federal lands within the State;

(7) the preparation and continuing revision of an inventory of public and private institutional and financial resources, including citizen public interest organizations, available for land use planning and management within the State and of State and local programs and activities which have a land use impact of more than local concern;

(8) the establishment of methods for identifying large-scale development and development of public facilities or utilities of regional benefit, and inventorying and designating areas of critical environmental concern, areas which are suitable for key facilities, and areas which are, or may be, impacted by key facilities, which methods shall provide for an appeals process for any interested party as defined by State law or regulation concerning the designation or deletion of any land or facility in or from such areas when such areas are designated other than by State law;

(9) the provision, where appropriate, of technical assistance for, and training programs for State and local agency personnel concerned with, the development and implementation of State and local land use programs;

(10) the establishment of arrangements for the exchange of land use planning information and data among State agencies and local governments, with the Federal Government, among the several States and interstate agencies, and with the public;

(11) the establishment of a process for public education concerning land use planning and management and other land use related activities;

(12) the participation of the public, property owners, users of the land, and the appropriate officials or representatives of local governments in the statewide planning process and in the formulation of definitions, guidelines, rules, and regulations for the administration of the statewide planning process, such participation, except in any proceedings of the State legislature, to include public hearings with adequate public notice;

(13) the consideration of, and consultation with the relevant States on, the interstate aspects of land use issues of more than local concern; and

(14) the consideration of the impacts of State programs and activities, land use policies, and the State land use program to be developed pursuant to this Act on the local property tax base and revenues and on rights of private property owners.

(b) In the determination of an adequate statewide land use process of any State, it shall be confirmed in accordance with the procedures provided in section 306 that the State has an eligible State land use planning agency established by the Governor of such State or by law, which agency shall—

(1) have primary authority and responsibility for the development and administration of a State land use program provided for in sections 203, 204, 402, and 505;

(2) have a competent and adequate interdisciplinary professional and technical staff and, whenever appropriate, engage the services of special consultants;

(3) give priority to the development of an adequate data base for a statewide land use planning process using data available from existing sources wherever feasible;

(4) coordinate its activities with the planning activities of all State agencies undertaking federally financed or assisted planning programs insofar as such programs relate to land use; the regulatory activities of all State agencies enforcing air, water, noise, or other pollution standards; all other relevant planning activities of State agencies; flood plain zoning plans approved by the Secretary of the Army pursuant to the Flood Control Act of 1960 (74 Stat. 488), as amended; in a coastal State as defined by the Coastal Zone Management Act of 1972 (86 Stat. 1280), the State planning activities pursuant to such Act; the planning activities of areawide agencies designed pursuant to regulations established under section 204 of the Demonstration Cities and Metropolitan Development Act of 1966 (80 Stat. 1255, 1262–3), as amended; the planning activities of local governments; the planning activities of Federal agencies; and the planning activities of Indian tribes pursuant to title V;

(5) have authority to make available to the public promptly upon request land use data and information, studies, reports, and records of hearings; and

(6) be advised by an intergovernmental advisory council which shall be composed of a representative number of chief elected officials of general purpose local governments in urban and nonurban areas selected by the the statewide association or associations representing such governments. One member, by majority vote of the members, shall be chosen chairman. The advisory council shall, among other things, comment on all State guidelines, rules, and regulations to be promulgated pursuant to this Act, participate in the development of the statewide land use planning process and State land use program, and may make formal comments on annual reports which the agency may prepare and submit to it, which reports may detail all activities within the State conducted by the State government and local governments pursuant to or in conformity with this Act.

(c) To minimize administrative inefficiencies, each State may designate the planning agency participating in programs pursuant to section 701 of the Housing Act of 1954, as amended, and, where such State is a coastal State, the planning agency participating in programs pursuant to the Coastal Zone Management Act of 1972, as the eligible State land use planning agency required by subsection (b) of this section. Where such a designation cannot be made within the three fiscal year period following the enactment of this Act, early consolidation of the responsibilities of the two or three agencies in a single planning agency is encouraged.

(d)(1) In the determination of an adequate statewide land use planning process of any State, it shall be determined in accordance with the procedures provided in section 306 that the State has established a program to regulate land sales or development projects (hereinafter referred to as "projects" or "project") as defined in subsection 601(1).

(2) Such program shall include:

(A) a procedure for identification of projects subject to such program;

(B) a procedure for consideration of each proposal project which procedure affords adequate notice to all affected State and local governments and assures that the developer provides to such governments the following—

(i) a map of the project setting forth the proposed lot lines and the improvements which the developer proposes to make, and a schedule of completion of all such improvements and sales of such lots;

(ii) a showing of financial capability of the developer, or the posting of a performance bond by the developer, sufficient to insure that such schedule and the requirements of this subsection will be met; and

(iii) a statement of the potential effects of the proposed project in sufficient detail to establish whether the development meets the criteria in clause (2)(D) of this subsection;

(C) State review of the proposed project including (i) an evaluation of the consistency of the proposed project with the statewide land use planning process and the State land use program, once approved pursuant to this Act; (ii) an analysis of the proposed project as it relates to the criteria in clauses (2)(D) of this section; (iii) comments on the local and regional need for the proposed project; and (iv) specific recommendations concerning whether the proposed project should or should not proceed;

(D) a method of implementation of the program which shall insure that—

(i) the financial capability of the devel-

oper is established as provided for in clause (2) (B) (ii) of this subsection;

(ii) the project will not exceed the capacity of existing systems for water and power supply, waste water collection and treatment, and waste disposal, unless expansion of the relevant systems to meet the requirements of the proposed development is planned and approved, and sufficient financing for the construction of the expanded systems is available;

(iii) the project will not cause unreasonable soil erosion;

(iv) the project is not located in areas which constitute an undue risk to public health and safety, which may include flood plains and areas of high seismicity and unstable soils, all such areas as defined by the State;

(v) the effects on the scenic or natural beauty or the natural environment are taken into consideration;

(vi) open space possessing valuable potential for public recreation is taken into consideration, such open space may include beaches, shorelines, and wild areas;

(vii) the project will not place an unreasonable burden on the ability of the State and local governments to provide municipal or other public services, including transportation, education, and police and fire protection;

(viii) the project will be developed within the time schedule submitted by the developer or within an alternative schedule necessary to insure that the project will meet the other criteria above; and

(ix) the project is consistent with local land use plans regulations, and controls and with the State land use program, once approved pursuant to this Act.

(3) The method of implementation of clause 2(D) of this subsection shall meet the requirements of section 203(c) and shall include procedures for issuance of cease and desist orders and other appropriate remedies for violations of this subsection or the provisions of State law or regulations enacted or promulgated pursuant to this subsection.

STATE LAND USE PROGRAMS

SEC. 203. (a) As a condition of continued eligibility of any State for grants pursuant to this Act after the five complete fiscal year period following the enactment of this Act, it shall be determined in accordance with the procedures provided for in section 306 that the State has developed an adequate State land use program, which program shall include—

(1) an adequate statewide land use planning process as provided in section 202 of this Act;

(2) a statement of State land use policies and objectives;

(3) methods of implementation for—

(A) exercising control over the use and development of land in areas of critical environmental concern to assure that such use and development will not substantially impair the historic, cultural, scientific, or esthetic values or natural systems or processes within fragile or historic lands; that loss or reduction of long range continuity and the concomitant endangering of future water, food, and fiber requirements within renewable resource lands are minimized or eliminated; and that unreasonable dangers to life and property within natural hazard lands are minimized or eliminated;

(B) exercising control over the use of land within areas which are or may be impacted by key facilities, including the site location and the location of major improvement and major access features of key facilities;

(C) assuring that local regulations do not arbitrarily or capriciously restrict or exclude development of public facilities or utilities of regional benefit;

(D) influencing the location of new communities and controlling the use of land around new communities;

(E) controlling proposed large-scale development of more than local significance in its impact upon the environment;

(F) assuring that any source of air, water, noise, or other pollution pertaining to the areas and developmental activities listed in this clause (1) will not be located where it will result in a violation of any applicable air, water, noise, or other pollution standard or implementation plan;

(G) assuring that all State and local agency programs and services which significantly affect land use are not inconsistent with the State land use program;

(H) periodically revising and updating the State land use program to meet changing conditions;

(I) assuring, except in any proceedings of the State legislature, the participation of appropriate officials or representatives of local governments, property owners, users of the land, and the public in the development of, subsequent revisions in, the implementation of, and the formulation of guidelines, rules, and regulations concerning, the State land use program; and

(J) including, with respect to coastal States to which the Coastal Zone Management Act of 1972 (86 Stat. 1280) is applicable, an adequate method for the coordination of the State land use program with the State's management program approved pursuant to such Act. Such method shall include the consolidation of the State's management program and the State land use program into a single program for the purposes of annual submission to the Secretary of the Interior for determination of eligibility for grants pursuant to part A of title II of this Act and to the Secretary of Commerce for determination of eligibility for grants pursuant to section 306 of the Coastal Zone Management Act of 1972.

(b) Wherever possible, selection of methods of implementation of clause (3) of subsection (a) shall be made so as to encourage the employment of land use controls by general purpose local governments.

(c) The methods of implementation of clause (3) of subsection (a) shall include either one or a combination of the two following general techniques—

(1) implementation by general purpose local governments pursuant to criteria and standards established by the State, such implementation to be subject to State administrative review with State authority to disapprove such implementation wherever it fails to meet such criteria and guidelines; and

(2) direct State land use planning and regulation.

(d) Any method of implementation employed by the State shall include the authority of the State to prevent arbitrary and capricious restriction or prohibition of development of public facilities or utilities of regional benefit, and to prohibit the use of land within areas which, under the State land use program, have been designated as areas of critical environmental concern, areas which are or may be impacted by key facilities, or areas which are presently or potentially subject to large-scale development, large-scale subdivisions, and land sales or development projects, which use is inconsistent with the requirements of the State land use program as they pertain to areas of critical environmental concern, key facilities, large-scale development, large-scale subdivisions, and land sales or development projects.

(e) Any method of implementation employed by the State shall include an appeals process for the resolution of, among other matters, conflicts over any decision or action of a local government for any area or use under the State land use program and over any decision or action by the Governor or State land use planning agency in the development of, or pursuant to, the State land use program.

(f) Nothing in this Act shall be construed as enhancing or diminishing the rights of owners of property as provided by the Constitution of the United States or the constitution of the State in which the property is located.

SEC. 204. As a further condition of continued eligibility of a State for grants pursuant to this Act after the five complete fiscal year period following the enactment of this Act, in accordance with the procedures provided in section 306, it shall be determined, upon review of the State land use program, that—

(1) in designating areas of critical environmental concern, the State has not excluded any areas of critical environmental concern which are of more than statewide significance. Within three years from the date of enactment of this Act, and thereafter as he deems appropriate, the Secretary shall, after affording opportunity for public comment, submit to each State a description of areas within such State which are of more than statewide concern: Provided, That any new areas included in any new submission after the first submission made by the Secretary shall not be subject to review pursuant to this clause (1) until two years from the date of such new submission.

(2) the State is demonstrating good faith efforts to implement, and, in the case of successive grants, the State is continuing to demonstrate good faith efforts to implement the purposes, policies, and requirements of its State land use program. For the purposes of this subsection, the inability of a State to take any State action the purpose of which is to implement its State land use program, or any portion thereof, because such action is enjoined by the issuance of an injunction by any court of competent jurisdiction shall not be construed as failure by the State to demonstrate good faith efforts to implement the purposes, policies, and requirements of its State land use program;

(3) State laws, regulations, and criteria affecting the State land use program and the areas, uses, and activities listed in section 203 are in accordance with the requirements of this Act;

(4) the State land use program has been reviewed and approved by the Governor;

(5) the State has coordinated its State land use program with the planning activities and programs of its State agencies, the Federal Government, and local governments as provided for in this Act, with the land use programs for reservation and other tribal lands as provided in title V, and with the planning processes and land use programs of other States and local governments within such States with respect to lands and waters in interstate areas; and

(6) the State is participating in the programs established pursuant to section 701 of the Housing Act of 1954 (68 Stat. 590, 640), as amended, and, where such State is a coastal State as defined in section 304 of the Coastal Zone Management Act of 1972 (86 Stat. 1280), the programs established pursuant to that Act.

PART B—INTERSTATE COORDINATION

GRANTS TO STATES

SEC. 205. (a) The States are authorized and encouraged to coordinate State and local land use planning, policies, and programs concerning, to study land use in, to conduct land use planning for, or to implement land use policies in, interstate areas. The States may conduct such coordination, study, planning, or implementation through existing interstate entities where the authority of such entities permits; or, subject to the approval of Congress by the adoption of an appropriate Act, Congress hereby authorizes two

or more States to negotiate interstate compacts, with such terms and conditions, including the establishment of such public entities, as to such States seem reasonable or appropriate, for the purpose of such coordination, study, planning, or implementation: *Provided,* That such entities or compacts shall provide for an opportunity for participation for coordination purposes of Federal and local governments and agencies as well as property owners, users of the land, and the public.

(b) The Secretary is authorized to make annual grants to the States for the purpose of such coordination, study, planning, or implementation.

STUDY OF INTERSTATE AGENCIES

SEC. 206. The Advisory Commission on Intergovernmental Relations shall conduct a review of federally established or authorized interstate agencies, including, but not limited to, river basin commissions, regional development agencies, and interstate compact commissions, and prepare recommendations for revision of organizational structures and improvement of procedures for the purpose of improving land use planning, policies, and programs and the implementation thereof in interstate areas. The Advisory Commission on Intergovernmental Relations shall report to the Congress the results of its review conducted under this section, together with its recommendations, not later than two fiscal years after the date of enactment of this Act. Such recommendations may include proposals for either the establishment of new entities or the use of existing entities composed of representatives of two or more States: *Provided, however,* That such entities and the procedures thereof, so recommended, provide for an opportunity for participation in the coordination process by Federal, State, and local governments and agencies as well as property owners, users of the land, and the public.

PART C—FEDERAL ACTIONS IN STATES FOUND ELIGIBLE OR INELIGIBLE FOR GRANTS

CONSISTENCY OF FEDERAL ACTIONS WITH STATE LAND USE PROGRAMS

SEC. 207. (a) Federal programs, projects, and activities on non-Federal lands significantly affecting land use, including but not limited to grant, loan, or guarantee programs, such as mortgage and rent subsidy programs and water and sewer facility construction programs, shall be consistent with State land use programs which conform to the provisions of this Act, except in cases of overriding national interest, as determined by the President. Procedures provided for in subsection (b) of this section and regulations issued by the Office of Management and Budget pursuant to the criteria specified in section 204 of the Demonstration Cities and Metropolitan Development Act of 1966 (80 Stat. 1255, 1262–3), as amended, and title IV of the Intergovernmental Cooperation Act of 1968 (82 Stat. 1098, 1103–4), together with such additional procedures as the Office of Management and Budget may determine are necessary and appropriate to carry out the purposes of this Act, shall be utilized in the determination of whether such Federal programs, projects, and activities are consistent with the State land use programs.

(b) Any State or local government submitting an application for Federal assistance for any program, project, or activity having significant land use implications in an area or for a use subject to a State land use program in a State found eligible for grants pursuant to this Act shall transmit to the relevant Federal agency the views of the State land use planning agency and/or the Governor and, in the case of an application of a local government, the views of such local government and the relevant areawide planning agency designated pursuant to section 204 of the Demonstration Cities and Metropolitan Development Act of 1968 and/or title IV of the Intergovernmental Cooperation Act of 1968, as to the consistency of such activity with the State land use program: *Provided,* That, if a local government certifies that a plan or description of an activity for which application is made by the local government has lain before the State land use planning agency and/or the Governor for a period of sixty days without indication of the views of the State land use planning agency and/or the Governor, the application need not be accompanied by such views.

(c) Federal agencies conducting or assisting public works activities in areas not subject to a State land use program in a State found eligible for grants pursuant to part A of title II shall, to the extent practicable, conduct such activities in such a manner as to minimize any adverse impact on the environment resulting from decisions concerning land use.

FEDERAL ACTIONS IN THE ABSENCE OF STATE ELIGIBILITY

SEC. 208. (a) The Secretary shall have authority to terminate any financial assistance extended to a State under part A of title II and part E of title III and withdraw his determination of grant eligibility whenever, in accordance with section 306, the statewide land use planning process or the State land use program of such State is determined not to meet the requirements of this Act.

(b) Where any major Federal action significantly affecting the use of non-Federal lands is proposed after five fiscal years from the date of enactment of this Act in a State which has not been found eligible for grants pursuant to part A of title II, the responsible Federal agency shall hold a public hearing, with adequate public notice, in such State at least one hundred and eighty days in advance of the proposed action, concerning the effect of the action on land use, taking into account the relevant considerations set out in sections 202, 203, 204, 402, and 505 of this Act, and shall make findings which shall be submitted for review and comment by the Secretary, and, where appropriate, by the Secretary of Housing and Urban Development. Such findings of the responsible Federal agency and comments of the Secretary and, where appropriate, the Secretary of Housing and Urban Development shall be made part of the detailed statement required by section 102(2)(C) of the National Environmental Policy Act of 1969 (83 Stat. 852, 853). This subsection shall be subject to exception where the President determines that the interests of the United States so require.

TITLE III—ADMINISTRATION OF LAND USE POLICY

PART A—GUIDELINES, RULES AND REGULATIONS

GUIDELINES

SEC. 301. The Executive Office of the President shall issue guidelines to the Federal agencies and the States to assist them in carrying out the requirements of this Act. The Executive Office shall submit proposed guidelines or any subsequent revisions therein to the Secretary, the Interagency Advisory Board on Land Use Policy established pursuant to section 305, the heads of agencies represented on the Board, and representatives of State and local governments, and shall consider their comments prior to formal issuance of such guidelines.

ADMINISTRATIVE RULES AND REGULATIONS

SEC. 302. The Secretary, after appropriate consultation with representatives of the States and, where appropriate, representatives of local governments, and upon the advice of the Board and the heads of Federal agencies represented on the Board, shall promulgate rules and regulations, and make any subsequent revisions thereto, to implement the guidelines formulated pursuant to section 301 and to administer this Act, except with respect to subsection (f) of section 306 of this Act.

PUBLIC PARTICIPATION

SEC. 303. An opportunity shall be afforded to the public for public hearings, with adequate public notice, on guidelines proposed pursuant to section 301 and rules and regulations proposed pursuant to section 302 prior to their final promulgation or subsequent revision.

PART B—ADMINISTRATION OF PROGRAMS

OFFICE OF LAND USE POLICY ADMINISTRATION

SEC. 304. (a) There is hereby established in the Department of the Interior the Office of Land Use Policy Administration (hereinafter referred to as the "Office").

(b) The Office shall have a director who shall be appointed by the President by and with the advice and consent of the Senate and shall be compensated at the rate provided for level V of the Executive Schedule Pay Rates (5 U.S.C. 5315), and such other officers and employees as may be required. The Director shall have such duties and responsibilities as the Secretary may assign.

(c) The Secretary, acting through the Office, shall—

(1) maintain a continuing study and analysis of the land resources of the United States and their use;

(2) maintain a continuing study and analysis of the methods adopted by the State and local governments to implement the requirements of this Act;

(3) cooperate with the States in the development of standard methods and classifications for the collection of land use data and in the establishment of effective procedures for the exchange and dissemination of land use data;

(4) develop and maintain a Federal Land Use Information and Data Center, with such regional branches as the Secretary may deem appropriate, which shall have available to it in a form which will enable the dissemination thereof to users of the Center—

(A) the results of the studies required in clauses (a) and (b) of this section and clauses (5) through (9) of section 305(c);

(B) plans for federally initiated and federally assisted activities which directly and significantly affect or have an impact upon land use patterns;

(C) to the extent practicable and appropriate, the plans and programs of State and local governments and private enterprises which have more than local significance for land use planning and management;

(D) statistical data and information on past, present, and projected land use patterns which are of more than local significance;

(E) studies pertaining to techniques and methods for the procurement, analysis, and evaluation of data and information relating to land use planning and management; and

(F) such other information pertaining to land use planning and management as the Director deems appropriate;

(5) make the information available to the Data Center accessible to Federal, regional, State, and local agencies conducting or concerned with land use planning and management and to the public;

(6) consult with other officials of the Federal Government responsible for the administration of Federal land use planning assistance programs to States, local governments, and other eligible public entities in order to coordinate such programs;

(7) administer the grant-in-aid and other programs established pursuant to this Act; and

(8) provide administrative support for the Interagency Advisory Board on Land Use policy established under section 305 of this Act.

INTERAGENCY ADVISORY BOARD ON LAND USE POLICY

SEC. 305. (a) The Secretary is authorized and directed to establish an Interagency Advisory Board on Land Use Policy (hereinafter referred to as the "Board").

(b) The Board shall be composed of:

(1) The Director of the Office of Land Use Policy Administration, who shall serve as Chairman;

(2) representatives of the Department of Agriculture; Commerce; Defense; Health, Education, and Welfare; Housing and Urban Development; Transportation; and Treasury; the Atomic Energy Commission; the Environmental Protection Agency; the Council on Environmental Quality; the Council of Economic Advisers; and the Office of Management and Budget, appointed by the respective heads thereof;

(3) representatives of such other Federal agencies, appointed by the respective heads thereof, as the Secretary may request to participate when matters affecting their responsibilities are under consideration.

(c) The Board shall meet regularly at such times as the Chairman may direct and—

(1) shall provide the Secretary with information and advice concerning the relationship of policies, programs, and activities established or performed pursuant to this Act to the programs of the agencies represented on the Board;

(2) shall render advice, pursuant to sections 301 and 302, to the Executive Office of the President and the Secretary concerning proposed guidelines, rules, and regulations for the implementation of the provisions of this Act;

(3) shall assist the Secretary and the agencies represented on the Board in the coordination of the review of statewide land use planning processes and State land use programs;

(4) shall provide advice on such land use policy matters as the Secretary may refer to the Board for its consideration;

(5) shall maintain a continuing study of the impact on land use of Federal programs including, but not limited to, land management activities; construction programs; grant, loan, and guarantee programs; and tax policies;

(6) shall conduct a study, and report within two years to the President and the Congress the results thereof, of means to reduce the number of, delays in obtaining, and conflicting requirements for, permits, licenses, and other governmental decisions which serve as prerequisites to proposed development activities, with particular emphasis on such permits, licenses, and decisions as are associated with Federal programs;

(7) may conduct, or make a grant or contract, pursuant to section 308, for, a study to determine the feasibility of developing a raw land price index comparable to the Consumer Price Index;

(8) shall conduct, or make a grant or contract, pursuant to section 308, for, a study of environmental, social, and economic impacts, and the forecasting of such impacts, of public actions, including construction activities; grant, loan, or subsidy programs; zoning and other land management activities; and tax policies. Particular emphasis should be given to the impacts of various local assessment practices and other Federal, State, and local tax policies, and the effects of land use controls on the rights of private property owners;

(9) shall conduct, or make a grant or contract, pursuant to section 308, for, a study of the impact of current land and construction financing processes on land use patterns; and

(10) shall provide reports on land use policy matters which may be referred to the Board by the heads of Federal agencies through their respective representatives on the Board.

(d) Each agency representative on the Board shall have a career position within his agency of not lower than GS–15 and shall not be assigned any duties which are unrelated to the administration of land use planning and policy, except temporary housekeeping or training duties. Each representative shall—

(1) represent his agency on the Board;

(2) assist in the coordination and preparation within his agency of comments on (i) guidelines, rules, and regulations proposed for promulgation pursuant to sections 301 and 302, and (ii) statewide land use planning processes and State land use programs;

(3) assist in the dissemination of land use planning and policy information and in the implementation within his agency of policies and procedures developed pursuant to this Act; and

(4) perform such other duties regarding the administration of land use planning and policy as the head of his agency may direct.

(e) The Board shall have as advisory members two representatives each from State governments and local governments and one representative each from regional interstate and intrastate public entities which have land use planning and management responsibilities. Such advisory members shall be selected by a majority vote of the Board and shall each serve for a two-year period.

PART C—FEDERAL REVIEW AND DETERMINATION OF GRANT ELIGIBILITY

SEC. 306. (a) During the five complete fiscal year period following the enactment of this Act, the Secretary, before making a grant to any State pursuant to this Act, shall consult with the heads of all Federal agencies represented on the Board and with the Board pursuant to subsection (c) of section 305 of this Act, and shall consider their views and recommendations.

(b) After the five fiscal year period following the enactment of this Act—

(1) the Secretary, before making a grant to any State pursuant to part A of title II, shall submit the State land use program of such State to the heads of all Federal agencies represented on the Board and to the Board pursuant to subsection (c) of section 305 of this Act. The Secretary shall review the comments of each agency head which are submitted to him by such agency head no later than thirty days after submission of the State land use program to such agency head by the Secretary; and

(2) the Secretary shall not make a grant to any State pursuant to part A of title II until he has ascertained that the Administrator of the Environmental Protection Agency is satisfied that the State land use program of such State is not compatible with the Federal Water Pollution Control Act, the Clean Air Act, and other Federal laws controlling pollution which fall within the jurisdiction of the Administrator, and that those portions of the State land use program which will effect any change in land use within the next annual review period are in compliance with the standards, criteria emission or effluent limitations, monitoring requirements, or implementation plans required by such laws. The Administrator shall be deemed to be satisfied if he does not communicate his views to the Secretary within sixty days of submission of the State land use program by him by the Secretary.

(c) The Secretary may not make any grant to any State pursuant to part A of title II unless he has been informed by the Secretary of Housing and Urban development that he is satisfied that (1) the statewide land use planning process or State land use program of such State with respect to which the grant is to be made meets the requirements of this Act insofar as they pertain to large-scale development, large-scale subdivisions, and the urban development of lands impacted by key facilities, and (2), pursuant to section 204 (6), the State is participating in programs established pursuant to section 701 of the Housing Act of 1954, as amended. The Secretary of Housing and Urban Development shall be deemed to be satisfied if he does not communicate his views to the Secretary within sixty days after the statewide land use planning process or State land use program has been submitted to him by the Secretary.

(d) The Secretary, in accordance with the procedures provided in subsections (a), (b), and (c) of this section, shall determine a State eligible or ineligible for a grant pursuant of this Act not later than six months following receipt for review of the application of the State for its first grant, a report of the State on its previous grant, or the State land use program of the State as provided in section 201.

(e) A State may revise at any time its State land use program: *Provided,* That such revision does not render the State land use program inconsistent with the requirements of this Act: *Provided further,* That any significant revision shall be made only following a public hearing with adequate public notice: *And provided further,* That any significant revision is reported to the Secretary. The Secretary shall make a temporary determination, prior to the full review of the State land use program pursuant to this section, of whether such revision would render the State land use program inadequate for purposes of complying with the requirements of this Act, and shall inform the State, in writing, of his determination.

(f) (1) In the event the Secretary, in accordance with the procedures provided in this section, determines that a State is ineligible for grants pursuant to part A of title II or, having found a State eligible for such grants, subsequently determines that grounds exist for withdrawal for such eligibility, he shall notify the President, who shall order the establishment of an ad hoc hearing board (hereinafter referred to as "hearing board"), the membership of which shall consist of:

(A) one knowledgeable, impartial Federal official who is not an official of an agency listed in clauses (1) through (3) of subsection (b) of section 306, selected by the President within thirty days after notification by the Secretary;

(B) the Governor of a State, which is not the State for which grant eligibility is in question and which does not have a particular interest in whether grant eligibility or ineligibility is determined, selected by the National Governors' Conference within thirty days after notification by the Secretary, or, within ten days thereafter, such alternate person as the Governor may designate; and

(C) one knowledgeable, impartial private citizen, selected by the other two members: *Provided,* That if the other two members cannot agree upon a third member within twenty days after the appointment of the second member to be appointed, the third member shall be selected by the National Center for Dispute Settlement within twenty days thereafter.

(2) The Secretary shall specify in detail, in writing, to the hearing board the reasons for which a State should be considered ineligible, or for which the eligibility of a State for grants should be withdrawn pursuant to this Act. The hearing board shall hold such hearings and receive such evidence as it deems necessary. The hearing board shall then determine whether a finding of ineligibility would be reasonable, and set forth in detail, in writing, the reasons for its determination. If the hearing board determines that ineligibility would be unreasonable, the Secretary shall find the State eligible for grants pursuant to this Act. If the hearing board concurs in the finding of ineligibility or withdrawal of eligibility, the Secretary shall find the State ineligible for grants pursuant to this Act. The Board shall make a determination of eligibility or ineligibility within ninety days of its appointment.

(3) Members of hearings boards who are

not regular full-time officers or employees of the United States shall, while carrying out their duties as members, be entitled to receive compensation at a rate fixed by the President, but not exceeding $150 per diem, including traveltime, and, while away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence as authorized by law for persons intermittently employed in Government service. Expenses shall be charged to the account of the Executive Office of the President.

(4) Administrative support for hearing boards shall be provided by the Executive Office of the President.

(5) The President may issue such regulations as may be necessary to carry out the provisions of this subsection.

(g) In the consideration of eligibility or ineligibility before the Board, the Secretary shall carry the burden of proof to establish ineligibility under the following standards:

(1) in the case of ineligibility based upon the requirements of sections 402, 505, and 601 (i), (j), (k), and (l), the State has failed to make a good faith effort to comply with the requirements of, and reasonable regulations established pursuant to, this Act;

(2) in the case of ineligibility based upon the requirements of subsections 204(1), the Secretary's determination of the national interest is reasonable and the State has failed to comply with the requirements of this Act;

(3) in the case of ineligibility based upon any other grounds, the State has failed to comply with the requirements of, and reasonable regulations established pursuant to, this Act.

(h) As a condition of continued eligibility for grants pursuant to this Act, nothing in this Act shall be construed to require a State to take, or prohibit a State from taking, any action or adopting any law, rule, or regulation the implementation of which would require compensation from the State to a private property owner under the terms of the fourteenth amendment to the United States Constitution. The standard of review concerning any question arising under this subsection shall be that contained in subsection (g) (3) of this section.

PART D—STUDY, RECOMMENDATION, AND CONGRESSIONAL CONSIDERATION OF LAND USE POLICIES

SEC. 307. Pursuant to section 102(a), the following procedures concerning the study, recommendation, and congressional consideration of land use policies shall be followed:

(a) Each State submitting an annual report under section 201(e) during the period of three complete fiscal years following the enactment of this Act shall include in such report—

(1) comments in regard to the desirability of establishing national land use policies pertaining to any of the subjects listed in subsection (b) of this section, and suggestions concerning the substance of such policies as might be established;

(2) comments in regard to any proposed national land use policies which have been recommended by the Council on Environmental Quality pursuant to subsection (c) of this section;

(3) such additional suggestions for national land use policies as it deems appropriate; and

(4) such separate comments on the matters described in this subsection as may be made by its intergovernmental advisory council established pursuant to section 202(b) (6).

(b) As part of the process of determining the desirability of developing national land use policies and the substance of such policies, if appropriate, consideration shall be given to the need for policies which—

(1) insure that all demands upon the land—economic, social, and environmental—are fully considered in land use planning;

(2) give preference to long-term interests of the people of the State and Nation and insure public participation as the best means to ascertain such interests;

(3) insure the protection of the quality of the environment and provide access to a wide range of environmental amenities for all persons;

(4) encourage the preservation of a diversity of environments, including man-made, working and living environments, and natural environments with diverse forms of wildlife and flora;

(5) protect open space for public use or appreciation and as a means of shaping and guiding urban growth;

(6) give preference to development which is most consistent with control of air, water, noise, and other pollution and prevention of damage to the natural environment;

(7) insure that development is consistent with the provision of urban services, including education; water, sewer, and solid waste facilities; transportation; and police and fire protection;

(8) insure the timely siting of development, including key facilities as defined in section 601, necessary to meet national or regional social or economic requirements;

(9) encourage the conservation and wise use of energy and other natural resources and insure the supply of such resources to meet demonstrable demand based upon such conservation and use;

(10) preserve the sustained yield quality of renewable resource lands as defined in section 601;

(11) preserve and protect fragile and historic lands as defined in section 601; and

(12) protect life and property in natural hazard lands as defined in section 601.

(c) The Council on Environmental Quality shall review the desirability of national land use policies in regard to the items listed in subsection (b) and in regard to such other subjects as it deems appropriate. At the end of the first full fiscal year following the enactment of this Act, the Council shall submit to the Board a Land Use Policy Report containing such specific recommendations as it may deem appropriate for the establishment of national land use policies. The Board shall review the Land Use Policy Report, the reports of the States under section 201(e), the suggestions of Board members and the public, through public hearings with adequate public notice. Before the end of the third full fiscal year following the enactment of this Act, the Board shall recommend to the Congress such legislation as it may deem appropriate or necessary to establish national land use policies.

PART E—TRAINING AND RESEARCH GRANTS AND CONTRACTS

SEC. 308. (a) The Secretary is authorized to make grants to public and private nonprofit institutions of higher education to assist in establishing or carrying out comprehensive research on and training in land use planning and management. Such grants shall be used to conduct or encourage research and investigations into the theoretical and practical problems of land use planning and management, and to provide for the training of persons to carry on further research or to obtain employment in private or public organizations which are concerned with land use planning and management. Such research and investigations may include, but are not limited to, methodologies for State land use planning, land use impact forecasting methodologies, the design of statewide land resource information systems, and land use data handling methodologies. In making such grants, the Secretary shall give preference to institutions of higher education which—

(1) have a nucleus of administrative, professional, scientific, technical, and other personnel capable of carrying out such research and training;

(2) have authority to employ additional personnel or make contracts and other financial arrangements with other research and training facilities; and

(3) make available to the public all data, publications, studies, reports, and other information which result from such research and training, except information relating to matters described in section 552(b)(4) of title 5, United States Code.

(b) The Secretary is authorized to contract with public nonprofit institutions or private firms to conduct applied research on problems of land use planning and management.

(c) The Secretary is authorized to conduct or contract for the provision of training programs for personnel employed in land use planning and management agencies. Such training programs may consist of support for conferences, short courses, and fellowships for advanced training in public or private nonprofit institutions of higher education offering graduate study in fields having application to land use planning and management.

TITLE IV—FEDERAL-STATE COORDINATION AND COOPERATION IN THE PLANNING AND MANAGEMENT OF FEDERAL AND ADJACENT NON-FEDERAL LANDS

PLANNING AND MANAGEMENT OF FEDERAL LANDS

SEC. 401. (a) All agencies of the Federal Government charged with responsibility for the management of Federal lands shall consider State land use programs prepared pursuant to this Act and State, local government, and private needs and requirements as related to the Federal lands, and shall coordinate the land use inventory, planning, and management activities on or for Federal lands with State and local land use inventory, planning, and management activities on or for adjacent non-Federal lands to the extent such coordination is not inconsistent with paramount national policies, programs, and interests.

(b) For the purposes of this section, any agency proposing any new program, policy, rule, or regulation relating to Federal lands shall publish a draft statement and a final statement concerning the consistency of the program, policy, rule, or regulation with State and local land use planning and management, and where inconsistent, the reasons for such inconsistency, forty-five days and fifteen days, respectively, prior to the establishment of such program or policy or the promulgation of such rule or regulation, and, except where otherwise provided by law, shall conduct a public hearing, with adequate public notice, on such program, policy, rule, or regulation prior to the publication of the final statement.

STATE LAND USE PROGRAMS

SEC. 402. (a) As a condition of continued eligibility of any State for grants pursuant to this Act, after the five complete fiscal year period following the enactment of this Act, the Secretary shall have determined that—

(1) the State land use program developed pursuant to sections 203 and 204 of this Act includes methods for insuring that Federal lands within the State, including, but not limited to, units of the national park system, wilderness areas, and game and wildlife refuges, are not significantly damaged or degraded as a result of inconsistent land use patterns in the same immediate geographical region; and

(2) the State has demonstrated good faith efforts to implement such methods in accordance with clause (3) of section 204.

(b) The procedures for determination of grant eligibility provided for in section 306 shall apply to this section.

AD HOC FEDERAL-STATE JOINT COMMITTEES

SEC. 403. (a) The Secretary, at his discretion or upon the request of the Governor of any State involved, shall establish an Ad Hoc Federal-State Joint Committee or Committees (hereinafter referred to as "joint committee" or "committees") to review and make recommendations concerning general and specific problems relating to jurisdictional conflicts and inconsistencies resulting from the various policies and legal requirements governing the planning and management of Federal lands and of adjacent non-Federal lands. Each joint committee shall include representatives of the Federal agencies having jurisdiction over the Federal lands involved, representatives of the private landowners involved, representatives of affected user groups, including recreation and conservation interests, and officials of affected State agencies and units of local government. Prior to appointing representatives of private landowners and user groups and officials of local governments, the Secretary shall consult with the Governor or Governors of the affected State or States and with other appropriate officials of the affected State or States and local governments. The Governor of each State shall appoint the officials of the affected agencies of his State who shall serve on the joint committee.

(b) Each joint committee shall terminate at the end of two years from the date of its establishment: *Provided, however,* That each such committee shall be continued for one additional two-year term at the direction of the Secretary or upon the request of the Governor of any State involved.

(c) Each member of a joint committee may be compensated at the rate of $100 for each day he is engaged in the actual performance of duties vested in his joint committee. Each member shall be reimbursed for travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently: *Provided, however,* That no compensation except travel and expenses in addition to regular salary shall be paid to any full-time Federal or State officials.

(d) Each joint committee shall have available to it the services of an executive secretary, professional staff, and such clerical assistance as the Secretary determines is necessary. The executive secretary shall serve as staff to the joint committee or committees and shall be responsible for carrying out the administrative work of the joint committee or committees.

(e) The specific duties of any joint committee shall be assigned by the Secretary, in his discretion or upon the request of the Governor of any State involved, and may include—

(1) conducting a study of, and making recommendations to the Secretary concerning methods for resolving, general problems with and conflicts between land use inventory, planning, and management activities on or for Federal lands and State and local land use inventory, planning, and management activities on or for adjacent non-Federal lands, including, where relevant, the State land use programs developed pursuant to this Act;

(2) investigating specific conflicts between the planning and management of Federal lands and of adjacent non-Federal lands and making recommendations to the Secretary concerning their resolutions;

(3) assisting the States and the Office of Land Use Policy Administration in the development of systematic and uniform methods among the States and between the States and the Federal Government for collecting, compiling, exchanging, and utilizing land use data and information; and

(4) advising the Secretary, during his review of State land use programs, of opportunities for reducing potential conflicts and improving coordination in the planning and management of Federal lands and of adjacent non-Federal lands.

(f) Upon receipt of the recommendations of a joint committee upon a problem or conflict pursuant to subsection (e) of this section, the Secretary shall—

(1) where he has legal authority, take any appropriate and necessary action to resolve such problem or conflict; or

(2) where he does not have jurisdiction over or authority concerning the Federal lands which are involved in the problem or conflict, work with the appropriate Federal agency or agencies to develop a proposal designed to resolve the problem or conflict and to enhance cooperation and coordination in the planning and management of Federal lands and of adjacent non-Federal lands; or

(3) if he determines that the legal authority to resolve such problems or conflicts is lacking in the executive branch, recommend enactment of appropriate legislation to the Congress.

(g) In taking or recommending action pursuant to the recommendations of a joint committee, the Secretary shall give careful consideration to the purposes of this Act and not resolve any problem with or conflict between the planning and management of Federal lands and of adjacent non-Federal lands in a manner contrary to the requirements of the laws governing the Federal lands involved.

BIENNIAL REPORT ON FEDERAL-STATE COORDINATION

SEC. 404. The Secretary shall report biennially to the President and the Congress concerning—

(a) problems in and methods for coordination of planning and management of Federal lands and planning and management of adjacent non-Federal lands, together with recommendations to improve such coordination;

(b) the resolution of specific conflicts between the planning and management of Federal lands and of adjacent non-Federal lands; and

(c) at the request of the Governor of any State involved, any unresolved problem with or conflict between the planning and management of Federal lands and of adjacent non-Federal lands, together with any recommendations the Secretary and the Governor or Governors may have for resolution of such problem or conflict.

PUBLIC PARTICIPATION

SEC. 405. (a) Prior to the making of recommendations on any problem or conflict pursuant to subsection (e) of section 403, each joint committee shall conduct a public hearing or provide an opportunity for such a hearing in the State on such problem or conflict, with adequate public notice, allowing full participation of representatives of Federal, State, and local governments and members of the public. Should no hearing be held, the joint committee shall solicit, with adequate public notice, the views of all affected parties and the public and submit a summary of such views, together with its recommendations, to the Secretary.

(b) Prior to the making of recommendations or the taking of actions pursuant to subsection (f) of section 403, the Secretary shall review in full the relevant hearing record or, where none exists, the summary of views of affected parties prepared pursuant to subsection (a) of this section, and may, in his discretion, hold further public hearings with adequate public notice.

AGENCY ASSISTANCE

SEC. 406. Upon request of a joint committee, the head of any Federal department or agency or federally established or authorized interstate agency is authorized: (1) to furnish to the joint committee, to the extent permitted by law and within the limits of available funds, such information as may be necessary for carrying out the functions of the joint committee and as may be available to or procurable by such department, agency, or interstate agency; and (ii) to detail to temporary duty with the joint committee, on a reimbursable basis, such personnel within his administrative jurisdiction as the joint committee may need or believe to be useful for carrying out its functions, each such detail to be without loss of seniority, pay, or other employee status.

TITLE V—LAND USE PROGRAMS FOR RESERVATION AND OTHER TRIBAL LANDS

GRANTS TO INDIAN TRIBES

SEC. 501. The Secretary is authorized to make annual grants to any Indian tribe to assist such tribe in developing and administering a land use program for reservation and other tribal lands of such tribe.

LAND USE PLANNING PROCESSES FOR RESERVATION AND OTHER TRIBAL LANDS

SEC. 502. (a) Prior to making any grant pursuant to this title to any Indian tribe, the Secretary shall first be satisfied that the tribe intends to expend such funds for the development of a land use planning process for the reservation and other tribal lands of such tribe.

(b) The land use planning process shall include—

(1) the preparation of an inventory of the reservation and other tribal lands and their natural resources and the nature, quantity, and compatibility of such land and resources required to meet economic, social, and environmental needs;

(2) the establishment of methods for identifying areas of critical environmental concern; areas which are, or may be, impacted by key facilities; and any areas suitable for potential large scale development;

(3) the establishment of arrangements for the exchange of data and information pertinent to land use planning with the Federal Government, the State agencies in the State or States in which the reservation and other tribal lands involved are situated, and neighboring local governments;

(4) the dissemination of information to and the assurance of participation of reservation residents and tribal members in the development of the land use planning process; and

(5) the hiring of competent professional and technical personnel and, whenever appropriate, the use of special consultants.

LAND USE PROGRAMS FOR RESERVATION AND OTHER TRIBAL LANDS

SEC. 503. (a) Prior to making any grant pursuant to this title to any Indian tribe after the five complete fiscal year period following the first grant to such tribe, the Secretary shall first be satisfied that—

(1) the tribe has established an adequate land use planning process as provided for in section 502 hereof;

(2) has developed, or is in the course of developing, a land use program for the reservation and other tribal lands of such tribe, which program shall include methods for—

(A) assuring control over large-scale development, development of public facilities or utilities of regional benefit, land sales or development projects, and use and development in areas of critical environmental concern and areas impacted by key facilities;

(B) assuring dissemination of information to and participation of reservation residents and tribal members in the development and implementation of the land use program; and

(C) coordinating, pursuant to section 505, the land use program with any State land use program approved pursuant to this Act and with the use of Federal lands adjacent to the reservation and other tribal lands;

(3) in designating areas of critical en-

vironmental concern, the Indian tribe has not excluded any areas of critical environmental concern which are of more than tribal and statewide concern; and

(4) the Indian tribe is demonstrating good faith efforts to complete the land use program, and, upon completion thereof, is demonstrating good faith efforts to implement the purposes, policies, and provisions of such program. For the purposes of this clause (4), the inability of an Indian tribe to take any action the purpose of which is to implement the land use program, or any portion thereof, because such action is enjoined by the issuance of an injunction by any court of competent jurisdiction shall not be construed as failure by the tribe to demonstrate good faith efforts to implement the purposes, policies, and provisions of the land use program.

(b) In the implementation of its land use program, the governing body of each Indian tribe is hereby authorized to enact zoning ordinances or otherwise to regulate the use of the reservation and other tribal lands of such tribe, subject to the approval of the Secretary.

DEFINITIONS

SEC. 504. The definitions of "areas of critical environmental concern", "key facilities", and "large scale development" provided in section 601 shall be applicable to the same terms contained in sections 502(b)(2) and 503(a)(2)(A), except that, for the purposes of sections 502(b)(2) and 503(a)(2)(A) the following substitution of words shall be made within such definitions: (i) "reservation and other tribal lands" for "non-Federal lands", and (ii) "Indian tribe" or "tribal", whichever is appropriate, for "State".

COORDINATION WITH STATE LAND USE PROGRAMS AND FEDERAL LANDS PLANNING

SEC. 505. (a) To the extent that the laws governing the management of the Federal lands permit, all agencies of the Federal Government charged with responsibility for the management of Federal lands adjacent to reservation and other tribal lands subject to a land use program of a tribe which is eligible for financial assistance pursuant to this title shall control the use of such Federal lands so as to insure that such use is consistent with such land use program.

(b) All State and local government agencies with authority to control the use of non-Federal lands adjacent to reservation and other tribal lands subject to a land use program of a tribe which is eligible for financial assistance pursuant to this title control the use of such non-Federal lands so as to insure that such use is consistent with such land use program. The requirement of this subsection shall serve as a further condition of eligibility of any State for grants pursuant to part A of title II after the five complete fiscal year period following the enactment of this Act.

(c) The land use program prepared by any Indian tribe pursuant to this title shall provide for control of the use of that portion of the reservation and other tribal lands which is adjacent to the exterior boundaries of the reservation and other tribal lands so as to insure that such use is consistent with the use of Federal lands adjacent to the reservation and other tribal lands and the use of any non-Federal lands which are subject to a State land use program approved pursuant to this Act and are adjacent to the reservation and other tribal lands. If no land use program is prepared after the five complete fiscal year period following the first grant to any such Indian tribe, the tribe shall assume interim control of that portion of the reservation and other tribal lands which is adjacent to the exterior boundaries of the reservation and other tribal lands so as to fulfill the requirement of this subsection. The requirement of this subsection shall serve as a further condition of eligibility of any Indian tribe for grants pursuant to this title after the five complete fiscal year period following the first grant to such tribe.

CONFLICTS RESOLUTION

SEC. 506. Any State, Indian tribe, or the Secretary at the direction of any Indian tribe, or Federal agency with Federal land management responsibilities, which believes that the requirements of section 505 have not been met and has jurisdiction over any portion of the particular lands involved, may institute a civil action in the district court of the United States in the jurisdiction of which the lands involved are located for a restraining order or injunction or other appropriate remedy to enforce the provisions of section 505.

TRIBAL REPORTING REQUIREMENTS

SEC. 507. (a) Any Indian tribe which is receiving or has received a grant pursuant to this title shall report at the end of each fiscal year to the Secretary, in a manner prescribed by him, on activities undertaken by the tribe pursuant to or under this title.

(b) Upon completion of a land use program, the relevant Indian tribe shall submit such program annually with the report required in subsection (a) hereof.

REPORT OF THE SECRETARY

SEC. 508. The Secretary shall report annually to the President and the Congress on all actions taken in furtherance of this title and on the impacts of all other programs or services to or on behalf of Indians on the ability of Indian tribes to fulfill the requirements of this title.

ANNOUNCEMENT OF PROGRAM

SEC. 509. Within one year of the enactment of this Act, the Secretary shall make known the benefits of this title to all Indian tribes. The Secretary shall make every effort to insure that the provisions of this title are fully understood by such tribes. The Secretary may fulfill the requirements of this section by contract with any nonprofit educational or service organization. On entering into such contract or contracts, the Secretary shall give preference to such organizations the primary responsibility of which is service to Indians or education on subjects of Indian concern.

TITLE VI—GENERAL

DEFINITIONS

SEC. 601. For the purposes of this Act—

(a) "Secretary" means the Secretary of the Interior.

(b) "State" means a State, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States.

(c) "General purpose local government" means any general purpose unit of local government as defined by the Bureau of Census and any regional, intergovernmental, or other public entity which is deemed by the Governor to have authority to conduct land use planning on a general rather than a strictly functional basis.

(d) "Local government" means any "general purpose local government" as defined in subsection (c) hereof or any regional combination thereof, or, where appropriate, any other public agency which has land use planning authority.

(e) "Federal lands" means any land owned by the United States without regard to how the United States acquired ownership of the land and without regard to the agency having responsibility for management thereof, except reservation and other tribal lands as defined in subsection (g) hereof.

(f) "Non-Federal lands" means all lands which are not "Federal lands" as defined in subsection (e) hereof, reservation and other tribal lands as defined in subsection (g) hereof of this section and are not held by the Federal Government in trust for the benefits of Indians, Aleuts, and Eskimos.

(g) "Reservation and other tribal lands" means all lands within the exterior boundaries of any Indian reservation, notwithstanding the issuance of any patent, and including rights-of-way, and all lands held in trust for or supervised by any Indian tribe as defined in subsection (h) hereof.

(h) "Indian tribe" means any Indian tribe, band, group, or community having a governing body recognized by the Secretary.

(i) "Areas of critical environmental concern" means areas as defined and designated by the State on non-Federal lands where uncontrolled or incompatible development could result in damage to the environment, life or property, or the long term public interest which is of more than local significance. Such areas, subject to State definition of their extent, shall include—

(1) "Fragile or historic lands" where uncontrolled or incompatible development could result in irreversible damage to important historic, cultural, scientific, or esthetic values or natural systems which are of more than local significance, such lands to include shorelands of rivers, lakes, and streams; rare or valuable ecosystems and geological formations; significant wildlife habitats; and unique scenic or historic areas;

(2) "Natural hazard lands" where uncontrolled or incompatible development could unreasonably endanger life and property, such lands to include flood plains and areas frequently subject to weather disasters, areas of unstable geological, ice, or snow formations, and areas with high seismic or volcanic activity;

(3) "Renewable resource lands" where uncontrolled or incompatible development which results in the loss or reduction of continued long-range productivity could endanger future water, food, and fiber requirements of more than local concern, such lands to include watershed lands, aquifers and aquifer recharge areas, significant agricultural and grazing lands, and forest lands; and

(4) such additional areas as the State determines to be of critical environmental concern.

(j) "Key facilities" means—

(1) public facilities, as determined by the State, on non-Federal lands which tend to induce development and urbanization of more than local impact, including but not limited to—

(A) any major airport designed to serve as a terminal for regularly scheduled air passenger service or one of State concern;

(B) major interchanges between the Interstate Highway System and frontage access streets or highways; major interchanges between other limited access highways and frontage access streets or highways;

(C) major frontage access streets and highways, both of State concern; and

(D) major recreational lands and facilities;

(2) major facilities on non-Federal lands for the development, generation, and transmission of energy.

(k) "Large scale development" means private development on non-Federal lands which, because of its magnitude or the magnitude of its effect on the surrounding environment, is likely to present issues of more than local significance in the judgment of the State. In determining what constitutes "large scale development" the State should consider, among other things, the amount of pedestrian or vehicular traffic likely to be generated; the number of persons likely to be present; the potential for creating environmental problems such as air, water, or noise pollution; the size of the site to be occupied; and the likelihood that additional or subsidiary development will be generated.

(l) "Land sales or development projects", "projects", or "project" means any of the activities set forth in clauses (1) through (3) below which occur ten miles or more

beyond the boundaries of any standard metropolitan statistical area or of any other general purpose local government certified by the Governor as possessing the capability and authority to regulate such activities:

(1) the partitioning or dividing into fifty or more lots for sale or resale primarily for housing purposes within a period of ten years of any tract of land, or tracts of land in the same vicinity, owned or controlled by any developer;

(2) the construction or improvement primarily for housing purposes of fifty or more units within a period of ten years on any tract of land, or tracts of land in the same vicinity, owned or controlled by any developer, including the construction of detached dwellings, town houses, apartments, and trailer parks, and adjacent uses and facilities, whatever their form of ownership or occupancy; and

(3) such other projects as may be designated by the State.

(m) "Developer" means any person or persons who directly or indirectly, through any formal or informal combination or aggregation, own or control a tract or tracts of land for which such person or persons propose a "project" as defined in subsection (l) hereof.

(n) "Person" includes any individual, partnership, corporation, association, unincorporated organization, trust, estate, or any other legal or commercial entity, except Federal, State, or local government agencies.

BIENNIAL REPORT OF THE SECRETARY

SEC. 602. The Secretary, with the assistance of the Office and the Board, shall report biennially to the President and the Congress on land resources, uses of land, and current and emerging problems of land use. Such report shall also contain the results of the studies required pursuant to clauses (1) and (2) of section 304(c) and clauses (5) through (9) of section 305(c), and an evaluation of the effectiveness of each State program in meeting the purposes of this Act.

UTILIZATION OF PERSONNEL

SEC. 603. Upon the request of the Secretary, the head of any Federal agency is authorized: (i) to furnish to the Office such information as may be necessary for carrying out the functions of the Office and as may be available to or procurable by such agency, and (ii) to detail to temporary duty with the Office, on a reimbursable basis, such personnel within his administrative jurisdiction as the Office may need or believe to be useful for carrying out its functions, each such detail to be without loss of seniority, pay, or other employee status.

TECHNICAL ASSISTANCE

SEC. 604. The Office may provide, directly or through contracts, grants, or other arrangements technical assistance to any State or Indian tribe found eligible for grants pursuant to this Act to assist such State or tribe in the performance of its functions under this Act.

HEARINGS AND RECORDS

SEC. 605. (a) For the purpose of carrying out the provisions of this Act, the Director with the concurrence of the Secretary may hold such hearings, take such testimony, receive such evidence, and print or otherwise reproduce and distribute so much of the proceedings and reports thereon as he deems advisable.

(b) The Director is authorized to administer oaths when he determines that testimony shall be taken or evidence received under oath.

(c) To the extent permitted by law, all appropriate records and papers of the Office shall be made available for public inspection during ordinary office hours.

ALLOTMENTS

SEC. 606. (a) Annual grants pursuant to part A of title II, to States found eligible for financial assistance pursuant to this Act shall be made in amounts not to exceed 90 per centum of the estimated cost of developing the State land use programs for the five complete fiscal year period following the enactment of this Act and amounts not to exceed 66⅔ per centum of the estimated cost of administering the State land use programs for the next three fiscal years.

(b) Annual grants pursuant to part B of title II shall be made in amounts not to exceed 90 per centum of the cost of coordinating State and local land use planning, policies, and programs concerning, studying land use in, conducting land use planning for, or implementing land use policies in, interstate areas.

(c) Grants pursuant to title II shall be allocated to the States on the basis of regulations of the Secretary, which regulations shall take into account the amount and nature of each State's land resource base, population, pressures resulting from growth, land ownership patterns, extent of areas of critical environmental concern, financial need, and other relevant factors.

(d) Any grant pursuant to title II shall increase, and not replace, State funds presently available for State land use planning and management activities. Any grant made pursuant to this Act shall be in addition to, and may be used jointly with, grants or other funds available for land use planning, programs, surveys, data collection, or management under other federally assisted programs.

(e) Annual grants to Indian tribes pursuant to title V shall be made in amounts of not to exceed 100 per centum of the estimated cost of developing and implementing land use programs for reservation and other tribal lands.

(f) When a State possesses a State land use program approved pursuant to this Act and utilizes general purpose local governments for implementation of such program pursuant to section 203 (b) and (c)(1), the State shall allocate a portion of its grant funds pursuant to part A of title II to the general purpose local governments in proportion to the degree of implementation responsibility which they possess.

(g) No funds granted pursuant to this Act may be expended for the acquisition of any interest in real property.

FINANCIAL RECORDS

SEC. 607. (a) Each recipient of a grant pursuant to this Act shall make reports and evaluations in such form, at such times, and containing such information concerning the status, disposition, and application of Federal funds and the operation of the statewide land use planning process or State land use program as the Secretary may require by regulations published in the Federal Register, and shall keep and make available such records as may be required by the Secretary for the verification of such reports and evaluations.

(b) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of a recipient of a grant pursuant to this Act which are pertinent to the determination that funds granted pursuant to this Act are used in accordance with this Act.

AUTHORIZATION OF APPROPRIATIONS

SEC. 608. (a) For the eight complete fiscal year period following the enactment of this Act, there are authorized to be appropriated to the Secretary for grants to the States not more than $10,000,000 each fiscal year to carry out the purposes of this Act.

(b) For the eight complete fiscal year period following the enactment of this Act, there are authorized to be appropriated to the Secretary for grants to the States not more than $15,000,000 each fiscal year to carry out the purposes of section 205 of this Act.

(c) For the eight complete fiscal year period following the enactment of this Act, there are authorized to be appropriated to the Secretary $2,000,000 each fiscal year to carry out the purposes of section 308 of this Act.

(d) For the eight complete fiscal year period following the enactment of this Act, there are authorized to be appropriated to the Secretary for grants to Indian tribes not more than $10,000,000 each fiscal year to carry out the purposes of title V of this Act.

(e) For each of the five full fiscal years following the enactment of this Act, there are authorized to be appropriated $10,000,000 to the Secretary to be used exclusively for the administration of this Act. After the end of the fourth fiscal year after the enactment of this Act, the Secretary shall review the programs established by this Act and shall submit to Congress his assessment thereof and such recommendations for amendments to the Act as he deems proper and appropriate.

FUNDING FORMULA: COASTAL ZONE MANAGEMENT ACT AND THIS ACT

SEC. 609. (a) All funds appropriated each fiscal year pursuant to the Coastal Zone Management Act of 1972 (86 Stat. 1280) and this Act shall be fully apportioned for obligation by the Secretary of Commerce and the Secretary of the Interior, respectively.

(b) All funds appropriated each fiscal year for grants to the States pursuant to part A of title II of this Act and sections 305 and 306 of the Coastal Zone Management Act of 1972 shall be combined and shall be available to be drawn upon for obligation by the Secretary and the Secretary of Commerce, respectively, in the same ratio as the funds appropriated that fiscal year pursuant to the authorization provided in section 608(a) of this Act bear to funds appropriated that fiscal year pursuant to the authorization provided in section 315(a)(1) and (2) of the Coastal Zone Management Act of 1972.

EXPENDITURE OF FUNDS: COASTAL ZONE MANAGEMENT ACT AND THIS ACT

SEC. 610. (a) Any State which is a coastal State as defined in section 304 of the Coastal Zone Management Act of 1972 (86 Stat. 1280) and which has been found ineligible for grants pursuant to section 305 or 306 of that Act shall not expend any funds received under grants pursuant to part A of title II of this Act for land use planning and management in, or administration of the State's management program for, the coastal zone as defined in section 304 of that Act.

(b) The Coastal Zone Management Act of 1972 (86 Stat. 1280) is hereby amended by—

(1) adding, at the end of section 315, a new section 316, as follows:

"SEC. 316. Any coastal State which has been found ineligible for grants pursuant to part A of title II of the Land Use Policy and Planning Assistance Act shall not expend any funds received under grants pursuant to section 305 or 306 of this Act for land use planning and management in, or implementation of a State land use program as provided for in that Act, for areas other than those defined by such coastal State as within its coastal zone."; and

(2) striking subsection (g) of section 307.

EFFECT ON EXISTING LAWS

SEC. 611. Nothing in this Act shall be construed—

(a) to expand or diminish Federal, interstate or State jurisdiction, responsibility, or rights in the field of land and water resources planning, development or control; to displace, supersede, limit, or modify any interstate compact or the jurisdiction or responsibility of any legally established joint or common agency of two or more States, or of two or more States, a State, or a region and the Federal Government; to limit the authority of Congress to authorize and fund projects;

(b) to change or otherwise affect the authority or responsibility of any Federal official in the discharge of the duties of his office except as new authority or responsibilities have been added by the provisions of this Act;

(c) as superseding, modifying, or repealing existing laws applicable to the various Federal agencies which are authorized to develop or participate in the development of land and water resources or to exercise licensing or regulatory functions in relation thereto; or to affect the jurisdiction, powers, or prerogatives of the International Joint Commission, United States and Canada, the Permanent Engineering Board and the United States operating entity or entities established pursuant to the Columbia River Basin Treaty, signed at Washington, January 17, 1961, or the International Boundary and Water Commission, United States and Mexico;

(d) as superseding, repealing, or conflicting with the Coastal Zone Management Act of 1972 (86 Stat. 1280);

(e) as granting to the Federal Government any of the constitutional or statutory authority now possessed by State and local governments to zone non-Federal lands;

(f) as authorizing or requiring the termination of any existing trust responsibility of the United States with respect to the Indian people;

(g) to delay or otherwise limit the adoption and vigorous enforcement by any State of standards, criteria, emission or effluent limitations, monitoring requirements, or implementation plans which are no less stringent than the standards, criteria, emission or effluent limitations, monitoring requirements, or implementation plans required by the Federal Water Pollution Control Act, the Clean Air Act, or other Federal laws controlling pollution; and

(h) to adopt any Federal policy or requirement which would prohibit or delay States or local governments from adopting or enforcing any law or regulation which results in control to a degree greater than required by this Act of land use in any area over which the State or local government exercises jurisdiction.

SANCTIONS AGAINST RHODESIA

Mr. HARRY F. BYRD, JR. Mr. President, on June 7, in New York City, Ambassador John Scali, U.S. Representative to the United Nations, delivered an address. This address was published in the CONGRESSIONAL RECORD of Wednesday, June 13, at the request of the distinguished senior Senator from Wyoming (Mr. MCGEE).

The address of Ambassador Scali dealt with the United Nations. It was delivered before an audience of persons interested in the world organization. I have read this address carefully. With the exception of two or three paragraphs, it is a speech that I could comfortably have delivered myself.

Mr. Scali in the course of his remarks stated that as a newly returned young war correspondent, he got back to the United States about the time that the United Nations was formed in San Francisco in 1945.

I had a similar experience as a young naval officer. I returned from Okinawa to San Francisco at the time the United Nations Conference there was in progress. So both of us developed an early interest in this world organization—an interest that both of us have kept through the years.

Then Mr. Scali says:

It is a truism to say that the world community, and particularly the American people, have been disappointed in the achievements of the United Nations thus far.

I concur in that view. I must say that I have been disappointed in the achievements of the United Nations, just as Ambassador Scali indicates that he has been disappointed.

Overall, I think it is a good speech. It is a careful, well-written address, and very sincere. The aspect of it with which I do not agree consists of only two paragraphs—with the rest of the speech I am in full agreement—wherein Ambassador Scali attacks the Congress of the United States because of legislation which the Congress passed 2 years ago.

The legislation under attack by Ambassador Scali permits the importation of chrome from Rhodesia under certain conditions, and in so doing it sets aside the embargo placed on trade with Rhodesia insofar as the importation of chrome is concerned.

Mr. Scali is careless with his facts. He says:

At that time, nearly two years ago, Congress passed legislation making it impossible——

I am reading from his speech——

for the executive branch to prevent importation of chrome and other strategic commodities from Rhodesia, as required by the Security Council.

Mr. Scali is not factually correct. He is incorrect. The legislation did not make it impossible for the executive branch to prevent importation from Rhodesia.

What the legislation did say—and I would suggest that Ambassador Scali get a copy of it and read it—is that the importation of chrome from a Free World country cannot be prohibited if that same strategic material is being imported from a Communist-dominated country, in this case Russia.

So if the President of the United States does not want to have chrome imported from Rhodesia, he can stop the importation of chrome from Russia. In that case, the law which Congress passed would not be effective. So there is a way, if the President of the United States so desires, that the importation of this strategic material from Rhodesia can be prevented.

That is a relatively minor point. That is not the reason why I am calling attention to Ambassador Scali's speech today, I think he ought to get his facts straight.

But that is not the principal reason I am taking the floor. The reason I am taking the floor today is this: He says that the action of the Security Council of the United Nations is legally binding on the United States. He condemns Congress for doing what he says is in open violation of international law. Let us see first what is this open violation of international law.

Congress taking note of the embargo put on trade with Rhodesia, and noting that the bulk of the world's chrome supply is in Rhodesia, and noting as a result of the embargo the United States was forced to rely on Communist Russia for a majority of its chrome imports, passed legislation which states that the President cannot prohibit the importation of strategic material from a non-Communist country if the same material is being imported from a Communist country.

Yet the Ambassador to the United Nations says that Congress acted illegally. He is wrong. Our Ambassador to the United Nations, Mr. John Scali, says that the position of the Security Council in regard to the embargo on trade with Rhodesia "is legally binding on the United States." Nonsense.

Has Congress abdicated its right to pass laws for the benefit of the people of America, and given that right to the United Nations in New York? Ambassador Scali thinks so. But the Senator from Virginia does not think so.

I know an effort will be made again to repeal what Congress passed 2 years ago. There are Members of Congress who take the same view as does Ambassador Scali—that whatever the world organization in New York says, whatever the Security Council says, is binding on the United States. I disagree.

Mr. Scali, in the earlier part of his speech—and, as I say, I am in agreement with virtually all of his speech except for two paragraphs—says, speaking of the United Nations, that—

We did not create an instant world government. Instead, what we put in place was an international forum.

He says that we do not have a world government; we have an international forum; and that that international forum can dictate to Congress; and if Congress goes contrary to action taken by the Security Council, it is going contrary to something that is legally binding on the United States. I submit that Mr. Scali is just as wrong as he can be.

Mr. LONG. Mr. President, will the Senator from Virginia yield?

Mr. HARRY F. BYRD, JR. I yield to the distinguished Senator from Louisiana.

Mr. LONG. Mr. President, it was my privilege to serve for at least one brief period as a delegate to the United Nations. I came away with this conclusion: That the sooner we in Congress, and the American people, recognize the United Nations to be exactly what everybody else on God's green Earth believes it to be, the better off everybody, including ourselves, will be. What the United Nations really is, is clearly a debating society. To pretend that it is something else is to mislead oneself.

People generally follow what the United Nations recommends if they find it to their advantage, otherwise they ignore it. When the United Nations recommends that people do somethng, they will be prevailed upon to do it, even though they may not be inclined to do so, because the United States might offer them the advantage of a trade concession or offer to do something that they want us to do in other respects. But the idea that the United Nations has this great power to move the world in one direction or the other is not shared by the rest of the world. They use it only when they find it to their advantage to use it for their own interests.

The United States, I suppose, is the only nation on Earth that permits the United Nations, this international de-

bating society, to use the United States. My only regret is that I was not permitted to vote to decline to finance any more activities of the United Nations. So, I should like to make it clear that my vote in the State Department appropriation bill we just passed today was dictated by other things that were in the bill. If it had been purely a $200 million appropriation for the United Nations, I would have said it was not worth $2, that if we were interested in seeing something going on, we could find something more interesting than the United Nations and we should go somewhere else.

If Mr. Scali thinks that the other nations of the world respect a resolution of the Security Council of the United Nations or of the General Assembly as being international law binding on them, I would invite him to go around the world and find out how many nations do regard it as being international law binding upon them. I think that he will find this organization has more respect in the United States—which pays most of its expenses, provides it with a home, and sponsored the idea to begin with—than anywhere else on earth.

Any respect the United Nations enjoys among the American people has declined drastically year by year to the point where I would think its impotence, its effectiveness, and its ability to do that for which it was organized in the first instance has declined to the point where a lot of us, who had such high hopes, now feel we would be better off if we dissolved that outfit and put something else in to take its place, to do that which the United Nations was organized to do to begin with.

But in spite the efforts of those who did not agree with the objectives of the United Nations, such as the Communist blocs, which prevented that organization from being what it could have been, which many of us hoped that it would be, we joined in seeking to promote peace, in working together for the good of the world, and to strengthen world government rather than to undermine and destroy it. So that the purpose of the United Nations has been so completely negated by those who did not share that desire, it has probably become as much of an impediment to achieving what it was organized to do as it has been an asset for that purpose.

So, if Mr. Scali has not become aware of what the United Nations really is, what the rest of the world knows it to be, I would invite him to take a trip around the world and find out for himself whether the other nations of the world regard a United Nations resolution as being international law binding on them.

Mr. HARRY F. BYRD, JR. Yes, and I would be interested, too, to know how many Members of the Congress of the United States feel that their votes are bound by what the United Nations Security Council does, and how many Members of the Congress of the United States feel that they cannot pass legislation here, affecting the United States of America and the inhabitants thereof, if such legislation goes counter to something that the United Nations Security Council in New York has dictated.

Mr. LONG. Mr. President, it was my experience that much of the time we spent at the United Nations was a very frustrating experience and could have been much better spent somewhere else. I would think that Mr. Scali would be well advised to spend some of his time reading the speech of the distinguished Senator from Virginia (Mr. HARRY F. BYRD, JR.). He would find it to be a far better investment of his time and energy than in observing and entering into the activities that occur at the United Nations.

Mr. HARRY F. BYRD, JR. I thank the distinguished Senator from Louisiana for his comments. In connection with his comments, let me say that the United Nations has changed a great deal since 1945 when it was first organized. At that time, there were 51 members, all of whom had a long record of government—in many cases self-government, but in any case a long record of government.

Now there are 132 nations who are members, and few of the new ones have any record of government. There is very little education in those nations. They are small, which is no fault of theirs, of course, but in many cases they lack the experience with government even to govern themselves effectively. Many of them, however, are not only telling the world how to govern itself, but are telling the United States how to govern itself.

Yet our Ambassador to the United Nations, who is supposed to represent the laws of the United States, says that the U.S. Congress is acting illegally, that we are bound—the Senator from Louisiana, the Senator from West Virginia, the Senator from Oklahoma, the Senator from Virginia—by some action that the Security Council in New York takes.

Mr. ROBERT C. BYRD. Mr. President, will the distinguished Senator from Virginia yield to me, since he has referred to me?

Mr. HARRY F. BYRD, JR. I am happy to yield to the Senator from West Virginia.

Mr. ROBERT C. BYRD. When I was elected to this body, and each time I have been reelected, I have had to take an oath upon entering the office of U.S. Senator to uphold and defend the Constitution of the United States. I did that gladly and willingly and I would not have it any other way. But I have never yet taken an oath to uphold a constitution of the United Nations. That has not been required of me. I am not so sure that I would take such an oath.

I am not wholly against the United Nations. I think it has done some good. But I am not in agreement with many of its actions. It is a weak vessel. But, that is not the point.

My first allegiance is to the United States of America. On the other hand, my allegiance—if I have any—to the United Nations is somewhere way, way, way down the line.

Now, insofar as U.N. sanctions against Rhodesia are concerned, I should like to ask the distinguished senior Senator from Virginia whether he believes Rhodesia, in any way, constitutes a threat to the peace and security of the world.

Mr. HARRY F. BYRD, JR. By no stretch of anyone's imagination do I see how it could possibly be construed as a threat to the peace of the world.

Mr. ROBERT C. BYRD. Has Rhodesia, in any of its actions that the distinguished Senator from Virginia can remember, offended or threatened the security of the United States of America? Has it taken any action with respect to trade with the United States or against the good name of the United States that would be offensive to this country?

Mr. HARRY F. BYRD, JR. Not to my knowledge.

Mr. ROBERT C. BYRD. Are there any United Nations sanctions against trading with the Soviet Union—a country which is feared by much of the free world and which on many occasions has threatened the peace and security of other countries, including our own?

Mr. HARRY F. BYRD, JR. There are no sanctions against trading with the Soviet Union. There were no sanctions against trading with North Vietnam at the time North Vietnam was killing 50,000 Americans and wounding 300,000 others.

Mr. ROBERT C. BYRD. Are there any United Nations sanctions against trading with the People's Republic of China—a government which contributed to the killing of Americans and allies in Vietnam?

Mr. HARRY F. BYRD, JR. There are no sanctions whatsoever.

Mr. ROBERT C. BYRD. Then why are there sanctions against trading with Rhodesia?

Mr. HARRY F. BYRD, JR. I cannot understand why there should be. The principal reason seems to be that Rhodesia is seeking to do what the United States did almost 200 years ago; namely, to declare her independence from Great Britain. Whether she should be a part of Great Britain or independent of Great Britain, I do not think is for us in the Senate of the United States to say. Whatever she wants to do is all right with me, or whatever they want to do between them is all right with me.

But I do not want to see our country institute sanctions against another country because that country seeks her independence from the same country from which we sought our independence in 1776.

Mr. ROBERT C. BYRD. Does the Senator feel that the United States has been largely persuaded in this venture by virtue of its allegiance to and warm friendship with Great Britain?

Mr. HARRY F. BYRD, JR. Certainly, our delegates to the United Nations followed closely the recommendations, the suggestions, and the views of Great Britain.

Mr. ROBERT C. BYRD. Did our friends in Great Britain apply sanctions against trading with North Vietnam during the years North Vietnam was killing American fighting men in South Vietnam?

Mr. HARRY F. BYRD, JR. No, Great Britain did not apply sanctions against North Vietnam. More than that, Great Britain permitted ships flying her flag to carry cargo to North Vietnam at a

time when the United States was heavily engaged in military activity in that area.

Mr. ROBERT C. BYRD. In other words Great Britain had no compunctions against trading with our enemy at a time when our enemy was killing American fighting men. But, at the same time, we went along with Great Britain in applying sanctions against a little country that was not killing American fighting men, a country with which we were not and are not at war, and a country that did not then and does not now constitute a threat to the peace and security of our own country or of Great Britain or of the world. Is that a fair statement to make?

Mr. HARRY F. BYRD, JR. I think that is a very fair statement, a perfectly fair statement.

Mr. ROBERT C. BYRD. May I say to the distinguished senior Senator from Virginia that he does not stand alone in this matter, although he has been alone in taking the floor here from time to time to speak on the subject. I have been willing just to listen, because I felt that I could learn. But I assure him that I stand with him in this matter; and if the votes of the Senate upon several occasions are to be taken as any indication of the overall sentiment of the Senate, he knows that he has considerable company here with him. I hope he will continue to take the position he is taking. I, for one, will continue to stand by his side on this issue.

Mr. HARRY F. BYRD, JR. I am very grateful to my close friend, the Senator from West Virginia. There is no one with whom I would rather stand side by side than the able and distinguished Senator from West Virginia (Mr. ROBERT C. BYRD). I am grateful for his remarks.

The point that the able Senator from West Virginia raised, as to whether Rhodesia constitutes a threat to world peace, gets to the heart of the problem that the Security Council of the United Nations had to face when the decision was made to apply sanctions. Under the United Nations Charter, the only lawful right the Security Council has to demand sanctions is to make a case that a particular country is a threat to world peace.

How can anyone say that this small, landlocked country—with a very small defense force—can constitute a threat to world peace? It shows the hypocrisy of this whole thing.

I have never been to Rhodesia. I do not know many Rhodesians, I have no personal interest in this matter at all. But, as a matter of principle, I became interested in this matter in 1966 and 1967.

I think it is absolutely outrageous for this great country, the United States, to apply sanctions against a peaceful, little country which by no stretch of the imagination can be construed as a threat to world peace.

To show further the hyprocrisy, it was just 2 weeks ago that the American Ambassador to the United Nations and the British representative to the United Nations vetoed in the Security Council an effort to apply sanctions to South Africa and to Portugal.

South Africa has for herself, and Portugal has for her colonies, a similar philosophy of government, one might say, insofar as the handling of certain problems in those countries is concerned, as does Rhodesia. Yet, sanctions were not applied against South Africa or Portugal, because the American and British representatives vetoed that proposal.

If our Ambassador vetoed the proposal to declare sanctions against South Africa, which he did, and if he vetoed the proposal to declare sanctions against Portugal—the Portuguese colonies of Angola and Mozambique have the racial elements that are subject to laws similar to those in Rhodesia—then, to my mind, it clearly comes down to the fact that the only reason there are sanctions against Rhodesia is that Rhodesia is trying to get her independence from Great Britain, and the United States is helping to prevent that from being done.

I think that is a matter to be determined by Great Britain and Rhodesia, a matter to be worked out between themselves.

What I am deeply concerned about is that the American Ambassador to the United Nations, Mr. John Scali, says:

> The action of the Security Council is legally binding on the United States.

He calls on Congress to change the law so that we will conform ourselves to the action taken by the Security Council of the United Nations in regard to sanctions against Rhodesia. Well, I sort of hope that issue will come up.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. HARRY F. BYRD, JR. I yield.

Mr. ROBERT C. BYRD. Did I correctly understand the Senator to say that the actions by the Security Council of the United Nations are legally binding upon the Congress of the United States?

Mr. HARRY F. BYRD, JR. In reply, let me read a sentence from the speech by Ambassador Scali:

> At that time, the Congress voted legislation making it impossible for the Executive Branch to prevent imports of chrome and other strategic commodities from Rhodesia as required by the Security Council, a decision which the United States voted and which is legally binding on the United States.

Mr. ROBERT C. BYRD. Notwithstanding the action of Congress to the contrary?

Mr. HARRY F. BYRD, JR. Notwithstanding the action of Congress, the ambassador representing the United States says that our laws must be subordinated to the decrees of the United Nations Security Council.

Mr. ROBERT C. BYRD. This should come as an eye-opener to all Members of Congress.

Mr. HARRY F. BYRD, JR. I would think so.

Mr. ROBERT C. BYRD. Even those Members of Congress who may in this particular instance disagree with the position of the able senior Senator from Virginia with respect to the importation of chromium ore.

Mr. HARRY F. BYRD, JR. Yes.

Mr. ROBERT C. BYRD. Even though they may disagree with him on that question. I wonder how many Members of Congress would swallow this doctrine that the action of the U.N. Security Council is binding on the United States, notwithstanding the action of the Federal legislature to the contrary. That is a pretty far-reaching doctrine, in my estimation.

Mr. HARRY F. BYRD, JR. What the Ambassador to the United Nations says is more far-reaching than the question of whether chrome should be imported from Rhodesia; much more important than whether there should be sanctions. He is hitting at the heart of the legislative system of the United States.

Mr. ROBERT C. BYRD. Is he not refuting what he said earlier, if I understand what the Senator read earlier—and I have great respect for Mr. Scali. I do not want the Record to misrepresent me in this respect, but I understood the able senior Senator from Virginia to say earlier that in reading the statement by Mr. Scali——

Mr. HARRY F. BYRD, JR. Perhaps this was the statement:

> We can see now clearly that we did not create an instant world government.

Mr. ROBERT C. BYRD. Right. Is not Mr. Scali in another part of his statement refuting what he said in that statement?

Mr. HARRY F. BYRD, JR. That is right.

Mr. ROBERT C. BYRD. He said we did not create an instant world government, but now he is saying in another part of his statement that the actions of the United Nations are superior to the actions of the U.S. Congress to the contrary; and therefore, insofar as the United States is concerned, it is in essence, a member of a world government that is supreme to the Government of the United States, as one of the components of that world government.

Mr. HARRY F. BYRD, JR. Yes. That is what he is arguing in the latter part of his speech. In the first part he stated:

> We can see now clearly that we did not create an instant world government. Instead, what we put in place was an international forum.

Mr. ROBERT C. BYRD. How, then, can the decisions of a mere international forum be superior to the contrary actions of the duly constituted Federal legislature of one of the participants—to wit, the United States—in that international forum?

Mr. HARRY F. BYRD, JR. To me, it cannot, I would think regardless of how a Member of the Senate or Member of the House might stand on the question of sanctions against Rhodesia on the importation of chrome, it seems to me that all of us must stand foursquare for the principle that we cannot be bound in our deliberations here by what might be done by the Security Council of the United States in the city of New York.

If we get to the point that Ambassador Scali is arguing, I am not sure I want to remain a Member of this body, as fine a body as it is, and as fine a group of men as it is. I am going to vote for the best interests of the people of the United States. As the Senator from West Virginia said, he took an oath to uphold the Constitution of the United States and his obligation is to the United States and the people of the States.

Mr. Scali pointed out that the United States has not created a world government. Ambassador Scali makes that clear in his own statement. If we have not gone into a world government, how can an international forum, as he calls it, decree laws for the United States and dictate to the Congress of the United States what is and what is not legally binding on it?

I know a lot of people in Congress want to give more power to the President, whoever he might be; many people in Congress want to give more power to the United Nations; and some in Congress are not particularly concerned how they use their responsibility and they are perfectly willing to give away the prerogatives and let someone else assume the responsibility.

However, how many Members of the Senate and how many Members of the House of Representatives agree with Ambassador Scali that if the Security Council votes a certain action, that that action is binding on the Congress of the United States? I would like to see a rollcall on that, if there is any way to bring it about. I just do not believe that the men who are sitting in this Chamber and the men sitting in the Chamber across the hall, the vast majority of them, are going to subordinate their own judgment and their own convictions, and their own responsibilities to represent the people who sent them here, and that they are going to abdicate that responsibility to a group in New York City.

Mr. ROBERT C. BYRD. Mr. President, may I say that once the American people realize that that kind of understanding is abroad, then there will be even less support for the United Nations than there is now.

Mr. HARRY F. BYRD, JR. Yes. I think the Senator from West Virginia is correct in that appraisal and I personally would not like to see less support for the United Nations. I think it has a role to play.

Mr. ROBERT C. BYRD. Mr. President, I wish to associate myself with the Senator's statement also in that regard.

Mr. HARRY F. BYRD, JR. I think it has a role to play, but I do not think it is being helped when the American Ambassador makes such a speech. Most of the speech is good, as I said in my opening remarks. I could have delivered that speech very comfortably if he had left out those two paragraphs saying that the Security Council can dictate decisions to the Congress of the United States. I do not believe that people of this country would stand for any such proposal as that. I believe he would be rendering a greater service to this world organization and one which I felt a rapport with, when I came from Okinawa, in 1945, when it was formed. He would be helping that organization if he would carry out the laws of the Congress of the United States and explain to his colleagues in New York in the Security Council and the General Assembly of the United Nations that this is a free country and that we have not turned over the prerogatives of the United States to the United Nations.

LEAVE OF ABSENCE

Mr. BEALL. Mr. President, I ask unanimous consent that the Senator from Illinois (Mr. PERCY) be granted leave of absence from the Senate on official business for Friday, June 15.

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

ORDER FOR ADJOURNMENT UNTIL 11 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 11 a.m. tomorrow.

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

ORDER FOR ADJOURNMENT FROM FRIDAY UNTIL MONDAY, JUNE 18, 1973, AT 11 A.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business on tomorrow, it stand in adjournment until 11 o'clock Monday morning next.

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

ORDER FOR PERIOD FOR TRANSACTION OF ROUTINE MORNING BUSINESS ON MONDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Monday next, after the two leaders or their designees have been recognized under the standing order, there be a period for the transaction of routine morning business of not to exceed 30 minutes, with statements limited therein to 3 minutes.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

ORDER FOR RECOGNITION OF SENATOR HARRY F. BYRD, JR., 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 distinguished senior Senator from the State of Virginia (Mr. HARRY F. BYRD, JR.) be recognized for not to exceed 15 minutes.

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

ORDER FOR PERIOD FOR TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW AND FOR CONSIDERATION OF S. 1413

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that following the recognition of the distinguished Senator from Virginia (Mr. HARRY F. BYRD, JR.) tomorrow, there be a period for the transaction of routine morning business of not to exceed 15 minutes, with statements limited therein to 3 minutes, at the conclusion of which the Chair lay before the Senate S. 1413, a bill which has been cleared on both sides of the aisle, and that the unfinished business remain in a temporarily laid-aside status until the disposition of S. 1413 or until the close of business tomorrow, whichever is the earlier.

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

Mr. ROBERT C. BYRD. The way that request was phrased may seem to indicate that S. 1413 is a controversial measure, which it is not, but I feel it necessary, in so asking that the unfinished business be laid aside, to phrase the request in such manner.

AUTHORITY FOR COMMITTEE ON COMMERCE TO HAVE UNTIL MIDNIGHT TONIGHT TO FILE A REPORT ON H.R. 7200

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Commerce may have until midnight tonight to file a report on H.R. 7200.

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

Mr. ROBERT C. BYRD. I might state that I was asked to do this by the very distinguished Senator from Maine (Mr. HATHAWAY), who now presides over the Senate with a degree of diligence, skill, and efficiency as rare as a day in June.

I had almost forgotten to do so. I beg the indulgence of the Chair.

A SUMMARY OF CHAMBER PROCEEDINGS

Mr. METCALF. Mr. President, the Joint Committee on Congressional Operations has been conducting a pilot study of summarizing the Chamber proceedings of Congress. We have been reporting activities here in the Senate since May 29.

Because of the interest that has been demonstrated by Members of the Senate, I ask unanimous consent that the study be continued for 2 additional weeks and that two members of the staff of the Joint Committee on Congressional Operations be allowed the privilege of the floor until our report has been prepared and until the Committee on Rules and Administration has had time and opportunity to give it consideration.

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

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the program for tomorrow is as follows:

The Senate will meet at 11 a.m.

After two leaders or their designees have been recognized under the standing order, the distinguished senior Senator from Virginia (Mr. HARRY F. BYRD, JR.) will be recognized for not to exceed 15 minutes, after which there will be a

period for the transaction of routine morning business of not to exceed 15 minutes, with statements limited therein to 3 minutes, at the conclusion of which the Chair will lay before the Senate S. 1413, a bill to increase the authorization for fiscal year 1974 for the committee for purchase of products and services of the blind and other severely handicapped.

Upon the disposition of that measure, it is the present intention of the leadership to get consent to take up H.R. 7357, an act to extend kidney disease medicare coverage to railroad employees, their spouses, and their dependent children, and for other purposes. It is not anticipated that that bill will take much time. It is not considered to be controversial.

Upon the disposition of that measure and any other calendar measures which may have been cleared for action or for unanimous consent by that time, the Senate will proceed to the consideration of the then unfinished business, it now being the pending business, S. 268, the National Land-Use Policy bill.

Opening statements will be made upon that measure tomorrow. Amendments, of course, may be called up, and yea-and-nay votes could possibly occur on tomorrow.

Looking down the road a bit, Mr. President, in accordance with the distinguished majority leader's statement earlier today, it may be well to recapitulate what may be ahead of the Senate with respect to its schedule for next week. This is a bare-bones prognostication, but it will at least give some indication of what is in the offing.

On Monday, in accordance again with the statement by the distinguished majority leader, the Senate will begin to operate from time to time on a double track system. For example, the land-use bill may be temporarily laid aside on Monday, thus opening up the first track to S. 907, the Arctic Winter Games bill, on which there is a time limitation. It is the present intention of the leadership to try to proceed in precisely that manner up to that point.

Also on Monday the Senate may, on a first-track basis proceed to take up S. 925, the Federal Financing Bank bill. Or it may instead take up S. 470, to amend the Investment Company Act and Investment Advisors Act. Yea-and-nay votes will occur on Monday.

Another possible first-track item for Tuesday or Wednesday is S. 1125, which deals with alcoholic abuse and alcoholism.

As to Tuesday, June 19, action will continue on the land-use bill. Senators will keep in mind the possible double-track procedure mentioned above for Tuesday.

It is quite likely, as I view the schedule at this point, that most of Tuesday will be taken up with amendments to the land-use bill. Hopefully, that bill will be completed on Tuesday. Yea-and-nay votes will occur on Tuesday.

As to Wednesday, the leadership will call up the NASA authorization bill. Yea-and-nay votes will occur thereon. Hopefully, the land-use bill will have been completed on Tuesday, but if it is still hanging around, it will remain as the unfinished business.

As to Thursday and Friday of next week, any uncompleted measures among those which I have already enumerated will be continued to their completion.

Additionally, S. 1443, a bill to authorize the furnishing of defense articles and services to foreign countries and international organizations, can come up. Other measures will also be cleared for action by then. Hence, yea-and-nay votes can be expected on Thursday and Friday.

Of course, the foregoing sequence of measures may have to be altered from time to time, depending upon the floor situation, but this listing is for the convenience of Senators that they may anticipate a busy week ahead with yea-and-nay votes expected daily.

Mr. President, perhaps this is as good a time as any to state also that the Senate may have to operate on Saturdays if the situation becomes necessary prior to the July 4th holiday. I am not saying that the Senate definitely will be in session on Saturdays, but I am constrained to indicate that there is a possibility of Saturday sessions, if necessary to complete the Senate's work and have the calendar in excellent shape by the time the Independence holiday arrives.

During the month of July we are going to have a glut of appropriations bills. The House, I anticipate, will act on at least a half dozen of the regular appropriations bills during the remainder of the month of June. This would mean that during July there would be several appropriations bills cleared for Senate floor action. So, Saturday sessions are a very distinct possibility during the month of July.

The same can be said for September, keeping in mind that there is an August recess in the offing.

Mr. President, that about wraps up the program for the week ahead, as far as now can be seen.

ADJOURNMENT TO 11 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 11 a.m. tomorrow.

The motion was agreed to; and at 5:42 p.m., the Senate adjourned until tomorrow, Friday, June 15, 1973, at 11 a.m.

NOMINATIONS

Executive nominations received by the Senate June 14, 1973:

DEPARTMENT OF COMMERCE

Sidney L. Jones, of Michigan, to be an Assistant Secretary of Commerce, vice Harold C. Passer, resigned.

DEPARTMENT OF LABOR

Julius Shiskin, of Maryland, to be Commissioner of Labor Statistics, U.S. Department of Labor, for a term of 4 years, vice Geoffrey H. Moore, resigned.

CONFIRMATION

Executive nomination confirmed by the Senate June 14, 1973:

DEPARTMENT OF STATE

Graham A. Martin, of North Carolina, a Foreign Service officer of the class of career minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Vietnam.

(The above nomination was approved subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

HOUSE OF REPRESENTATIVES—*Thursday, June 14, 1973*

The House met at 12 o'clock noon.

The Reverend S. W. Easty, Jr., St. Andrew's By-the-Sea Protestant Episcopal Church, Nags Head, N.C., offered the following prayer:

O Almighty God, as we commemorate today the symbol of our unity expressed in our beloved Stars and Stripes, may we ever recall to heart and mind the struggles, sufferings, and strengths, that forged the union of our States into one great nation under God. Grant that we may rediscover and renew the integrity, honesty, and truth, that provided inspiration for past leaders of our land and produced the precious gift of freedom which is so fragile in our world. Help us, O Lord, in this moment of prayer, to revive an awareness of Thy presence in our every action and thought, that we may be reminded of the source of our strength as we serve God and country, through Jesus Christ our Lord. 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 bill of the House of the following title:

H.R. 4682. An act to provide for the immediate disposal of certain abaca and sisal cordage fiber now held in the national stockpile.

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 1747. An act to amend the International Travel Act of 1961 with respect to authorizations of appropriations.

THE REVEREND S. W. EASTY, JR.

Mr. WHITEHURST. Mr. Speaker, I am pleased today to present to the House the