BEATITUDES FOR BUSINESSMEN

(By Harry E. Olson Jr.)

Blessed will be the man who will trust other men.

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

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

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

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

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

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

THE TRAGEDY OF LITHUANIA

HON. HAROLD R. COLLIER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, June 15, 1973

Mr. COLLIER. Mr. Speaker, today is the 33d anniversary of the annexation of Lithuania by the Soviet Union. Almost a third of a century has elapsed since the people of that small republic lost their national independence and their individual freedoms. Our Nation has never recognized the conquest of Lithuania and its sister republics Estonia and Latvia, and I hope it never will.

Those of the Lithuanian people who have not been murdered or deported have not accepted the absorption of their nation by the Soviet Empire, although it is all but impossible for them to protest effectively. Two million Americans of Lithuanian stock have not accepted the obliteration of their ancestral home from the map of Europe. Like their friends and relatives across the sea they hope and pray that the hell of communism will, like the earlier hell of national socialism, soon come to an end.

Mr. Speaker, more than 70 new countries have joined the family of nations since the end of World War II. It would be merely an act of simple justice for the Soviet Union to restore freedom to Lithuania and its Baltic neighbor.

THE PLIGHT OF LITHUANIA

HON. J. HERBERT BURKE

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 15, 1973

Mr. BURKE of Florida. Mr. Speaker, today is the 33d anniversary of the forcible annexation into the Soviet Union of the state of Lithuania. Anniversaries are either occasions for joy or despair. This Lithuania anniversary is an occasion for despair. The Lithuanian people have continuously struggled to reject the oppressive Communist system from Lithuanian soil ever since the forcible annexation on June 15, 1940. Regrettably, a generation has grown to adulthood without knowing the blessing of freedom, democracy and justice.

From 1944 to 1952, anti-Soviet partisans struggled for freedom against the Soviet military occupation in protracted guerilla warfare with a loss of 50,000 Lithuanian lives.

During the Stalin era, more than one-sixth of the Lithuanian population was deported to Russia and Siberia.

Not long ago a Lithuanian youth burned himself as a martyr in protest against the denial of the right of national self-determination, the denial of religious freedom, political freedom and the denial of human rights by the Soviet Union.

The United States has never recognized the forceful annexation of Lithuania and the other Baltic States into the Soviet Union. We should maintain this steadfast policy and hopefully this will keep the flame of hope burning in the hearts of the freedom loving citizens of Lithuania until such time as they are granted self-determination.

SENATE—*Monday, June 18, 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 L. R. Elson, D.D., offered the following prayer:

Eternal Father, we turn to Thee in faith and trust, for Thou alone art the source of our joy and peace, and of all wisdom and strength. Without Thee we lose our way. Confusion and uncertainty overcome clarity and certitude. But with Thee there is wisdom and strength. By the light of Thy presence guide us through the maze of our strange and difficult times. Overrule our human errors by the magnitude of Thy grace. Keep us ever faithful to Thy commandments revealed in Thy word and to the law of love made known in the cross. At the end, may we hear the divine approbation, "Well done, good and faithful servant." And to Thee shall be the glory and the praise. Amen.

MESSAGES FROM THE PRESIDENT—APPROVAL OF BILL

Messages in writing from the President of the United States were communicated to the Senate by Mr. Marks, one of his secretaries, and he announced that on June 12, 1973, the President had approved and signed the act (S. 1235) to amend Public Law 90–553, authorizing an additional appropriation for an International Center for Foreign Chanceries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the President pro tempore laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the Committee on Armed Services.

(For nominations received today, see the end of Senate proceedings.)

THE JOURNAL

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

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

WAIVER OF THE CALL OF THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the call of the legislative calendar, under rule VIII, be dispensed with.

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

COMMITTEE MEETINGS DURING SENATE SESSION

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

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

LEONID BREZHNEV'S VISIT TO THE UNITED STATES

Mr. MANSFIELD. Mr. President, in the field of foreign policy, President Nixon has been extraordinarily successful as attested to by his visit to Peking, the promulgation of the Nixon doctrine and, incidentally, the reduction of U.S. military forces overseas from 3.5 million men to 2.3 million, an adjunct to our foreign policy, and his visit to Moscow and the agreements reached there.

President Nixon extended an invitation to Mr. Brezhnev over a year ago. It was accepted some months ago, and now Mr. Brezhnev is here in this country as a guest of this Nation.

While here, I do not expect Mr. Brezhnev to discuss our internal affairs, which are entirely outside his ken, as he has so stated; and the same would apply to any other representative of a foreign country or ours in other countries.

Mr. President, I, for one, do not fear that we will be "taken in" by Mr. Brezhnev. I have full faith in the President of the United States in the conduct of foreign affairs, in which area he has been most successful. I do not downgrade this meeting between Mr. Brezhnev and President Nixon although, frankly, I do not expect anything of a highly significant nature to emerge therefrom.

I would assume that they would discuss trade matters, space matters, energy matters, and the like, and that there would be final agreements announced on the basis of negotiations, heretofore

entered into by the representatives of the two countries.

I do wish, though, that consideration would be given to a proposal which was reported from the Senate Foreign Relations Committee last week by a vote of 14 to 1; that is, a resolution calling on the President to promote negotiations for a comprehensive test ban treaty. That resolution, I think, has at least 35 cosponsors at the moment. It is an issue which I think could be beneficially discussed on a mutual basis by both countries. It has been brought to the attention of the White House at the request of the Senators concerned. Again, let me say that I am hopeful this matter will at least be discussed.

I would hope also that we would recognize the fact that both countries spend too much on armaments and that a diminution of such would be a good way to focus resources more on the needs of our respective peoples; resources which could be used for constructive purposes rather than potentially destructive purposes.

Frankly, I, for one, am not interested in always being No. 1.

I believe in parity. I believe in the doctrine of equality. I do not believe in the doctrine of superiority, because we are all molded from the same clay; we all come from the same soil. I think we should try to treat with nations as we aspire to treat with individuals.

I hope there is more mutual trade between the U.S.S.R. and our own country. I hope there will be more cultural exchanges, more agreements on space, more agreements on energy, although I do not look with too much favor upon the natural gas agreement which has been entered into by private concerns with the Soviet Union, the purpose of which would be to transport liquid natural gas from Siberia to the United States. The price would be very high, and the source, I think, might not be expected to remain permanent.

I would hope for a better understanding between our two nations, because the important consideration, above all else, is peace—peace for all the people of the world, a peace which can, in large part, be guaranteed in concert by countries such as the Soviet Union and the United States, now meeting, through their top representatives, and by other countries as well.

Mr. President, I ask unanimous consent to have printed in the RECORD the text of Senate Resolution 67.

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

S. RES. 67

Resolution calling on the President to promote negotiations for a comprehensive test ban treaty

Whereas the United States is committed in the Partial Test Ban Treaty of 1963 and the Nonproliferation of Nuclear Weapons Treaty of 1968 to negotiate a comprehensive test ban treaty;

Whereas the conclusion of a comprehensive test Ban Treaty, and will fulfill our pledge in the Partial Test Ban Treaty;

Whereas there has been significant progress in the detection and identification of underground nuclear tests by seismological and other means; and

Whereas the SALT accords of 1972 have placed quantitative limitations on offensive and defensive strategic weapons and have established important precedents for arms control verification procedures; and

Whereas early achievement of total nuclear test cessation would have many beneficial consequences: creating a more favorable international arms control climate; imposing further finite limits on the nuclear arms race; releasing resources for domestic needs; protecting our environment from growing testing dangers; making more stable existing arms limitations agreements; and complementing the ongoing strategic arms limitation talks: Now, therefore, be it

Resolved, That it is the sense of the Senate that the President of the United States (1) should propose an immediate suspension on underground nuclear testing to remain in effect so long as the Soviet Union abstains from underground testing, and (2) should set forth promptly a new proposal to the Government of the Union of Soviet Socialist Republics and other nations for a permanent treaty to ban all nuclear tests.

ORDER OF BUSINESS

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

THE ENERGY CRISIS

Mr. BROCK. Mr. President, I wish to speak on the matter to which the majority leader has referred briefly. It is the matter of our national energy supply, its source, and the crisis which it imposes upon the Nation at present.

I am deeply concerned at the prospect of crippling fuel shortages throughout the country in the coming months and years. There is mounting evidence that we are on a collision course with an energy crisis unparalleled in recent history.

It is no longer possible to avoid serious fuel-related problems over the short run, and only concerted well-considered action now will enable us to get back on the track before the crisis becomes a calamity.

Petroleum will be the first casualty. Products made from crude oil supply almost half of the total energy consumed in the United States, and those products are in critical short supply right now.

Many gasoline stations have announced new policies that amount to an ad hoc rationing scheme—limiting the number of gallons that can be purchased at one time, shortening their hours and the like. The Governor of Delaware has even suggested that only cars with Delaware licenses be permitted to purchase gasoline in his State.

In an effort to meet the demands, oil refiners have taken several steps. They have been running their refineries at record high percentages of capacity. They have engaged in massive and costly advertising programs aimed at educating the people in ways to conserve fuel. Many have reduced their octane ratings by a half point or one point, in an effort to squeeze a little more gasoline out of each barrel of crude oil.

As a result of these efforts, it is, in all probability, going to be possible for you to keep your car running this summer. Next summer, I am not so sure.

If you happen to own a vehicle powered by diesel fuel, however, the problem is more severe.

The all-out effort to supply the Nation with gasoline during the peak consumption summer months has resulted in a severe shortage of diesel fuel. Simply stated, the more crude oil is earmarked for refining into gasoline, the less is left for other products.

The diesel shortage appears likely to strike a crippling blow within the next few weeks, keeping trucks off the highways and tractors out of the fields, particularly in the Midwest.

Frontier nations are characterized by cheap energy, whether in the form of the sprawling forests of medieval Europe or the seemingly boundless resources of recent America. As nations mature, however, fuel becomes more dear, and lifestyles have to be adjusted.

The periods of change have generally been associated with great social and political upheaval: governments have fallen, and there have been mass migrations of people.

When the forests of Europe had been cut down, the people came to America. I am not sure where we could go.

The problem has been immensely compounded, of course, by our advanced technology. Trees, after all, can be replanted, but when the oil is gone, it will take another ice age to get us any more.

The picture that develops from all of this is one of a multistaged problem, beginning with severe shortages over the period of the next few years, followed, if proper action is taken now, by an easing of the situation in the decade or so after that, followed, if proper action is taken now, by a gradual conversion to new sources of energy.

I want to stress, however, that the mid-term and long-term solutions will only be forthcoming if we do some things right now. Let me outline a few of them.

The mid-term problem, that is to say, our eventual recovery from the certain shortages of this summer, can only come about through a maximization of our capacity to utilize petroleum in the most efficient manner.

The petroleum problem has many facets. There is the problem of finding it, of producing it, of refining it, of delivering it, and of using it.

The National Petroleum Council has estimated that 55 percent of the discoverable oil in this country is still in the ground waiting to be found. And yet, exploratory drilling for new supplies has declined from a peak of more than 15,000 wells annually in 1955 to fewer than 7,000 wells in 1971. Why? Simply because it is no longer very profitable to drill an exploratory well.

I think that fact is a remarkable representation of just how far afield we have gone from the free enterprise system that Republicans and Democrats alike take as the basis of their economic beliefs. Imagine, in a time of critical shortage and immense demand, it not being worth anyone's while to increase the supply. But that is what has happened. The Government has so overregulated and stifled private initiative that what should be boom-time conditions look more like an era of oversupply.

Taxes, management errors, inflation, and restrictive pricing policies and poorly drawn environmental regulations all played a role in doing what the prospect of 25,000 feet of hard rock could not—they have caused the oilman to decide not to drill.

As a result, we are becoming increasingly dependent on imported crude oil. At least 25 percent of all the crude oil refined in the United States today is imported, and the figure is sure to rise.

It must rise, and for this reason, I endorse President Nixon's moves in the area of oil import quotas and deepwater port development. However, it is vital that we regard importation as a temporary palliative, and not as long-term solution to the energy crisis. While imports must increase over the next few years, I strongly believe that we must begin now to work toward domestic solutions, so that once past the immediate problem, we can gradually reduce our dependance on foreign energy sources.

In the long run, few alternatives are less attractive than an America dependent for its vital energy upon the caprice of such areas as the Middle East or the communist block. Our national security impels us to extreme caution as we move toward greater dependence on such sources.

We must never allow ourselves to be placed at the mercy of some volatile monarch who may, under whatever influence, suddenly decide to turn off the lights.

There is an additional problem too, related to any long-term program of massive importation, and that is the very real likelihood that such a policy would result in vast holdups of American currency in the hands of a few Middle Eastern rulers. They would then have the power to cause international monetary upheavals that would make the current gold speculation look like kid stuff.

Our problems in producing oil are no less complex than those of finding it, and I believe that a program passed by the Senate last week may only serve to compound them.

With only 10 of us dissenting, the Senate has decided to engage in a massive supply distribution program, which in my opinion will not work, will cause untold confusion, and will have the effect of causing independent producers to discontinue pumping on a great many marginal wells, whose oil we need so desperately.

Petroleum at the wellhead must then be shipped to a refinery, and here again we see government, in this case the courts, standing in the way of progress. The greatest single oil find in our time is on the North Slope of the State of Alaska, but that oil is worthless unless we can get it to a refinery.

To do that, we need not only the Alaskan pipeline but a Canadian pipeline as well. There is enough oil to fill both. The oil industry knew that years ago, and started making plans. But they have been stopped, and at the worst possible moment.

There are other massive transportation problems that must be dealt with if we are to solve our fuel shortage problem. Oceangoing tankers are so in demand to haul the Middle Eastern oil to the United States, that Norwegian and Greek shipowners have made fortunes on single voyages. It may be true that in all the world there are not enough tankers to meet our needs.

The problem is not solved, even when the oil has crossed the ocean. We have no deepwater ports to receive the largest vessels. And we still have to move the oil from the ports to the refineries, bearing in mind all the time that most of our refineries are not equipped to process the type of crude oil which we get from the Arab lands.

Transportation problems indicate another fallacy of the approach taken by the Senate this week. The bill is designed to protect the small refiners by assuring them a constant supply of crude oil. But transportation difficulties may render the bill's allocation system useless.

I have indicated that we are not finding enough oil in the ground; if we found more, we could probably not produce it; if we produced it, we probably could not transport it to the refineries.

I am sorry to have to report also that if we could do all of those things, we would still not be able to refine it.

Our refineries are operating today at 95 percent of capacity, an incredible rate. The problem is simply that there is not enough capacity. Only two new refineries have been built in the entire Nation in the last several years, and only one more is currently under construction.

A number of others are on the drawing boards, but oil company executives privately fear that the construction industry does not have the ability to build them at the current time.

The greater problem, though, is getting over the legal hurdles, most of which stem from bureaucracy, conflicting regulation, and poorly drawn antipollution laws. The same cities and States that are crying for fuel are refusing to permit refineries to be constructed within their limits. Their attitude seems to be, "Let somebody else get the pollution, just give me the gasoline."

Well, it does not work that way, and we are going to realize it very soon, indeed.

Even as we move to bolster the supply of petroleum products to supply the energy needed during the midrange ahead, we must begin to plan for the long range—plan and act.

Extensive research is needed now in the areas of nuclear, solar, and other potential energy sources.

I am particularly distressed, for example, that the administration has chosen to abandon research on the molten salt breeder reactor, which I regard as one of the most promising possibilities for providing ample supplies of nuclear energy. In choosing to fund only the liquid metal breeder reactor, they have placed all their very fragile and valuable eggs in a single basket.

If it should develop, down the line, that the liquid metal process is not practicable, we will have lost years of planning on the most likely alternative.

Also looking to the long range, we need to undertake new initiatives aimed at devising an environmentally acceptable method of utilizing our vast stores of coal. It is estimated that we have up to 1,500 years' worth of coal reserves; yet coal usage is declining relative to other fuels becaus of the attendant environmental problems.

The relationship of environmental concerns and our need for energy is a constant thread running through the debate on this subject. It is a matter of vast importance, and I would like to take a few moments to discuss it today.

Frequently, the energy crisis is cast as the tails side of the coin on which environmental protection is the obverse. This representation is an oversimplification, but it is nonetheless true that there is an energy-environment cycle; it is this cycle which we must seek to control.

It is clear, for example, that if we were to have no concern whatever for the environment, we would have no energy crisis. We would use our high-sulphur coal without restriction. We would drill for oil on our offshore lands without worrying about oil slicks. We would build nuclear reactors at will, unbothered by possible thermal pollution. We would long ago have completed the Alaskan pipeline. Instead of only one, we would have dozens of oil refineries under construction.

We would have energy aplenty—and we could possibly all choke to death on it within a few years.

Similarly, our pollution problems could be solved overnight if we acted without regard to our energy needs. Our air and waters would be as pure as a saint's motives, and the American people could have the satisfaction of starving and freezing in an absolutely clean environment.

But, of course, neither of these alternatives is satisfactory. Our only hope, then, is to establish a balance. This means compromise on both sides, and calls for statesmanship on the part of those with institutional interests either way.

We also need a new degree of statesmanship on the part of the public figures. The energy crisis has been the subject of massive demagoguery, as politicians seek to find the best whipping boy for their purposes.

We have heard that the fuel shortage is some sort of conspiracy on the part of the big oil companies. It is obvious that not all industry decisions have been wise or in the public interest. Cannot the same be said of Congress? Oil companies did not cause a quantum jump in gasoline consumption in private automobiles by mandating antipollution devices that do not work; Congress did. I know of no industry suit against building nuclear plants, refineries, or pipelines. In sum, there is enough blame to go around.

One example may suffice to indicate the point I am making. This example of statistic manipulation was the testimony last Friday—June 8—before the Senate Antitrust Subcommittee by the assistant attorney general of the State of California, Charles A. La Torella, Jr.

According to press report, La Torella said that gasoline reserves as of June 1 were 202.5 million barrels, up 1.6 million from a year ago. Citing this, he responded to a question about the fuel shortage by asking, "What shortage?"

This sort of game playing is an outrage. In the first place, "reserves" include all gasoline at refineries, in trans-

portation systems, and at terminals. It cannot, in any sense, be considered a stockpile, nor does it represent fuel being withheld from the consumer by the oil companies. It is very simply the amount of gasoline that has been refined, but not yet consumed.

Furthermore, to have any meaning at all, this figure on reserves must be combined with the level of consumption. In 1 year, our level of consumption has jumped 6 to 7 percent. If, therefore, our reserves are increased only seven-tenths of 1 percent, which is the case accepting his figure of 1.6 million increase, then we have a very real shortage. Perhaps Mr. La Torella will be kind enough to explain to some of our farmers this fall how they can run their tractors on corn stalks. Unless he can, I am not sure they are going to believe his statement that there is no shortage.

The statistical inaccuracies cited in such statements are unfortunate, in any event. Because of the situation surrounding this energy question, however, and because of the generalities drawn from the erroneous statistics by those who used them, there is a more serious problem.

This Nation desperately needs action now if it is to solve its developing energy problems. Those who minimize the problem are deceiving the public about the true extent of the problem, and thereby impeding the progress of Congress and the Government in moving toward a solution.

We will get nowhere by playing politics. We will get nowhere by setting up strawmen. We will get nowhere by demagoguery. We must have action.

We are barrelling down the energy wipeout expressway toward oblivion. Now, there are some exits we can take before the end. One is marked "depression," and there is a very real chance that that is exactly where we are going to get off.

Another is called "revolution," and history tells us that expiration of energy resources has brought with it the downfall of many nations.

A third, and it is our only real hope, is neither clearly marked nor easy to traverse. We can avail ourselves of it only by acting now to adopt a sensible and comprehensive national energy policy consisting of sensible government action, industrial statesmanship, and public cooperation.

As we move toward a comprehensive national energy policy, there are a number of pitfalls which we must take care to avoid. Let me outline a few.

First, we must avoid creating a new bureaucracy. If there is one thing we do not need, it is more governmental redtape, if history is any guide, will likely consume more energy than it will save or produce.

In that regard, we must be extremely careful as we reorganize the Federal Government to meet the energy crisis. On the one hand, we desperately need a cabinet-level policymaker for energy.

Obviously, too, his responsibility must be accompanied by sufficient staff and fiscal resources for him to do his job. But I question whether this implies the necessity for a brand new department, combining the activities of existing agencies under some new umbrella.

My suggestion rather is a lean, results-oriented agency, reporting directly to the President, and charged with identifying priorities for maximizing production of existing fuel sources, research on potential new sources, the need for importing additional resources, methods of maximizing efficiency in the process from production to end use of energy, and promotion of energy conservation consciousness among the people.

A second pitfall we must avoid is to move precipitously with quantitative laws based on fast changing data. I cite as my text for this argument, a recently adopted law which itself has contributed to the energy crisis.

In passing the Clean Air Act of 1970, the Congress made some extremely technical decisions, rigidly mandating various standards for pollutants.

Now I recognize the tendency of some to look upon this body as the source of all wisdom, but as EPA Administrator William Ruckleshaus has recently stated, it has become apparent that the data on which some of those decisions were made is either out of date, or was inaccurate in the first place.

Thus, it is now obvious that it is not necessary to reduce automobile emissions of nitrogen oxide to a level of 0.4 grams per mile in order to have a safe and healthful atmosphere. The figure is probably too low, by a factor of 3 or 4.

Yet, by setting that figure in 1970, Congress has had an almost unimaginable effect on American industry. The result of that single figure, has been that oil companies have found it necessary to divert a substantial portion of their production to no-lead gasoline, which requires an approximately 7 percent greater consumption of energy on their part.

At the same time, this figure has severely restricted the options of the automobile makers in the kinds of anti-pollution devices they might use on their cars.

It excluded, for example, the promising stratofied charged engines, as well as thermal reactor systems. And now millions of dollars later, we are told the figure was not even right in the first place.

The point I am making is that we must be extremely careful when we codify highly technical material into law, all the more so in a fast developing research area.

These considerations notwithstanding, it is clear that we must act now if we are to avert a catastrophe of the first magnitude. There are long leadtimes for turning ideas into energy, and the problem is going to get worse every day.

Perhaps even more than energy itself, time is a most precious commodity.

We must not waste it in silly political positionings and game playing. Our Nation deserves better.

Finally, I believe that the people themselves have a substantial responsibility to shoulder. All of us need to develop a new spirit of energy conservation consciousness.

There must be a recognition of the fact, heretofore, ignored, that energy is not free.

American industry must immediately examine their operations with an eye toward reducing their energy consumption. The Office of Emergency Preparedness has estimated that a new spirit of energy conservation consciousness on the part of industry could result in their reducing its consumption by 10 to 15 percent.

Commercial concerns must show a similar spirit. Businesses need to re-evaluate their policies with regard to air conditioning, lighting, heating and the like, subjecting those policies to the criterion of energy waste. Some architects say that there is 10 to 20 times too much light in most modern buildings. While I question the value of such extreme oversimplifications, it is certainly true that neon signs do blare out their useless light all night, with no one on the street to see them. These things need to be examined.

But energy waste is not confined to industry and commerce. It exists in enormous quantities in our homes, as well. Citizens can help resolve—and save themselves a good deal of money—the short-term problem, and the long-term one, too, by developing new energy conservation techniques.

Such simple measures as covering saucepans when cooking, turning off lights and appliances when not in use, fixing leaky faucets, and using full loads in washing machines and dishwashers can go a long way toward easing the problem. And, of course, the individual consumer will realize savings himself in his utility bills.

In the operation of his automobile, too, the consumer must exercise this spirit of energy conservation consciousness, by driving more slowly, utilizing car pools and public transportation, and in other ways getting the most out of his gasoline dollar.

We are going to have a tough few years to weather out, and unless the Government, private enterprise and the public cooperate, it cannot be done.

I said at the outset there is enough blame to go around. It is time we stopped playing that kind of charade. Just as each of us shares in being a part of the problem even more each of us has a role to play in achieving a solution. This country demonstrates its true greatness when it faces squarely a problem and in common purpose seeks to solve it. We, each one of us, have a problem now. Without looking over our shoulder, we must get about the job of removing this obstacle to our future.

TRANSACTION OF ROUTINE MORNING BUSINESS

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

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. BROCK. Mr. President, I ask

unanimous consent that the order for the quorum call be rescinded.

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

PRIVILEGE OF THE FLOOR

Mr. BROCK. Mr. President, on behalf of the Senator from Alaska (Mr. STEVENS) I ask unanimous consent that two members of his staff, Margaret Kitt and Max Gruenberg be permitted the privilege of the floor during the debate on S. 907.

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

Mr. PROXMIRE. Mr. President, I ask unanimous consent that privilege of the floor be extended to Howard Shuman of my staff during debate on the same bill.

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

DEATH OF RAYMOND LAHR

Mr. MANSFIELD. Mr. President, it is with a sense of personal loss that I note that Raymond Lahr, chief political correspondent in Washington for United Press International, passed away on last Friday.

Ray Lahr was one of the truly great professionals in the reporting field. He was a man of understanding, fairness, a man who understood the working of politics, and a man who was a friend of all who came to know him.

Ray Lahr covered every major political convention and every major election since 1942 or 1944. He was a graduate of the University of Chicago and on his graduation from that outstanding institution he became a newspaper reporter for the midwestern news bureaus for 10 years. He was the author, with J. William Thesis, of "Congress: Power and Purpose on Capitol Hill."

He leaves his wife, Sarah. On behalf of the Senate I wish to extend to Mrs. Lahr our deepest condolences and our sympathy on the passing of this fine reporter. May his soul rest in peace.

Mr. President, I ask unanimous consent to have printed in the RECORD Raymond Lahr's obituary, which was published in the Washington Star-News.

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

RAYMOND LAHR DIES, REPORTER FOR UPI

Raymond M. Lahr, 59, chief political correspondent here for United Press International, died yesterday in Johns Hopkins Hospital in Baltimore after a heart attack. He lived on Laurel Court in Falls Church.

Mr. Lahr had been with UPI here since 1947. He covered labor news and Capitol Hill until 1958, when he became chief political correspondent. He had covered every major election and political convention since 1944.

He was born in Kokomo, Ind. He graduated from the University of Chicago in 1936 and the next year joined the wire service, working in Midwestern news bureaus for 10 years before coming here.

He was the author, with J. William Thesis, of "Congress: Power and Purpose on Capitol Hill."

He leaves his wife, Sarah, a former member of the Fairfax County School Board.

QUORUM CALL

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The PRESIDENT pro tempore laid before the Senate the following letters, which were referred as indicated:

PROPOSED DONATION OF CERTAIN SURPLUS PROPERTY

A letter from the Chief of Legislative Affairs, Department of the Navy, reporting, pursuant to law, on the proposed donation of certain surplus property to the Warren County Chapter of the National Railway Historical Society, Warrenton, N.C. Referred to the Committee on Armed Services.

PROPOSED LEGISLATION FROM DEPARTMENT OF DEFENSE

A letter from the Acting General Counsel of the Department of Defense, transmitting a draft of proposed legislation to amend chapter 73 (survivor benefit plan) of title 10, United States Code, to clarify provisions relating to annuities for dependent children and the duration of reductions when the spouse dies (with accompanying papers). Referred to the Committee on Armed Services.

PROPOSED LEGISLATION FROM THE DISTRICT OF COLUMBIA GOVERNMENT

A letter from the Mayor-Commissioner, District of Columbia, Washington, D.C., transmitting a draft of proposed legislation relating to benefits for employees of the government of the District of Columbia, and for other purposes (with accompanying papers). Referred to the Committee on the District of Columbia.

PROPOSED LEGISLATION FROM DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

A letter from the Secretary of Health, Education, and Welfare, transmitting a draft of proposed legislation to amend the Social Security Act to improve the program of payments for Old-Age, Survivors, and Disability Insurance and the program of grants to States for aid to families with dependent children (with an accompanying paper). Referred to the Committee on Finance.

INTERNATIONAL LABOR ORGANIZATION RECOMMENDATION

A letter from the Assistant Secretary for Congressional Relations, Department of State, transmitting, pursuant to law, International Labor Organization Recommendation No. 136 (with accompanying papers). Referred to the Committee on Foreign Relations.

PROPOSED LEGISLATION FROM DEPARTMENT OF STATE

A letter from the Assistant Secretary for Congressional Relations, Department of State, transmitting a draft of proposed legislation to implement the UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export, and Transfer of Ownership of Cultural Property (with accompanying papers). Referred to the Committee on Finance.

REPORTS OF COMPTROLLER GENERAL

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on "Audit of the Overseas Private Investment Corporation, Fiscal Year 1972," dated June 13, 1973 (with an accompanying report). Referred to the Committee on Government Operations.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "In-Flight Escape Systems for Helicopters Should Be Developed To Prevent Fatalities", Department of Defense, dated June 12, 1973 (with an accompanying report). Referred to the Committee on Government Operations.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Further Improvement Needed in Assisting Military Personnel in Finding Adequate Housing Near Bases", Department of Defense, dated June 12, 1973 (with an accompanying report). Referred to the Committee on Government Operations.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Some Problems in Contracting for Federally Assisted Child-Care Services", Social and Rehabilitation Service, Department of Health, Education, and Welfare, dated June 13, 1973 (with an accompanying report). Referred to the Committee on Government Operations.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Need for Improved Consumer Protection in Interstate Land Sales", Office of Interstate Land Sales Registration, Department of Housing and Urban Development, dated June 13, 1973 (with an accompanying report). Referred to the Committee on Government Operations.

REPORT OF NATIONAL WATER COMMISSION

A letter from the Chairman and Members, National Water Commission, Arlington, Virginia, transmitting, pursuant to law, a report of that Commission (with an accompanying report). Referred to the Committee on Interior and Insular Affairs.

PROPOSED LEGISLATION FROM DEPARTMENT OF THE INTERIOR

A letter from the Under Secretary of the Interior, transmitting a draft of proposed legislation to authorize grants for Indian tribal governments, and for other purposes (with an accompanying paper). Referred to the Committee on Interior and Insular Affairs.

PROPOSED LEGISLATION FROM SECRETARY OF COMMERCE

A letter from the Secretary of Commerce, transmitting a draft of proposed legislation to amend the Trademark Act to extend the time for filing oppositions, to eliminate the requirement for filing reasons of appeal in the Patent Office, and to provide for awarding attorney fees (with an accompanying paper). Referred to the Committee on the Judiciary.

PETITIONS

Petitions were laid before the Senate and referred as indicated:

By the PRESIDENT pro tempore:

A joint resolution of the Legislature of the State of California. Referred to the Committee on Finance:

"ASSEMBLY JOINT RESOLUTION No. 10

"Relative to the definition of tax effort under the State and Local Assistance Act of 1972

"Whereas, The current formula for allocation of funds to local government under the State and Local Assistance Act of 1972 places a major emphasis on the tax effort factor in local communities; and

"Whereas, The tax effort factor is based on the amount of eligible taxes collected by a local community, this being recognized as the measure of a local government's effort to fully utilize the financial resources available in the local community; and

"Whereas, In formulating the State and Local Assistance Act of 1972, the Congress failed to take into consideration the status of California cities which receive municipal services from special districts which are the direct recipients of taxes paid by the citizens of these cities; and

"Whereas, As a result of this special district taxation, cities are thus deprived of credit for tax effort under the present definition of tax effort in the State and Local Assistance Act of 1972; and

"Whereas, This results in cities receiving a reduced amount of revenue on a per capita share basis, the inequity amounting to as much as 1,000 (one thousand) percent between the lowest and highest city per capita allocation, despite the fact that taxpayers in these cities may pay approximately the same average tax rate; now, therefore, be it.

"Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the Congress of the United States to remove such an inequity either by amending the State and Local Assistance Act of 1972 or by administrative ruling specifically defining what constitutes "tax effort" by a city, so as to include the total amount of eligible taxes "paid" by the taxpayers of a city for municipal services and functions and levied by or on behalf of neither a county nor another city, rather than taxes "collected" by the city government, the former being a truer measure of local effort to fully utilize the financial resources available in the local community; and be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

A joint resolution of the Legislature of the State of California. Referred to the Committee on Foreign Relations:

"SENATE JOINT RESOLUTION NO. 13

"Relative to payments to members of the Philippine Scouts

"Whereas, Legislation has been introduced in the Congress of the United States, by Congressman Talcott, to provide adequate benefits for members and survivors of the Philippine Scouts; and

"Whereas, The battlefields of Bataan and Corregidor are living testimony to the heroism and valor of the Philippine Scouts during World War II; and

"Whereas, The Philippine Scouts were established in 1901 as part of the United States Army after valiantly serving the Army as guides and as fighting men; and

"Whereas, In World War II, members of the Philippine Scouts were permitted to and did enlist in the United States Army, and served side by side with the American Soldiers in the fight for democracy; now, therefore, be it

"Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California supports legislation to provide adequate benefits for members and survivors of the Philippine Scouts, and urges the Congress of the United States to enact such legislation; and be it further

"Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and the Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

A joint resolution of the Legislature of the State of California. Referred to the Committee on Veterans' Affairs:

"ASSEMBLY JOINT RESOLUTION NO. 16

"Relative to the retirement benefits of prisoners of war

"Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to enact statutes providing two years of retirement credit for each year of imprisonment for veterans of the Vietnam War; and be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

A concurrent resolution of the Legislature of the State of Iowa. Referred to the Committee on Post Office and Civil Service:

"SENATE CONCURRENT RESOLUTION 27

"Whereas, the provisions of the federal Hatch Act regarding political activity of federal employees also extend to state and local public employees who are paid wholly or in part out of federal funds, either directly or through grants-in-aid; and

"Whereas, the increase in members and extent of federally-funded programs in which the states and local units of government participate results in a larger number of public employees becoming subject to the provisions of the Hatch Act; and

"Whereas, restrictions in state laws similar to those in the Hatch Act have been held by state and federal courts to be unconstitutional infringements upon the political rights of public employee citizens, and it is desirable to preserve for these citizens the maximum practicable right to participate in the political life of the nation and the states; Now therefore,

"Be it resolved by the Senate, the House concurring, That the Congress of the United States be memorialized to amend the federal Hatch Act by removing from it those provisions which prohibit state and local government employees from exercising the full rights and responsibilities of citizenship and taking an active part in the political life of their nation and state; and

"Be it further resolved, That the Secretary of the Senate shall cause copies of this memorial to be sent to the presiding officer of the Senate, and of the House of Representatives of the United States and to each member of the Iowa Congressional delegation."

A concurrent resolution of the Legislature of the State of Louisiana. Referred to the Committee on Finance:

"SENATE CONCURRENT RESOLUTION NO. 126

"A concurrent resolution petitioning the Congress of the United States to preserve the capital gains treatment of timber

"Whereas, more than 15 million acres of the state of Louisiana are devoted to the sustained production of timber, and

"Whereas, nearly 120,000 persons own these forested acres which provided more than $60 million income from timber sales last year, and

"Whereas, the production of timber contributes to the economic vitality of our State to an extent greater than all other agricultural crops combined, and

"Whereas, the forest products industry provides payrolls of $240,000,000 to more than 42,000 families, and

"Whereas, projections indicate the need to more than double timber production by the year 2000, and

"Whereas, U. S. Forest Service studies conclude that most of the projected increase must be produced on private timberlands, and

"Whereas, timber must compete with other forms of capital assets for investment, it is essential that the tax climate for savings and investment be good generally and that timber be treated equitably with other assets, and

"Whereas, capital gains tax treatment of timber under the Internal Revenue Code has been a significant factor contributing to phenomenal progress in the growth of Louisiana's forest resource, and that of the entire nation,

"Therefore, be it resolved by the Senate of the state of Louisiana, the House of Representatives thereof concurring herein, that this Legislature petition the Congress of the United States to protect and preserve the Capital Gains treatment of timber as provided for in Section 631 (a) and 631 (b) of the Internal Revenue Code, and thereby encourage private timberland owners to continue investing in the production of timber so necessary to this nation's sustained economic growth, natural beauty and environmental well-being.

"Be it further resolved that copies of this resolution be transmitted to the presiding officers of each house of the Congress of the United States, and to each member of the Louisiana Delegation in Congress."

A concurrent resolution of the Legislature of the State of Louisiana. Referred to the Committee on Public Works:

"SENATE CONCURRENT RESOLUTION NO. 156

"A concurrent resolution to memorialize the President of the United States and the United States Congress to give high priority to highway safety

"Whereas, in 1966 the Congress of the United States enacted legislation giving a high priority to traffic safety with the intent of reducing accidents and saving lives; and

"Whereas, this high priority was short-lived in that crippling obligational limitations by the Office of Management and Budget of the Executive Department of the funds authorized by the Congress, together with actions of the Department of Transportation to federalize the program through usurpation of the authority to the governors of the states, severely crippled the program; and

"Whereas, continued unacceptable increases in deaths, injuries and property damage cry out for redress; and

"Whereas, for comparison purposes, 55,000 people were killed in traffic accidents in 1971, 17,000 died as a result of criminal acts during the same period, and 45,000 lost their lives during American participation in the Viet Nam War; and

"Whereas, approximately 3,500,000 men, women and children are injured annually in traffic accidents, ten times those occurring from all other forms of violence; and

"Whereas, vehicle accidents are the number one killer of persons under twenty-five years of age, and the third most lethal killer among all causes of death; and

"Whereas, the annual economic loss from traffic accidents is approximately forty-six billion dollars, as compared to thirty-six billion dollars from all criminal acts; and

"Whereas, based on 934 fatal accidents, 34,054 injury-producing accidents, and 83,756 property damage only accidents, the economic loss in Louisiana in 1971 from traffic accidents was $236,795,000; and

"Whereas, despite these facts and figures, federal funds in an amount of eight hundred fifty million dollars are allocated annually to implementation of the Omnibus Crime Act, as compared to eighty-five million dollars annually to implement the Highway Safety Act on a national basis; and

"Whereas, there is an annual increase nationwide of approximately four percent in vehicles and two and one-half percent in drivers who are driving five percent more miles at average speeds increasing two percent each year; and

"Whereas, the problems occur in the states when the driver gets into the vehicle and travels over the highways, and it therefore follows, as Congress intended, that it is at this level that existing technology can be

utilized in countermeasures applied by local, not federal officials; and

"Whereas, the job of making the highways safer is made difficult and complicated by the fact that the American people have come to accept as a way of life deaths and injuries caused by traffic accidents, and are so optimistic as to believe it will happen to the other fellow and not to them—notwithstanding the fact that everyone is directly or indirectly affected by the slaughter occurring on our highways.

"Therefore, be it resolved by the Senate of the Legislature of Louisiana, the House of Representatives thereof concurring that the President of the United States and members of the United States Congress are hereby memorialized to rededicate their efforts and resources to halting or reversing the alarming, intolerable rate at which accidents, deaths and injuries are occurring on the highways of this nation, by restoring the high priority given highway safety in 1966, and by funding the program commensurate with the seriousness of the problem and the job to be done to counteract it.

"Be it further resolved that copies of this Resolution be transmitted forthwith to the President of the United States, the presiding officers of the two houses of the Congress of the United States and to each member of the Louisiana delegation in Congress."

A joint resolution of the Legislature of the State of Utah. Referred to the Committee on Foreign Relations:

"H.J.R. No. 3

"A resolution of the 40th Legislature of the State of Utah, commending the mayor of Salt Lake City and the Salt Lake City Olympic Presentation Committee; supporting the conditions of the committee's presentation before the U.S. Olympic Committee, and requesting the President and members of the Utah congressional delegation to seek a commitment of Federal funding to host the 1976 winter Olypmic games in Salt Lake City

"Be it resolved by the Legislature of the State of Utah:

"Whereas, Salt Lake City, Utah, has been unanimously selected by the United States Olympic Committee as the host city for the 1976 winter olympics competition; and

"Whereas, that selection was made under the terms announced by the Mayor of Salt Lake City, E. J. Garn, to wit:

"(1) No state or local funds would be committed to the construction of facilities or the operation of the games;

"(2) No permanent facilities would be built or developments allowed in connection with the olympic games which would endanger the environment of the canyons and watershed areas of Salt Lake City; and

"(3) The olympic games would be reduced in size and scope, from the level of promotional extravaganza and returned to the amateur athletes of the world for true athletic competition; and

"Whereas, strict observance of these conditions inspires confidence in the Legislature that the olympic games can be held in Utah without damaging the environment or otherwise having any negative effect on the residents of the State of Utah; and

"Whereas, the International Olympic Committee will meet in February, 1973, to determine the site of the 1976 winter olympics; and

"Whereas, the Congress of the United States and the Executive Branch of Government of the United States must determine the availability of federal funds before Salt Lake City will make a presentation to the International Olympic Committee; and

"Whereas, 1976 is the year in which the bicentennial anniversary of the birth of the United States will be celebrated and the winter olympics offer an opportunity for the nations of the world to join in the celebration of that bicentennial.

"Now, therefore be it resolved, by the Legislature of the State of Utah, that the Honorable E. J. Garn, the Mayor of Salt Lake City, and the members of the Salt Lake City Olympic Preservation Committee, be commended for their honest and thoughtful presentation to the United States Olympic Committee.

"Be it further resolved, that the Legislature supports the conditions embodied in the Salt Lake City presentation and will lend whatever support is necessary to aid Salt Lake City elected officials in the enforcement of those conditions.

"Be it further resolved, that the Legislature of the State of Utah requests its congressional delegation to do all in its power to obtain the commitment of federal funds to Salt Lake City for the purpose of hosting the 1976 winter olympic games, providing that such federal funds shall not replace or reduce any federal grants or programs to the state of Utah.

"Be it further resolved, that the Secretary of State of Utah send copies of this resolution to the President of the United States, each member of the congressional delegation from the State of Utah, the International Olympic Committee, and to Mayor E. J. Garn."

A resolution adopted by the Missouri Conference, United Church of Christ, praying that the moratorium on housing be lifted. Referred to the Committee on Banking, Housing and Urban Affairs.

A resolution adopted by the Missouri Conference, United Church of Christ, praying for the enactment of legislation to provide services and programs to those in need. Referred to the Committee on Labor and Public Welfare.

A statement, in the nature of a petition, relating to trade and tariff matters, from the International Brotherhood of Electrical Workers, AFL–CIO, Washington, D.C. Referred to the Committee on Finance.

A resolution adopted by the National Tribal Chairman's Association, Washington, D.C., praying for a repeal of House Concurrent Resolution 108. Referred to the Committee on Interior and Insular Affairs.

A resolution adopted by the California Federation of Republican Women, relating to the Klamath River-Yurok Indian Tribe. Referred to the Committee on Interior and Insular Affairs.

A resolution adopted by the Board of Aldermen of the City of Bellefontaine Neighbors, Mo., praying for the enactment of legislation relating to abortion. Referred to the Committee on the Judiciary.

A resolution adopted by the National Federation of Catholic Seminarians, Washington, D.C., relating to the bombing of Cambodia. Ordered to lie on the table.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. PASTORE, from the Joint Committee on Atomic Energy, without amendment.

S. 1994. A bill to authorize appropriations to the Atomic Energy Commission in accordance with section 261 of the Atomic Energy Act of 1954, as amended, and for other purposes (Rept. No. 93–224).

By Mr. McCLELLAN, from the Committee on the Judiciary, without amendment.

S. 9. A bill to consent to the Interstate Environment Compact (Rept. No. 93–225). Referred to the Committee on Public Works for a period not exceeding 10 days.

Mr. McCLELLAN. Mr. President, on behalf of the Committee on the Judiciary, I report favorably S. 9, the Interstate Environmental Compact Act of 1973.

I ask unanimous consent that the bill now be referred to the Committee on Public Works for a period of not to exceed 10 days.

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

By Mr. MAGNUSON, from the Committee on Commerce:

S. 2016. An original bill to amend the Rail Passenger Service Act of 1970 to provide financial assistance to the National Railroad Passenger Corporation, and for other purposes. Placed on the calendar (Rept. No. 93–226), together with additional views.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

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

By Mr. ROBERT C. BYRD:

S. 2007. A bill for the relief of Judy A. Carbonell. Referred to the Committee on the Judiciary.

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

S. 2008. A bill to strengthen State workers' compensation programs, and for other purposes. Referred to the Committee on Labor and Public Welfare.

By Mr. FANNIN:

S. 2009. A bill to amend the Antidumping Act of 1921, as amended, to provide for sales below cost of production. Referred to the Committee on Finance.

By Mr. FULBRIGHT (for himself, Mr. JACKSON, and Mr. SCOTT of Pennsylvania):

S. 2010. A bill to establish rates of compensation for certain positions within the Smithsonian Institution. Referred to the Committee on Rules and Administration.

By Mr. BIBLE:

S. 2011. A bill to amend the Interstate Commerce Act by adding thereto provisions authorizing the Interstate Commerce Commission, in its discretion and under such rules and regulations as it shall from time to time prescribe, to establish minimum requirements with respect to security for the protection of the public for loss of or damage to property transported by carriers subject to parts I and III of the act; and

S. 2012. A bill to amend the Interstate Commerce Act and the Harter Act in order to provide a more effective remedy for owners, shippers, and receivers of property transported in interstate or foreign commerce to recover from surface transportation companies subject to the former act, damages sustained as the result of loss, damage, injury, or delay in transit to such property. Referred to the Committee on Commerce.

S. 2013. A bill to amend the Act of June 14, 1926 (43 U.S.C. 869), pertaining to the sale of public lands to States and their political subdivisions. Referred to the Committee on Interior and Insular Affairs.

By Mr. McCLELLAN:

S. 2014. A bill to improve judicial machinery by providing benefits for survivors of Federal judges comparable to benefits received by survivors of Members of Congress, and for other purposes. Referred to the Committee on the Judiciary.

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

S. 2015. A bill to amend the Communications Act to express the intent of Congress to establish in the Federal Communications Commission the jurisdiction for regulation of cable television systems. Referred to the Committee on Commerce.

By Mr. MAGNUSON, from the Committee on Commerce:

S. 2016. An original bill to amend the Rail Passenger Service Act of 1970 to provide financial assistance to the National Railroad Passenger Corporation, and for other purposes. Placed on the calendar.

By Mr. CRANSTON (for himself, Mr. HRUSKA, Mr. SCOTT of Pennsylvania, and Mr. TUNNEY):

S. J. Res. 123. Joint resolution authorizing the procurement of an oil portrait and marble bust of former Chief Justice Earl Warren. Referred to the Committee on Rules and Administration.

By Mr. NELSON (for himself, Mr. CRANSTON, Mr. BIDEN, Mr. HUDDLESTON, and Mr. ABOUREZK):

S.J. Res. 124. Joint resolution to establish a Joint Committee on Individual Rights. Referred to the Committee on the Judiciary.

By Mr. COOK:

S.J. Res. 125. A joint resolution relative to governmental control of any medium of mass communication. Referred to the Committee on Commerce.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

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

S. 2008. A bill to strengthen State workers' compensation programs, and for other purposes. Referred to the Committee on Labor and Public Welfare.

THE NATIONAL WORKERS' COMPENSATION STANDARDS ACT OF 1973

Mr. WILLIAMS. Mr. President, today I am introducing, for myself and Senator JAVITS, S. 2008, the National Workers' Compensation Standards Act of 1973.[1] The purpose of this legislation is to recognize the need for some uniformity in the treatment given to workers who are injured or contract diseases on the job, and their survivors if they are killed.

The statistics on worker deaths and injuries in job related activities have long been too familiar for many in the Congress. They are the same figures that confronted us during the debates on the worker safety legislation that we fought for during the last 4 years in getting approval for the Coal Mine Health and Safety Act, the Construction Safety Act, and the Occupational Safety and Health Act.

Regrettably, experience in gathering injury data under OSHA shows that the incidence of injury and illness was understated. While the estimates of 14,000 deaths annually appears to be accurate, the number of injuries and illnesses may be as much as five times the 2 million estimated only 3 years ago—that is 10,000,000 million injuries or illnesses a year in a work force of 80,000,000.

The safety laws are on the books to cut down or prevent what happens to those crippled on the job—and to their families? This is the concern we have in proposing a revamping of the work injury compensation system.

The idea of workers' compensation is certainly not a new one. Between 1909 and 1913, some 40 Federal and State investigatory commissions recommended abolition of common-law tort remedies in favor of workmen's compensation systems. Since that time, workmen's compensation systems have been established in every State and justified on the ground that work-related injuries are an inevitable part of production and that the product, and in the last analysis society, should bear the cost of that production. As Professor Somers states it:

> The cost of industrial accidents was to be socially allocated to the employer, not because of any presumption that he or the corporation was responsible for every accident which affected the employees, but because industrial accidents were recognized as one of the inevitable hazards of modern industry. The costs were, therefore, a legitimate cost of production.

The employer and society in general benefit from the worker's labor and they—not the worker—should bear the cost of human suffering that is the unfortunate, but concomitant cost of modern industrial production.

The concept of and rationale for a system of workers' compensation is well established. In the United States the task of implementing such a system has been historically left to the States. By 1970, however, there was increasing evidence indicating that the States were not providing enough equitable coverage to enough people. Broad classes of workers were excluded from coverage and those that were covered often received woefully inadequate benefits. In short, in too many cases the worker was bearing all or a large part of the cost of industrial injuries. In response to such evidence, the Congress established, in section 27 of the Occupational Safety and Health Act of 1970, a National Commission on State Workmen's Compensation Laws. This Commission was authorized to study and evaluate State workmen's compensation laws to determine if such laws provided an adequate, prompt, and equitable system of compensation for injury or death arising out of or in the course of employment.

The Commission was composed of 18 members representing every major interest group concerned with workmen's compensation issues. This broadly representative group, after an extensive study, concluded without a single dissenting view:

> The inescapable conclusion is that State workmen's compensation laws in general are inadequate and inequitable.

More specifically, some of the Commission's major findings include:

First. Weekly benefits—The weekly benefit paid to the injured worker or his survivors is the heart of any workmen's compensation program. Since 1940 a progressive deterioration of the benefit structure has taken place. In fact, during the 32-year period between 1940 and 1972, workmen's compensation benefits as a percent of State average weekly wages declined in 27 States. In 1920, the maximum weekly work injury benefit equaled or exceeded 60 percent of the State average weekly wage in 45 States, but in 1972 only 18 States had benefits at this level. The number of States whose benefit structure was considered substandard by the Commission increased from 4 States to 32 States during this period.

Inadequate weekly wage replacement benefits have become the outstanding characteristic of workmen's compensation. In characteristic understatement the Commission commented:

> It is distressing that as of January 1, 1972, the maximum weekly benefit in more than half the States did not equal the national poverty level of income.

Second. Benefits structure for serious injuries—Although the persistent and continued neglect of the benefit structure makes it impossible for the majority of injured workers to receive a two-thirds wage replacement benefit for the most common type of work injury—temporary total disability, the benefit structure for more serious injuries—permanent partial disabilities, permanent total disabilities and death cases—make it a certainty the victims and their families cannot escape poverty.

Although such serious disabilities last for a lifetime, it is not uncommon for State programs to limit payments to a duration of 400 weeks and $25,000 total payment. A steelworker, carpenter, plumber, electrician, machinist or any other high-wage production worker would achieve this level of earnings in 2 or 3 weeks of full-time work. The imposition of these unreasonable limits in permanent total cases can only result in adding seriously injured workers to the public assistance rolls. This shifts an industry responsibility onto the tax rolls of the community and limits the effectiveness of workmen's compensation as a social insurance program.

The situation in fatal work injury cases is similar but far more tragic. The death of the family breadwinner as a result of a work injury will leave a mother with small children in dire circumstances if the family must depend on workmen's compensation as a major source of income. Under most State workmen's compensation programs, the family will be required to subsist on a less than poverty level of income while benefits continue, but then, in all too many States, benefits will be terminated when the time or dollar limits stated in the law are reached. The surviving children may still be in school, and it may be impossible for the surviving spouse to obtain employment without training, but this family could be left destitute in as little as 300 weeks—less than 6 years.

Third. Coverage:

Coverage is fundamental to the program—an injured worker cannot receive any protection from a program unless he is covered by it. Nevertheless, 15 to 20 percent of the Nation's workers are employed under conditions that deny them the protection of any workmen's compensation program in the event of a work injury or disease. These workers—conservatively estimated to exceed 15 million—are denied protection because of the elective options in many States and numerical or occupational exemptions specified in State programs, or in other cases by the failure of employers to comply with State laws.

The Commission reported that although 13 States cover more than 83 percent of their workers, 15 States cover

[1] In recognition of the fact that more than 34 million women are part of our nation's workforce, we have designed this bill as a workers' compensation measure rather than continuing to use the term workmens' compensation except for usage in an historical context.

less than 70 percent. As the Commission concluded:

> Inequity results from the wide variations among the States in the proportion of their workers protected by workmen's compensation . . . Inequity also results because the employees not covered usually are those most in need of protection: the low-wage workers, such as farm help, domestics, casual workers, and employees of small firms.

Compulsory coverage of all wage and salary workers has been almost universally accepted and advocated for many years, but State legislatures have consistently been unwilling to correct even these obvious shortcomings of their workmen's compensation programs.

These and other inequities cited at length by the Commission can leave no doubt that the States have failed to meet their responsibility to provide fair and adequate compensation to the millions of workers killed or injured each year throughout this Nation. It has been the historic function of the Federal Government to prescribe minimum labor standards where State efforts have been inadequate. We have over the years enacted Federal minimum wage laws when State legislation proved ineffective; we provided Federal standards for unemployment insurance when fear over interstate cost inequities hampered the development of State programs; and most recently, we wrote a Federal Occupational Safety and Health Act when the evidence showed that the State programs just did not do the job. The States have had 50 years to bring their State workmen's compensation laws up to decent standards. Moreover, the States have been exhorted to act, but exhortation has not proved successful and it is now the duty and responsibility of the Federal Government to correct the injustices of the past and establish a minimal framework within which those who suffer as the price of society's industrial production will not bear the full burden of that suffering.

The bill I am introducing today does no more than reaffirm this congressional concern for adequate labor standards to protect the health and welfare of our Nation's work force. The National Commission on State Workmen's Compensation Laws has made more than 30 recommendations intended to provide a solution to existing inadequacies and inequities in the operation of State workmen's compensation programs. Just last year, the Congress acknowledged the wisdom and fairness of the Commission's report by incorporating many of their suggestions into the Longshoremen's and Harbor Workers' Compensation Act, thereby providing an equitable system of compensation for the more than 800,000 employees who depend upon its protection. In the same way, S. 2008 embodies most of those recommendations in a uniform system of minimum Federal standards to follow in the enforcement and administration of their own workers' compensation programs.

The minimum standards envisioned by this act would include:

First. Universal coverage of all workers employed by private and public employees except those presently covered by the provisions of other Federal statutes.

Second. Extension of protection to all injuries and occupational diseases which may be related to or arise out of employment. Specific respiratory diseases are mentioned in the bill, such as asbestosis and byssinosis; additional provision is made for the Secretary of Health, Education, and Welfare to identify other diseases that are occupationally involved and to set standards concerning the relationship of all these diseases to the job.

Third. Provision for all totally disabled workers or surviving dependents in death cases to receive not less than two-thirds of the employee's average weekly wage subject only to a benefit ceiling, which will eventually rise to 200 percent of the State average weekly wage;

Fourth. Minimum benefits for total disability which would not be less than 50 percent of the State average weekly wage or the injured employee's average weekly wage, whichever is less. In addition, the standards would require minimum benefits upon death or for death following total disability to widows, widowers, and surviving children;

Fifth. No time or dollar maximum limitation for either death or total disability payments or for medical care or rehabilitation services;

Sixth. Periodic adjustment of benefits so that persons who go on disability will have their benefits increased to reflect rises in State average weekly wage. A similar minimum standard requires States to reconsider and prospectively pay benefits in cases of permanent total disability where benefits were previously denied or ceased to be paid, because of State law provisions which were less favorable than these minimum standards.

Seventh. Minimum standards are also specified for second injuries, qualifying periods, and a variety of procedural benefits including addition of legal fees to awards, legal assistance where appropriate to claimants, free choice of physicians, and protections of benefits against insolvency of employers or carriers.

Procedurally, S. 2008 authorizes State plans to be approved by the Secretary of Labor when such plans meet the minimum standards provided by the act. If the Secretary determines that a State is not in compliance with the minimum standards, the provisions of the Longshoremen's and Harbor Workers' Compensation Act would become applicable. In such cases, the Secretary is to try to obtain the agreement of the State agency to perform the administrative functions of the Longshoremen's Act.

Any additional minimum standard would be subject to promulgation by the Secretary of Labor following necessary consultation and public consideration. Actions by the Secretary both with regard to the determination that a State is not in compliance and with respect to setting new standards are subject to appropriate court review.

The bill creates a Federal Workers' Compensation Advisory Commission with five presidentially appointed members to be representatives of labor, business, and the general public. The Commission's function would be to monitor the progress of the States and to make further recommendations for new standards and similar matters.

Finally, the Secretary is authorized to give grants to States to assist them in meeting their responsibilities under the act, with an initial authorization of $15 million for each of 3 fiscal years.

In a recent year, the Nation's workmen's compensation systems paid benefits in 6,000 cases of work-related deaths, when it is conservatively estimated that there were some 14,000 such deaths throughout the Nation. Such is a measure of the inadequacy of the present system of workers' compensation and why minimum Federal standards are so urgently needed. The Congress in good conscience cannot let such inequity persist. As a consequence, I have introduced this bill today in the belief that a uniform program of workers' compensation, when properly structured, can make a significant contribution to easing the plight of those who suffer as a result of work-related accidents. I ask your support of this measure, because I believe the workers of this Nation deserve no less.

Mr. President, there are some novel and complex provisions embodied in these proposals. We need to have a full public consideration of these ideas, and I am hopeful that in the coming months the Congress will have an opportunity to consider this proposal or viable alternatives.

Mr. President, I ask that a section-by-section analysis of the bill be printed in the RECORD along with the text of the bill after the remarks of Senator JAVITS.

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

(See exhibit 1.)

Mr. JAVITS. Mr. President, I am very pleased to join with the Senator from New Jersey (Mr. WILLIAMS), the chairman of the Labor and Public Welfare Committee, in introducing legislation designed to establish minimum standards for State workmen's compensation laws and to assist and encourage the States in other ways to improve their workmen's compensation laws.

I was the author of the amendment to the Occupational Health and Safety Act which established the National Commission on State Workmen's Compensation Laws and this measure carries out its main recommendations.

On July 30, 1972, the Commission issued its report and recommendations concerning needed improvements in our present State-administered workmen's compensation system. The basic conclusion, reached by all 15 members of this broadbased Commission was that—

> State workmen's compensation laws are in general neither adequate nor equitable. While several states have good programs, and while medical care and some other aspects of workmen's compensation are commendable, strong points too often are matched by weak.

To remedy the inadequacy of existing State laws, the Commission made far-reaching and specific recommendations for change. The Commission quite properly categorically rejected federalization of workmen's compensation as a solution, however it broke new ground by recom-

mending the enactment by Congress of Federal legislation establishing minimum standards if State laws did not meet basic requirements by 1975. I believe the State laws should meet these standards, and that the law should say so now, though compliance should not be required until 1975.

The legislation we are introducing today is designed to implement the Commission's comprehensive recommendations for improving State workmen's compensation laws without federalizing the State workmen's compensation system.

Basically, today's bill is a refinement of S. 4110, the bill I introduced at the close of last year; and, I am extremely gratified that this matter has now become a bipartisan effort. With the sponsorship of the chairman of the Labor and Public Welfare Committee, I am confident that this bill will get the priority which it deserves before our committee and that hearings will be held on it, hopefully late this summer or in the fall.

Under the bill each State would have until January 1, 1975, to meet substantive minimum standards set forth in the bill. The standards are based on the recommendations of the National Commission. If a State fails to meet the standards, the Federal Longshoremen's and Harbor Workers' Act would apply within the State but—and this is a point which cannot be emphasized too strongly—even in that eventuality, the administration of the law within the State would not necessarily be federalized. Rather, the bill specifically directs the Secretary of Labor to endeavor to enter into an agreement with the State workmen's compensation agency under which the State agency would agree to administer the Federal law under the general supervision and direction of the Secretary. Under these provisions, the States would be given a full opportunity, if they so desire, to assume all of the functions which would be performed by a deputy commissioner under the Longshoremen's and Harbor Workers' Compensation Act. It is only if a State refuses to enter into such an agreement that the Federal Government would administer the program.

These provisions of the bill should demonstrate clearly that the intent of this legislation is not, as some have alleged, to federalize workmen's compensation. I oppose federalization of workmen's compensation, because it would be a disservice to the cause of workmen's compensation reform to waste the talent, experience, and dedication of thousands of State officials involved in the administration of State workmen's compensation programs by replacing them with Federal administrators. Thus, the intent of this bill is to require the Secretary of Labor to bend over backward to continue the involvement of State personnel in the administration of workmen's compensation programs.

The minimum standards which would be established for State workmen's compensation laws under this bill cannot be characterized as too idealistic or visionary; for the most part, they directly follow the unanimous recommendations of the National Commission on State Workmen's Compensation Laws, whose members included representatives of business, labor, insurance, State workmen's compensation administrators, academicians and members of the public. They also are consistent with the amendments to the Federal Longshoremen's and Harbor Workers' Compensation Act enacted by Congress last year.

The following are some of the more important standards which would be established under the bill:

MINIMUM STANDARDS

No maximum limitations on total benefits for death or temporary or permanent total disability;

No maximum limitation on the type or extent of medical care or rehabilitation services;

Totally disabled workers must be paid not less than 66⅔ percent of their average weekly wage, subject to a maximum of no less than 100 percent of statewide average weekly wages during 1975, rising to no less than 200 percent of statewide average weekly wages commencing January 1, 1978;

Minimum payments of not less than 50 percent of statewide average weekly wages but not more than the injured worker's average weekly wage;

Survivor benefits to widows and children until at least age 18, or age 23 if a student;

Waiting period of not more than 3 days with retroactive benefits paid after 14 days;

Special provisions for dealing with injuries to employees suffering preexisting impairment, including establishment of a special fund;

Appropriate periodic adjustment of benefits for those already receiving benefits to reflect the increases in statewide average weekly wages and benefit levels;

Free choice of physicians;

The State agency to have the right to determine appropriate medical and rehabilitation services;

Attorney's fees to be added to an award where claimant has been successful in formal adjudicatory proceedings; and

Applicability of the State law if the injury occurs within the State, if the employment was principally located in the State, or if the employee was hired in the State.

SPECIAL PROVISIONS CONCERNING TOTAL DISABILITY DUE TO OCCUPATIONAL DISEASE OR OTHER CAUSES

Another standard which State laws would be required to meet that is not specifically included in the National Commission's report, but which I believe will be recognized as highly desirable, is a standard which requires that claims for total disability due to occupational disease be adjudicated under criteria developed by the Secretary of Health, Education and Welfare. This is similar to the approach taken under part C of the black lung benefits program and this bill directs the Secretary of Health, Education and Welfare to develop criteria such as he has developed for black lung for other occupational diseases including respiratory diseases such as asbestosis and byssinosis.

The bill also requires State laws to include provisions reopening past cases of total disability due to occupational disease or other work-related causes for adjudication under the new occupational disease standards developed by the Secretary of Health, Education, and Welfare or the other minimum standards established under this bill if benefits were denied or terminated in the past, because of less favorable standards then applicable under State law. Each State would be free to determine the source of payment in such reopened cases; a State could, for example, fund half the payments out of general revenues or a special assessment, just as the Federal Government would do in the event Federal law applied and as is provided for under the amendments to section 10 of the Longshoremen's and Harbor Workers' Compensation Act enacted last year.

STATE PLANS

Under the bill each State would also have until January 1, 1975, to file an approved State plan providing for, among other things, the establishment of a single State workmen's compensation agency with authority and responsibility to supervise medical care and rehabilitation services and to make examinations and reports in controverted cases. Each such agency would also be required to provide fair and expeditious procedures for resolving contested cases and to take an active role in informing employees of the features of the State workmen's compensation program and assisting them in processing their claims.

WORKERS' COMPENSATION ADVISORY COMMISSION

A Federal Worker's Compensation Advisory Commission composed of five members, appointed by the President by and with the advice of the Senate would be established under the bill. Three members would be from the public, one would be from labor, and one would be from business or insurance. The Commission would monitor the progress of the States in making improvements and complying with minimum standards, advise the Secretary of its conclusions as to the status of State programs, review the adequacy of State plans, engage in research and development of recommendations for improvement in workmen's compensation programs, and recommend appropriate action for establishing new or improved standards. The Commission would be specifically directed to study the question of permanent partial disability, as recommended by the National Commission on State Workers' Compensation Laws.

NEW STANDARDS

New Federal minimum standards would be promulgated by the Secretary, but only after he has obtained a recommendation from the Adivsory Commission and afforded all interested parties an opportunity to comment on and, where a hearing is requested, to appear at such hearing. New standards would

have to be delayed for such period as would give the States a reasonable opportunity to take action necessary to comply with the new standard.

JUDICIAL REVIEW

States or other interested persons could obtain judicial review of decisions by the Secretary with respect to the status of State laws, State plans, or new standards.

GRANTS TO THE STATES

The Secretary of Labor could make grants to the States for the next 3 years to assist them in planning for improvements in State workmen's compensation laws. The Federal share for each grant could be up to 90 percent of the total cost of the project; $15 million would be available for such grants during each of the next 3 fiscal years.

Mr. President, the impact of the Commission's report has been and will be profound. Some of its recommended standards—particularly its recommendation for maximum limit on total disability benefits of 200 percent of statewide average weekly wages, and for workmen's compensation agencies to assume a more activist role in assisting injured workers, rather than acting as passive referees, have radically changed some of the traditionally accepted ideas about workmen's compensation in America. Many States have already adopted improvements in their laws in response to the Commission's recommendations, and last fall Congress enacted amendments to the Federal Longshoremen's and Harbor Workers' Act which bring the act into complete conformity with the Commission's report.

In the States, over 1,300 bills have been introduced by June 1, and over 200 laws have been enacted. Several States have been considering comprehensive revisions of their laws and have provided for flexible maximum benefit levels. However, relatively few of the actual enactments have dealt with the major recommendations of the Commission. On the basis of a preliminary analysis made of laws received by June 1, three States have provided for compulsory rather than elective coverage; three States eliminated their numerical exemptions; two provided for full rather than scheduled coverage of occupational diseases; two States removed their limitations on medical benefits for accidental injuries; one State removed its limits on occupational diseases; two States newly provided for payment of permanent disability benefits for the period of disability, while one additional State now provides for death benefits for a widow for the full period of widowhood.

However, it has also become disappointingly clear that despite the abhorrence of many to any kind of Federal legislation affecting State workmen's compensation laws, and despite the concerted efforts of the insurance industry, which has been working on an interstate compact for workmen's compensation, many States—far too many—have failed to implement the Commission's recommendations.

Thus, 13 States still lack compulsory coverage; 18 States still have numerical exemptions; six States still have only scheduled coverage of occupational diseases; five States still limit medical care for accidental injuries and 11 do so for occupational diseases; there are still 15 States providing duration or amount limitations on permanent disability benefits; and 33 on survivors' benefits. The conclusion of the National Commission, "that State workmen's compensation laws are neither adequate or equitable" therefore remains correct.

Accordingly it has become apparent that the long-run significance of the Commission's report depends upon whether Congress enacts Federal legislation to implement its recommendations. As the author of the legislation which established the Commission, and one who is deeply interested in seeing that necessary reforms are actually made within the existing State system, I believe Congress ought to act promptly to pass legislation establishing the necessary Federal minimum standards.

In this connection, I disagree with one aspect of the Commission's report. I believe Congress ought to act now to pass the necessary legislation, rather than wait until 1975, as recommended by the Commission. Federal legislation can and should give the States a reasonable opportunity to amend their existing laws and procedures to conform to Federal minimum standards, so that under the bill the Federal standards would not in any event be operative before 1975 at the earliest. But by acting now, rather than waiting until 1975, we do not risk losing the momentum for reform created by the Commission's report.

I see no reason why workmen's compensation should enjoy complete immunity from Federal action solely because it is a desirable social reform which was initiated some decades ago by the States. The States deserve all of the credit they have received for initiating this program, but I see nothing inherent in workmen's compensation that dictates that the Federal Government must forever refrain from acting where there is a clear Federal duty to act.

The time has come to discard all purely political assumptions about the desirability or undesirability of the Federal Government involving itself in some meaningful way in workmen's compensation programs. I have previously gone to great lengths to emphasize that my purpose in advocating the establishment of this Commission was not to lay the groundwork for federalization of the workmen's compensation systems. At the same time, I categorically reject the thesis that just because workmen's compensation was initiated by the States, it must remain within their absolute and exclusive prerogative no matter how inadequate or obsolete the result.

I believe that this bill is consistent with—and utilizes what is best in—our Federal system of government, and yet at the same time insures that the legitimate interests of injured and sick workers will not be sacrificed on the altar of some distorted and fixed idea as to what are States rights, as they have been for too long. The Federal Government has already assumed jurisdiction over the most critical aspects of labor-management relationships. Federal law governs minimum wages, collective bargaining, social security, and occupational safety and health, to mention just a few of great importance. All of the Federal legislation has been passed to protect adequately the legitimate needs of American workers.

It simply cannot be seriously maintained that Congress, having already concerned itself with training a worker for a job, establishing his minimum rate of pay, regulating his union activity, protecting him against loss of income from unemployment, and preventing him from suffering injury or disease in his workplace, would refrain from acting to insure that workers who are injured on the job receive adequate workers' compensation benefits.

EXHIBIT 1

S. 2008

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Workers' Compensation Standards Act of 1973".

FINDINGS AND DECLARATION OF PURPOSE

SEC. 2. (a) the Congress finds and declares that—

(1) many thousands of American workers are killed or permanently disabled and millions more are injured each as a result of injuries or diseases incurred as a result of or arising out of their employment;

(2) work-related disabling injuries and deaths reduce the effectiveness of human resources in the United States, and lost income, lost production, and diminished consumer expenditures impose a substantial burden on interstate commerce;

(3) work-related injuries or occupational diseases frequently strike down workers in the midst of their most productive years with a resultant impact on their dependent families;

(4) the vast majority of these injured and ill workers, and their families, depend on State workers' compensation systems for economic security, medical treatment, rehabilitation, and reemployment assistance when they suffer disabling injury or death in the course of their employment;

(5) the full protection of American workers who suffer job-related injuries or death requires an adequate, prompt, and equitable system of workers' compensation;

(6) the National Commission on State Workmen's Compensation Laws, established pursuant to the Occupational Safety and Health Act of 1970, has determined that existing State workers' compensation laws fail to provide prompt, adequate, and equitable protection to workers and the families of workers injured or killed on the job, and as a result, many workers or their families have been denied workers' compensation benefits;

(7) there are five basic objectives of a sound workers' compensation system including: (A) broad coverage of employees and work-related injuries and diseases; (B) substantial protection against interruption of income; (C) the provision of sufficient medical and rehabilitative services in order to achieve recovery and the restoration of injured workers to gainful employment; (D) the encouragement of safety; and (E) an effective system for the delivery of benefits and services;

(8) the improvements that are necessary to insure that a prompt, adequate, and equitable system of workers' compensation is available to all American workers can and should be achieved without delay, and there is a need for the Federal Government to en-

courage and assist the States in meeting this responsibility and, where necessary, to assure that workers' compensation programs within the several States meet minimum standards of adequacy, promptness, and fairness.

(b) It is the purpose of this Act through the exercise of power of Congress to regulate commerce and to provide for the general welfare to—

(1) establish minimum standards of adequacy and fairness for State workers' compensation programs and procedures by which such standards may be implemented;

(2) establish appropriate procedures for monitoring the progress of the States in improving their workers' compensation programs to meet such federally prescribed standards, and, for revising and improving such minimum standards; and

(3) encourage and provide technical and financial assistance to the States to make improvements in their existing workers' compensation programs designed to provide all American workers and their families an adequate, prompt, and equitable system of workers' compensation in the event they suffer work-related disabling injury or death.

DEFINITIONS

SEC. 3. For the purpose of this Act—

(1) the term "Secretary" means the Secretary of Labor;

(2) the term "Advisory Commission" means the National Advisory Commission on Worker's Compensation established under this Act;

(3) the term "employer" means any person who employs any individual but shall not include the United States;

(4) the term "person" includes one or more individuals, governments, governmental agencies, political subdivisions, labor unions, partnerships, associations, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, or receivers;

(5) the term "employee" means any individual employed by an employer, and any employee who is employed by a State or a political subdivision thereof, except that such term shall not include any individual whose employment is covered by chapter 81 of title 5, except subchapter 3, United States Code, the Federal Employers' Liability Act (45 U.S.C. 51 et seq.), or the Longshoremen's and Harbor Workers Compensation Act (33 U.S.C. et seq.), nor shall it include a master or member of a crew of any vessel;

(6) the term "State" means the several States of the Union, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Wake Island, Guam, and the Trust Territory of the Pacific Islands, but does not include the District of Columbia;

(7) the term "injury" means (1) any harmful change in the human organism, whether or not the result of an accident, and includes any disease, and (2) any damage to or loss of a prosthetic appliance;

(8) the term "disease" includes, but is not limited to, silicosis, asbestosis, berylliosis, byssinosis, bagassosis, diatomite pneumoconiosis, talcosis, Shaver's disease, siderosis, lung cancer, mesothelioma, any respiratory disease for which a miner qualifies for benefits under the Coal Mine Health and Safety Act of 1969, as amended, and, any other disease which is determined by the Secretary of Health, Education, and Welfare pursuant to section 13 of this Act, to be a disease which is or may be related to employment; and

(9) the term "statewide average weekly wage" means the average weekly earnings of workers on private payrolls within the State, as determined under the Federal Unemployment Tax Act.

MINIMUM STANDARDS; APPLICABILITY OF FEDERAL LAW

SEC. 4. (a) Commencing on January 1, 1975, and during each three-calendar-year period thereafter, unless the workers' compensation law of a State has been determined by the Secretary during the calendar year preceding such three-year period to meet the minimum standards prescribed in or pursuant to this section during such three-year period, the provisions of the Longshoremen's and Harbor Workers' Compensation Act, as amended (33 U.S.C. 901 et seq.) shall apply in accordance with the provisions of section 7 within such State.

(b) The minimum standards which each State workers' compensation law shall meet in order to satisfy the requirements of this section are:

(1) Compensation, medical benefits, rehabilitation services, and other benefits provided under the law shall be provided by each employer for disability or death to his employees caused by any injury arising out of and in the course of their employment. An injury shall be deemed to have arisen out of and in the course of employment if work-related factors were a contributing cause of the injury.

(2) The standards applied under the State law for determining the existence of total or partial disability or death due to any disease arising out of or in the course of employment shall be substantially equivalent to the standards, if any, issued by the Secretary of Health, Education, and Welfare for such disease under section 13 of this Act, or section 411 of the Coal Mine Health and Safety Act of 1969 (Public Law 91–173).

(3) Coverage under the State law shall be compulsory for all employees with respect to all of their employees.

(4) There shall be no time or dollar maximum limitation on the total amount of compensation payable in cases of death or total disability.

(5) There shall be no time or dollar maximum limitation on the type or extent of medical care or rehabilitation services (or expenses for such care or services) in any case.

(6) The compensation payable to injured workers for total disability or to surviving dependents in death cases shall be not less than 66⅔ per centum of the employee's average weekly wage subject to the following limitations:

(A) During the period from January 1, 1975, to December 31, 1975, the maximum weekly benefits payable shall be not less than 100 per centum of the statewide average weekly wage on January 1, 1974.

(B) During the period from January 1, 1976, to December 31, 1976, the maximum weekly benefits payable shall be not less than 133⅓ per centum of the statewide average weekly wage on January 1, 1975.

(C) During the period from January 1, 1977, to December 31, 1977, the maximum weekly benefits payable shall be not less than 166⅔ per centum of the statewide average weekly wage on January 1, 1976.

(D) During the year commencing on January 1, 1978, and annually thereafter, the maximum weekly benefits payable shall be not less than 200 per centum of the average weekly wage in the State on January 1 of the preceding year.

(7) The minimum weekly compensation benefits for total disability shall be not less than 50 per centum of the average weekly wage within the State or the injured employee's actual weekly wage, whichever is less. The minimum weekly benefits in death cases shall be not less than 50 per centum of the average weekly wage within the State.

(8) Where an injury causes death, or an employee who is entitled to receive compensation for total permanent disability subsequently dies, death benefits shall be payable to the deceased employee's widow or widower for life or until remarriage, with at least two years' benefits payable upon remarriage, and to surviving children until at least age eighteen or until at least age twenty-three if the surviving child is a full-time student in an accredited educational institution or for life if any child is physically or mentally incapable of self-support.

(9) The waiting period for benefits shall not be longer than three days and the period for qualifying for retroactivity benefits during such waiting period shall not be longer than fourteen days.

(10) There shall be special provisions for dealing with injuries to employees suffering a preexisting impairment, including provisions for the establishment and financing of a second injury fund comparable to the provisions of sections 8(f) and 44 of the Longshoremen's and Harbor Workers' Compensation Act, as amended.

(11) Provision shall be made for periodic adjustment of benefits, at least annually, being paid for previously incurred disability or death, including death or total disability incurred prior to the date of this Act, to reflect coverage under this Act and increases in statewide average weekly wage levels and the benefit levels, or maximum limits thereon, provided for under the State law.

(12) Provision shall be made for reconsideration, and the prospective payment of benefits, in cases of total disability or death where benefits have been denied or have ceased to be paid because of provisions in such State law which are or were less favorable to workers than the minimum standards established under this Act.

(13) Injured employees shall have the right to make an initial selection of physician from among those licensed physicians approved by the State workers' compensation agency.

(14) The State workers' compensation agency shall have the right to supervise and determine the appropriate medical and rehabilitation services in each case, and to order changes in such medical treatment and care as it deems necessary.

(15) Each employer, carrier, employee, attorney, physician, and other parties directly involved in carrying out the provisions of the law, shall be required to file with the State workers' compensatior agency such reports concerning the manner in which it has carried out responsibilities under the workers' compensation law as the agency may require and to the extent practicable, such reports shall, pursuant to regulation of the Secretary, be uniform.

(16) The time limit for filing a claim shall be three years after the date the claimant knew, or by the exercise of reasonable diligence should have known, of the existence of the disability and its possible relationship to the claimant's employment.

(17) Fees payable to claimants' attorneys shall be subject to regulation by the State workers' compensation agency. Attorney's fees shall be added to an award where a claimant has succeeded in obtaining or increasing the award through formal adjudicatory proceedings.

(18) The State workers' compensation agency shall provide assistance to claimants in processing claims, including, where appropriate, legal assistance.

(19) Lump sum payments or compromise and release agreements for benefits shall be permitted only under conditions specified in the law and only with the approval of the State agency.

(20) An injured employee or the survivors of a deceased employee whose employment necessitated travel from State to State shall be permitted to claim benefits under the law: (a) if the injury or death for which benefits are claimed occurred within the State; or (b) if the employment of the employee was principally localized within the

State; or (c) if the employee was hired for such employment in the State.

(21) Provision shall be made for appropriate protection of benefits in the event of insolvency of insurance carriers or self-insurers, or the failure of any employer or carrier to comply with the State law.

(22) The State shall have filed a State plan which has been approved by the Secretary as meeting the requirements of section 5 of this Act.

(23) Such other standards as the Secretary may prescribe under section 8 of this Act.

(c) During any period when the Longshoremen's and Harbor Workers' Compensation Act is applicable within a State pursuant to this Act (1) it shall apply to all employers (as defined in this Act) within the State with respect to the injury or death of any employee (as defined in this Act) of such employer irrespective of the place where the injury or death occurred, and (2) if any of the minimum standards specified in subsection (b) of this section would require higher compensation or death benefits to be paid than would be required under the Longshoremen's and Harbor Workers' Compensation Act then such standard shall apply within such State during such period.

(d) During any period when the Longshoremen's and Harbor Workers' Compensation Act is applicable within a State pursuant to this Act, section 10(h) of such Act shall apply with respect to benefits being paid under the law of such State for total permanent disability or death which commenced or occurred prior to January 1, 1975, and the section 10(h) of such Act shall also apply with respect to cases of permanent total disability or death in which benefits have been denied or terminated prior to January 1, 1975, under provisions of the State law which did not, at the time of such denial or termination, comply with the minimum standards prescribed by this Act. Employees or survivors who believe they may be entitled to benefits under the preceding sentence may file a claim therefor with the Secretary within one year of the date the Longshoremen's and Harbor Workers' Act becomes applicable in such State.

STATE PLANS

SEC. 5. (a) Within ninety days of enactment of this Act, the Secretary shall publish in the Federal Register and furnish to the Governor of each State detailed criteria required in the application for State plans. Any State which desires to maintain or assume responsibility for administration and enforcement of a workers' compensation program shall submit to the Secretary a State plan which meets the requirements of this section.

(b) The Secretary shall approve the plan submitted by a State under subsection (a), or any modification thereof, if he finds that such a plan—

(1) designates a State agency as responsible for administering the plan throughout the State;

(2) provides for the enforcement and administration of a workers' compensation program which meets the minimum standards prescribed in section 4 of this Act;

(3) provides for the adoption of such additional minimum standards as the Secretary may promulgate from time to time;

(4) provides that the State workers' compensation agency will enforce the provisions of the Longshoremen's and Harbor Workers' Compensation Act during any period that the Secretary determines the State law to be inadequate with regard to the federally required minimum standards;

(5) provides for the establishment within the State workers' compensation agency of a division with authority and responsibility to supervise medical care and rehabilitation services and to make examinations and reports in cases where controversy exists over medical questions such as the existence, degree or cause of disability;

(6) provides procedures for resolving contested cases, including appellate procedures within the agency or the courts which are fair and expeditious;

(7) provides for the appointment of employees of the State workers' compensation agency through the State civil service system or other system based on merit;

(8) provides for the establishment and implementation by the State workers' compensation agency of a continuing program to inform employees of the features of the State workers' compensation program and to assist employees in processing their claims before the agency;

(9) gives satisfactory assurances that the State workers' compensation agency will be adequately funded and that there will be maintenance of at least the current level of effort by the State;

(10) requires employers in the State to make such reports concerning work-related injuries and workers' compensation benefits to the State workers' compensation agency or to the Secretary as the Secretary may from time to time reasonably require;

(11) provides that the State agency will make such reports to the Secretary in such form and containing such information, as the Secretary shall from time to time reasonably require.

(c) Before rejecting a plan submitted under subsection (a), the Secretary shall afford the State submitting the plan due notice and opportunity for a hearing.

DETERMINATIONS BY THE SECRETARY

SEC. 6. (a) On or before January 1, 1974, and on or before January 1 of each third year thereafter the Secretary shall make a preliminary determination as to whether each State law meets the minimum standards prescribed in section 4 as applicable during the next three-year period, and as to whether the State has submitted a State plan meeting the requirements of section 5. The Secretary shall promptly publish the preliminary determination in the Federal Register and notify the Governor and the State workers' compensation agency of his findings. Upon publication of the preliminary determination the Secretary shall afford the State agency, the advisory commission and other interested persons, a period of not less than one hundred and twenty days to present any information which may be pertinent to the making of a final determination with respect to the State law and the State plan, including any statutory or administrative changes which may have been made subsequent to the preliminary determination.

(b) On or before September 1, 1974, and on or before September 1 of each third year thereafter, the Secretary shall make a final determination as to whether the State law meets the minimum standards prescribed in section 4, and the State plan meets the requirements of section 5 for the three-year period commencing on the following January 1. The Secretary shall promptly publish such findings in the Federal Register and notify the Governor of the State and the State workers' compensation agency of the determination.

(c) The Secretary may make such inspections as are necessary to ascertain whether a State plan should be approved and to evaluate the manner in which an approved State plan is being carried out. On the basis of the Secretary's inspections and reports submitted by the State agency, the Secretary shall make a continuing evaluation of the manner in which each State having a plan approved under this section is carrying out such plan, and meeting the minimum standards prescribed in section 4. Whenever the Secretary finds, after affording due notice and opportunity for a hearing, that during any three-calendar-year period in which a State plan is in effect there has been a failure to comply substantially with any provision of the State plan (or any assurance contained therein), or that the State law no longer meets the minimum standards prescribed in section 4, the Secretary shall notify the State agency of the withdrawal of approval of such plan. Thirty days after the State agency has received such notice such plan shall cease to be in effect, and the Longshoremen's and Harbor Workers' Compensation Act, as amended, shall thereafter apply in accordance with the provisions of section 7, in such State during the balance of such three calendar year period, but the State may retain jurisdiction in any case commenced before the withdrawal of the plan whenever the issues involved do not relate to the reasons for the withdrawal of the plan.

(d) In making determinations under this section the Secretary shall consider, in addition to the applicable State statutes, the regulations of the State workers' compensation agency and the body of administrative and judicial decisions interpreting and applying such law. A State law shall be deemed to comply with the minimum standards prescribed in section 4 if it provides for benefits and procedures which are substantially equivalent to or more favorable to injured employees than the benefits and procedures specified in section 4.

STATE ENFORCEMENT OF THE LONGSHOREMEN'S AND HARBOR WORKERS' COMPENSATION ACT

SEC. 7. (a) Whenever a State is subject to the provisions of the Longshoremen's and Harbor Workers' Compensation Act as prescribed in sections 4 or 6 of this Act, the Secretary, in administering that Act, shall endeavor to enter into an agreement with the State workers' compensation agency under which the administration of that Act within such State may be carried out by the State workers' compensation agency under the general supervision and direction of the Secretary in accordance with such rules and regulations as the Secretary may prescribe.

(b) In the event the Secretary is unable to secure an agreement as prescribed in subsection (a), then, the Secretary, in administering the Longshoremen's and Harbor Workers' Compensation Act, is authorized to employ within the Department of Labor or by agreement with other Federal agencies such additional personnel as necessary to assure that the provisions of that Act are efficiently and adequately carried out.

NEW STANDARDS

SEC. 8. (a) The Secretary may by rule promulgate any new or improved minimum workers' compensation standard in the following manner:

(1) Whenever the Secretary, upon the basis of information submitted in writing by the Advisory Commission, an interested person, a representative of any organization of employers or employees, or a State or political subdivision, or on the basis of information developed by the Secretary or otherwise available, determines that a rule should be promulgated in order to serve the objectives of section 2 of this Act, the Secretary may request the recommendations of the Advisory Commission appointed under section 11 of this Act. The Secretary shall provide the Advisory Commission with any proposals of his own together with all pertinent factual information developed by the Secretary or otherwise available. The Advisory Commission shall submit to the Secretary its recommendations regarding the rule to be

promulgated within ninety days from the date of the Secretary's request or within such longer or shorter period as may be prescribed by the Secretary, but in no event later than two hundred and seventy days from the date of the Secretary's request.

(2) The Secretary shall publish a proposed rule promulgating a new or improved minimum workers' compensation standard in the Federal Register and shall afford interested persons a period of thirty days after publication to submit written data or comments.

(3) On or before the last day of the period provided for the submission of written data or comments under paragraph (2), any interested person may file with the Secretary written objections to the proposed rule, stating the grounds therefor and requesting a public hearing on such objections. Within thirty days after the last day for filing such objections, the Secretary shall publish in the Federal Register a notice specifying the standard to which objections have been filed and a hearing requested, and specifying a time and place for such hearing.

(4) Within sixty days after the expiration of the period provided for the submission of written data or comments under paragraph (2), or within sixty days after the completion of any hearing held under paragraph (3), the Secretary may issue a rule promulgating a new or improved minimum workers' compensation standard or make a determination that a rule should not be issued.

JUDICIAL REVIEW

SEC. 9. Any State, any employer or association of employers in a State, or any employee or organization of employees within a State, may obtain review of decisions by the Secretary under sections 5, 6, and 7 by filing in the United States court of appeals in the circuit in which the State is located within thirty days following receipt of notice of the Secretary's decision a petition to review in whole or in part the decision of the Secretary. A copy of such petition shall forthwith be served upon the Secretary, and thereupon the Secretary shall certify and file in the court of record upon which the decision complained of was issued as provided in section 2112 of title 28, United States Code. Unless otherwise ordered by the court on the basis of a clear showing of probable success on the merits, and a finding that irreparable injury would otherwise result, the filing of a petition for review shall not stay the effect of the Secretary's decision. Unless the court finds that the Secretary's decision is not supported by substantial evidence the court shall affirm the Secretary's decision. The order of the court shall be subject to reveiw by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

GRANTS TO STATES

SEC. 10. (a) The Secretary is authorized, during the fiscal year ending June 30, 1974, and the two succeeding fiscal years, to make grants to the States which have designated a State agency under section 5 to assist them—

(1) in identifying their needs and responsibilities in the area of workers' compensation,

(2) in developing State plans under section 5, or

(3) in developing plans for—

(A) establishing systems for the collection of information concerning workers' compensation;

(B) increasing the expertise and enforcement capabilities of their personnel engaged in workers' compensation programs; or

(C) otherwise improving the administration and enforcement of State workers' compensation laws, consistent with the objectives of this Act.

(b) The Governor of the State shall designate the appropriate State agency for receipt of any grant made by the Secretary under this section.

(c) Any State agency designated by the Governor of the State desiring a grant under this section shall submit an application therefor to the Secretary.

(d) The Secretary shall review the application, and shall approve or reject such application.

(e) The Federal share for each State grant under subsection (a) of this section may not exceed 90 per centum of the total cost of the application. In the event the Federal share for all States under either such subsection is not the same, the differences among the States shall be established on the basis of objective criteria.

(f) Prior to June 30, 1975, the Secretary shall transmit a report to the President and to the Congress, describing the experience under the grant programs authorized by this section and making any recommendations he may deem appropriate.

(g) There is hereby authorized to be appropriated during fiscal year 1974 and each of the next two fiscal years the sum of $15,000,000 for the purpose of carrying out the provisions of this section, which shall remain available until expended.

ADVISORY COMMISSION

SEC. 11. (a) There is hereby established the Federal Workers' Compensation Advisory Commission, to be composed of five members, appointed by the President by and with the advice of the Senate. One of the members shall be appointed from among representatives of labor, one member shall be appointed from among representatives of business or insurance and three members shall be appointed from among representatives of the general public. The President shall designate one of the public members to serve as Chairman or Chairwoman. Three members of the Commission shall constitute a quorum. The terms of office of the members of the Commission shall be four years, except that of the members first appointed, one member shall be appointed for a term of one year, one member shall be appointed for a term of two years, one member shall be appointed for a term of three years, and two members shall be appointed for a term of four years.

(b) The Commission shall—

(1) monitor the progress of the several States in making improvements in their workers' compensation programs and in complying with the minimum standards provided in section 4 of this Act;

(2) advise the Secretary of its conclusions as to the compliance or noncompliance of State programs with the minimum standards prescribed in section 4 of this Act;

(3) review the adequacy of State plans submitted under section 5 of this Act;

(4) engage in research and development of recommendations for improving workers' compensation programs including recommendations for standards for determining the compensation payable for permanent partial disability;

(5) recommend appropriate administrative or legislative action to establish new or improved standards under section 7 of this Act;

(6) furnish technical assistance to the States for the purpose of assisting them to improve workers' compensation programs; and

(7) monitor and evaluate the administration of Federal workers' compensation programs and make recommendations for appropriate administrative and legislative changes.

(c) (1) The Commission or any authorized subcommittee or members thereof, may, for the purpose of carrying out the provisions of this title, hold such hearings, take such testimony, and sit and act at such times and places as the Commission deeems advisable. Any members authorized by the Commission may administer oaths or affirmations to witnesses appearing before the Commission or any subcommittee or members thereof.

(2) Each department, agency, and instrumentality of the executive branch of the Government, including independent agencies, is authorized and directed to furnish to the Commission, upon request made by the Chairman or Chairwoman, such information as the Commission deems necessary to carry out its function under this section.

(d) Subject to such rules and regulations as may be adopted by the Commission, the Chairman or Chairwoman shall have the power to—

(1) appoint and fix the compensation of an executive director, and such additional staff personnel as it deems necessary, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but at rates not in excess of the maximum rate for GS–18 of the General Schedule under section 5332 of such title, and

(2) procure temporary and intermittent services to the same extent as is authorized by section 3109 of title 5, United States Code.

(e) The Commission is authorized to enter into contracts with Federal or State agencies, private firms, institutions, and individuals for the conduct of research or surveys, the preparation of reports, and other activities necessary to the discharge of its duties.

(f) Members of the Commission, other than the Chairman or Chairwoman shall receive compensation for each day they are engaged in the performance of their duties as members of the Commission at the daily rate prescribed for GS–18 under section 5332 of title 5, United States Code, and shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties as members of the Commission.

(g) Section 5316 of title 5, United States Code, is amended by adding at the end thereof the following new clause:

"(—) Chairman or Chairwoman, Federal Workers' Compensation Advisory Commission."

(h) The Commission shall transmit to the President and to the Congress, not later than February 1 of each year, a report of its activities, together with such recommendations as it deems advisable.

STATISTICS

SEC. 12. (a) In order to further the purposes of this Act, the Secretary, in consultation with the Secretary of Health, Education, and Welfare, shall develop and maintain an effective program of collection, compilation, and analysis of workers' compensation statistics. Such program may cover all employments whether or not subject to any other provisions of this Act.

(b) To carry out the duties prescribed under subsection (a) of this section, the Secretary may—

(1) promote, encourage, or directly engage in programs of studies, information, and communication concerning workmen's compensation statistics;

(2) make grants to States or political subdivisions thereof in order to assist them in developing and administering programs dealing with workers' compensation statistics; and

(3) arrange, through grants or contracts, for the conduct of such research and investigations as give promise of furthering the objectives of this section.

(c) The Federal share for each grant under subsection (b) of this section may be up to 50 per centum of the State's total cost.

(d) The Secretary may, with the consent of any State or political subdivision thereof, accept and use the services, facilities, and employees of the agencies of such State or political subdivision, with or without reimbursement, in order to assist in carrying out the functions under this section.

(e) Employers shall file such reports as the Secretary shall prescribe by regulation, as necessary to carry out the functions under this Act.

(f) Agreements between the Department of Labor and any State pertaining to the collection of workers' compensation statistics already in effect on the effective date of this Act shall remain in effect until superseded by grants or contracts made under this Act.

EMPLOYMENT RELATED DISEASES

SEC. 13. Not later than three months after the date of enactment of this Act, and every year thereafter, the Secretary of Health, Education, and Welfare is authorized and directed to establish a schedule of diseases related to employment for the purpose of this Act and for each disease included on such schedule within one year thereafter, standards for determining (1) whether such disease arose out of or in the course of employment and (2) whether death or disability was due to such disease. Such standards may include reasonable presumptions, whenever appropriate. In developing the schedule of diseases required by this section, the Secretary of Health, Education, and Welfare shall consult with Director of the National Institute of Occupational Safety and Health and such other organizations of employers and employees as are appropriate with respect to new diseases that are suspected of being employment related. Each such schedule and standard shall be published in the Federal Register and furnished to the Secretary of Labor.

EFFECT OF PERIODIC ADJUSTMENTS ON OTHER LAWS

SEC. 14. No amount paid as a periodic adjustment of workers' compensation benefits shall be considered in the determination of the eligibility for, or amount of, any other benefit authorized by Federal or State law.

AUDITS

SEC. 15. Within one hundred and twenty days following the convening of each regular session of each Congress, the Secretary shall prepare and submit to the President for transmittal to the Congress a report upon the subject matter of this Act, the progress toward achievement of the purpose of this Act, the needs and requirements in the field of workers' compensation, and any other relevant information.

SEPARABILITY

SEC. 16. If any provision of this Act, or the application of such provision to any person or circumstance, shall be held invalid, the remainder of this Act, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

APPROPRIATIONS

SEC. 17. There are authorized to be appropriated to carry out this Act for each fiscal year such sums as the Congress shall deem necessary.

SECTION-BY-SECTION ANALYSIS OF S. 2008, NATIONAL WORKERS' COMPENSATION STANDARDS ACT OF 1973

Section 1—Short title.

This section provides that the Act may be cited as the "National Workers' Compensation Standards Act of 1973."

Section 2—Findings and Declaration of Purpose.

Section 2(a) provides that the Congress finds and declares that—

(1) thousands of American workers are killed or permanently disabled and millions injured from work-related injuries and diseases;

(2) work-related injuries and death reduce the effectiveness of human resources in the United States, and lost income and production, and diminished consumer expenditures impose a substantial burden on interstate commerce;

(3) work-related injuries or diseases often affect workers in their most productive years with a resultant impact on their dependent families;

(4) most injured and ill workers and their families depend on State workers' compensation systems for economic security, medical treatment, rehabilitation, and reemployment assistance when they suffer a work-related death or disabling injury;

(5) full protection of American workers who suffer job-related injuries or death requires an adequate, prompt, and equitable system of workers' compensation;

(6) the National Commission on State Workmen's Compensation Laws, established by the Occupational Safety and Health Act of 1970, determined that existing state workers' compensation laws fail to provide such full protection and thus, many workers or their families have been denied workers' compensation benefits for job-related injuries or deaths;

(7) Five objectives of a sound compensation system include:

(A) Broad coverage;

(B) Substantial protection against interruption of income;

(C) Sufficient medical and rehabilitative services in order to achieve rapid restoration of injured workers to gainful employment;

(D) encouragement of safety;

(E) an effective delivery system for benefits and services;

(8) the improvements necessary to insure full protection of all American workers can and should be achieved without delay, and there is a need for the Federal Government to encourage and aid the States in meeting this responsibility and where necessary to insure that State workers' compensation programs meet minimum standards.

Section 2(b) provides that through the power of Congress to regulate commerce and to provide for the general welfare, the purpose of this Act is to—

(1) establish minimum standards for State workers' compensation programs and procedures for their implementation,

(2) establish procedures for monitoring the States' progress in improving their workers' compensation programs to meet such Federal standards, for revising and improving such minimum standards, and

(3) encourage and provide technical and financial assistance to the States to make improvements in their existing workers' compensation programs.

Section 3—Definitions

This section defines the various terms used in the Act.

Section 4—Minimum Standards, Applicability of Federal Law

Section 4(a)(1) provides that beginning January 1, 1975 and during each three-calendar-year period thereafter, the provisions of the Longshoremen's and Harbor Workers' Compensation Act, as amended, shall apply in any State, unless during the calendar year preceding such three-year period the Secretary determines that such State's workers' compensation law meets minimum standards prescribed in or pursuant to this section.

Section 4(b) provides that such minimum standards are:

(1) Compensation, medical benefits, rehabilitation services, and other benefits shall be provided by each employer for disability or death to his employees caused by an injury in which work-related factors were a contributing cause.

(2) Standards applied under State law to determine total or partial disability or death due to any work related disease shall be substantially equivalent to the standards, if any, issued by the Secretary of HEW for such disease under Section 13 of this Act or section 411 of the Federal Coal Mine Health and Safety Act of 1969.

(3) Coverage under State law shall be compulsory for all employers with respect to all of their employees.

(4) The total amount of compensation payable for death or total disability shall not be subject to a time or dollar maximum limitation.

(5) There shall be no time or dollar maximum for the type or extent of medical care or rehabilitation services (or expenses for such care or services) in any case.

(6) Compensation payable to injured workers for total disability or to surviving dependents in death cases shall not be less than 66 percent of the employees average weekly wage subject to the following limitations:

(A) From January 1, 1975 to December 31, 1975, the maximum weekly benefits payable shall not be less than 100 percent of the state wide average weekly wage on January 1, 1974.

(B) From January 1, 1976 to December 31, 1976, the maximum weekly benefits payable shall be at least 133⅓ percent of the statewide average weekly wage on January 1, 1975.

(C) From January 1, 1977 to December 31, 1977, the maximum weekly benefits payable shall be at least 166⅔ percent of the statewide average weekly wage on January 1, 1976.

(D) During each year commencing January 1, 1978, and annually thereafter, the maximum weekly benefits payable shall be at least 200 percent of the average weekly wage in the State on January 1 of the preceeding year.

(7) The minimum weekly compensation benefits for total disability shall be at least 50 percent of the statewide average weekly wage or the injured employee's actual weekly wage, whichever is less. In death cases, such benefits shall be at least 50 percent of the statewide average weekly wage.

(8) If an injury causes death or an employee entitled to receive compensation for total permanent disability subsequently dies, death benefits are payable to the widow or widower for life or until remarriage with at least two years' benefits payable on remarriage and to surviving children until at least age 18, or 23 if such child is a full-time student in an accredited educational institution or for life if any child is physically or mentally incapable of self-support.

(9) The maximum waiting period for benefits is 3 days, and the maximum qualifying period for retroactive benefits during such waiting period is 14 days.

(10) There shall be special provisions for dealing with injuries to employees suffering a preexistent impairment, including provisions for the establishment and financing of a second injury fund comparable to sections 8(f) and 44 of the Longshoremen's and Harbor Workers' Compensation Act, as amended.

(11) Provision shall be made for periodic adjustment of benefits, at least annually being paid for previously incurred total disability or death to reflect coverage under this Act, increases in statewide average weekly wage levels and benefit levels, or maximum limits thereon, under State law.

(12) Provision shall be made for reconsideration and prospective payment of benefits when benefits for total disability or death have been denied or have ceased to be paid because provisions of State law are or were less favorable to workers than the minimum standards under this Act.

(13) Injured employees have the right to initially select a physician from among those approved by the State workers' compensation agency.

(14) The State workers' compensation agency has the right to supervise and determine appropriate medical and rehabilitation services in each case, and to order changes in such medical treatment and care as it deems necessary.

(15) Parties directly involved in carrying out the provisions of the law shall be required to file with the State workers' compensation agency such reports concerning their discharging of their responsibilities under the law as the agency requires and if practicable, such reports shall be uniform, pursuant to the Secretary's regulations.

(16) The time limit for filing a claim is 3 years after the claimant knew, or by the exercise of reasonable diligence should have known, of the disability and its possible relationship to the claimant's employment.

(17) Fees payable to claimant's attorneys are subject to regulation by the State workers' compensation agency. Such fees shall be added to an award if a claimant has obtained or increased the award through formal adjudicatory proceedings.

(18) State workers' compensation agencies shall provide assistance to claimants in processing claims, including appropriate legal services.

(19) Lump sum payments or compromise and release agreements for benefits are permitted only under conditions specified in the law and only with the approval of the state agency.

(20) An injured employee or survivors of a deceased employee whose employment necessitated travel from State to State may claim benefits under the law:

(a) if the injury or death occurred within the State,

(b) if the employee's employment was principally localized within the State, or

(c) if the employee was hired for such employment in the State.

(21) Provision shall be made for protection of benefits if insurance carriers or self-insurers become insolvent or any employer or carrier fails to comply with State law.

(22) The State shall have filed a State plan approved under section 5 of this Act.

Section 4(c) provides that when the Longshoremen's and Harbor Workers' Compensation Act is applicable within a State, it shall apply to all the State's employers with respect to the injury or death of any of their employees irrespective of where the injury or death occurred. The minimum standards of section 4(b) shall apply within such State if they require higher compensation or death benefits than the Longshoremen's and Harbor Workers' Compensation Act.

Section 4(d) provides that during a period when the Longshoremen's and Harbor Workers' Compensation Act is applicable within a State, section 10(H) of such Act shall apply with respect to benefits being paid under State law for total permanent disability or death which began or occurred before January 1, 1975 and shall also apply with respect to cases of permanent total disability or death in which benefits have been denied or terminated prior to January 1, 1975, under State law which did not at the time of such denial or termination comply with the minimum standards prescribed by this Act. Employees or survivors who believe they may be entitled to benefits under the preceding sentence may file a claim therefore with the Secretary within one year of the date the Longshoremen's and Harbor Workers' Compensation Act becomes applicable in such State.

Section 5—State Plans

Section 5(a) requires within 90 days of this Act's enactment, the Secretary to publish in the Federal Register and furnish to each State Governor detailed criteria required in State plan applications. Any state wishing to be responsible for a workers' compensation program shall submit to the Secretary, a State plan which meets the requirements of this section.

Section 5(b) requires the Secretary to approve a State plan if he finds such plan

(1) designates a State agency responsible for statewide administration of the plan,

(2) provides for a workers' compensation program which meets the minimum standards prescribed in section 4,

(3) provides for adoption of additional minimum standards promulgated by the Secretary,

(4) provides that the State workers' compensation agency will enforce the Longshoremen's and Harbor Workers' Compensation Act whenever the Secretary determines the State law is inadequate with regard to federally required minimum standards,

(5) provides for a division within the State workers' compensation agency that is responsible for supervising medical care and rehabilitation services and making examinations and reports when controversy exists over medical questions, i.e., the existence, degree or cause of disability,

(6) provides for fair and expeditious procedures for resolving contested cases,

(7) provides for the appointment of employees of the State workers' compensation agency through the State civil service system or other merit system,

(8) provides for a continuing program by the State workers' compensation agency to inform employees of the futures of the State workers' compensation program and to assist employees in processing their claims before the agency,

(9) gives assurances that the State workers' compensation agency will be adequately funded for maintenance of at least the current level of State effort,

(10) requires the State's employers to make reports of work-related injuries and workers' compensation benefits to the State agency or the Secretary as required,

(11) provides that the State agency will make reports to the Secretary as reasonably required,

Section 5(c) provides that the Secretary shall afford a State due notice and opportunity for a hearing, before rejecting its plan submitted under section 5(a).

Section 6—Determinations by the Secretary

Section 6(a) provides that on or before January 1, 1974 and January 1 of each third year thereafter, the Secretary shall preliminarily determine if each State law meets the minimum standards of section 4 applicable during the next 3-year period and if the State has submitted a plan meeting the requirements of section 5. The Secretary shall publish such determination in the Federal Register and notify the Governor and State agency of the findings. Upon such publication, the Secretary shall afford the State agency, the advisory commission and other interested persons at least a 120 day period to present any information pertinent to making a final determination on the State law or plan.

Section 6(b) provides that on or before September 1, 1974 and September 1 of each third year thereafter, the Secretary shall make a final determination whether the State law meets the minimum standards of section 4, and the State plan meets the requirements of section 5 for the 3 year period beginning the following January 1. The Secretary shall publish such findings in the Federal Register and notify the Governor and the State agency.

Section 6(c) authorizes the Secretary to make inspections necessary to determine if a State plan should be approved and to evaluate the way in which an approved State plan is being carried out. On the basis of his inspections and State agency reports, the Secretary shall continually evaluate the way in which approved State plans are being carried out and meeting the minimum standards of section 4. If the Secretary finds, after affording due notice and opportunity for a hearing, that during a 3-calendar-year period there has been a failure to comply substantially with any provision or assurance of a State plan in effect, or that the State law no longer meets the minimum standards of Section 4, the Secretary shall withdraw approval of such plan and so notify the State agency. Such plan shall cease to be in effect 30 days after the State agency receives such notice and the Longshoremen's and Harbor Workers' Compensation Act, as amended, shall apply to such State for the balance of the 3 calendar year period, but the State may retain jurisdiction if any case began before the withdrawal of the plan and the issues involved do not relate to the reasons for the withdrawal.

Section 6(d) provides that in making determinations under this section, the Secretary shall consider applicable state statutes, administrative and judicial decisions interpreting such law, and the State agency's regulations. State law complies with the standards of section 4 if its benefits and procedures are substantially equivalent or more favorable to injured employees than those specified in section 4.

Section 7 State Enforcement of the Longshoremen's and Harbor Workers' Compensation Act.

Section 7(a) provides that when a State is subject to the Longshoremen's and Harbor Workers' Compensation Act, the State agency may administer the Act under agreement with the Secretary and under the Secretary's general supervision and direction.

Section 7(b) provides that in the absence of such agreement, the Secretary in administering the Longshoremen's and Harbor Workers' Compensation Act may employ within the Labor Department or by agreement with other Federal agencies the personnel necessary to insure that Act's provisions are properly carried out.

Section 8—New Standards

Section 8(a) provides that the Secretary may by rule promulgate any new or improved minimum workmen's compensation standard in the following manner:

(1) The Secretary may request the recommendations of the Advisory Commission when the Secretary determines from information submitted in writing internal information that a rule should be promulgated. The Secretary shall provide the Advisory Committee with the Department's own proposals and all pertinent factual information. The Advisory Commission shall submit its recommendations to the Secretary within 90 days from the Secretary's request or another time period prescribed by the Secretary but no longer than 270 days.

(2) The Secretary shall publish proposed rules in the Federal Register and interested persons shall have 30 days to submit written data or comments.

(3) Before the end of the comment period provided in paragraph (2), interested persons may file with the Secretary written objections to the proposed rule and request a public hearing. Within 30 days after the last day for filing objections, the Secretary shall publish in the Federal Register a notice specifying the standard objected to and a hearing requested, and the time and place for such hearing.

(4) Within 60 days after the end of the comment period under paragraph (2) or the completion of any hearing under paragraph (3), the Secretary may issue a rule or determine that a rule should not be issued.

Section 9—Judicial Review

This section provides that any State, em-

ployer or employers' association or any employee or employees' organization in a State, may obtain review of the Secretary's decisions under sections 5, 6, and 7 by petitioning the appropriate United States court of appeals within 30 days after receiving notice of such decision. The secretary shall be served with a copy of the petition and shall certify and file in court the record upon which the decision was issued as provided in 28 United States Code 2112. The filing of such petition shall not be a stay of the Secretary's decision unless so ordered by the court upon clear showing of probable success on the merits and a finding that irreparable injury would otherwise result. The court shall affirm the Secretary's decision unless it is not supported by substantial evidence. The order of the court shall be subject to review by the United States Supreme Court upon certiorari or certification as provided in 28 United States Code 1254.

Section 10—Grants to States

Section 10(a) authorizes the Secretary, in fiscal year 1974 and the next two fiscal years, to make grants to States, with State agencies designated under section 5, to aid them:

(1) in identifying their needs and responsibilities in workers' compensation,

(2) in developing State plans under section 5, or

(3) in developing plans for (A) establishing systems for collecting information about workers' compensation, (B) increasing expertise and enforcement capabilities of personnel engaged in workers' compensation programs, (C) improving the administration and enforcement of State workers' compensation laws, consistent with this Act's objectives.

Section 10(b) provides that State Governors shall designate the appropriate State agency for receipt of grants made under this section.

Section 10(c) provides that State agencies so designated shall apply to the Secretary for grants under this section.

Section 10(d) provides that the Secretary shall review and approve or reject such applications.

Section 10(e) establishes a limit on the Federal share of each State grant of 90 percent of the applications' total cost. Any differences among the States in the Federal share of such grants shall be based on objective criteria.

Section 10(f) requires the Secretary, before June 30, 1975, to transmit to the President and Congress a report of the experience under this section's grant programs, including any appropriate recommendations.

Section 10(g) authorizes for this section appropriation of $15 million for fiscal year 1974 and each of the next two fiscal years.

Section 11—Advisory Commission

Section 11(a) establishes the Federal Workers' Compensation Advisory Commission composed of 5 members appointed by the President with the Senate's advice and consent. There shall be one representative of labor, one representative of business or insurance and three representatives of the general public. The President shall designate one of the public members as Chairman or Chairwoman. Three members shall constitute a quorum. The terms of office shall be 4 years except of the members first appointed one shall be appointed for 1 year, one appointed for 2 years, one appointed for 3 years, and 2 members shall be appointed for 4 years.

Section 11(b) provides that the Commission shall—

(1) monitor the States' progress in improving their workers' compensation programs and in complying with the minimum standards of section 4,

(2) advise the Secretary of its conclusions as to the compliance or noncompliance of State programs with the minimum standards of section 4,

(3) review the adequacy of State plans submitted under section 5,

(4) research and develop recommendations for improving workers' compensation programs,

(5) recommend appropriate administrative or legislative action to establish new or improved standards under section 7,

(6) furnish technical assistance to States for improving workers' compensation programs and

(7) monitor and evaluate the administration of Federal workers' compensation programs and make recommendations for appropriate administrative and legislative changes.

Section 11(c)(1) authorizes the Commission or any authorized members to hold hearings, take testimony, and conduct its affairs as it deems advisable. Authorized members may administer oaths or affirmations to witnesses.

Section 11(c)(2) authorizes and directs each department, agency, and instrumentality of the Governments' executive branch to furnish the Commission, upon request of its Chairman or Chairwoman, such information the Commission deems necessary to carry out its function.

Section 11(d) provides that subject to rules and regulations adopted by the Commission, the Chairman, or Chairwoman shall have the power to—

(1) appoint and fix the compensation of an executive director and such additional staff personnel as necessary, without regard to either the provisions of title 5, United States Code, subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but at rates no more than the maximum rate for GS–18 of the General Schedule under section 5332 of such title, and

(2) procure temporary and intermittent services as authorized by 5 United States Code 3109.

Section 11(e) authorizes the Commission to enter into contracts with Federal or State agencies, private firms, institutions, and individuals for research or surveys, the preparation of reports, and other activities necessary to discharge its duties.

Section 11(f) provides that Commission members, other than the Chairman or Chairwoman, shall be compensated for each day they perform their duties at the daily rate for GS–18 under 5 United States Code 5332 and shall be entitled to reimbursement for travel, subsistence, and other necessary expenses connected with their duties.

Section 11(g) amends 5 United States Code 5316 by adding at the end thereof the following new clause—"( ) Chairman or Chairwoman, Federal Workers' Compensation Advisory Commission."

Section 11(h) directs the Commission to transmit to the President and Congress not later than February 1 each year, an annual report of its activities and recommendations.

Section 12—Statistics

Section 12(a) provides that the Secretary, in consultation with the Secretary of Health, Education, and Welfare, shall develop and maintain a program of collection, compilation, and analysis of workers' compensation statistics. The program may cover all employments whether or not subject to this Act.

Section 12(b) provides that to discharge his duties under section 12(a), the Secretary may—

(1) promote, encourage, or engage in programs of studies, information, and communication concerning workers' compensation statistics,

(2) make grants to States or their political subdivisions to aid in developing and administering programs dealing with workers compensation statistics, and

(3) arrange, by grants or contracts, such research and investigations as give promise of furthering the objectives of this section.

Section 12(c) limits the Federal share of grants under section 12(b) to 50 percent of the State's total cost.

Section 12(d) authorizes the Secretary, with the consent of any State or its political subdivision, to use the services, facilities, and employees of the agencies of such States or political subdivisions, with or without reimbursement, for purposes of this section.

Section 12(e) requires employers to file such reports the Secretary perceives by regulation, as necessary to carry out the functions under this Act.

Section 12(f) provides that agreements between the Secretary and the Labor Department pertaining to the collection of workers' compensation statistics already in effect on this Act's effective date shall remain in effect until superseded by grants or contracts made under this Act.

Section 13—Employment Related Diseases

This section authorizes and directs the Secretary of HEW, within 3 months of this Act's enactment and annually thereafter, to establish a schedule of work related diseases and for each disease thereon, within one of its inclusion, standards for determining (1) whether the disease arose out of or in the course of employment and (2) whether death or disability was due to such disease. Such standards may include reasonable presumptions. In developing the schedule of diseases, the Secretary of HEW shall consult with the Director of the National Institute of Occupational Safety and Health and other organizations of employers and employees appropriate to new diseases suspected of being employment related. Each schedule and standard shall be published in the Federal Register and furnished to the Secretary of Labor.

Section 14—Effect of Periodic Adjustments on Other Laws

This section provides that no amount paid as a periodic adjustment of workers' compensation benefits shall be considered in the determination of eligibility for or amount of any other benefit authorized by Federal or State law.

Section 15—Audits

This section directs the Secretary, within 120 days of the convening of each regular session of each Congress, to submit to the President for transmittal to Congress a report on matters relating to this Act.

Section 16—Separability

This Section provides that if any provision of this Act or the application of such provision to any person or circumstance, shall be held invalid, the remainder of this Act, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

Section 17—Appropriations

This section authorizes appropriations to carry out this Act for each fiscal year such sums as the Congress shall deem necessary.

By Mr. FULBRIGHT (for himself, Mr. JACKSON, and Mr. SCOTT of Pennsylvania):

S. 2010. A bill to establish rates of compensation for certain positions within the Smithsonian Institution. Referred to the Committee on Rules and Administration.

Mr. FULBRIGHT. Mr. President, I introduce for myself, the Senator from Washington (Mr. JACKSON), and the Senator from Pennsylvania (Mr. SCOTT), a bill relating to the Smithsonian Institution, and ask that it be appropriately referred.

This legislation, which is pursuant to a recommendation of the Board of Regents of the Smithsonian Institution at

its meeting on May 9, 1973, would provide for three additional Executive Level V positions within the Smithsonian Institution. I ask unanimous consent that the text of this bill be printed at this point in the RECORD, together with statements of justification prepared by the Smithsonian Institution.

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

S. 2010

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Section 5316 of Title 5, United States Code, is amended by inserting the following new sections after paragraph (132):

(133) Assistant Secretary, Smithsonian Institution

(134) Director, National Museum of Natural History, Smithsonian Institution

(135) Director, National Museum of History and Technology, Smithsonian Institution

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ASSISTANT SECRETARY FOR PUBLIC SERVICE

The Smithsonian Institution is, according to its charter, "an establishment for the increase and diffusion of knowledge among men." The increase of knowledge is, of course, a function of the Institution's staff of scientists and humanists; its diffusion falls in large part to the Smithsonian's diverse public service components.

The Smithsonian's first Secretary, Joseph Henry, in 1852, enunciated the general outlines of the major and longstanding challenge before the Smithsonian under which the position of Assistant Secretary for Public Service has developed to its present stature: said Professor Henry, a distinguished physicist:

". . . the worth and importance of the Institution are not to be estimated by what it accumulates within the walls of its buildings, but by what it sends forth to the world."

The organizational units operating under the general supervision of the Assistant Secretary for Public Service meet three specific objectives:

(1) To bring together all Smithsonian resources to meet more conveniently and economically, and at less drain to the scientific or professional staff units, this popular quest for knowledge. By mail and by personal visit, the Smithsonian receives some 50,000 inquiries a month, ranging from simple grade school requests for information on foreign countries to sophisticated inquiries concerning the history of flight, identification of natural history specimens, or current conservation practices, to name but a few subject areas. In this way, the Smithsonian seeks to meet effectively its responsibilities in general education, not in the sense of formal adult education programs as conducted by universities, but through general education programs via all media and for all ages.

(2) To carry out new programs that will make a Smithsonian contribution and encourage similar contributions from other American museums to the most urgent social problems of our times.

(3) To provide more effective service, in discharge of the Smithsonian's basic mandate for the increase and diffusion of knowledge, to organizations, institutions, and professional associations sharing the Smithsonian's objectives. These may range from assistance to the U.S. Department of State or other international programs to execute cooperative research programs under various international scientific agreements, to cooperation in the preparation of exhibits or in staging seminars in the many fields of Smithsonian interest.

In the execution of these endeavors, public service includes the following components:

Office of Public Affairs
Smithsonian Associates
Division of Performing Arts
Office of International Activities
Anacostia Neighborhood Museum
Smithsonian Institution Press
Smithsonian Magazine
Office of Elementary and Secondary Education

DIRECTOR, NATIONAL MUSEUM OF NATURAL HISTORY

The National Museum of Natural History has by far the largest collections among the natural history museums of the country. It contains about 31% of all natural history specimens in major U.S. systematic collections, according to a recent survey. The next largest museum contains 13%. This preeminent responsibility for collections is reflected also in the size and activity of its scientific staff and in its exhibits and public service programs. Its total operating budget at $13,558,000 annually is larger than that of any other natural history museum. Yet the director's salary at $36,000 (GS–17) is less than that of two other natural history museum directors surveyed, at $43,000 and $44,000. This was the position for which we were recently unable to attract a qualified individual from a major university, primarily because of salary consideration. It is recommended, therefore, that an ESS–V Federal Executive Level be sought for this position.

DIRECTOR, NATIONAL MUSEUM OF HISTORY AND TECHNOLOGY

This museum receives more visitors than any other museum in the world—over 6 million in the latest twelve-month period. It contains preeminent collections reflecting the history and technology of the United States, and its research and exhibition programs are reaching new peaks of activity in preparation for the Bicentennial of the American Revolution. It has an operating budget of $8.4 million, and yet the director's salary is less than another surveyed museum with one-tenth of the operating budget of the National Museum of History and Technology. It is recommended that an ESS–V Federal Executive Level be sought for this position. This will not place the director's salary in a competitive range, but with an anticipated increase in 1974 will at least place it slightly above the compensation of far less significant museum directorships.

By Mr. BIBLE:

S. 2011. A bill to amend the Interstate Commerce Act by adding thereto provisions authorizing the Interstate Commerce Commission, in its discretion and under such rules and regulations as it shall from time to time prescribe, to establish minimum requirements with respect to security for the protection of the public for loss of or damage to property transported by carriers subject to parts I and III of the Act; and

S. 2012. A bill to amend the Interstate Commerce Act and the Harter Act in order to provide a more effective remedy for owners, shippers, and receivers of property transported in interstate or foreign commerce to recover from surface transportation companies subject to the former Act, damages sustained as the result of loss, damage, injury, or delay in transit to such property; referred to the Committee on Commerce.

REGULATED CARRIERS MINIMUM INSURANCE REQUIREMENTS ACT AND CLAIMS ADJUDICATION ACT

Mr. BIBLE. Mr. President, I send to the desk for appropriate reference two bills recommended to the Congress by the Interstate Commerce Commission and designed to help the Nation's small businessmen particularly and its citizenry generally have their shipping problems with truck, rail, and water carriers dealt with more effectively.

Both were introduced late in the last Congress as S. 3717 (Regulated Carriers Minimum Insurance Requirements Act of 1972) and S. 3718 (Claims Adjudication Act of 1972). Because time did not permit their consideration last year, I am hopeful that the growing necessity for affirmative action in these areas will prompt their early and favorable examination.

The two bills, first, would provide the Nation's shipping public for the first time with an effective claims adjudication procedure within the Interstate Commerce Commission, and second, would establish ICC-supervised cargo insurance standards for railroads, express companies, and water carriers comparable to those now used by motor carriers and freight forwarders.

As chairman of the Senate Small Business Committee, our interest was drawn to this subject area by several years of hearings into the theft and loss of truck, air, rail, and maritime cargo, and that impact on the Nation's 8 million small businesses who require these lost or stolen cargoes for their customers. Our committee concluded that shipments have generally overwhelmed facilities of most carriers, that security efforts generally have provided too little security, and that excessive losses, whether criminal or otherwise, have imperiled ordinary insurance practices.

And there are those who believe that with the dramatic increase in freight losses, whether criminally induced or from general loss and damage, the old claims adjudication and processing system has broken down and greater problems are forecast to meet the demands of record shipment tonnages in the 1970's and beyond. The Interstate Commerce Commission calls it "a mounting national crisis."

Many years ago the Congress mandated the Interstate Commerce Commission to keep itself fully informed on all matters affecting the Nation's surface transportation system. It is the Nation's watchdog for guarding the capability and the quality of the transport industry's performance of its essential service functions. These awesome responsibilities often go far beyond the duty to insure that the Nation's railroads, trucklines, water carriers, and freight forwarders are sound, vigorous, and responsive to the many needs and desires of our business and industrial communities and our citizenry. To meet these responsibilities, the Commission during 1970 and 1971 conducted an extensive investigation into the rapidly growing problem of loss and damage to cargo in transit.

This preceded the Commission's Feb-

ruary 3, 1972, landmark decision in Ex parte 263, as those recommendations focused on its extensive 2-year investigation into rules, regulations, and practices of all regulated surface carriers and the many ways in which those rules and practices adversely affect the fair and reasonable processing and settlement of freight loss and damage claims. The Commission found that the enormity of the problem made important the enactment into law of a comprehensive dual-purpose program.

Thus the Commission recommended that Congress approve two legislative proposals to meet the serious threats posed to the Nation's transport and distributions systems.

Briefly, the first bill would correct an explainable regulatory anomaly. The Commission may now establish cargo insurance standards for motor carriers subject to part II and freight forwarders subject to part IV of the Interstate Commerce Act. Railroads and express companies governed by part I and water carriers under part III of that same statute, however, are not presently subject to Commission regulation in the area of cargo insurance.

Not only have increased freight tonnages taxed the facilities of many carriers, but inflation and other factors have caused the values of the cargoes they handle to exceed the most liberal estimates of only a few years ago. Now more than ever before, these more expensive commodities are exceptionally vulnerable to theft and pilferage. And damage to cargo seems to be a perennial problem in rail transport.

During the many years that railroads transported the great bulk of the Nation's traffic, their revenues and capital structures and conditions provided sufficient protection to the public whenever cargo loss or damage occurred. Now, however, as the Commission observed in its report, that is no longer true across this country.

The Commission portrayed in its claims report, for example, what could happen today to the many shippers who called upon the railroads and express companies to transport their goods. In 1965, Yale Transport Corp., a motor carrier, was unable to meet its financial obligations. However, by exercising the powers conferred upon it by the Motor Carier Act of 1935, the Commission had previously established cargo insurance standards for motor carriers. As a consequence, nearly $2.5 million was paid to Yale's customers who might otherwise have been left holding the bag for their cargo loss and damage claims.

In essence, what the Commission now seeks is authority to afford the same kind of insurance protection to shippers by railroad, express and water that shippers by other modes now enjoy. Obviously that protection was necessary for Yale's customers in 1965. The same kind of authority should be written into the Interstate Commerce Act if we wish to protect the shipping public from the precarious financial condition of so many of the Nation's railroads and other surface carriers which are not presently governed by cargo insurance standards set by the Commission.

The major goals of the second bill I introduce today are to aid businessmen, large and small alike, to have their freight loss and damage claims settled properly and promptly and, perhaps more importantly, to prevent wherever possible the disgraceful occurrence of so many millions of dollars of unsettled and outstanding cargo claims.

Since I have had the honor of serving as chairman of the Select Committee on Small Business, an effort has been made to motivate shippers, carriers, and governmental agencies to face the difficult challenges posed by the multi-billion-dollar racket of theft, pilferage, and hijacking of cargoes moving in interstate and foreign commerce. I was greatly heartened by the content and tenor of the Commission's report in Ex Parte No. 263, when this oldest of our regulatory agencies not only expressed concern similar to that expressed by our committee over the national claims problem; it unequivocally demonstrated a willingness to try to meet those challenges head-on if given the opportunity to do so.

Record tonnages of cargo have already begun to overwhelm facilities of most surface carriers. Loss and damage to freight seem bound to follow. But these problems will be further aggravated and get even further out of hand if nothing is done now.

The severe impact that the current crisis in cargo claims has on business—large and small alike—clearly reveals that it can only be harnessed if we bring into existence a comprehensive, nationwide system of controls. Furthermore, that control system must be bolstered by a second system, one which will exact from all carriers a high degree of accountability in the responsible performance of their transportation functions.

All of us can agree that it is no consolation for a businessman today, when costs are so high and competition is so keen in many sectors, to know that he has a legal right to file suit in civil court against a carrier when the raw materials and finished goods he needs to exist arrive damaged or do not arrive at all. When those commodities upon which he is totally dependent are lost, damaged, or stolen in transit, what is often at stake is not just limited to the value of the goods or the loss of potential sales. What bothers more and more businessmen as this problem continues to grow is the threat of a complete inability to continue in business. This is especially true of many of the Nation's small business establishments.

Obviously, Mr. President, current levels of frequency and severity of freight loss and damage cannot be endured indefinitely.

In the early 1960's the claim ratio, that is, the percentage relationship between a carrier's gross operating revenues and the total amount it pays for cargo claims, was about 1.25 for motor carriers. As late as 1966 it was only 1.23. However, in 1969 that ratio had climbed to an all-time record high of 1.73. During that same decade estimated payments by railroads for cargo claims rose from about $165 million annually to $228 million. The railroads' claim ratio leaped from 1.67 in 1966 to 1.97 in 1970. And these figures do not take into account claims which many shippers and receivers filed but which, for one reason or another, carriers did not pay in full or pay at all.

Other hard data, more recently acquired, also confirm the need for the legislation which I reintroduce today. Figures taken from reports made to the Interstate Commerce Commission by certain motor carriers show, for example, that for the first quarter of 1972 the average claim filed was for $115; that the average claim declined by carriers was $100; that the average claim paid was only $72; and that claim payments for concealed damages have dropped off nearly 70 percent since 1968. It would seem that these figures clearly point up the need to have not only an effective remedy for the prompt and amicable disposition of disputed claims, but also to formulate an effective program of national scope for moving the entire surface transportation industry forward in the area of claim prevention.

The Small Business Committee has been waging a 3-year effort to get more and precise data on the losses sustained by the Nation's cargo carriers. The Commission's proposed legislation would provide much of that indispensable data as well as aid in the prevention of claims and the fair and impartial disposition of claims disputes.

There are other important reasons for placing the statutory authority that these bills would provide in the hands of our Interstate Commerce Commission. In our committee's report on the effect of cargo loss, theft, and hijacking in the trucking industry (Senate Report No. 92–839, 92d Congress, 2d session), the Interstate Commerce Commission was urged to review its present regulations and enforcement practices which allow regulated carriers to embargo commodities on a selective basis. In virtually all cases, these questionable embargoes deny to businessmen everywhere their lawful rights to be served equally and fairly by carriers licensed by the Federal Government to provide transportation services. And in far too many cases these formal and informal embargoes are imposed for one or the other of two primary reasons—either carrier management wants to rid itself of theft-prone or damage-prone traffic in order to show a larger profit at the end of the year, or management has thrown up its hands in despair in the face of the magnitude of its share of the national crisis in claims. Common carriers are bound by law to serve all sectors of the economy without discrimination; they cannot be allowed, for claims reasons or otherwise, to select whom they will serve and whom they will not. I am convinced that passage of these bills will help to alleviate some abusive treatment to which the Nation's businessmen are now subjected by carriers whose basic reason for existence is to serve the public.

These two bills placed emphasis where it is needed most in order to cope with this national problem.

Mr. President, we need to place our priorities in order. The Small Business Committee has already gathered abundant evidence that the transportation industry has placed too little emphasis and low budget priorities on ways and means of protecting the millions of tons and billions of dollars worth of cargo entrusted to it. Protecting those cargoes from theft, loss, and damage is today a matter of the highest priority, and this legislation will provide the Commission with the tools it needs in its effort to insure a responsible as well as a responsive transport network.

By prescribing claims-processing regulations which became effective last July 1, the Commission did all that it lawfully could do with respect to cargo claims under the explicit provisions of the current Interstate Commerce Act. However, the Commission made it clear in its report that more is needed to solve this problem than the regulations it had adopted. I fully endorse those sentiments. The testimony our committee has heard over the last several years convinces me that more, much more, is needed if we are to make meaningful progress toward the ultimate resolution of this waste of our Nation's resources.

Mr. President, I ask unanimous consent to have printed in the RECORD at the conclusion of my remarks the texts of the two bills, a section-by-section analysis of each, and a letter from Interstate Commerce Commission Chairman George M. Stafford forwarding the two bills in response to our committee's interest.

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

S. 2011

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 "Regulated Carriers Minimum Insurance Requirements Act of 1973".

(2) That section 20 of the Interstate Commerce Act (49 U.S.C., sec. 20) is amended by adding at the end thereof a new paragraph as follows: "(14) The Commission shall have authority to prescribe reasonable rules and regulations governing the filing of surety bonds, policies of insurance, qualifications as a self-insurer, or other securities or agreements, in such reasonable amount as the Commission may require, to be conditioned to pay, within the amount of such surety bonds, policies of insurance, qualifications as a self-insurer, or other securities or agreements, for loss of or damage to property with respect to which a transportation service subject to this part is performed."; and

(3) That section 304 of the Interstate Commerce Act (49 U.S.C., sec. 904) is amended by adding at the end thereof a new paragraph as follows: "(f) The Commission shall have the authority to prescribe reasonable rules and regulations governing the filing of surety bonds, policies of insurance, qualifications as a self-insurer, or other securities or agreements, in such reasonable amount as the Commission may require, to be conditioned to pay, within the amount of such surety bonds, policies of insurance, qualifications as a self-insurer, or other securities or agreements, for loss of or damage to property with respect to which a transportation service subject to this part is performed."

(4) The provisions of this Act shall take effect upon the enactment.

SECTION-BY-SECTION ANALYSIS

CARGO INSURANCE REQUIREMENTS

Section 1—Short Title.

Section 2. This Section sets forth a new paragraph (14) to be added at the end of section 20 (49 U.S.C. sec. 20) of the Interstate Commerce Act. The new paragraph authorizes the Interstate Commerce Commission to prescribe reasonable rules and regulations governing the mandatory filing with it by railroads and express companies subject to part I of the act of surety bonds, policies of insurance, qualifications as self-insurers, or other securities or agreements for the protection of the public against loss of or damage to property transported by them. This authority will enable the Commission to extend to shippers and receivers of freight by railroad and express companies the same protection against cargo loss and damage and in the same manner as now is provided to those utilizing the services of motor carriers and freight forwarders subject to parts II and IV, respectively, of the act.

The new paragraph also authorizes the Commission to set reasonable monetary standards for surety bonds, policies of insurance, qualifications as a self-insurer, or other securities or agreements it requires to cover loss or damage to property transported by carriers subject to part I of the act.

Section 3. This section sets forth a new paragraph to be added at the end of section 304 (49 U.S.C. sec. 904) of the Interstate Commerce Act. The new paragraph authorizes the Interstate Commerce Commission to prescribe reasonable rules and regulations governing the mandatory filing with it by water carriers subject to part III of the act of surety bonds, policies of insurance, qualifications as self-insurers, or other securities or agreements for the protection of the public against loss of or damage to property transported by them. This authority will enable the Commission to extend to shippers and receivers of freight by water carrier the same protection against cargo loss and damage and in the same manner as now is provided to those utilizing the services of motor carriers and freight forwarders subject to parts II and IV, respectively, of the act.

The new paragraph also authorizes the Commission to set reasonable monetary standards for surety bonds, policies of insurance, qualifications as a self-insurer, or other securities or agreements it requires to cover loss or damage to property transported by carriers subject to part III of the act.

Section 4. Provides that the Act shall take effect upon enactment.

INTERSTATE COMMERCE COMMISSION,
Washington, D.C., February 24, 1972.

Hon. ALAN BIBLE,
U.S. Senate,
Washington, D.C.

DEAR SENATOR BIBLE: This Commission is alarmed by the mounting frustration and dissatisfaction associated with cargo loss and damage claims involving carriers subject to our regulation. Indeed, during the period January 1969 through March 1970 we received 25,294 individual pleas for assistance concerning various facets of the problem. We were also deeply concerned when associations of railroads, motor carriers, and freight forwarders adopted, on their own, rules purporting to restrict their members' liability on cargo claims for concealed loss or damage.

As a direct result of these concerns, We instituted an investigation specifically designed (1) to inquire into the nature of all claims rules and practices of regulated carriers; (2) to investigate the effect of such rules and practices; (3) to determine this Commission's jurisdiction with respect thereto; (4) to consider whether we should adopt rules and regulations governing these and other matters relating to the handling and processing of loss and damage claims; and (5) to take such other and further action, including the possible recommendation of any legislation, as the facts and circumstances may justify or require.

I am pleased to enclose a copy of our completed report in Ex Parte No. 263, *Rules, Regulations and Practices of Regulated Carriers with Respect to the Processing of Loss and Damage Claims,* which thoroughly treats the above-mentioned considerations. Also enclosed is a copy of our news release of this date concerning the report.

Drawing on the full measure of the powers conferred upon this Commission by the Congress, we have prescribed claims-processing standards to be observed by regulated carriers. Under these standards, carriers are required to acknowledge receipt of each loss and damage claim and to complete the investigation and disposition of claims promptly. Carrier rules and practices contrary to or inconsistent with their duties as regulated carriers are found to violate the Interstate Commerce Act and are ordered discontinued. Further, carriers have been ordered to file for review by this Commission any rules and regulations they may promulgate concerning the processing of loss and damage claims and any agreements with respect to claims matters.

Perhaps the most compelling and troublesome issue presented in Ex Parte No. 263 is the injustice inherent in the inability of shippers and receivers of freight to obtain prompt and effective redress for disputed claims attributable to lost or damaged shipments. The major quarrels shippers and receivers have with the presently available judicial avenue to an impartial determination as to the merits of a disputed claim include: (1) the overall cost of litigating a claim usually exceeds the amount received; (2) it is frequently necessary to engage an attorney whose fee alone may well exceed the amount in controversy; (3) attorneys' fees are presently not recoverable in claims litigation; (4) since the average amount in dispute is usually less than $100, there is an open invitation to the unscrupulous to unfairly decline responsibility for damage on the theory that the claimant cannot afford to litigate the matter; (5) personnel in key production positions can seldom be spared to testify in court trials; (6) the length of time required to conclude litigated claims occasioned by heavily congested court dockets results in a significant burden; (7) courts with their jurisdictional boundaries are unable to direct a meaningful nationwide effort to improve the cargo claims situation; and (8) strict accountability for cargo claims is most difficult, if not impossible, to achieve.

After exploring the possible alternatives to the vexing problems described above, including compulsory arbitration and no-fault insurance, we concluded that disputed claims should be submitted for determination by this Commission in the first instance under a simplified procedure. Such determination would be based principally upon documentary evidence in order that the expenses, attorneys' fees, and lost production time of key personnel necessitated by presentation of evidence in court or before an arbitrator could be avoided. As a positive adjunct to this procedure, meaningful data on claims could be gathered and electronically catalogued in order to define particular problem areas. On the basis of this information particularized claim-prevention programs could be implemented on a national scale.

A specific legislative recommendation is made a part of the report (see Appendix F, Part 1) which, if enacted into law, would vest in this Commission authority to adjudicate

in the first instance all unresolved cargo loss and damage claims filed against carriers subject to the Interstate Commerce Act. In the manner more fully described in the report the prompt, impartial adjudication of cargo claims and electronically cataloguing claims data can serve a threefold purpose: It would provide an effective legal remedy to claimants where none now exists; the administration of justice would be more efficiently achieved in a factually technical area of civil litigation; and valuable data could be gathered on a national scale which may be employed to develop a national policy with respect to the prevention of cargo loss and damage clams and the consequent waste of our Nation's resources.

While this Commission is convinced of the need to adopt the proposed bill vesting claims jurisdiction in it, the task cannot, in all candor, be undertaken with our current manpower and budgetary resources. Without tools commensurate to the task, we could not be expected to achieve any worthwhile or lasting improvement in the perennial loss and damage claims problem.

In a second specific legislative recommendation, the Commission places before the Congress for its consideration, a proposal to allow this Commission to adopt regulations to require maintenance by rail and water carriers subject to the Act of adequate insurance to protect the shipping public for loss and damage claims. Pursuant to existing authority this Commission presently requires motor carriers and freight forwarders subject to parts II and IV of the Act to maintain sufficient insurance in this respect; the proposed legislation (Appendix F, part 2) would extend the power to carriers subject to parts I and III of the Act. In other portions of our report we reiterate our position on attorneys' fees legislation which already is well known to the Congress; pitfalls of creating courts of limited jurisdiction to deal with cargo claims matters are examined; we pledge to institute a rulemaking proceeding for the purpose of investigating reasonable dispatch in the transportation of perishable commodities; and the practices of carriers in inspecting commodities and packaging when they are involved in concealed loss and damage claims are analyzed.

Many of the inquiries you may have received from your constituents have been answered or commented upon in the enclosed report. To this extent, however, that the powers of this Commission do not go far enough to provide effective remedies for dealing with the discontent that prevails throughout the country in these cargo claims matters, this Commission has endeavored to meet its duty to the Congress and the public by responding to what it concludes is a public demand and need for remedial legislation in the claims area.

If you have questions not covered by this letter, I shall be happy to forward a prompt reply.

Sincerely yours,

GEORGE M. STAFFORD, *Chairman.*

NEW RULES ADOPTED FOR LOSS AND DAMAGE; COMMISSION REQUESTS STRONGER AUTHORITY

Interstate Commerce Commission Chairman George M. Stafford announced today (February 24, 1972) the development of a dual program—regularly as well as legislatively—designed to resolve the mounting problems shippers are facing in having their loss and damage claims processed by the various carriers the Commission regulates. Amounting to more than $300 million yearly, loss and damage of cargo during transit has reached crisis proportions in recent months.

In a comprehensive report and order in Ex Parte No. 263, *Rules, Regulations and Practices of Regulated Carriers with Respect to the Processing of Loss and Damage Claims,* the Commission said that rules adopted by groups or associations of carriers to restrict their lability on claims for concealed loss and damage are unlawful. Accordingly, the Commission today set down a series of its own regulations which prescribe the form in which claims are to be handled. The new rules, which are to take effect April 21, direct carriers to:

Acknowledge receipt of each loss and damage claim;

Investigate the claim promptly;

Dispose of the claim within a specified time, or inform the claimant of the status of the claim and explain the reason for the delay in making a final disposition.

Additionally, the new regulations require all carriers to maintain complete records of salvage they obtain from shipments damaged in transit and to account for all money recovered from the sale of such salvage.

While the new rules are designed generally to tighten the processing of loss and damage claims, the Commission said it will ask Congress for statutory authority to adjudicate a claim whenever a shipper and carrier are unable to reach agreement. The legislative proposal was conditioned, however, on the need for the Commission to be given an adequate staff and budget to carry out the task.

Should the legislation be enacted, the Commission said it will be able to arrive at a prompt determination on the merits of a loss and damage dispute when it arises. In most instances this would be done through the submission of documentary evidence only, without the need for a hearing. Such a process would contrast markedly with the present practice of a party having to go to court, a procedure that is both costly and time-consuming.

In a second legislative recommendation, the Commission asked Congress for authority to issue regulations requiring railroads and water carriers to maintain adequate cargo insurance to protect the public in loss and damage claims. Currently, only motor carriers and freight forwarders are fully insured.

Finally, the Commission promised to institute an investigatory rulemaking proceeding looking to the "overall adequacy of service in the transportation of perishable commodities dispatch" should be defined as it relates to the transportation of perishables.

Today's action was by a unanimous decision of the 11-member Commission. Commissioners Kenneth H. Tuggle, Laurence K. Walrath and Dale W. Hardin did not concur in the first legislative proposal.

S. 2012

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 "Claims Adjudication Act of 1973".

(2) That section 20 of the Interstate Commerce Act (49 U.S.C., sec. 20) is amended by adding a new paragraph at the end thereof as follows:

"(13) Notwithstanding any other provisions of the Interstate Commerce Act, all actions brought under and by virtue of paragraph 20(11) of that Act against a carrier (except those that may also include claims for the recovery of attorneys' fees) shall be brought in the first instance only before the Interstate Commerce Commission by the filing of a complaint in writing setting forth therein the nature of the action and the amount of money claimed therefor, and the order of the Interstate Commerce Commission thereon shall be binding upon all parties to such disputes unless otherwise revised on judicial review: *Provided,* That issues arising in the determination of such actions shall be determined in the most expeditious manner and, so far as practicable and legally permissible, without formal hearings or other proceedings: *And provided further,* That in all actions filed with the Interstate Commerce Commission in accordance with this paragraph, appellate review of the orders of the Commission issued to dispose of such matters shall only be by a district court of the United States in a district through or into which the defendant carrier operates, and any aggrieved party shall, upon request timely made to the court, receive an opportunity for a trial before a jury as to disrupted issues of fact."

(3) That section 219 of the Interstate Commerce Act (49 U.S.C., sec. 319) is amended by deleting therefrom the words "and (12)," adding a comma after the words "section 20(11)," and inserting after that comma the words "(12), and (13)."

(4) That section 413 of the Interstate Commerce Act (49 U.S.C., sec. 1013) is amended by deleting therefrom in the two places in which they appear in the first sentence of that paragraph the words "and (12)," adding a comma after the words "section 20(11)," and inserting after that comma the words "(12), and (13)."

(5) That the Harter Act (46 U.S.C., secs., 190–196) is amended by adding a new section at the end thereof, as follows:

"Sec. 197. All actions brought to recover the value of property lost, damaged, injured, or delayed while being transported by a carrier subject to part III of the Interstate Commerce Act (except those that may also include claims for the recovery of attorneys' fees) shall be brought in the first instance only before the Interstate Commerce Commission by the filing of a complaint in writing setting forth therein the nature of the action and the amount of money claimed therefor. The order of the Interstate Commerce Commission thereon shall be binding upon all parties to such disputes unless otherwise revised on judicial review: *Provided,* That in all actions filed with the Interstate Commerce Commission in accordance with this paragraph, appellate review of the orders of the Commission issued to dispose of such matters shall only be by a district court of the United States in a district through or into which the defendant carrier operates, and any aggrieved party shall upon request timely made to the court, receive an opportunity for a trial before a jury as to disputed issues of fact."

(6) There are authorized to be appropriated for the purposes of this Act, such sums, not to exceed $3,000,000 for each fiscal year.

(7) The provisions of this Act shall take effect six months after the date of its enactment.

SECTION-BY-SECTION ANALYSIS

Adjudication of Claims by the Interstate Commerce Commission.

Section 1. Short Title.

Sec. 2. This section adds a new paragraph (13) at the end of section 20 (49 U.S.C., Sec. 20) of the Interstate Commerce Act to require all actions against carriers to recover for the loss, damage, or injury to a shipment transported in interstate or foreign commerce, except those in which an award of an attorney fee is also sought by the complainant, to be brought in the first instance by filing a written complaint therefor with the Interstate Commerce Commission.

The section to be added vests in the Commission exclusive jurisdiction initially to determine the merits of liability and damages in cargo claims disputes and subjects those determinations to judicial review. It is also established in the new section that Commission orders conclusive of the issues in cargo claims disputes shall be binding upon the parties thereto unless reversed on judicial review.

The new section also requires cargo claims disputes to be processed by the Commission in the most expeditious manner, and, where practicable and lawful, on documentary evidence without a hearing. Finally, the new section preserves to the parties their constitutional right to a trial of factual issues before a jury, on appeal, which must be taken to a United States district court in a district through or into which the defendant carrier operates.

Sec. 2. This section amends section 219 (49 U.S.C. sec. 319) of the Interstate Commerce Act. That section now provides that sections 20 (11) and (12) and other provisions of part I of the act as are necessary for the enforcement thereof, are applicable to motor carriers subject to part II of the act, and the amendment merely extends the applicability of the new subsection 20(13) to those carriers.

Section 3. This section amends section 413 (49 U.S.C. sec. 1013) of the Interstate Commerce Act. That section now provides that section 20 (11) and (12) and other provisions of part I of the act as are necessary for the enforcement thereof, are applicable to freight forwarders subject to part IV of the act. The amendment merely extends the applicability of the new subsection 20(13) to freight forwarders.

Section 4. This section adds a new paragraph, to be designated section 197, at the end of the Harter Act (46 U.S.C. secs. 190–196), to require that (except with respect to those actions in which an attorney's fee is also sought by the complainant) all actions against a carrier subject to part III of the Interstate Commerce Act to recover the value of property lost, damaged, injured, or delayed while being transported by such carrier, shall be brought in the first instance only before the Interstate Commerce Commission and by the filing of a written complaint therefor with the Commission.

This section vests in the Interstate Commerce Commission exclusive jurisdiction initially to determine the merits of liability and damages in cargo claims disputes and subjects those determinations to judicial review. It is also established in the new section that Commission orders conclusive of the issues in cargo claims disputes shall be binding upon the parties thereto unless reversed on judicial review.

The new section also requires that cargo claims disputes are to be processed by the Commission in the most expeditious manner, and where practicable and lawful, without a hearing. Finally, the new section preserves to the parties their constitutional right to a trial of factual issues before a jury, on appeal, which must be taken to a United States district court in a district through or into which the defendant carrier operates.

Section 6. Authorizes to be appropriated $3 million for each fiscal year.

Section 7. Provides that the act shall take effect 6 months after enactment.

By Mr. BIBLE:

S. 2013. A bill to amend the act of June 14, 1926 (43 U.S.C. 869), pertaining to the sale of public lands to States and their political subdivisions. Referred to the Committee on Interior and Insular Affairs.

Mr. BIBLE. Mr. President, I introduce for appropriate reference a bill to amend the act of June 14, 1926, pertaining to the sale of public lands to States and their political subdivisions.

The purpose of this legislation is to overcome present limitations in the law that restrict the availability of public domain land for transfer to State and local governments for park and recreational uses. As presently written, the Recreation and Public Purposes Act (43 U.S.C. 869(b)) restricts conveyances of public lands to States for recreational purposes to not more than three sites aggregating not more than 6,400 acres in any calendar year. The effect is to unduly complicate and prolong the implementation of statewide park and recreation systems and programs, particularly in the public domain States of the West which must look to the Federal Government to make their lands available for State and locally administered park and outdoor recreation systems.

The bill I am introducing today would remove the present annual acreage limitation under the Recreation and Public Purposes Act. It would also remove the present limitation on the number of applications for such lands that may be filed by an eligible jurisdiction and the number of sites that may be applied for. My amendment would also make such recreational lands available to States without monetary consideration.

The present bill seeks the same objective as does my proposed Federal Lands for Parks and Recreation Act of 1973, which I introduced in April (S. 1638). It merely proposes an alternative approach to reaching the same goal. S. 1638 has been scheduled for a hearing before the Parks and Recreation Subcommittee of the Senate Interior Committee on June 26, 1973. My purpose in filing the present bill now is to afford the appropriate agencies and interested individuals an opportunity to comment on this alternative when the hearings are held.

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

S. 2015. A bill to amend the Communications Act to express the intent of Congress to establish in the Federal Communications Commission the jurisdiction for regulation of cable television systems. Referred to the Committee on Commerce.

Mr. MOSS. Mr. President, I introduce for myself and Senator HARTKE a bill to amend the Communications Act of 1934.

One of the well-worn axioms of our time is that technology changes far faster than the law can respond. Sometimes the law reaches out to seemingly similar technologies in order to devise a regulatory scheme for a new industry. Unfortunately, the supposed industry similarities are often only superficial and the result may be a regulatory regime which constricts growth or forces the industry into an undesirable pattern. Cable television is such an industry.

Although cable television in its basic form has been with us for 25 years, its newly burgeoning technology makes it an infant industry. After several years of uncertainty and unduly restrictive regulation, the Federal Communications Commission has recently responded with a nonpreemptive Federal regulatory program which places a premium on experimentation and flexibility. However, the great latitude left to the local governing bodies, especially the States, has resulted in attempts to impose entirely unsuitable forms of regulations on cable television. In addition to the potentially harmful nature of these regulatory schemes, a total lack of regulatory uniformity between jurisdictions appears likely. The proper role of Federal, State, and municipal regulators should be clearly delineated so that the optimum development of cable television can proceed.

The bill which we introduce gives Congress the opportunity to set up uniform guidelines for the regulatory responsibilities of the appropriate Federal, State, and municipal bodies. I believe that this is a giant step in the direction of moving this industry and its technology forward for the benefit of our citizenry. This new resource has not been used to its utmost and we, in Congress, must accept the responsibility for helping to develop this asset if its great potential is to be realized.

By Mr. CRANSTON (for himself, Mr. HRUSKA, Mr. SCOTT of Pennsylvania, and Mr. TUNNEY):

S.J. Res. 123. Joint resolution authorizing the procurement of an oil portrait and marble bust of former Chief Justice Earl Warren. Referred to the Committee on Rules and Administration.

PORTRAIT AND SCULPTURE HONORING FORMER CHIEF JUSTICE EARL WARREN

Mr. CRANSTON. Mr. President, I introduce, for appropriate reference, on behalf of myself, and my colleague from California (Mr. TUNNEY), the minority leader of the Senate who is as well a member of both the Rules and Judiciary Committees (Mr. SCOTT of Pennsylsylvania), and the ranking minority member of the Judiciary Committee (Mr. HRUSKA), a bipartisan, noncontroversial measure virtually identical to Senate Joint Resolution 269, which we introduced last Congress, to authorize the appropriation of $25,000 to commission the preparation of a portrait and a sculpted bust of the former Chief Justice of the United States, Earl Warren.

Mr. President, last year when I introduced this measure, I called it to the attention of present Chief Justice Warren E. Burger, who in reply advised me on September 26, 1972, that the measure had the support of all Justices of the Supreme Court. At the suggestion of Chief Justice Burger, we have increased the dollar authorization from $17,500 to $25,000, which seems a fairer estimate of the costs of creating objects involved. My understanding is that this High Court support continues for the measure as introduced today.

Mr. President, I ask unanimous consent that the text of my exchange of letters with the Chief Justice last year be set forth in the RECORD at this point.

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

U.S. SENATE,
Washington, D.C., September 25, 1972.

HON. WARREN E. BURGER,
Chief Justice of the United States, Supreme Court Building, Washington, D.C.

DEAR MR. CHIEF JUSTICE: Enclosed is a copy of S.J. Res. 269, a joint resolution which I introduced today, along with Senators Hruska, Tunney and Scott, authorizing the procurement of an oil portrait and marble bust of former Chief Justice Earl Warren. In view of our conversations regarding this matter and your strong feeling that it would be

highly desirable to undertake this project at the earliest possible date, I thought you would wish to have a copy of this resolution.

With warmest regards.

Sincerely,

ALAN CRANSTON.

SUPREME COURT OF THE UNITED STATES,
Washington, D.C., September 26, 1972.

Hon. ALAN CRANSTON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR CRANSTON: Thank you for your letter of September 25 advising of the plan to introduce a joint resolution to provide for the traditional portrait and bust of Earl Warren. Every Chief Justice is represented in the Court building by a portrait, and Chief Justices Taft, Hughes, Stone and Vinson each have a marble bust in the main hall of the Court. Busts of Chief Justices from Jay to Taft are in the Capitol Building.

I speak for all members of the Court in expressing the hope that this resolution will be adopted promptly to maintain an unbroken tradition of nearly 200 years.

Cordially,

WARREN E. BURGER.

Mr. CRANSTON. Mr. President, I am advised that a bust and a portrait of every prior Chief Justice of the United States is presently displayed in the Supreme Court Building. Given the broad bipartisan support for adding a portrait and bust of Mr. Chief Justice Warren, I am hopeful that the Senate Rules Committee will move this measure rapidly so that funds can be appropriated as soon as possible to begin this important project.

By Mr. NELSON (for himself, Mr. BIDEN, Mr. CRANSTON, and Mr. HUDDLESTON):

S.J. Res. 124. Joint resolution to establish a Joint Committee on Individual Rights. Referred to the Committee on the Judiciary.

GOVERNMENT SURVEILLANCE AND THE RIGHT OF INDIVIDUAL PRIVACY: CONFLICTING DEMANDS IN A FREE SOCIETY

Mr. NELSON. Mr. President, the widespread intrusion of the Government into the personal and private affairs of its citizens by surveillance, bugging, and wiretaps must certainly alarm anyone who pauses long enough to contemplate its awesome implications. No one knows how broadly and deeply this disease has infiltrated our system. But we do know that the Federal Government, State governments, cities, private individuals, and great corporations engage in the odious practice of spying—on a scale massive enough to pose a serious threat to the very concept of freedom itself.

It is an interesting commentary on the Congress, the press, the public, the business world, the labor movement, the campus and, particularly, the legal profession, that they do not seem to have enough sensitivity about freedom, privacy and constitutional rights to be outraged by the whole nasty insidious business.

There has been much huffing and puffing about it for years, but not enough interest has been generated to move the Congress to act.

In February 1967, I commented at length on this matter on the floor of the Senate. In April 1971, I introduced legislation designed to deal with this serious problem. That legislation has languished in the Judiciary Committee without action. Other legislation by other Members has suffered the same fate.

In view of recent events, everyone certainly ought to recognize that continued inaction is indefensible.

It is now my intention to raise this issue on the Senate floor by amendments to legislation and discussion of the issue until the Senate is stirred out of its lethargy.

Americans have historically resisted what they considered the Government's unwarranted intrusions into their private and personal affairs. During the colonial days, British attempts to exert greater control over the business activities of American merchants through the use of general search warrants and writs of assistance sparked the flames of the Revolution. The Constitution and the Bill of Rights were drafted when this repressive colonial exerience was fresh in the minds of the Founding Fathers. These documents, and the first 10 amendments in particular, were expressly designed to prevent the over-reaching of the Federal Government into their private affairs.

In specific response to the claims of surveillance authority by the Government, the American revolutionist answered with a crisp volley of constitutionally expressed rights: Freedom of religion; free speech; free assembly; and a free press. They also provided specific guarantees against unreasonable search and seizure, against self-incrimination, and against the quartering of troops in private homes.

It is unassailable that this Nation was founded with the idea that the largest degree of personal freedom, privacy and political expression shall be guaranteed to all of its citizens. There is also no doubt that a limited degree of governmental intrusion into the private affairs of individuals is permitted for the necessary exercise of legislative and regulatory responsibilities of the State, and the maintenance of public order. The difficulty, of course, is in finding and maintaining the proper balance between society's interest in Government with the individual's rights of privacy.

Over 20 years ago, writing about "The Crisis in Freedom" in the June 1952 issue of "The Progressive," Dr. Alexander Meiklejohn stated the compelling argument for the need to strengthen individual independence and freedom of thought and expression in any conflict with the power of Government authority:

> Freedom of belief and of expression is not hostile to Security. We need not choose between them. On the contrary, Freedom, as a mode of life, as a form of government, is far more efficient, far more dependable in time of danger, than any form of suppression. It is, in fact, the only governing form which in a world of rapid social change, gives promise of permanence and stability. If we keep faith with it, nothing human can destroy it. As we lose faith in it, we are destroying it.

In modern technical nations, however, individual and personal rights are increasingly threatened by the often conflicting demands of the state for expediency, efficiency, and stability. While the capability for secretly invading the private affairs of individual citizens has been vastly increased by improved technology and sophisticated electronics, the legal mechanisms to administer appropriate public controls over the exercise of these powers by agencies of the Government have failed to keep pace with events.

Some 185 years ago, Thomas Jefferson wrote that—

> The natural progress of things is for liberty to yield and government to gain ground.

And when it is the Government that leads the invasion of individual privacy, you can be sure that powerful private interests in search of personal gain will closely follow the State's example.

In recent years, the course which Jefferson predicted has been accelerating at an uncommon pace throughout the world and particularly in the United States in the last several decades.

Recent articles in Time and the Manchester Guardian disclose a pattern of increased wiretapping and eavesdropping across the Atlantic. These reports indicate that 25 Italian private detectives and telephone employees have been arrested in the tapping of 1,000 telephone lines in Rome, that some 1,500 to 5,000 Paris phones are being overheard by a variety of police and espionage agencies in France, and that private business in Britain have a legitimate cause to be concerned about the integrity of their office transactions and corporate trade secrets as well.

In the United States, we also face a situation where the Government's grasp for information on the thoughts and expressions of private citizens far exceeds the legally defined limitations to its reach that should exist in a self-governing democracy. In Prof. Alan Westin's book, "Privacy and Freedom," he points out that in our Federal Government—

> At least fifty different federal agencies have substantial investigative and enforcement functions, providing a corps of more than 20,000 "investigators" working for agencies such as the FBI, Naval Intelligence, the Post Office, the Narcotics Bureau of the Treasury, the Securities and Exchange Commission, the Internal Revenue Service, and Food and Drug Administration, the State Department, and the Civil Service Commission. While all executive agencies are under federal law and executive regulation, the factual reality is that each agency and department has wide day-to-day discretion over the investigative practices of its officials . . .

The recent information emanating from the Watergate investigation detail a shocking pattern of disregard for constitutional principles of law and due process in the highest offices and agencies of the Government. It is apparent that the powerful tools of government spying and espionage against private citizens in pursuit of their lawful activities have not been kept within legitimate boundaries through self-restraint or self-discipline. Declarations of high and moral purpose have been used to elevate low deeds, and the distinctions between the proper goals of Government actions and the improper means by which they are prosecuted have become blurred.

On June 11, the Wall Street Journal editorially contrasted the apparently indifferent European attitude toward expanded illicit eavesdropping with the growing public alarm about illegal snooping in this country. The editorial, entitled "A Plague of Buggings," points out that:

> The condemnation here of practices that are common in many other parts of the world is based on more than either naivete or innocence. It stems also from a shared concept of what is permissible official conduct plus considerable confidence that our institutions can and should deal with officials who step over the line.

The Wall Street Journal editorial concluded:

> We don't know how Europeans will fare on bugging. But the public reaction in the U.S. will help, we suspect, to discourage future illicit snooping by government officials here. If that is naivete or innocence, we hope Americans hang onto both for a long time.

"Naivete or innocence" alone will not be enough to adequately protect personal privacy from illicit invasion. Public concern over the increase of clandestine surveillance of private citizens must be directly translated into specific mechanisms to assert public oversight and control over these activities. From the pattern of our recent history, we must be aware that the clucking of tongues and wagging of fingers is not sufficient to keep illegal government or private snooping in check.

Justice Frankfurter observed some 30 years ago that—

> The history of liberty has largely been the history of observance of procedural safeguards.

As we look beyond the Watergate and view the events of the past few years of American history, it is quite apparent that procedural safeguards for personal rights of privacy have not been observed. It is furthermore quite obvious that the procedural safeguards themselves have been insufficient to resist the increased capability and compulsion of government officials to invade privacy and trample on individual liberty.

The ease with which investigative functions of the agencies of government can rapidly grow into massive uncontrolled intrusions into the personal and political lives of individuals and organizations certainly predates the Watergate affair and the 1972 Presidential election.

Over the past years, the record shows that the U.S. Army went on a binge of unlimited snooping of ordinary citizens within this country. Although these practices of the Army have apparently ceased, dossiers on more than 100,000 law-abiding citizens were collected and stored in over 350 record centers throughout the country.

Also on the recent public record, we now know that the FBI engaged in general surveillance of thousands of people who participated in the first Earth Day rally in Washington, D.C., on April 22, 1970.

Statistics published by the Administrative Office of the U.S. Courts on the extent of government eavesdropping authorized under title III of the 1968 Omnibus Crime Control and Safe Streets Act also reveal the increasing reliance in the past few years on Government snooping. Under the authority, court-authorized wiretaps and bugs are on a rapid increase since this procedure was first formalized in 1968. In the 5 years for which statistics are available, more than 1,623,000 conversations involving 120,000 or so people have been overheard.

What the Administrative Office figures on title III taps do not reveal are the number of wiretaps and bugs which are installed without court orders under self-determined claims of national security. In 1969–1970, at least, the Government has indicated that there were as many unreported warrantless taps as there were taps under court orders. However, these self-justified taps lasted for an average of from almost 3 to 9 times as long as the court-ordered taps and are believed to have monitored tens of thousands of individuals.

This recent record has increased the public's concern as to the extent of these surveillance activities. The public is also raising serious questions about the justification for such governmental intrusion into their private lives and utterances, and about the mechanisms that are supposed to protect the individual's rights of privacy from just this type of snooping. This legitimate public concern was expressed in an article titled "Political Surveillance and Police Intelligence Gathering—Rights, Wrongs, and Remedies" which was printed in the Wisconsin Law Review last year:

> Eleven years from the title date of George Orwell's fictionalized account of the totalitarianism of the future, many Americans sense that "Big Brother" is emerging as a terrifying reality in the United States. There are no posters or broadcasts proclaiming the fact, but to many the ubiquitous surveillance, represented by the telescreen and the thought police in Orwell's novel, is upon us in the quise of the proliferating governmental agencies engaged in the business of spying.

Today, with our knowledge of the proliferation of governmental snooping and surveillance, and with our knowledge of uncontrolled, self-initiated government forays into political espionage, several specific issues are paramount: Who is collecting, storing and using personal information about individual citizens and organizations in the United States? How many citizens or organizations, and what kind of information do these surveillance nets capture? Under what authority or legitimate need to know is this surveillance conducted and the information collected, stored, and used? What controls are exerted to assure that constitutional principles of due process and the protection of individual privacy are balanced with society's concerns for its general welfare and security?

Unfortunately, the Congress of the United States, like the general public, cannot answer these questions with any accurate, current and comprehensive knowledge. Neither is the Congress in a position to obtain the facts of the matter in a complete and effective legislative manner, since such comprehensive oversight capability has not been established to review government surveillance and information gathering activities on a continual and regular basis.

The Constitution and the Bill of Rights established an important and delicate balance between the government's interests and the interests of the governed. It dictates the need for the explicit civil liberty and political freedom of each citizen, as well as the security and welfare of the entire society. While neither the private nor the public interest is exclusive, both are necessary. It is incumbent upon Congress to continually oversee and balance both the citizen's private interest and the Nation's interest.

Today this equilibrium is in question. It is of particular importance that Congress provide the appropriate means to maintain close, continual, accurate overall review of the full range of government surveillance activities which impinge upon the personal liberty of individual citizens. Congress must also be in a position to determine that all personal data on individuals and organizations which is contained in files or dossiers of the Government is obtained and utilized in accordance with rules and standards that meet legal and constitutional limitations.

In a Fourth of July speech in 1914, President Woodrow Wilson declared that—

> Liberty does not consist in mere declarations of the rights of man. It consists in the translation of those declarations into definite actions.

The history of individual liberty, and particularly the right of privacy, has been a history of resistance to governmental encroachments and an insistence upon fair procedural protections. Where liberty has prevailed, the rights of man have been translated into action; where liberty has lost, only silence has followed the soft echo of declarations of freedom.

Unannounced entry into private homes was denounced in English common law as early as 1603. In Semayne's Case, 5 Cook 91, 11 ERC 629, 77 Eng. Reprint 194, the principle was firmly enunciated:

> In all cases where the King is party, the sheriff (if the doors be not open) may break in the party's house, either to arrest him, or to do other execution of the K(ing)'s process, if otherwise he cannot enter. But before he breaks it, he ought to signify the cause of his coming, and to make request to open doors . . .

One hundred and sixty-three years later in 1766, the sanctity of the individual's right of privacy in his home and the importance of protecting against unlawful invasion of privacy by the Government were again argued with magnificent eloquence. The British were having difficulty collecting an excise tax that the Parliament had imposed upon cider. To solve their problem, it was proposed that the tax collectors be given the authority to enforce their cider tax by entering a man's house without knocking. When this proposal was debated in the House of Lords, William Pitt closed his argument in opposition to this Government invasion of privacy by stating:

> The poorest man may, in his cottage, bid defiance to all the forces of the Crown. It may be frail. Its roof may shake. The wind may blow through it. The storm may enter. The rain may enter. But the King of England cannot enter. All his force dares not cross the threshold of that ruined tenement.

Two hundred and seven years after Pitt's stirring affirmation of individual privacy and resistance to the invasion of the home by forces of the Crown, it is necessary to argue the case against the Government's trampling of personal rights with equal fervor. In 1766, the British tax collector sought authority to break into a private home to collect a cider tax; in 1973, agents of Federal, State, and local government in the United States act on uncorroborated tips and without warrants, and proceed to batter down the doors of two Collinsville, Ill., homes and terrorize two law-abiding families in their mistaken frenzy.

Now, in addition to the continuing reality of smashed doors and actual physical invasion of a private home, Government forces have a more insidious tool: electronic eyes and ears that need break no doors to silently steal privileged thoughts and record private deeds.

The surest way to destroy the concept of democratic self-government is to stand idly by while the Government itself abuses the law. The security of the Government is based upon the trust of its people. This trust cannot be compelled; it can only be given freely if our system is to survive. If, in a government of laws, it is the government which disregards constitutional principles and legal process, an example is set for every man to flout the law, or withdraw his expression of trust. In both cases, the result is disrespect for a system of law and points the way to anarchy.

No one has stated the case against governmental lawlessness more eloquently than Justice Louis Brandeis in a strongly worded dissent in the 1928 case of Olmstead against United States:

> In a government of laws, existence of the government will be imperiled if it fails to observe the law scrupulously. Our government is the potent, the omnipresent teacher. For good or ill, it teaches the whole people by its example. Crime is contagious. If the Government becomes the lawbreaker, it breeds contempt for law; it invites every man to become a law unto himself; it invites anarchy. To declare that in the administration of the criminal law the end justifies the means—to declare that the Government may commit crimes in order to secure the conviction of a private criminal—would bring terrible retribution.

We must move to bring the Government's surveillance and snooping powers under effective congressional control and review immediately. Today, I am introducing legislation creating a Joint Committee of the U.S. Congress on Individual Rights.

First. This Joint Committee on Individual Rights will be strictly bipartisan. Of its 20 members, the 10 Senate members that will be named by the President of the Senate, and the 10 House members that will be named by the Speaker of the House of Representatives, will be equally divided between the majority and minority parties.

Second. This Joint Committee on Individual Rights will conduct continuing, regular hearings on each and every agency and department of the Government that conducts surveillance or collects, processes, stores and uses personal information about specific individuals.

Third. At least once each year, officials of the CIA, the FBI, all military surveillance units, and each and every agency of the Government that conducts personal information operations will appear before the Joint Committee on Individual Rights to testify under oath and provide all relevant books, papers, records or other documentary evidence so that the Joint Committee on Individual Rights can ascertain the scope of Government surveillance and personal information activities, and determine whether these activities are conducted strictly according to recognized guidelines and with legal and constitutional safeguards.

Fourth. The Joint Committee on Individual Rights will provide a regular report to both the Senate and the House on at least an annual basis. This report to Congress and the public will contain the findings of the Joint Committee on Individual Rights on the exact scope and nature of the Federal Government's surveillance and personal information operations. The report will contain the Joint Committee on Individual Rights recommendations for actions and legislation that will maintain the integrity and confidentiality of personal information on specific individuals, guarantee that surveillance and personal data operations are conducted under strict, identifiable legal and constitutional guidelines, and that the constitutionally guaranteed rights of our citizens and their privacy are vigorously protected.

This is the moment for bringing the Government's surveillance powers under scrupulous, responsible congressional control. In addition to maintaining vigilant oversight of Government surveillance activities by Congress, it is critically important that the Joint Committee on Individual Rights evaluate the expanding scope of government authority and powers in this area, and make recommendations for tightening the law to prevent abuse.

No one can view the vast dimensions of government snooping at the Federal, State and local level without being alarmed by the threat it poses to freedom in our society. In my judgment, the corrosive and corrupting effect on the delicate fabric of our system is far greater than any possible benefits to society as a whole.

In his dissent in the landmark Olmstead wiretappng case some 45 years ago, Justice Brandeis cast a prescient eye toward this present era of government bugging and surreptitious snooping and sounded a special warning that vigilance must be exercised whenever special, secret powers that infringe upon individual freedom are handed out and gain a firm foothold:

> Subtler and more far-reaching means of invading privacy have become available to the Government. Discovery and invention have made it possible for the Government, by means far more effective than stretching upon the rack, to obtain disclosure in court of what is whispered in the closet.
>
> Moreover, "in the application of a constitution, our contemplation cannot be only of what has been but of what may be." The progress of science in furnishing the Government with means of espionage is not likely to stop with wiretapping.
>
> Ways may someday be developed by which the Government, without removing papers from secret drawers, can reproduce them in court, and by which it will enable to expose to a jury the most intimate occurrences of the home. Advances in the psychic and related sciences may bring means of exploring unexpressed beliefs, thoughts and emotions.

Justice Brandeis' speculation about the future of Government surveillance in the post-1928 years has an aura of science fiction about it even today—until you consider the following items:

An article entitled "Crime Deterrent Transponder System" printed in the January 1971 issue of Transactions on Aerospace and Electronic Systems, a publication of the Institute of Electrical and Electronic Engineers. The lengthy article was written by a computer specialist then working for the National Security Agency, the highly secret semi-autonomous agency of the Pentagon which supplies highly technical support of the U.S. intelligence activities and allegedly supplies electronic espionage equipment to the CIA.

The article posits an electronic surveillance system for the prevention of crime:

> A transponder surveillance system is based on three ideas. First parolees, bailees, or recidivists will each carry a small radio transponder, which cannot be removed, as a condition of their release. This transponder will emit a radio signal which gives a positive and unique identification. Second, a network of surveillance transceivers will interrogate the transponders in a neighborhood. Third, a real-time computer will receive the transponder reports, update location and tracking inventories for each subscriber, and control the surveillance process. Every subscriber (a criminal at large, carrying a transponder) must be accounted for at all times, and so if a transponder "disappears," the system will execute an intensive search for it. If the missing transponder is not located very quickly, the police will be automatically notified. The result of this process is that the whereabouts of every subscriber in the surveillance area will be known at all times. . . .

An article printed in Parade magazine on February 20, 1972, entitled "New Bug Hears All":

> The FBI and the CIA are now using a new secret bugging device which bugs and tapes telephone conversations from remote locations.
>
> No agent has to enter the premises of a person under surveillance to install the equipment.
>
> The device can be attached to a telephone pole, telephone line or to a cable vault. It sets up a radio frequency wave which triggers a switch in the telephone to be bugged. Even with the telephone on its hook, the sound waves in the room are picked up and the conversation transmitted to waiting tape recorders.
>
> The device was recently described by Clyde Wallace, an electronics manufacturer at a symposium in Washington, D.C. of the Association of Federal Investigators.

Article titled "U.S. Is Testing System to Use All Radio, TV" in the Washington Post for Friday, November 3, 1972:

> The Defense Department has started testing a special communications system that would have the ability to turn on automatically every radio and television set in the country to receive messages from the government.
>
> However, current Nixon Administration policy will not permit the system to be used for that purpose, according to a spokesman for the Pentagon's Defense and Civil Preparedness Office, which is testing it.

Called the Decision Information Distribution System, it would be used initially to turn on radio sets in police and fire stations in "strategic locations" in emergencies, according to the spokesman . . .

Kenneth Miller, head of the Federal Communications Commission Emergency Communications Office, told The Washington Post that the Defense Department system would operate on long-wave frequencies below the standard AM radio band. "It could turn on radios and television sets automatically and already has been tested," he said.

Two days previously the contents of a 300-page master plan, titled "Communications for Social Needs," prepared for the President's Domestic Policy Council at the request of the White House Director of the Office of Science and Technology was revealed. The August 1971 report contained a number of proposals, including one to put special FM radio receivers in every home to permit the government to contact directly with every citizen 24 hours a day. Although the Director of the White House science office stated that the plan had been rejected, the Washington Post story revealed the existence of strikingly similar DOD plans, and the actual construction of a testing station in Edgewater, Md.

One does not have to judge the validity of Justice Brandeis' prediction of the development of devious devices, however, to become concerned about the extent of government snooping, bugging, spying, and prying on private citizens through the use of relatively mundane means and the increased capability to store and transmit this data without the knowledge much less the assent of the Congress.

In 1967, I expressed my particular concern that there were a number of events and developments at that time which seemed to indicate to me an alarming trend in this country toward police-state tactics. In a speech on the floor of the Senate on February 23, 1967, I referred to the following specific developments:

First. The lavish subsidization of the National Student Association and other private domestic organizations by the Central Intelligence Agency;

Second. The widespread use of wiretapping and eavesdropping by Government agencies;

Third. The subsidization of supposedly legitimate books by the U.S. Information Agency, primarily for propaganda purposes;

Fourth. The use of private detective agencies by large corporations such as General Motors to harass a private citizen such as Ralph Nader;

Fifth. The widespread practice of industrial spying to discover competitor's corporate secrets; and

Sixth. The use of a large private detective firm, The Wackenhut Corp., with tentacles involved in politics and other affairs in much of the world, by the State of Florida, allegedly to conduct a widespread investigation into crime and corruption.

The common element of each of those developments was that they were conducted covertly, secretly. Even more important than the common cloak of secrecy was that all of those activities involved an element of dishonesty—denials that the very actions were not taking place.

On April 15, 1971, I first introduced legislation to provide a thorough investigation of the domestic surveillance and intelligence activities being carried out by the Government. In a speech on the Senate floor, I stated that clandestine intelligence operations constitute a continuing threat to our existence as a free and open society. This threat exists so long as Congress—as the representative of the public—has no suitable mechanism or capability to continually and accurately monitor the activities of governmental data gathering agencies.

The previous day, April 14, 1971, it was revealed that the FBI engaged in general surveillance at the Earth Day Rally that was held in Washington on April 22, 1970. As the one who initiated and planned the organization of the first Earth Day celebration in 1970 and the subsequent Earth Week events, it is inconceivable to me that the FBI could have any legitimate excuse for conducting surveillance over these activities. When the FBI asserts that this kind of political activity is within their jurisdiction, then no political expression of any kind is beyond their reach including the annual meetings of the chamber of commerce or the Daughters of the American Revolution.

Earth Day 1970 was a dramatic and massive event through which the individual citizens of this Nation expressed their concern over the status of our environment. That expression was conducted in a peaceful, democratic, and uniquely American way. It involved millions of citizens. Thousands of grade schools, high schools and colleges participated. At least 150 Members of Congress, numerous Governors, and 100 representatives of the Nixon administration participated in these events. It is nothing short of incredible that this peaceful celebration of the environment should come under the scrutiny of the Federal Government and be subject to FBI surveillance.

On August 30, 1972, Senator ERVIN released a staff report of the Constitutional Rights Subcommittee entitled "Army Surveillance—A Documentary Analysis." This report revealed for the first time the shocking and extensive degree to which the U.S. Army monitored the activities of ordinary citizens and civilian organizations. This raw information was subsequently filed in thousands of dossiers and computer data banks. Analyzing only a portion of the military's actual intelligence-gathering efforts and their data files, the report documents the Army's overzealous and dangerous invasion of first amendment rights of speech, assembly, religion, press, and petition, and the danger which these activities pose to the privacy and freedom of all citizens.

The report concluded that the Army's snooping was useful for "no legitimate—or even illegitimate—military purpose" in controlling civil disturbances. Still there appears to have been over 350 separate Army record centers containing files on over 100,000 civilians. Furthermore, these files contained raw data on the intimate private lives of law-abiding citizens gathered by a variety of dubious and covert means.

In the September 5, 1972, issue of the Evening Star and Daily News, James J. Kilpatrick summarized the staff report's analysis of the Army's civilian surveillance activities and raised the specter of George Orwell's 1984. More importantly, Mr. Kilpatrick framed a question and an answer which anyone who is concerned with maintaining individual liberties in this country must carefully ponder:

How did this outrageous invasion of constitutional rights get started? It was for the best of motives: The Army wanted to prepare itself for the threat of internal revolution and major civil disorders. Then the cancer of bureaucracy went to work. People had to appear to be "doing something." Vast quantities of useless material piled up, and the technological wonders of computerized data processing did the rest.

The warning that erosions of individual liberties often begin in the most innocuous of ways has been sounded many times previously. Justice Bradley, writing in the 1885 case of Boyd against United States, declared:

It may be that it is the obnoxious thing in its mildest and least repulsive form; but illegitimate and unconstitutional practices get their first footing in that way, namely, by silent approaches and slight deviations from legal modes of procedure. This can only be obviated by adhering to the rule that constitutional provisions for the security of person and property should be liberally construed.

Questions concerning the extent and legitimacy of surveillance and data-gathering activities of the Government are difficult if not impossible to answer because neither the Congress nor the public knows the full range or the dimension of these actions. It is time that the Congress and the American people find out. However well intentioned surveillance and information collection of ordinary citizens may be, if these activities remain without effective congressional oversight and are undefined and uncontrolled, they will eventually deprive us of more liberty than they protect for us.

There are several aspects about modern governmental surveillance which make its regulation and conformation to constitutional principles more difficult. First of all, the advances of modern technology permit surveillance which is more difficult to detect, easier to accomplish, and more susceptible to highly sophisticated assimilation and distribution. Then, the legality of many types of Government surveillance has never been completely clear. Furthermore, an increasing amount of surveillance is preventive or anticipatory rather than investigatory or prosecutorial. Thus it usually involves observation for use in connection with some future unspecified conduct by the individual or organization, rather than a legitimate governmental concern as to some specific past conduct or action.

The particular danger of anticipatory eavesdropping is the ease with which its focus becomes deflected from possible criminal activities and directed toward political expressions and legitimate private acts. Justice Powell directed attention to this aspect of prospective surveillance in his opinion last year in *United*

States v. *United States District Court*, 407 U.S. 297 (1972), when he stated:

History abundantly documents the tendency of Government—however benevolent and benign its motives—to view with suspicion those who most fervently dispute its policies. Fourth Amendment protections become the more necessary when the targets of official surveillance may be those suspected of unorthodoxy in their political beliefs. The danger of political dissent is acute where the Government attempts to act under so vague a concept as the power to protect "domestic security." Given the difficulty of defining the domestic security interest, the danger of abuse in acting to protect that interest becomes apparent.

The classic example of the danger to political freedom which is inherent in a method which seeks anticipatory information, is the apparent transformation from investigation to intimidation which is expressed in one of the FBI documents prepared in the Philadelphia field office and released to the press in September of 1970 as the so-called Media Documents. In one of the 1970 memos, an FBI agent writes upon returning from a political conference:

There was a pretty general concensus (sic) that more interviews with these subjects and hangers-on are in order for plenty of reasons, chief of which are it will enhance the paranoia endemic in these circles and will further serve to get the point across there is an FBI agent behind every mailbox.

One of the final difficulties of controlling modern governmental surveillance is that the growth of the United States from a nation of less than 4 million in 1790 to its present population of well over 200 million has resulted in an expansion of private and governmental service operations which must have information to perform their duties.

Recently, Prof. Alan Westin headed a 15-member team which did a 3-year study for the National Academy of Sciences on the implications of computer databanks on individual privacy and the integrity of personal information which is collected and stored therein. The report, "Databanks in a Free Society," concluded that, at this time at least, fears of massive misuse of these systems and the private data that they contain are unfounded. However, the report suggests that the next 5 years will be a critical period and the need for the establishment of a legal and social framework to provide the appropriate safeguards for privacy and due process is, indeed, timely.

The report makes specific reference for the need for mechanisms for public scrutiny and review, for the need for rules governing the use and accessibility of both government and private personal data systems. In the recommendations for laws, the report calls for the establishment of entry rights to give any person access to his or her own records and the right to make explanatory or corrective entries.

In the concluding paragraphs of "Databanks in a Free Society," the continuing challenge of data accumulation in a free society is succinctly stated:

If our empirical findings showed anything, they indicate that man is still in charge of the machines. What is collected, for what purposes, and with whom information is shared, and what opportunities individuals have to see and contest records are all matters of policy choice, not technological determinism. Man cannot escape his social or moral responsibilities by murmuring feebly that 'the Machine made me do it.'

This conclusion and statement of the human dimensions of the issue of data collection and individual privacy has been similarly stated by Prof. Arthur R. Miller in his 1970 book, "The Assault on Privacy":

The challenge of preserving the individual's right of privacy in an increasingly technocratic society, even one with a democratic heritage as rich as ours, is formidable. But it is one that policy-makers in government, industry, and academe simply cannot avoid . . . (T)he task of formulating an overall scheme for protecting privacy logically must begin with an attempt to refurbish the current patchwork of common-law remedies, constitutional principles, statutes, and administrative regulation.

The exercise of human control over eavesdropping devices, the uses to which the devices are put, and the integrity of the personal information which is collected and stored has always been the major issue. It is exactly in the determination of these policy choices that many observers feel that the degree of human control and due process that are being exercised over Government surveillance activities at the present time, particularly in the area of electronic eavesdropping, are not keeping pace with events.

Title III of the Omnibus Crime Control and Safe Streets Act of 1968—Public Law 90-351—makes it a crime to traffic in electronic eavesdropping devices and to intercept a telephone call or private conversation without a court order. However, under this law, both Federal law enforcement officials, as well as local prosecuting attorneys can get permission to tap or intercept conversations. The control which this statute seeks to exercise over the electronic eavesdropping activities of law enforcement officials and private snoopers is perhaps equally notable for the exceptions which are written into the law. The opportunity for abuse is increased where it appears to be sanctioned under the guise of law.

Title III of the Omnibus Crime Control and Safe Streets Act is troubling because while it legislatively establishes a system of governmental wiretapping and electronic bugging under court orders, it also legitimizes governmental interception without a court order in a great many situations. Thus title III permits the interception of any conversations by law enforcement officials where one of the parties to the conversation has consented to the eavesdropping. This exception is a virtual invitation to expand the use of private informers who either record a conversation themselves for the Government or transmit the conversation to an outside party.

The fourth amendment requires that the area to be searched and the things to be seized under a warrant issued by a judicial officer be described with particularity in the application for the warrant. This is obviously most difficult or impossible to do in wiretap applications since alleged prospective criminal conversations can only be described in a most general way before they occur. As a result, a relatively unlimited range of noncriminal and criminal conversations may be intercepted under the terms of a warrant wiretap. Thus, the control which a warrant is supposed to exercise over dragnet interceptions is rather dubious.

This limited control is further weakened in title III by the establishment of a dual system of court authorized tapping and bugging. Under this law, both State and Federal magistrates may issue orders authorizing State or Federal law enforcement officers to conduct legally sanctioned eavesdropping in a wide variety of crimes. This double system, as well as the loose requirements of the warrant application itself, makes warrant shopping a less rigorous process.

Title III authorized taps also be used for dragnet interceptions because this portion of the law does not address itself to whether taps are authorized for continuous eavesdropping during each 30-day period, or whether they must be limited to certain time periods when the specific incriminating conversations are likely to occur.

The investigations in which wiretapping and electronic eavesdropping may be authorized are not narrowly restricted by title III. In fact, State officers may be authorized to seek approval to tap or bug in connection with any "Crime dangerous to life, limb or property and punishable by imprisonment for more than 1 year."

Title III also permits officers to tap or bug first and then seek judicial approval later in an ex parte hearing where only the Government position is heard. Other glaring problems involve the lack of a right of notice to individuals who may be innocently overheard, and a wide and inviting exception for undefined "national security" cases.

In a 1969 article in the Michigan Law Review titled "The Legitimation of Electronic Eavesdropping: The Politics of 'Law and Order,'" Prof. Herman Schwartz summarized some of the troubling efficiencies in title III:

The openhandedness of Title III is such that eavesdropping without its blessings will rarely be necessary. The combination of a shopping list of eavesdroppable offenses, a less-than-airtight court order system, generous "emergency" powers, broad "national security" provisions, and a somewhat ambiguous provision permitting electronic surveillance for offenses "about to be" committed ensures that an alert investigator will always be able to tune in legally, at least for a limited period of time.

Statistics published annually by the Administrative Office of the U.S. Courts demonstrate the increasing utilization of title III eavesdropping authority. In the first 4½ years after enactment of the 1968 law, State and Federal courts have authorized more than 2,700 orders for interception. State and Federal law enforcement officials have tapped more than 1,623,000 conversations involving 120,000 or so people.

While court-authorized eavesdropping increased some 43 percent between 1970 and 1972, Federal authorizations have actually declined. The bulk of the increased use of title III authority has been

in orders for interception signed by State judges. Whereas there were 174 intercept orders issued by State judges in 1968, this number ballooned to 649 orders by State judges in 1972. The majority of these State-ordered intercepts occurred in the New York metropolitan area. In 1972, 45 percent of the State-ordered intercepts were issued in New York and 36 percent in New Jersey. The remaining 18 States which have adopted conforming wiretapping and bugging legislation utilized the remaining 19 percent of the State-authorized interceptions.

In the 841 cases during 1972 where applications for interceptions were approved by either Federal or State magistrates and devices installed, the bulk of the interceptions involved a telephone wiretap—779—and were specified for two specific categories of crime: gambling—497—and narcotics—230.

There is every reason to believe that the figures reported each April by the Director of the Administrative Office of the U.S. Courts represents only a fraction of the wiretapping and electronic eavesdropping by the Government. Tapping and bugging without court authorization under the consent and national security exceptions is believed to be as common at the Federal and State level as court ordered interception.

In "A Report on the Costs and Benefits of Electronic Surveillance—1972" written for the American Civil Liberties Union by Professor Schwartz and issued March 1973, the question is raised as to the real value that has been gained by electronic surveillance, particularly as it is authorized by the 1968 law:

> The minimum costs, on the other hand, are quite clear—the privacy of *at least* tens (and perhaps hundreds) of thousands of people have been invaded, often in a deliberate effort to chill free speech and association, as the Media papers show, where national security surveillance is concerned; many, many millions of dollars are being spent at a time when social services, which might help to get at the roots of the forces that breed crime, are being starved. And with what results? A handful of convictions of gamblers, pushers, and the like in a "war against crime" that can probably never be won by law enforcement methods. Surely, we have less pernicious ways to spend our scarce dollars.

The issue which must continually be faced is basically two-fold. First of all, there is the need to balance the rights of individuals to be secure in their persons and their personal or political thoughts, and the need to safeguard the capacity of government to function. Second, there is the question as to the method or mechanism by which this balance is determined and decided.

In the recent case of *United States* v. *United States District Court* (407 U.S. 297 (1972)) the Government asserted the right to tap domestic organizations without a warrant under the broad mantle of authority for so-called "national security" cases. Justice Powell, writing for the Court in this 8–0 holding against the contention of the Government, acknowledged the need for the balancing of interests between the private citizen and organized society. After stating the need for maintaining public order, Justice Powell cautioned:

> But a recognition of these elementary truths does not make the employment by government of electronic surveillance a welcome development—even when employed with restraint and under judicial supervision. There is, understandably, a deep-seated uneasiness and apprehension that this capability will be used to intrude upon cherished privacy of law-abiding citizens.

As to the question of how the national interest is balanced with individual interests in the specific case of domestic political activity, Justice Powell noted:

> (A) governmental search and seizure should represent both the efforts of the officer to gather evidence of wrongful acts and the judgment of the magistrate that the collected evidence is sufficient to justify invasion of a citizens private premises or conversation. Inherent in the concept of a warrant is its issuance by a "neutral and detached magistrate" . . . These Fourth Amendment freedoms cannot be guaranteed if domestic security surveillances may be conducted solely within the discretion of the executive branch.

If the questions of balancing interests of individual liberty and national order are so overriding in the case of claims of national security that the method of balancing must be conducted by a "neutral and detached magistrate," and not by the agency prosecuting the surveillance, it is certainly much more important to have a full and complete knowledge of the justifications for surveillance and the collection of individual information where the national interests that are involved are much less critical.

In 1971, then Assistant Attorney General William H. Rehnquist of the Office of Legal Counsel of the Justice Department testified before the Senate Subcommittee on Constitutional Rights:

> We believe that full utilization of advanced data processing techniques is by no means inconsistent with the preservation of personal privacy. . . . I think it quite likely that self-discipline on the part of the Executive branch will provide an answer to virtually all of the legitimate complaints against excess of information gathering.

The illusion that "self-discipline on the part of the executive branch" will sufficiently guard against excesses of information gathering zeal within that same Executive branch has been shattered by subsequent events. We can no longer permit the fox to guard the henhouse where the individual liberties of our citizens are involved.

Now is the time for Congress to act to restore control over the use, misuse, overuse, and abuse of Government data-gathering and establish the appropriate mechanism to both secure continuing knowledge on the specific nature and scope of these activities and to assure that the constitutional balance between national interest and personal freedom is maintained at all times.

Writing in Vanity Fair in an article "In Defense of Liberalism" in November 1934, Walter Lippmann outlines the basic strengths of the liberal philosophy:

> The liberal philosophy holds that enduring governments must be accountable to someone beside themselves; . . . It holds, therefore, that there must be civil liberty so that opinions may be formed and expressed. The liberal faith in civil liberties is due to a realization that rulers need criticism to check them and to inform them, that the ruled need freedom to have ideas and express them in order to contribute what their own experience teaches them, to vent their grievances, to prepare themselves for responsibility.
>
> This is the political justification of liberty; it is founded, however, on a deeper insight into the nature of man and his history. The liberals believe that no rulers are wise enough to plan the destiny of mankind. They maintain therefore that the power of government must be limited, and that beyond those limits government must protect the freedom of men. They rely upon the initiative, the inventiveness, the endurance of individuals who, given opportunity, are challenged by it. They hold that a wide distribution of responsibility is the surest foundation of a society, that self-reliant individuals will sustain the nation when its governors fail, that among those individuals new governors will be trained and recruited.

This Nation is in need of a strong infusion of this type of philosophy. The only way in which this can occur is through the strengthening of individual self-reliance and the freedom of political expression and thought. Our security and our liberty are best served by adherence to constitutionality rather than reliance upon expediency.

Mr. President, I ask unanimous consent that a copy of the joint resolution to establish a Joint Committee on Individual Rights be printed in the RECORD along with the text of speeches I delivered in the Senate on this subject on February 23, 1967, and April 15, 1971.

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

S.J. RES. 124

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) in order to enable the Congress to carry out more effectively its constitutional responsibility to oversee the extent to which the activities of the United States Government invade the right to privacy of individuals, and in order to provide the Congress with an improved means for formulating legislation with respect to the activities of the United States Government and the protection of the right to privacy and other constitutional rights of individuals, there is established a Joint Committee of the Congress which shall be known as the Joint Committee on Individual Rights (hereafter referred to as the "Joint Committee"). The Joint Committee shall be composed of ten members of the Senate to be appointed by the President of the Senate, and ten members of the House of Representatives to be appointed by the Speaker of the House of Representatives. In each case, five members shall be appointed from the Majority Party and five members shall be appointed from the Minority Party.

(b) The Joint Committee shall select a Chairman and a Vice Chairman from among its members.

(c) Vacancies in the membership of the Joint Committee shall not affect the power of the remaining members to execute the functions of the Joint Committee and shall be filled in the same manner as in the case of the original appointment.

SEC. 2. It shall be the function of the Joint Committee—

(1) to make a continuing study of the extent of surveillance of individuals and the method of surveillance of individuals by any department, agency, or independent establishment of the United States Government as such surveillance relates to the right to

privacy, including an examination of the authority for such surveillance, the need for such surveillance, and the standards and guidelines used to protect the right to privacy and other constitutional rights of individuals;

(2) to make a continuing study of the collection, processing, analysis, storage, and dissemination of information concerning specific individuals, collected by any department, agency, or independent establishment of the United States Government, as it relates to the right to privacy, including the authority and need for such collection, processing, analysis, storage, and disssemination, and the standards and guidelines established to protect the right to privacy and the other constitutional rights of individuals and, as appropriate, to protect the confidentiality of the information obtained; and

(3) as a guide to the several Committees of the Congress dealing with legislation with respect to the activities of the United States Government and the protection of the right to privacy and other constitutional rights of individuals, to file reports at least annually, and at such other times as the Joint Committee deems appropriate, with the Senate and the House of Representatives, containing its findings and recommendations with respect to the matters under study by the Joint Committee, and, from time to time, to make such other reports and recommendations to the Senate and the House of Representatives as it deems advisable.

SEC. 3. (a) The Joint Committee, or any subcommittee thereof, is authorized, in its discretion (1) to make expenditures, (2) to employ personnel, (3) to adopt rules respecting its organization and procedures, (4) to hold hearings, (5) to sit and act at any time or place, (6) to subpena witnesses and documents, (7) with the prior consent of the agency concerned, to use on a reimbursable basis the services of personnel, information, and facilities of any such agency, (8) to procure printing and binding, (9) to procure the temporary services (not in excess of one year) or intermittent services of individual consultants, or organizations thereof, and to provide assistance for the training of its professional staff, in the same manner and under the same conditions as a standing committee of the Senate may procure such services and provide such assistance under subsections (i) and (j), respectively, of section 202 of the Legislative Reorganization Act of 1946, and (10) to take depositions and other testimony. No rule shall be adopted by the Joint Committee under clause (3) providing that a finding, statement, recommendation, or report may be made by other than a majority of the members of the Joint Committee then holding office.

(b) Subpenas may be issued over the signature of the Chairman of the Joint Committee or by any member designated by him or the Joint Committee, and may be served by such person as may be designated by such Chairman or member. The Chairman of the Joint Committee or any member thereof may administer oaths to witnesses. The provisions of sections 102–104 of the Revised Statutes (2 U.S.C. 192–794) shall apply in the case of any failure of any witness to comply with a subpena or to testify when summoned under authority of this section.

(c) With the consent of any standing, select, or special committee of the Senate or House of Representatives, or any subcommittee, the Joint Committee may utilize the services of any staff member of such House or Senate committee or subcommittee whenever the Chairman of the Joint Committee determines that such services are necessary and appropriate.

(d) The expenses of the Joint Committee shall be paid from the contingent fund of the Senate from funds appropriated for the Joint Committee, upon vouchers signed by the Chairman of the Joint Committee or by any member of the Joint Committee authorized by the Chairman.

(e) Members of the Joint Committee, and its personnel, experts, and consultants, while traveling on official business for the Joint Committee within or outside the United States, may receive either the per diem allowance authorized to be paid to Members of the Congress or its employees, or their actual and necessary expenses if an itemized statement of such expenses is attached to the voucher.

[From the CONGRESSIONAL RECORD, Feb. 23, 1967]

THE ALARMING TREND TOWARD POLICE-STATE TACTICS

Mr. NELSON. Mr. President, I think there is cause to be deeply disturbed by a number of developments recently which seem to indicate an alarming trend in the country toward the use of police-state tactics.

I refer to the following developments:

First. The lavish subsidization of the National Student Association and other private domestic organizations by the Central Intelligence Agency.

Second. The widespread use of wiretapping and eavesdropping by Government agencies.

Third. The subsidization of supposedly legitimate books by the U.S. Information Agency, primarily for propaganda purposes.

Fourth. The use of private detective agencies by large corporations such as General Motors to harass a private citizen such as Ralph Nadar.

Fifth. The widespread practice of industrial spying to discover competitor's corporate secrets.

Sixth. The use of a private detective agency by the State of Florida, allegedly to conduct a widespread investigation into crime and corruption.

All of these developments, have provoked considerable publicity, and most of them have been criticized in one way or another. When we view all of these developments and others like them as a developing trend or pattern in our society, I think we have reason to be gravely concerned as to whether the United States of America, perhaps unwillingly and unwittingly, is veering away from its traditional role as a free society and drifting toward a passive acceptance of the repulsive practices of a police state.

All of these disturbing developments have certain things in common.

In the first place, all have been carried out under a cloak of secrecy. That alone raises grave questions of public policy. Although there might be a few selected instances where secrecy can be justified by Government agencies or by giant corporations dealing with public questions, as a general rule secrecy is inevitably contrary to the public interest and a step toward corruption and tyranny.

Even more important than their common cloak of secrecy, all of these six activities have involved an element of dishonesty.

When our world-famed intelligence service took over the largest student organization in America, it was not merely an act of secrecy. It was an act of out and out dishonesty. Time after time our Government has denied Communist charges that American students abroad were being used as spies. Now it appears possible or even probable that these statements issued by our Government by students themselves and even their parents were lies. Note that the CIA urged the NSA to deny it was subsidized—in other words, to state that Ramparts magazine, rather than the NSA or the CIA, was lying about this secret arrangement. This was a clearly dishonest arrangement.

When Federal agencies tap telephones and bug hotel rooms, they are not merely acting in secret—they are acting dishonestly. For the law, Government regulations, and the comments of high Government officials have all reassured us that these things were not being done. These assurances, it now appears, were lies.

The subsidizing of books by the U.S. Government is more than an act of secrecy. It is an act of dishonesty, for anyone buying such a book without knowing that it is paid, Government propaganda, is being cruelly deceived.

In the Ralph Nader case, neither General Motors nor the private detective which it hired, Vincent Gillen, seemed to understand that one of the most loathsome aspects of this case was its dishonesty—not just its secrecy.

Detective Gillen lied repeatedly in conducting his investigation; he lied about his name, he lied about his purpose, and he lied about his sponsors. Gillen now tells us that General Motors also lied in saying that the purpose was to find out if Nader was behind lawsuits involving Corvair automobiles. Documentary evidence plus Gillen's own testimony now indicate that dishonesty prevailed throughout this sordid case.

Now the same secret, reprehensible tactics are being employed on a grand scale in the State of Florida. The newly elected Governor has engaged a close personal friend, George R. Wackenhut, and directed him to unleash his detective agency throughout Florida in search of "corrupt officials."

The Wackenhut Corp. has 5,000 employees in 28 offices stretching from Puerto Rico to Hawaii, with subsidiaries in several Latin American countries. Mr. Wackenhut, himself, is deeply involved in politics, both National and at the State level. His firm reportedly does $23 million a year in business. In 1955 he was cited for comtempt of court in Dade County circuit court and fined $100 for intimidating a witness. In this case, Wackenhut reportedly lied in telling the witness that Wackenhut had secretly recorded a conversation with the witness through use of a concealed dictaphone. Wackenhut's board of directors include members of the John Birch Society and a number of persons active in national political organizations.

According to the Washington Post, Wackenhut's firm is paid $3 million a year by the Atomic Energy Commission.

Now this gigantic organization, with its tentacles involved in politics and other affairs over much of the globe, has gone to work for a high public official. Presumably it will have access to all manner of official documents, police files, FBI files and other material generally available only to responsible public officials.

I have said that all of these deplorable developments have in common the elements of secrecy and dishonesty. Yet they have in common something even worse.

Mr. President, the worst thing about all of these practices is that the main victims are our own citizens and in many cases these victims are citizens completely innocent of any wrongdoing. Furthermore, these innocent American citizens in many cases will find themselves completely unable to make a satisfactory defense against these secret, police-state tactics.

That is what makes these practices so un-American, and that is why they should not be tolerated by the American people.

The most important answer which applies to all of these practices is this:

"We cannot conquer communism or crime by adopting Communist or criminal tactics."

Also, it must be remembered, in every one of these cases, as I have said, the probable victims are not Communists and criminals, but innocent citizens. The whole purpose of the U.S. Constitution and its world-famed Bill of Rights is to protect innocent citizens from arbitrary tactics by the agencies of gov-

ernment. If a citizen does commit a crime, specific constitutional procedures are spelled out under which the charges must be documented and filed against him and he must have an opportunity to confront his witnesses and defend himself in a court of law. The Constitution specifically forbids that any citizen be deprived of his constitutional rights without due process of law.

Wiretaps and microphones hidden behind family portraits or in a martini olive are not a part of what the Constitution means when it talks of "due process of law." In fact, these are tactics which are used to get around due process.

Since the Constitution says you cannot make a man testify against himself, government and private detective agencies try to secretly record his conversations with his wife, his children, his neighbors, and his business associates to get information which they can use against him and which they cannot obtain in a constitutional manner.

Wiretaps and bugs have not yet been invented which will record only the conversations of the guilty. They record far more conversations of the innocent. Yet even the most innocent conversation, placed in the hands of government agencies or private detectives, can be used to destroy the reputation and the economic standing of almost any citizen in this Nation.

When the Central Intelligence Agency moved in on the National Student Association with its bulging suitcase filled with taxpayers' dollars, it was not damaging international communism—it was damaging an important American institution—a free association of college students. Without the knowledge of most of the students themselves, the CIA transformed this free student association into a Government-operated spy nest and destroyed the value of almost everything these idealistic students strove to accomplish over a 15-year period.

The only basis for holding our young people up as examples to the world is the fact that they are free. They are not the paid stooges of the Government as many Communist students are. By infiltrating the National Student Association with CIA agents and taxpayers' dollars, we have undermined the most important thing that our students stood for. The next time our students cite their all-important American freedom, they will receive smirks from the other side of the aisle.

You cannot adequately judge the evil of any of these practices I have cited if you think of how they affect only Communists and criminals. One must consider first of all how they affect innocent American citizens, how they tarnish the American ideal, how they corrode the free society of our ancestors so valiantly fought to create.

Secret slush funds such as the CIA used, wiretapping devices such as Government agencies use, secretly subsidized American books and cloak-and-dagger private detective agencies are not subject to the checks and balances so cherished by free American citizens.

If you should be one of those who think it all right for the CIA to finance the NSA, then what conceivable check would you provide on such activity? Would you allow an individual agent to pass out $400,000 a year to such an association in any way he saw fit? Could he bestow such funds on his friends within the organization? Could he use them conceivably for immoral purposes? Since we did not know that this was being done in the first place, how would we know that the amount of money poured into this sordid scheme was a wise investment? In other words, what kind of budget review could a free society carry out on this secret operation? We have already read how CIA money was used to finance a ludicrous book-selling operation run by a group of high living, naive young businessmen.

Police officers are subjected to strict rules and regulations. Many of them serve heroically for a lifetime at low pay, even in the face of great danger. They live in a goldfish bowl because society holds them to high standards of conduct. What standards do we apply to private detectives and secret agents who are now padding about the country, financed by taxpayers' dollars, subjected to none of the rules and regulations applied to policemen, with virtually no budget review as to how they spend the taxpayers' money, free to operate in almost any way it suits their purpose and the purposes of their farflung clients?

I think it is worthwhile considering for a moment what happened in Germany.

After World War I, Germany was a defeated nation suffering from severe economic problems and political disunity which bordered on anarchy. The problems of the nation were so great and the morale of its people was so low that they put themselves into the hands of a dictator who promised to correct the greatest problems. By crusading against what he described as corrupt and sinister minority forces—primarily communism and members of the Jewish faith—he managed to unite much of the nation. By constructing a mighty war machine he managed to put the German factory and workers back to work again. So the great concerns of the German public appeared to have been met. Yet he did this at a terrible cost. He instituted police-state terrorism. He abolished the constitutional guarantees such as we have in our Constitution and Bill of Rights. He developed propaganda into an art form. In this case too, the intelligence service, the wiretapping, the propaganda publications and the cloak and dagger investigations were aimed at Communists and criminals—at least as he defined them.

The United States of 1967 is by no means the Germany of 1933; I do not mean to exaggerate. But if the people of America tolerate the intrusions of the CIA into free domestic institutions such as the National Student Association, if they tolerate indiscriminate wiretapping and electronic eavesdropping by Government agencies, if they allow their taxes to be spent to corrupt authors and subsidize what appear to be legitimate books, if they allow private detectives to silence those who would criticize our society, we will have gone a long way toward embracing the police-state psychology which gripped Germany following World War I and sowed the seeds of disaster.

It is not enough to say that "it could not happen here." These recent developments have shown that it can—without our knowing it. It may be that the last several Presidents and a few selected congressional leaders were aware that the National Student Association was a front for our international, secret intelligence operation. But most Congressmen and Senators were unaware of it; certainly the press was not aware of it nor was the public and, therefore, this secret intelligence service was in a position where it could have done grave harm to American democracy without our even knowing it.

It may be that the last few Presidents and a few key Government officials are aware that Federal agencies are tapping telephones, bugging offices and homes, but Secretary of the Treasury Dillon assured Senator LONG of Missouri on July 13, 1965, that wiretapping was absolutely banned by the Internal Revenue Service. To his embarrassment, the Secretary's own counsel informed him that the IRS was tapping public telephones in the IRS building in Washington. It was revealed later that the Internal Revenue Service and the Treasury Department had been conducting a course for agents in the art of electronic snooping.

The president of General Motors has assured us that he did not know that his firm had hired Vincent Gillen to probe into every aspect of the personal life of Ralph Nader in an obvious attempt to silence him. I am sure we will soon hear of something done by the Wackenhut Corp. of which the Governor of Florida was blissfully unaware.

What this shows is that democratic institutions cannot control police-state tactics once they are set in motion. If secret agents are given millions of dollars to dispense in secret, if investigators are allowed to break into homes and install eavesdropping devices, then the people given these special, secret powers become a kind of new government all their own. That is why the secret police in Germany and Russia become so powerful, once they were allowed to do things which were outside the law and forbidden to other agencies. Once they acquired these powers and gathered their secret information, they became a law unto themselves.

Once we embark upon the use of police-state tactics, even if we piously protest that we are using these tactics only on Communists and criminals, we take a long step away from democratic self-government.

I think the time has come to call a halt. I think that the President of the United States, the Congress, the Federal agencies, State and local government and large corporations which carry heavy public responsibility should all pledge themselves to abstain from such practices in the future.

I do think the Congress should inquire into this whole sordid business and find out just how widespread and just how vicious it has become. I think that kind of cartharsis would be helpful. But I am primarily concerned about the future. Even if we cannot purge ourselves of all that has happened before, we should make a clear, firm promise that these things will not be done again. If government and the public does not insist upon such a promise, I fear for the future of democracy in these United States.

Wiretapping by Government should certainly be limited to cases involving national security.

All private bugging should be outlawed with stiff penalties.

The CIA's jurisdiction and method of supervision should be overhauled.

The employees of the CIA are certainly dedicated American citizens. The organization has a critical intelligence gathering function. The national security must be protected by the effective performance of that function. However, recent events would seem to clearly indicate that the limits of its role must be more clearly delineated and its activities more carefully supervised.

Wiretapping and electronic eavesdropping should be used only in the interest of national security. This should apply to subversion and organized crime, under court authorization with annual review by Congress.

[From the CONGRESSIONAL RECORD, Apr. 15, 1971]

CONGRESSIONAL CONTROL OF DOMESTIC SURVEILLANCE AND INTELLIGENCE OPERATIONS

By Mr. NELSON:

S. 1550. A bill to provide for more adequate protection of the constitutional rights and civil liberties of individuals through the establishment of a commission to investigate the domestic surveillance and intelligence-gathering activities being carried out by the Government and to make recommendations to the Congress for measures to insure that such activities do not infringe upon or threaten the rights of individuals guaranteed by the Constitution. Referred to the Committee on the Judiciary.

THE CONSTITUTIONAL RIGHTS AND CIVIL LIBERTIES PROTECTION ACT OF 1971

Mr. NELSON. Mr. President, I introduce a bill to establish a commission, entitled "The Constitutional Rights and Civil Liberties Protection Act of 1971," and I ask that it be appropriately referred.

I think there is cause to be deeply disturbed by a number of developments recently which seem to indicate an alarming trend in this country toward the use of police-state tactics. Just over 4 years ago on February 23, 1967, I spoke on this issue on the Senate floor specifically directing attention to the disclosures of CIA subsidization of domestic organizations; the widespread use of wiretapping: the Government funding of propaganda books for the U.S. Information Agency; and the growing abuses of private and corporate spying.

Since that time, such activities have quite obviously expanded and proliferated within the Federal bureaucracy as evidenced by such recent disclosures as the widespread Army spying and FBI surveillance of Earth Day events last year.

This type of activity, carried out under a cloak of secrecy, is contrary to the public interest. Clandestine intelligence operations constitute a continuing threat to our existence as a free and open society and this threat is amplified so long as Congress—as the representative of the public—has no suitable mechanism or capability to continually and accurately monitor the activities of governmental intelligence agencies. Congress must be in a position to assure the public that the interests of national security are balanced by constitutional guarantees of political freedom and individual civil liberties.

The necessity for this type of overview capability, particularly for the Congress of the United States, has been accentuated and made abundantly clear. Revelations have been made during the past year of an extensive, apparently uncontrolled network of Government military and domestic gumshoes who have been feverishly and indiscriminately collecting and storing a mountain of data on the private and public thoughts, utterances, and activities of individual U.S. citizens and organizations within this country.

This domestic surveillance and intelligence operation has grown secretly. It has spread its eyes and ears into the far corners of American life without the knowledge, much less the assent, of Congress. This type of mass governmental snooping into the private affairs of her citizens impinges upon some of the most vital constitutional guarantees of this country—the right of free and open political expression. Yet, Senators and Representatives have had no more information about the authority and extent of this domestic spying operation than their constituents. The Congress and the public have shared the same shocked reaction when the bits and pieces of this creeping domestic spy network have been exposed in the journals, through Senator ERVIN'S persevering questioning in his Constitutional Rights Subcommittee hearings and now in the disclosures of FBI surveillance of last year's Earth Day activities which involved tens of millions of citizens and thousands of communities all over the United States.

In order that Congress may prosecute its legislative duties on an informed basis and responsibly act to protect the public's guaranteed rights of full political thought, expression, and activity, and to guard against unilateral and unwarranted governmental invasions of privacy, I am introducing legislation to create a Congressional Commission on Domestic Surveillance and the Constitutional Rights and Civil Liberties of Individuals. This commission will be comprised of 24 members, six members to be selected from the House of Representatives and six members to be selected from the Senate on an equal bipartisan basis by the Speaker of the House and the President pro tempore of the Senate respectively. These congressional members will in turn select 12 members from the public who are representative of the broad interests to be served by this commission. The chairman shall be selected from the public members by the entire commission.

This Congressional Commission on Domestic Surveillance Activities will be mandated to investigate the entire range of domestic surveillance and intelligence activities in this country and the impact upon constitutional rights to determine:

First, the agencies, offices, and departments of Government which are conducting surveillance and intelligence activities domestically;

Second, the legal authority upon which these activities are based:

Third, the methods by which domestic surveillance is conducted;

Fourth, the range of people and organizations who are subject to any aspect of surveillance;

Fifth, the type of intelligence information which is being collected;

Sixth, the use that is made of collected and stored data;

Seventh, the extent that Government agencies and departments cooperate in surveillance activities and share collected data;

Eighth, the impact of such activities upon the constitutional rights and civil liberties of individuals; and

Ninth, the administrative, executive, and legislative controls which are exercised, or should be exercised, to insure that domestic surveillance activities do not infringe upon the constitutional rights of individual citizens or legitimate organizations.

The Commission will be staffed and funded at a level of $5 million, will have the power to subpena persons and records, and will be authorized to receive information and the assistance of all departments and agencies upon the request of the chairman.

The Commission will be directed to report back to Congress within 1 year with its findings and recommendations for actions and legislation that will enable the Congress to bring these activities under appropriate control and supervision on a continuing basis so as to protect the public interest and rights and liberties guaranteed to individuals by the Constitution.

The American public has a valid right to expect its elected representatives to be in the forefront of all efforts to halt excesses of governmental intervention into the lives of its citizens. Passive acceptance of police-state tactics by the Federal legislature will not only see a continual erosion of individual rights and free expression, it will see the further abdication in the congressional role in constitutional democratic government. In a system dependent upon the checks and balances between branches of Government to assure an open society, this abdication by Congress contributes to the growing lack of confidence in our Government which is spreading across the country.

Albert Camus, the famous writer philosopher and leader in the French underground during World War II, commented upon the Resistance's passionate struggle for liberty in a 1943 letter to a German friend. In his letter Camus said:

"This is what separated us from you; we made demands. You were satisfied to serve the power of; your nation and we dreamed of giving ours her truth."

It is time that the U.S. Congress started to acknowledge some of the truths and historical principles which have nurtured and sustained this country since its birth. It is imperative that Congress begin to act to preserve these visions that were incorporated into our Constitution and Bill of Rights. Democratic self-government demands that vigilance be exercised before special, secret powers that infringe upon freedom are handed out and become firmly entrenched. The preservation of constitutional form will never be served by the erosion of vital constitutional substance.

Congressmen and the country alike first learned of the operation Conus Intel, or Continental U.S. Intelligence, through a magazine article by Christopher H. Pyle in the January 1970, issue of Washington Monthly. When finally unveiled, Conus Intel turned out to be a 2-year operation from the summer of 1967 through the fall of 1969 that was conducted by the U.S. Army and employed some 1,000 Army agents to conduct domestic intelligence activities and collect personal and, political data on citizens ranging from prominent politicians to pacifists, on organizations that spanned the gamut from the Daughters of the American Revolution to environmental groups.

Although it sometimes appeared to resemble a script for a Peter Sellers' English commedy, the activities of Army agents posing as newsmen, infiltrating groups under surveillance, acting as innocent bystanders, and assuming a variety of covers, enabled the omnipresent Conus Intel to turn out 1,200 spot reports a month during 1969 on various incidents throughout the Nation. As reported in the New York Times, Conus Intel also fed the names of about 18,000 Americans into its files during the 2-year period of its existence.

Much of the justification for the current expansion of the Government's power to gather information about its citizens and tuck it away in computers without full public knowledge or congressional authorization is based upon the Justice Department's interpretation of a 1940 Presidential order authorizing the use of wiretaps against "persons suspected of subversive activities." Claiming the inherent power of the executive to "authorize the use of electronic surveillance where the use of such surveillance is reasonably required in the interests of national security," the Justice Department has apparently expanded this power from an authority to stop foreign subversion to an unlimited right to use all forms of domestic surveillance, without seeking the permission of Congress or the courts, against any U.S. citizen or organization which the executive, by its own determination, considers a threat to the national security.

To my mind the Justice Department's reading of President Roosevelt's 1940 memorandum to his Attorney General is fallacious. There is no justification for extensive Government snooping into domestic political activities based on this 1940 order. In the first paragraph of his order, President Roosevelt recognized the danger of widespread Government spying when he agreed with the Supreme Court that it was—

"Also right in its opinion that under ordinary and normal circumstances wire-tapping by government agents should not be carried on for the excellent reason that it is almost bound to lead to abuse of civil rights."

President Roosevelt went on to limit wiretapping in the national security interest to "grave matters involving the defense of the Nation," to "persons suspected of subversive activities against the Government of the United States, including suspected spies," and specifically requested his Attorney General to "limit these investigations so conducted to a minimum and to limit them insofar as possible to aliens." The exigencies of subversion, treason, espionage, and sabotage during World War II conducted by agents of foreign powers are a far cry from the political protests and expressions of political free-

dom and dissent during the late 1960's and 1970's by U.S. citizens who hold views contrary to those of established "powers" in Washington.

The Justice Department not only assumes the power to drastically expand the definition of "national security," but claims that Congress should not be concerned about possible abuses of this intelligence activity because such excesses of authority will be controlled by "self-discipline on the part of the executive branch." As Tom Wicker noted on March 10:

"They are asking us to set a goat to guard the cabbage patch."

The initial fallacy of the Justice Department's apologia is their failure to note the important distinctions between the Government's rights of action in domestic and foreign affairs. As the courts have repeatedly explained, the Government is limited in the actions it can take in the area of domestic politics. Unlike the area of foreign affairs, the Government can act only to prevent or punish unlawful acts in the domestic arena, not unpopular acts or iconoclastic thoughts.

To permit Government surveillance of lawful activity would have a chilling effect upon the willingness of individual citizens and organizations to exercise their constitutional freedoms of speech, expression, and association and their right to petition their Government for the redress of grievances.

As U.S. District Judge Warren J. Ferguson pointed out in a recently decided case in this field which is currently being appealed:

"The government seems to approach these dissident domestic organizations in the same fashion as it deals with unfriendly foreign powers. The government cannot act in this manner when only domestic political organizations are involved, even if those organizations espouse views which are inconsistent with our present form of government. To do so is to ride roughshod over numerous political freedoms which have long received constitutional protection."

There is no doubt that national security must be protected and is a vital and necessary function of this Government. The Constitution was written, however, with a purposeful balance drawn between the protection of national security and the protection of political freedom for U.S. citizens. As Judge Ferguson concluded:

"To guarantee political freedom, our forefathers agreed to take certain risks which are inherent in a free democracy. It is unthinkable that we should not be required to sacrifice those freedoms in order to defend them."

It is equally fallacious for the Justice Department to conclude that the balance between national security interests and political freedom set up in the Constitution will be guaranteed by executive selfdiscipline. Strengthening and preserving this balance is everyone's business and specifically it is the business of the elected representatives of the people of this Nation.

Yesterday Senator MUSKIE produced documentary evidence that the FBI conducted surveillance activities over the peaceful, constructive antipollution events of Earth Day last April 22. As the one who initiated and planned the organization of Earth Day last year and Earth Week this year, I am astonished that the FBI could conceivably dream up any legitimate excuse for conducting surveillance over these activities. If the FBI asserts this kind of political activity to be within their jurisdiction then no political activity in the Nation is beyond their reach including the annual meetings of the chamber of commerce and the manufacturers association.

Certainly the framers of our Constitution did not contemplate that the normal political activities of this free Nation would be routinely and secretly monitored by an arm of the Federal Government. Just as certainly, this Congress cannot condone such surveillance and still claim to represent the interests and welfare of the people of this country.

Earth Day was a dramatic and massive event through which the people expressed their concern over the status of our environment in a peaceful, democratic, uniquely American way. It involved millions of people from all walks of life and all age groups from school children to elder citizens. Thousands of grade schools, high schools and colleges participated. At least 150 Members of Congress, numerous Governors, and 100 representatives of the Nixon administration gave speeches at these events. By what constitutional or statutory authority do these events come within the jurisdiction of the Federal Government for surveillance?

All of these questions are difficult if not impossible to answer because neither the Congress nor the public knows the extent or the dimension of these activities. It is time we found out. However well intentioned these surveillance activities may be, if left uncontrolled and the jurisdiction undefined, they will eventually deprive us of more liberty than they will give us.

Congress is as much at fault as the Federal agencies involved, if not more so, because we have defaulted in our own fundamental responsibility to debate, examine, test, and evaluate these activities. We cannot plead ignorance because we all know that it is the very nature of every bureaucracy to expand its jurisdiction and power as far as it is permitted to do so by the authority that has the power to control their activities. The Congress is that authority and it is time for us to act.

This proposal for a commission of citizens and Members of Congress to study, evaluate, and make recommendations to Congress may or may not be the best approach. In my office we have been working on a proposal for the past 3 months. We finally concluded that insufficient information was available to draft a bill to deal specifically with the numerous difficult problems raised by this issue. We concluded, therefore, that the commission approach was the most logical.

Some thoughtful people have suggested that this whole problem be handled by Executive order. The President after all, does have authority over executive agencies and can set guidelines for their activities. In my judgment, to leave this matter exclusively in the hands of the executive branch would be a grave mistake. The Congress has its own responsibility and is not entitled to default in the exercise of it. We have done that for years in respect to foreign policy and military budgets. It certainly is not necessary here to discuss the catastrophic consequences of our default in those areas.

Two further points are pertinent. The surveillance activities we are now concerned about have all grown up under a system which left their control exclusively within the executive branch. In fairness, I might add, most of these activities started and expanded under previous administrations. If left exclusively to the executive branch, what is to prevent some future administration from dramatically expanding these activities far beyond current practices? And finally, how would Congress find out about it since we cannot secure the necessary information in the face of an assertion of executive privilege?

I want to take a moment, finally, to say to the Senate that the Congress' most distinguished constitutional lawyer, Senator SAM ERVIN, has been doing a magnificent job in his Constitutional Rights Subcommittee. The distinguished Senator from North Carolina has been diligent in revealing this maze of domestic governmental spy operations. The Senate and the country is indebted to him for the important and constructive work he is doing in this field. He deserves the support and cooperation of every Member of the Congress and the executive branch.

By Mr. COOK:

S.J. Res. 125. A joint resolution relative to governmental control of any medium of mass communication. Referred to the Committee on Commerce.

Mr. COOK. Mr. President, the first amendment to the U.S. Constitution provides probably the most essential right in a democratic society—the right to a free press. The issue of freedom of the press has been raised time and time again during the past few years, and it seems unlikely that the true status of the press in this country will never be properly defined.

One potential threat to a free press has developed by virtue of efforts by some units of Government to own or control media of mass communication. This possibility is extremely offensive to me, and I will resist any such efforts. I believe the Congress must take the same position.

For that reason, I am today introducing a joint resolution expressing the opposition of the Congress to any attempts to assume the ownership, control, or management of any medium of mass communication by any unit of Government at any level. However recognizing the importance of promoting and supporting educational services, the resolution does not apply to noncommercial educational broadcast stations which are often owned by educational systems under State or local governments.

I ask unanimous consent that the full text of the joint resolution be printed in the RECORD.

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

S.J. RES. 125

Whereas freedom of the press is essential to the operation and preservation of a democratic society; and

Whereas this freedom is threatened by governmental ownership, management or control of any medium of mass communications; and

Whereas it is the intent of Congress to express its concern with the trend toward such control by units of governments at all levels, including Federal, State, and municipal: Now, therefore, be it

Resolved by the Senate and the House of Representatives of the United States of America in Congress assembled, That the Congress of the United States opposes attempts by governmental units at all levels to own, manage, or control any medium of mass communications, whether it be newspapers, broadcast stations, or cable television systems, excepting, however, noncommercial, educational broadcast stations as defined in the Communications Act of 1934, as amended.

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 136

At the request of Mr. SCHWEIKER, the Senator from Louisiana (Mr. LONG) was added as a cosponsor of S. 136, to authorize financial assistance for opportunities industrialization centers.

S. 1221

At the request of Mr. BIBLE, the Senator from Texas (Mr. TOWER) was added as a cosponsor of S. 1221, a bill to provide that Federal employees shall be entitled to accumulate annual leave in excess of 30 days, or receive payment therefor, for periods such employees have been in a missing status while serving in Southeast Asia during the Vietnam era.

S. 1543

At the request of Mr. MONDALE, the Senator from Connecticut (Mr. RIBICOFF) was added as a cosponsor of S. 1543, a bill to amend the Social Security Act to provide for extension of authorization for special project grants under title V.

S. 1662

At the request of Mr. PACKWOOD, the Senator from Texas (Mr. TOWER) was added as a cosponsor of S. 1662, a bill to provide for a daily index of the CONGRESSIONAL RECORD.

S. 1722

At the request of Mr. HARTKE, the Senator from Missouri (Mr. EAGLETON) was added as a cosponsor of S. 1722, to provide tutors for homebound handicapped students.

S. 1753

At the request of Mr. HARTKE, the Senator from Rhode Island (Mr. PASTORE) was added as a cosponsor of S. 1753, to amend the Interstate Land Sales Act.

S. 1769

At the request of Mr. MANSFIELD (for Mr. MAGNUSON) the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of 1769, to establish a U.S. Fire Administration and a National Fire Academy in the Department of Housing and Urban Development, to assist State and local governments in reducing the incidence of death, personal injury, and property damage from fire, to increase the effectiveness and coordination of fire prevention and control agencies at all levels of government, and for other purposes.

S. 1776

At the request of Mr. CLARK, the Senator from New Mexico (Mr. DOMENICI), was added as a cosponsor of S. 1776, a bill to amend the Federal Water Pollution Control Act, as amended.

S. 1812

At the resuest of Mr. MCINTYRE, the Senator from Indiana (Mr. BAYH), the Senator from South Carolina (Mr. HOLLINGS), and the Senator from Wisconsin (Mr. NELSON) were added as cosponsors of S. 1812, to improve the coordination of Federal reporting services.

SENATE JOINT RESOLUTION 117

At the request of Mr. INOUYE, the Senator from Idaho (Mr. CHURCH), the Senator from New York (Mr. JAVITS), the Senator from Maine (Mr. MUSKIE), and the Senator from New Jersey (Mr. WILLIAMS), were added as cosponsors of Senate Joint Resolution 117, to authorize and request the President of the United States to issue a proclamation designating September 17, 1973, as "Constitution Day."

AMENDMENT TO TRUTH-IN-LENDING ACT—AMENDMENTS

AMENDMENT NO. 230

(Ordered to be printed, and referred to the Committee on Banking, Housing and Urban Affairs.)

Mr. TOWER submitted amendments, intended to be proposed by him, to the bill (S. 1630) to amend the Truth in Lending Act to protect consumers against inaccurate and unfair billing practices, and for other purposes.

LAND USE POLICY AND PLANNING ASSISTANCE ACT OF 1973—AMENDMENTS

AMENDMENT NO. 231

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

Mr. JOHNSTON (for himself and Mr. BARTLETT) submitted amendments, intended to be proposed by them, jointly, to the bill (S. 268) 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, 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.

AMENDMENT NO. 232

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

Mr. HUMPHREY (for himself and Mr. NELSON) submitted an amendment, intended to be proposed by them jointly to Senate bill 268, supra.

AMENDMENT NO. 233

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

Mr. JACKSON. Mr. President, on behalf of Senator HASKELL, Senator HATFIELD, and myself I am sending to the desk an amendment to S. 268, the Land Use Policy and Planning Assistance Act, to provide additional encouragement to States to exercise States' rights and develop State land use programs. This amendment is supported by the administration; it is contained in the administration's proposed land use bill, S. 924. Furthermore, it is vigorously supported by all the major environmental organizations. It would impose moderate reductions in a State's entitlement to certain Federal funds in the event that the State has not made a good faith effort to comply with the limited provisions of the Land Use Policy and Planning Assistance Act at the end of 5 years from date of enactment.

Under the amendment, any State which fails to develop a State land use program at the end of 5 years which meets the requirements of the act would experience a phased withholding over 3 fiscal years of certain Federal funds. The withholding would begin at 7 percent the first year, go up to 14 percent, and end at 21 percent in the third year. The programs from which funds would be withheld are the funds for airport development under the Airport and Airway Development Act, Federal-aid highway funds for primary and secondary Federal-aid highways, and funds under the Land and Water Conservation Fund Act of 1965. This sanction would be invoked only after 5 fiscal years, and the funds withheld would not be lost to the State. When the State land use program again meets the requirements of the act, any funds withheld must be disbursed to the State. Finally, the sanction could not be invoked until a determination of ineligibility of the State for grants is made in the interagency review process and concurred in by the independent ad hoc hearing board.

I believe this amendment is important for two reasons. The first, to encourage States to improve their land use decisionmaking, has already been mentioned. Equally as important is the need to insure that major Federal programs which have an immediate and direct impact on land use or which stimulate development do not contribute to unplanned, ugly, and inefficient land use patterns. It makes good commonsense to ask the State to have the means to plan and control in an orderly fashion the secondary growth stimulated by these Federal programs before that growth occurs.

The three programs chosen to be included in the "sanction"—or as I prefer to call it "the additional incentive"—are those which are thought to have the most significant long-range and irreversible impacts upon land use patterns because of the exceptional influence they have over public and private development. The balance of two developmental programs and one environmental program was struck to insure that all interests have a stake in avoiding the loss of funds and in developing State land programs which do meet the act's requirements.

This sanction was included in S. 632, the Land Use Policy and Planning Assistance Act, reported by committee last year. During Senate consideration of S. 632, I agreed to an amendment by Senator HANSEN to delete this sanction from the measure. I did so reluctantly in order to insure the passage of the Land Use Policy and Planning Assistance Act. However, since then we have worked very hard to accommodate concerns of several of my colleagues about the measure. In addition, we and many others have conducted extensive public education on the need for the establishment of planning processes and programs at the State level. The States themselves are moving rapidly to develop such land use decisionmaking capacity.

I know that the politically expedient course would be not to offer this amendment. This is particularly true in a year when the States and local governments have felt the pinch of Federal budget cuts and impoundments It is also no secret that this amendment bears the added burden of affecting programs under the jurisdiction of other committees. But for the reasons I gave above, I believe this amendment is necessary and I plan

to fight vigorously for it. I am happy to say that supporting me will be the administration, all the major environmental groups, professional planning associations, and a number of Governors. Publicly, and privately to me, a number of Governors have indicated that this amendment is needed by them to urge their legislatures to enact the necessary enabling legislation.

I commend this amendment to my colleagues.

Mr. President, I ask unanimous consent that a section of the report setting forth the full legislative background of sanctions in the land use legislation and the text of the amendment be printed in the RECORD at this point.

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

AMENDMENT NO. 233

On page 84 after subsection 208(b) insert new subsections (c), (d), and (e), as follows:

(c) Section 15 of the Airport and Airway Development Act (84 Stat. 219, 225) is amended by adding the following new subsection:

"(d) Any State which has not been found eligible for a grant under the Land Use Policy and Planning Assistance Act after five fiscal years from the date of enactment of that Act shall suffer a withholding of 7 per centum of its entitlement to Federal funds apportioned for airport development pursuant to paragraphs (A) and (B) of subsection (a) (1) and paragraphs (A) and (B) of subsection (a) (2) of this section in the following fiscal year. If such State has not been found eligible by six fiscal years from the date of enactment of that Act, it shall suffer a withholding of 14 per centum in the following fiscal year, and, if not found eligible by seven fiscal years from the date of enactment of that Act, shall suffer a withholding of 21 per centum in the following fiscal year. Funds so withheld shall be held in the Department of the Treasury until the State is determined to be eligible for a grant pursuant to the Land Use Policy and Planning Assistance Act. Upon such determination, the Department of the Treasury shall disburse to the State the funds so withheld."

(d) (1) Section 104, title 23 of the United States Code, is amended by adding the following subsection:

"(2) Any State which has not been found eligible for a grant under the Land Use Policy and Planning Assistance Act after five fiscal years from the date of enactment of that Act shall suffer a withholding of 7 per centum of its entitlement to Federal-aid highway funds, other than funds authorized to be appropriated under subsection (b) of section 108 of the Federal Aid Highway Act of 1956, as amended, or funds for planning and research, which would otherwise be apportioned to such State in the following fiscal year. If such State has not been found eligible by six fiscal years from the date of enactment of that Act, it shall suffer a withholding of 14 per centum in the following fiscal year, and, if not found eligible by seven fiscal years from the date of enactment of that Act, shall suffer a withholding of 21 per centum in the following fiscal year. Funds so withheld shall be held in the Department of the Treasury until the State is determined to be eligible for a grant pursuant to the Land Use Policy and Planning Assistance Act. Upon such determination, the Department of the Treasury shall disburse to the State the funds so withheld."

(2) Subsection (f) of section 109, title 23 of the United States Code, is amended by deleting "or control of" in the first sentence.

(e) Subsection (b) of section 5 of the Land and Water Conservation Fund Act of 1965 (78 Stat. 897, 900), as amended, is amended by adding after the second paragraph the following paragraph:

"Any State which has not been found eligible for a grant under the Land Use Policy and Planning Assistance Act after five fiscal years from the date of enactment of that Act shall suffer a withholding of 7 per centum of its entitlement under paragraphs (1) and (2) of this subsection in the following fiscal year. If such State has not been found eligible by six fiscal years from the date of enactment of that Act, it shall suffer a withholding of 14 per centum in the following fiscal year, and, if not found eligible by seven fiscal years from the date of enactment of that Act, shall suffer a withholding of 21 per centum in the following fiscal year. Funds so withheld shall be held in the Department of the Treasury until the State is determined to be eligible for a grant pursuant to the Land Use Policy and Planning Assistance Act. Upon such determination, the Department of the Treasury shall disburse to the State the funds so withheld."

NOTE: THE ISSUE OF "CROSS-OVER" SANCTIONS

It will be recalled that S. 3354 and S. 632, earlier versions of S. 268 reported by this Committee in former Congresses (and, in the case of S. 632, passed by the Senate) did contain sanctions which affected other Federal programs. An amendment to add a similar sanction to S. 268 was offered and then withdrawn by the Chairman. Instead, the Chairman announced that he would offer the amendment on the Senate floor for full Senate consideration. The Chairman gave the following reasons for withdrawing the amendment:

"The decision to defer consideration of sanctions enabled the Committee to focus its markup efforts on the substantive requirements of the bill. Furthermore, it placed the discussion of the sanction in the proper forum—the full Senate—where the interjurisdictional ramifications can be fully debated by all interested parties." [49]

Several Committee members requested that the full legislative background of the sanctions be provided in the report. The background is as follows:

The sanctions to be applied to States which fail to develop State land use programs or otherwise establish their continued eligibility for grants have been perhaps the most controversial aspect of the land use policy bills of the last three Congresses.

The first land use policy proposal, S. 3354, introduced on January 29, 1970 by Senator Jackson, contained the traditional sanction of termination of any financial assistance extended under the bill for State failure to adhere to the bill's guidelines and requirements or to enact State implementing legislation. In addition the first "cross over" sanction (i.e., a sanction which affects other Federal programs) provided that upon the termination of financial assistance to a State, or should such State not prepare an "acceptable Statewide Land Use Plan," by the beginning of the fourth fiscal year after enactment such State will:

(1) have its entitlement to certain additional Federal assistance programs, which shall be designated by the President, reduced at the rate of 20 per centum per year until such time as the provisions of this title are complied with, and

(2) be denied the issuance of any right-of-way permits or other permits available under the public domain or other Federal laws to use or to cross the public domain or other Federal lands until such time as the provisions of this title are complied with.

In S. 3354, as reported on December 14, 1970, the Committee retained the traditional grant termination sanction, but substituted for the "cross-over" sanction the following:

"SEC. 315. (a) After the end of five fiscal years from the beginning of the first fiscal year after the initial issuance of regulations . . . implementing the provisions of this title, no Federal agency shall, except with respect to Federal lands, propose or undertake any new action or financially support any new State-administered action which may have a substantial adverse environmental impact or which would or would tend to irreversibly or irretrievably commit substantial land or water resources in any State which has not prepared and submitted a statewide land use plan in accordance with this Act.

"(b) Upon application by the Governor of the State or head of the Federal agency concerned, the President may temporarily suspend the operation of paragraph (a) with respect to any particular action, if he deems such suspension necessary for the public health, safety, or welfare: *Provided*, That no such suspension shall be granted unless the State concerned submits [an acceptable] schedule . . . for submission of a statewide land use plan: *And provided further*, That no subsequent suspension shall be granted unless the State concerned has exercised due diligence to comply with the terms of that schedule."

The principal differences between this cross-over sanction and the earlier one are: (1) it touched all new Federal actions which may have substantial adverse environmental impacts or irreversibly or irretrievably commit substantial land or water resources, not just certain Federal assistance programs; (2) the action would be stopped entirely—neither proposed nor undertaken—rather than simply reduced by 20 percent; (3) an escape clause was provided; and (4) the sanction would be invoked only for failure to submit a plan, not for failure to meet all the requirements of the Act.

S. 632, introduced by Senator Jackson on January 26, 1971, was virtually identical to S. 3354, as reported, and, therefore, contained the substituted version of the cross-over sanction. S. 992, the Administration proposal introduced (by request) on February 17, 1971, did not have a cross-over sanction. (Both proposals contained the traditional sanction of termination of financial assistance extended under them.)

On May 18, 1971, the first day of hearings on S. 632 and S. 992, Senator Jackson, in comparing S. 632, his bill, and S. 992, the Administration proposal, made the following statement in response to testimony of Russell E. Train, Chairman of the Council on Environmental Quality:

"I think this is one of the major differences . . . between the two bills. You rely on grant-in-aid incentives. We go a step further. We provide grant-in-aid, but we also provide that as to the future . . . no Federal agency shall undertake any new project [in a state] which does not have a land use plan." [50]

A colloquy followed:

"Mr. TRAIN. But as I read the bill, Senator, it does not require that that land use plan

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[49] Speech by Senator Henry M. Jackson at a conference entitled "Conservation and Development: Grounds for Compatibility" sponsored by the Task Force on Land Use and Urban Growth, Smithsonian Institution, Washington, D.C., May 24, 1973.

[50] *National Land Use Policy: Hearings on S. 632 and S. 992*, Committee on Interior and Insular Affairs, United States Senate, May–June 1972 (p. 92).

be approved or conformed to any particular criteria . . .

"The CHAIRMAN . . . although we do require that it must be prepared and they must submit a statewide land use plan. We started out earlier, as you recall, to take away grant-in-aid funds on the passoff decision basis. But we felt that this was the minimum that we could insist upon in order to get the States to really plan their land on a statewide basis. . . . [T]here is a real question in my mind whether simply providing for grant-in-aid funds is ample to induce the States to do this job.

"Mr. TRAIN. We agree that we are asking the State to undertake and make a very difficult decision here. It is not going to be easy to do. Therefore, we agree that if they could be worked practically and appropriately, that some sort of penalty provisions with respect to States that do not have qualified programs would be desirable.

". . . I simply want to say at this point that the Administration would be happy to work with this Committee in trying to develop practical, appropriate teeth, if you will, in this program.

"The CHAIRMAN. I understand that. We will certainly work closely with you. . . ."[51]

The following year, the Administration submitted an amendment to S. 992 which contained a cross-over sanction. The Administration-sponsored sanction adopted the approach of a percentage reduction in funds of certain programs originally taken in S. 3354. States found ineligible for grants after the deadline for submission of the State land use program (after three years from enactment) would suffer a reduction of funds from three programs over a three fiscal year period at a rate of 7% the first fiscal year, 14% the second year, and 21% the third year. The funds subject to withholding were to be: (a) funds for airport development provided for pursuant to the Airport and Airway Development Act; (b) federal-aid highway funds other than funds for planning or research; and (c) funds from the Land and Water Conservation Act of 1965, as amended.

In the mark-up of S. 632, the Committee chose to adopt the Administration sanction in an amended form. The differences between the sanction contained in S. 632, as reported on June 19, 1972, and the Administration sanction were:

"(1) the withheld funds were not to be permanently lost to the ineligible State. Rather they were to be held in escrow and, when the State again became eligible, returned to it. The opportunity for a State to recoup the funds if it comes into compliance with the act was regarded by the Committee as an "incentive on top of a sanction".

"(2) funds for interstate highways were not to be withheld; only funds for primary and secondary highways. The Committee felt that to include the interstate highway funds would result in the punishing of the neighboring State for the misfeasance or nonfeasance of the ineligible State.

"(3) in accordance with the timetable of S. 632, the sanction would not be applied until after the fifth year."

A discussion of the Committee-adopted sanction was provided in the report on S. 632 (Report No. 92-869, p. 30):

"The three . . . programs were carefully chosen. Two of them—the development program of the Airport and Airway Development Act and the primary and secondary (not Interstate) Federal-aid highway programs were selected because of their extraordinary impact upon land use patterns and the urbanization they generate. Absent the coordination of plans for these highways and airports with State land use programs which meet the requirements of the Land Policy and Planning Assistance Act, the purposes of the act would be frustrated. To balance the withholding of these development funds and to insure that those who hold development in disfavor do not attempt to frustrate a State's efforts to become eligible in order to force the invocation of the sanctions and inhibit such development, the third grant-in-aid program to which the sanctions would apply would be the Land and Water Conservation Fund."

At the direction of the Chairmen of the Committees on Interior and Insular Affairs, and Public Works, staff members of the two met and developed an alternative sanction which was introduced on the floor of the Senate as part of a package of amendments jointly sponsored by the two Chairmen—amendments which resolved certain jurisdictional questions raised in conversations between the two Committees. The alternative sanction was similar to the sanction in S. 632, as introduced. The principal difference was that the freeze on new Federal activities would occur even should a State submit a State land use program if that program fails to meet the requirements of the Act. The sanction read as follows:

SEC. 307(b)(1) After five fiscal years from the date of enactment of this Act, no Federal department or agency shall, except with respect to Federal lands, propose or undertake any new action, financially support any new State-administered action, or approve any loan or loan guarantee which might have a substantial adverse environmental impact or which would significantly affect land use in any State which has not been found eligible for grants pursuant to this Act. Such actions shall be designated in the guidelines promulgated pursuant to section 502 of this Act.

(2) Upon application by the Governor of the State or head of the Federal department or agency concerned, the President may temporarily suspend the operation of paragraph (1) of this subsection with respect to any particular action, if he deems such suspension necessary for the public health, safety, or welfare: *Provided*, That no such suspension shall be granted unless the State concerned submits a schedule, acceptable to the Secretary, for meeting the requirements for eligibility for grants pursuant to this Act: *And provided further*, That no subsequent suspension shall be granted unless the State concerned has exercised good faith efforts to comply with the terms of such schedule.

However, during Senate consideration of S. 632 on September 19, 1972, an amendment introduced by Senator Hansen, deleting all crossover sanctions, prevailed on a voice vote.

On January 9, 1973, Senator Jackson introduced S. 268. S. 268, as introduced, was virtually identical to S. 632 in the form in which it passed the Senate. Thus, S. 268 did not provide for any cross-over sanction. In introducing S. 268, Jackson stated:

"As is well known, I was and remain opposed to two successful amendments striking the sanctions from the act and reducing the funding by two-thirds.

. . . Therefore, although the proposal I introduce today is virtually identical to the Senate-passed measure, the committee will hold hearings early in February where . . . the critical questions of funding and sanctions can be fully explored."

S. 924, the Administration proposal, introduced (by request) on February 20, 1973, contains the same sanction which the Administration proposed as an amendment to S. 992. (Included in both proposals is the traditional sanction of termination of financial assistance extended under them.)

Underlying all these cross-over sanction proposals is the belief that Federal programs which stimulate alterations—sometimes massive and sudden—in land use patterns should not proceed unless sound planning and land use controls are in effect to minimize any adverse land use, environmental and urban service impacts which otherwise would result absent such planning and controls.

AMENDMENT NO. 234

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

Mr. JACKSON. Mr. President, I offer a second amendment to S. 268. This amendment is a technical one. It adds a new section to the end of title V. Title V provides grants to Indian tribes to assist them to develop land use programs for reservation and other tribal lands. The requirements for these programs are similar to the requirements elsewhere in the act for State land use programs.

First, this amendment would insure that the standards for review of the land use programs of Indian tribes would be the same as those provided in the act for the State land use programs.

Second, it would provide sole authority to review the tribal land use programs to the Secretary of the Interior. Federal review of State land use programs is conducted on an interagency basis and includes the deliberations of an independent ad hoc hearing board prior to any determination of ineligibility. This procedure is inappropriate in the case of tribal land use programs because those programs address Indian trust lands. The Federal Government, in general, and the Secretary of the Interior, in particular, have a unique responsibility in relation to those lands: the responsibility of a trustee. In the case of review of tribal land use programs concerning those lands, superimposed over the normal review function of determining proper expenditure of grant funds is the trustee responsibility of review to determine that the trust "property" is put to wise use. Given the Secretary's knowledge of tribal lands and the extreme difficulty of segregating the two review functions, the amendment provides the Secretary with full authority to review the tribal land use programs to be developed under title V.

Mr. President, I ask unanimous consent that the text of 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. 234

On page 119, after Sec. 509, between lines 11 and 12, insert a new Sec. 510 as follows:

FEDERAL REVIEW

SEC. 510. The standards for review to determine eligibility of Indian tribes for grants pursuant to this title shall be the same as those provided for determination for eligibility of States for grants under this Act. The review shall be conducted entirely by the Secretary of the Interior and the review procedures provided in section 306(a) through (f) shall be inapplicable to this title.

FEDERAL HOUSING ASSISTANCE PROGRAMS—AMENDMENT

AMENDMENT NO. 235

(Ordered to be printed, and referred to the Committee on Banking, Housing and Urban Affairs.)

Mr. CRANSTON. Mr. President, the suspension of the federally assisted

[51] Ibid., pp. 92 and 97.

housing programs was wrong in January when it was announced by former Secretary George Romney. It continues to be wrong. Nothing the administration said at the outset or subsequently has justified a moratorium on the subsidized housing programs.

Congress enacted these programs; the responsibility for their fate belongs to the Congress. But the administration has been both the judge and executioner. In January, the administration declared the programs ineffective and wasteful—without offering proof—and followed with sets of instructions to the HUD area offices that dealt these programs crippling blows.

The Department of Housing and Urban Development insists that the subsidy programs are not terminated, only suspended. But what difference does the terminology make to sponsors and housing authorities whose applications for subsidized units do not meet HUD's criteria for continued processing? What relief can a "suspension" bring to the thousands who wait for public housing that will not be built? How much good is there to assure workers in the building and construction trades—whose jobs are at stake—that the programs are not terminated only suspended? In communities across the country, the programs might just as well have ended. Financial and personal hardships are not fanciful projections of what might happen—they are real, and the most cruel aspect of the moratorium is that they need not have happened at all.

The administration has sought to justify the moratorium on the grounds that the programs require evaluation, tying the length of the moratorium to the time necessary to analyze the programs and come up with recommendations. I do not quarrel with the desirability of evaluating housing programs. In fact, I believe Congress and the executive branch should do more evaluations, and not just of housing programs.

Those programs shown to be wasteful should be reformed, and if that is not possible, scrapped altogether. But a moratorium that throws housing programs into limbo, that confuses both the officials who have to administer the programs and the participants, is not the way to safeguard against inefficiency and waste; nor will it result in a calm atmosphere conducive to a thorough evaluation. Rather, the President's decision has charged the atmosphere with bitterness and distrust.

In my view, the moratorium cannot be justified. Evaluations can go forward and so can programs; it happens all the time, except in the case of the subsidized housing programs. Here, by some strange logic, the administration has reasoned that the goals of evaluating programs and maintaining their integrity are mutually exclusive.

Senator PROXMIRE has introduced S. 1440, legislation that orders the Secretary of HUD to cease the moratorium and reinstate to the full extent possible funding for the subsidy programs in the amounts authorized or appropriated by Congress. I am cosponsor of S. 1440. This bill defines Federal housing assistance programs to mean section 235, 236, rent supplement, and public housing. Today I am submitting an amendment to S. 1440 to include section 312 of the Housing Act of 1964.

Under the section 312 program, the Government subsidizes the interest rate on direct loans for rehabilitation down to 3 percent. These low-interest loans have been indispensable in preserving structures in urban renewal and Federally Assisted Code Enforcement—FACE—areas.

In FACE areas alone, more than 163,000 housing units have been put in sound condition with section 312 loans, which—in many cases—are coupled with section 115 rehabilitation grants funded from urban renewal moneys. With this assistance, persons of limited income have been able to correct code violations and perform modest home improvements.

Without Federal rehabilitation assistance, thousands of units in our Nation's housing stock would be lost. The social and economic costs of letting housing and neighborhoods decay are very expensive. So is the price tag for clearance and new construction. When used in neighborhoods which are declining but still relatively stable, rehabilitation assistance has checked the downhill slide and has reversed it.

The use of the section 312 program in the code enforcement areas of San Francisco is visible proof of the program's worth. It is by no means an isolated example. The section 312 program has preserved the beauty and character of older neighborhoods at far less cost and with far less disruption than if these areas had been cleared for urban renewal. New construction in San Francisco, for example, is estimated to cost between $15,000 and $35,000 per dwelling unit whereas the average section 312 loan in San Francisco has amounted to $4,100. And new construction cannot replace the historical and architectural interest that many older neighborhoods contain.

But section 312 loans, like the other categorical programs that the administration wants to consolidate under special revenue sharing for community development, is being starved for funds.

In fiscal year 1972, Congress appropriated $90 million in section 312 loans; $40 million of that appropriation was impounded. In fiscal year 1973, the President requested nothing for section 312, relying upon the impounded funds from fiscal year 1972. Congress, however, appropriated 70 million in fiscal year 1973, and the President turned around and impounded all of that.

For fiscal year 1974, the President has again requested nothing for section 312, intending to release only $20 million for use during the balance of fiscal year 1973, in urban renewal areas scheduled to close out in the near future. This leaves rehabilitation efforts in hundreds of other urban renewal and code enforcement areas without funds. If localities want to keep their rehabilitation programs alive, they will have to use already strained local resources to come up with financing.

The President's budget terminates the section 312 program as of June 30, 1973. I do not believe rehabilitation efforts should be sacrificed because the administration wants to make a neat transition from categorical programs to special revenue sharing. Gaps in budgets do not make neat transitions for communities with ongoing programs.

The House has already passed House Joint Resolution 512, which extends the authority for HUD programs—including an extension of the authority for section 312—to June 30, 1974. The Senate will consider this legislation shortly. In last year's Senate-passed version of the 1972 Housing and Urban Development Act, the Senate kept the separate identity of the 312 program but linked it to other activities consolidated under community development block grants. I believe the action of the Senate last year and the recent action of the House clearly indicate the sense of Congress that the section 312 program should be retained.

Having the program on the books, however, is not enough: I believe Congress must sustain section 312 along with the other housing and community development programs we now have at appropriate funding levels. In some cases we can go far to reach those levels by releasing impounded moneys. This is true for the section 312 loan program, and that is why I am introducing an amendment to S. 1440 which includes section 312 within the definition of Federal housing assistance programs.

NOTICE OF HEARINGS ON S. 1775 AND S. 1996

Mr. EASTLAND. Mr. President, on May 23 I announced that the Subcommittee on Environment, Soil Conservation and Forestry of the Committee on Agriculture and Forestry would hold hearings June 26 and 27 on timber management policy legislation and on the proposed reorganization of the Forest Service regional offices. On June 14, S. 1996, the American Forestry Act of 1973, was introduced and it will be included in the hearings, as well as S. 1775, which was referred to the committee June 11. The hearings will be in room 324, Russell Office Building, beginning at 10 a.m. each day. Witnesses will be limited to 10 minutes for their oral testimony with the privilege of filing their complete statement. Anyone wishing to testify should contact the committee clerk as soon as possible.

ADDITIONAL STATEMENTS

FOREIGN-TRAINED DOCTORS

Mr. ROBERT C. BYRD. Mr. President, a story in this morning's edition of the Washington Post points out a problem of which I have spoken many times on the floor of the Senate; namely, the enormous shortage of physicians in the United States.

The article, written by Stuart Auerbach, concerns a study by the Department of Health, Education, and Welfare that shows that 20 percent of the doctors currently practicing in the

United States received their basic medical education abroad.

According to the Association of American Medical Colleges, the physician shortage in our Nation now stands at 69,000—or 1 doctor for every 636 potential patients. Naturally, in rural States and in urban ghettos, the shortage is much more acute.

The HEW study, I believe, should serve as a strong argument for proceeding as quickly as possible with the establishment of up to eight new medical schools in conjunction with the Veterans' Administration hospitals. Authorizing legislation for the new schools was passed by the 92d Congress; and I have introduced an amendment to provide $20 million in initial funding for the program.

My amendment has already passed the Senate as part of the supplemental appropriations bill, which is presently in a House-Senate conference.

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

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

HEW STUDY SAYS 20 PERCENT OF U.S. DOCTORS ARE FOREIGN TRAINED

(By Stuart Auerbach)

One out of every five doctors in America graduated from a foreign medical school where he most likely received a substandard education, according to a study commissioned by the federal government.

Moreover, the study shows that the immigration of doctors to America is foreign aid in reverse and often hurts other nations who consider doctors a valuable resource.

The number of foreign medical graduates here has doubled in the past 10 years, and most of the foreign-trained doctors work in American hospitals, where they make up one-third of the medical staff.

"Available evidence indicates that foreign manpower has been imported to serve specific roles, particularly in hospitals, rather than to fill a general manpower need," the report states.

"The fact that many foreign physicians have stayed in the United States is largely a secondary result of this primary activity. Nevertheless, the cold fact remains that 63,391 of the 334,028 physicians in the United States in 1970 received their primary medical education outside the United States.

"This education represents a huge net gain to this country in terms of value received for medical education."

The study, commissioned by the Department of Health, Education, and Welfare, was finished one year ago by Rosemary Stevens and Joan Vermeulen of the Yale University Medical School. It was, however, just released this month by HEW.

HEW sources say the report was held up because of possible embarrassment to the government and was released after congressional inquiries as to its status.

It shows that more foreign trained doctors (10,540) entered the United States in 1971 than graduated that year from American medical schools (8,974).

While 25,000 of the foreign-trained doctors were educated in Europe, 21,000 of them came from underdeveloped countries in Asia, principally the Philippines, India and Korea.

"There are more Thai graduates in New York than there are serving Thailand's rural population of 28 million," the report says.

"Iran produces 600 medical graduates a year; on the average there are at least 100 (members) of the graduating classes from 1960 through 1969 now in the United States. Many, if not most, will stay; in 1970 alone, 806 Iranian medical graduates sat for American licensing examinations. Similar statements can be made for many, if not most, third-world nations."

Despite the loss to other nations, there are signs that the American government considers the migration of foreign-trained doctors a plus for this country.

For example, HEW Secretary Caspar W. Weinberger told the House health subcommittee this year that there is no need to spend more federal funds on American medical schools to increase the number of doctors they graduate since so many foreign-trained doctors are coming to this country.

But the HEW-commissioned study concludes that foreign medical graduates are not as well trained as American-trained physicians.

"Indications are," the study says, "that foreign medical graduates continue to perform less well than their American counterparts even after several years of American graduate training."

For instance, 37 per cent of the graduates of foreign medical schools failed to pass their tests for American licenses, compared to 9 per cent of the graduates of American medical schools.

The same is true for the performance of foreign-trained doctors on specialty board examinations.

Many foreign-trained doctors working in hospitals do not need licenses. If they are residents or interns, they are considered doctors in training, and if they are fulltime employees of the hospital they may be considered to be working under the supervision of a licensed physician.

If it were not for foreign-trained doctors, many hospitals would not be able to fill their slots of interns and residents who, although they are supposed to be receiving training, often provide the bulk of patient care.

American hospitals offer more than 15,000 internships to recent medical school graduates; only 8,213—about half—are filled by graduates of American medical schools.

As a rule, the American medical graduates go to the best hospitals where they will get best training, leaving the rest for the foreign graduates. Many foreign-trained doctors are hired by city and state hospitals because American-trained physicians will not work for the low wages paid there.

COOPERATION OF DEPARTMENT OF STATE UNDER PUBLIC LAW 92-403

Mr. CASE. Mr. President, last year the 92d Congress passed my bill requiring the executive branch to submit to the Congress within 60 days all executive agreements concluded with foreign governments. The President signed this measure into law—Public Law 92-403—on August 22, 1972.

For nearly a year now, the administration has been sending executive agreements to both houses of Congress. When those agreements are classified, they are transmitted, under an injunction of secrecy to the Senate Foreign Relations Committee and the House Foreign Affairs Committee.

At this time I would like to commend the administration for its cooperative spirit in complying with Public Law 92-403. The President of the Senate and the Foreign Relations have been receiving these documents regularly, and they are available at the offices of the Foreign Relations Committee for all senators to see.

From time to time during Senate consideration of my original bill, administration representatives have implied that there may have been some kinds of executive agreements which would not be transmitted to the Senate under Public Law 92-403.

Thus, I was particularly gratified that Mr. Charles N. Brower, the Acting Legal Adviser of the Department of State, communicated to Mr. Carl Marcy, Chief of Staff of the Foreign Relations Committee, on January 26, 1973 that there would be no exceptions made. Mr. Brower wrote,

> The expression "executive agreement" is understood by the Department of State to include any international agreement brought into force with respect to the United States without the advice and consent of the Senate under the provisions of clause 2 of Section 2, Article II of the Constitution of the United States.

I agree with the State Department's interpretation. I drafted the original legislation so there would be exceptions. I am pleased to know that the appropriate committees of Congress will regularly receive, among other types of agreements:

First. Intelligence agreements;

Second. Nuclear basing agreements;

Third. Presidential executive agreements;

Fourth. Intergovernmental agreements between Cabinet or independent agencies in the United States and their foreign counterparts;

Fifth. Nuclear technology sharing agreements;

Sixth. International trade agreements;

Seventh. Military and economic assistance agreements;

Eighth. Agreements with foreign intelligence agencies; and

Ninth. Contingency agreements with countries with which he does not have security commitments by treaty.

This list is not all inclusive, and by not mentioning a particular type of agreement, I do not in any way imply that the Congress should not receive that type of agreement.

I also would like to commend the State Department for its cooperation in assisting the Foreign Relations Committee in explaining the substance of classified executive agreements. In a letter to our chairman on March 19, 1973, Acting Assistant Secretary of State Marshall Wright gave the Department's assurances that such cooperation would be forthcoming.

Mr. President, I ask unanimous consent that correspondence concerning these matters be printed in the RECORD.

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

STATE—EXECUTIVE AGREEMENT

DECEMBER 4, 1972.

Mr. JOHN R. STEVENSON,
Legal Adviser, Department of State, Washington, D.C.

DEAR MR. STEVENSON: This is with reference to our meeting on November 10 together with Messrs. Abshire and Bevans on the matter of submitting executive agreements to Congress pursuant to the Case Act.

In order that we might be clear on what

the State Department considers to be an executive agreement within the purview of the law, I would appreciate it if you would furnish the Committee a written statement defining executive agreements and listing specifically the kinds of agreements that will be submitted and whether there are any categories of agreements that the Department believes are not covered by the Case Act.

Illustrative of the kind of question upon which we should have a clear understanding would be such agreements as those involving the transfer of aircraft from one foreign recipient to another (the F–5's from Korea to South Vietnam), the Lend-Lease and Trade Agreements with the Soviet Union, and similar inter-governmental agreements.

A prompt reply would be appreciated.

Sincerely yours,

CARL MARCY.

EXECUTIVE AGREEMENTS

JANUARY 15, 1973.

Mr. JOHN R. STEVENSON,
Legal Adviser, Department of State, Washington, D.C.

DEAR MR. STEVENSON: I refer to my letter of December 4, 1972, (copy attached) asking for a written statement regarding executive agreements to be submitted to the Congress pursuant to the Case Act.

With the convening of the new Congress and the official receipt of numerous agreements, this is all the more a matter upon which there should be a clear understanding.

Sincerely yours,

CARL MARCY.

COMMITTEE ON FOREIGN RELATIONS,
Washington, D.C., February 22, 1973.

Hon. WILLIAM P. ROGERS,
Secretary of State,
Washington, D.C.

DEAR MR. SECRETARY: I want to thank you for the cooperation of the Department of State in transmitting to the Congress and the Committee on Foreign Relations international agreements other than treaties pursuant to the Case Act (PL 92–403). The Committee has found the knowledge of these agreements very useful. As we anticipated most of them are routine and unexceptional.

In a few cases, however, preliminary analysis by the staff has raised questions which have required further information inquiries of the Department.

It would perhaps be better if the Committee could be provided on a regular basis with information about the rationale behind the agreements, particularly those which are classified. The purpose of this letter is to request that each classified executive agreement transmitted to the Committee be accompanied by an explanation of the agreement, background information on its negotiations, and a statement of its effect.

Again, thank you for your cooperation.

Sincerely yours,

J. W. FULBRIGHT,
Chairman.

MARCH 19, 1973.

Hon. J. W. FULBRIGHT,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: The Secretary has asked me to reply to your letter of February 22, 1973, in which you requested that classified executive agreements transmitted to the Foreign Relations Committee pursuant to the Case Act be accompanied by an explanation of the agreement, background information on its negotiations, and a statement of its effect.

As the Secretary and other officers of the Department have stated on various occasions, we are determined to try to find ways in which we can help the Committee, and of course the Congress as a whole, acquire and make effective use of the information it needs to fulfill its Constitutional responsibilities in the area of foreign affairs. Accordingly, we are prepared to provide the information you have requested with respect to classified agreements.

The eventual format and scope of our submissions will probably have to be worked out in the course of time, as we gain experience in this process. However, we are initiating immediately the steps necessary to insure that classified agreements transmitted to you under the Act will be accompanied by appropriate background information.

Sincerely,

MARSHALL WRIGHT,
Acting Assistant Secretary for Congressional Relations.

DEPARTMENT OF STATE,
Washington, D.C., January 26, 1973.

Hon. CARL MARCY,
Chief of Staff, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. MARCY: In your letters of December 4, 1972 and January 15, 1973 you refer to Mr. Stevenson's meeting with you on November 10, together with Messrs. Abshire and Bevans, on the matter of submitting executive agreements to Congress pursuant to the Case Act (Public Law 92–403, approved August 22, 1972). You state that you would appreciate it if we would furnish the Committee a written statement defining executive agreements and listing specifically the kinds of agreements that will be submitted and whether there are any categories of agreements that the Department believes are not covered by the Case Act.

You give as illustrative of the kind of question upon which a clear understanding is desired agreements such as those involving the transfer of aircraft from one foreign recipient to another (the F–5s from Korea to South Vietnam), the Lend Lease and Trade Agreements with the Soviet Union, and similar inter-governmental agreements.

The expression "executive agreement" is understood by the Department of State to include any international agreement brought into force with respct to the United States without the advice and consent of the Senate under the provisions of clause 2 of Section 2, Article II of the Constitution of the United States. The words "all international agreements other than treaties to which the United States is a party" in the act of September 23, 1950 (§ 2, 64 Stat. 980; 1 U.S.C. 112a) and the words "any international agreement, other than a treaty, to which the United States is a party" in the Case Act (86 Stat. 619; 1 U.S.C. 112b) are considered as including all international agreements covered by the expression "executive agreement".

Accordingly, the Department of State considers the Case Act as covering "all international agreements other than treaties" specified in the act of September 23, 1950 and required by that act to be published in the new compilation entitled "Treaties and Other International Agreements of the United States" (UST), plus comparable agreements that are classified in the interest of national security and not published in that compilation.

The specific agreements referred to in your letter (the transfer of F–5s from Korea to South Vietnam and the Lend Lease and Trade Agreements with the Soviet Union) do not appear to give rise to any question on the part of the Department. The F–5s transaction agreement has been transmitted to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives in accordance with the Case Act. When transfers of U.S. origin military aircraft directly between foreign countries are made pursuant to existing mutual defense assistance agreements, they do not necessarily involve the conclusion of new international agreements. However, such transactions are reported to the Congress in accordance with section 3(a) of the Foreign Military Sales Act. The text of the agreement with the Soviet Union regarding Lend Lease, Reciprocal Aid and Claims, signed and brought into force on October 18, 1972, was transmitted on November 13, 1972 to the President of the Senate and the Speaker of the House of Representatives. The Agreement with the Soviet Union on Trade, signed on October 18, 1972, will not enter into force until written notices of acceptance are given by the two Governments to each other. As soon as action has been completed to bring that agreement into force, the text of it will be formally transmitted to the Congress. In any event, the text has been published and therefore is freely available (Department of State Bulletin, Vol. LXVII, No. 1743, November 20, 1972, p. 595 *et seq.*). I enclose a copy of the Bulletin for your refence.

To list specifically all the kinds of international agreements that will be submitted under the Case Act would require a tabulation of every kind of agreement published in "United States Treaties and Other International Agreements", plus the kinds of classified agreements that are being concluded. Any such list could only be considered as giving examples and not as all inclusive. The specific listing could not, for example, include international agreements of an entirely new kind that are concluded to meet circumstances that cannot be envisaged at the present time. The Department considers that the Case Act is intended to include every international agreement, other than a treaty, brought into force with respect to the United States after August 22, 1972, regardless of its form, name or designation, or subject matter.

I hope that the foregoing statements give you the information you desire but please let me know if I can be of any further assistance.

Sincerely yours,

CHARLES N. BROWER,
Acting Legal Adviser.

THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, the Genocide Convention has now languished in the U.S. Senate for over 25 years. Seventy-five other nations, including most of our NATO and SEATO allies have already ratified this human rights treaty, but the United States has failed to do so.

It is ironic that our Nation, which was founded on the highest principles of human rights, has refused to become party to a document which addresses itself to the most fundamental of these—the right to live. For 5 years the American people struggled to overthrow the Nazi regime which practiced the terrible policy of genocide; and yet, we have not been willing to join with the many other nations who have ratified the Genocide Convention in making this act an international crime.

Critics of the Genocide Convention are all deeply opposed to genocide. Their opposition to the treaty itself stems from the unfounded belief that ratification of the Genocide Convention would have dire consequences for the American form of government and the people of the United States.

Mr. President, for over 6 years I have risen daily on the Senate floor in support of this treaty. I have made every effort to discuss the charges which have been advanced against the Genocide Convention. As one who is sworn to uphold the

Constitution of the United States, I have given my full support to this treaty in the assurance that it in no way endangers the liberties of the American people. The Genocide Convention would not usurp our national sovereignty, overthrow the Constitution, or invalidate the Bill of Rights. What it does do is to make genocide an international crime, thus serving as a deterrent to a repetition of such horrors as were perpetrated upon the Jewish people during World War II.

Mr. President, I urge the Senate to ratify the Genocide Convention without further delay.

SUPPORT OF TRAINING PROGRAM FOR WASTEWATER TREATMENT PLANT OPERATORS

Mr. DOMENICI. Mr. President, today I was added as a cosponsor of S. 1776, a bill to provide for a 1-year extension of the pilot operator training program for wastewater treatment plants, set up under section 104(g)(1) of the Federal Water Pollution Control Act.

My reasons for supporting this legislation are very adaquately explained in a letter I received from Prof. John W. Hernandez of the Department of Civil Engineering, College of Engineering at New Mexico State University in Las Cruces, N. Mex. Professor Hernandez is a renowned civil engineer and one of the outstanding authorities in the area of water pollution control and wastewater treatment. I highly respect his judgment and it is in large measure due to his letter that I join in cosponsorship of S. 1776.

I feel, Mr. President, that I could not improve upon the reasons stated by Professor Hernandez for cosponsoring this bill and I therefore respectfully request unanimous consent that his letter be printed in the RECORD in its entirety at the conclusion of my remarks. I commend this letter to the serious consideration of my colleagues for the reasons Professor Hernandez his stated so well.

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

COLLEGE OF ENGINEERING,
DEPARTMENT OF CIVIL ENGINEERING,
Las Cruces, N. Mex., May 18, 1973.

Senator PETE DOMENICI,
New Senate Office Building,
Washington, D.C.

DEAR SENATOR DOMENICI: I understand that Senator Clark has introduced legislation (S. 1776) to continue the funding of Section 104(g)(1) of P.L. 92-500 during fiscal 1974 at a level of one million dollars. I would like to add my personal support for the funding of this section of the Federal Water Pollution Control Act.

As you know Section 104(g)(1) addresses itself to the need for providing an adequate supply of trained personnel to operate and maintain the nation's wastewater treatment works. During my years with the New Mexico Department of Public Health, I found no greater shortage in the State's water pollution program than the failure to maintain proper operation of municipal sewage treatment plants.

We spend billions of dollars each year on new, more sophisticated treatment plants and yet we spend virtually nothing to train the men who will operate these complicated units. New Mexico, like most states, has an annual short-school (ours is here at New Mexico State) where system operators are exposed to basic theory and some practical application. These short-courses are really only meant to be introductory and motivating sessions designed to encourage the operators to self-improvement; they are not sufficient to provide the level of training needed to adequately prepare men to operate and maintain complex mechanical and electrical equipment that costs millions of dollars. Operator training is the weak link in the water pollution control chain.

We have a new state law in New Mexico that requires the certification of wastewater treatment plant operators through examination. This legislation mandates that they will learn, but unfortunately the funds for adequate training programs are not available. Recognizing this need the New Mexico Water Pollution Control Association has endorsed continued financial support for the programs under Section 104(g)(1).

I wish to thank you for sending me 150 copies of P.L. 92-500 for distribution to people attending a seminar series here in New Mexico on the 1972 amendments to the Federal Water Pollution Control Act. I am enclosing two copies of a summary of the Act that was prepared for the seminar series. Interest in the Act is high; over 300 people from industry, agriculture and municipal interests attended the various sessions that were held in different cities around the State.

If I can be of further assistance in justifying support for funds for Section 104(g)(1) please feel free to call on me.

Sincerely,

JOHN W. HERNANDEZ,
Professor of Civil Engineering.

DEVELOPMENT OF THE RESOURCES OF THE WABASH BASIN

Mr. HARTKE. Mr. President, the record-setting rainfalls which brought havoc to much of the Nation this year have emphasized the need to develop the resources of the Wabash Basin in Indiana. Recently, I wrote a letter to the Senator from Mississippi (Mr. STENNIS) who is chairman of the Subcommittee on Public Works of the Senate Appropriations Committee. That letter outlines my proposals for the development of the resources of the Wabash River Basin.

Mr. President, I ask unanimous consent that the text of that letter be printed in the RECORD.

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

U.S. SENATE,
COMMITTEE ON VETERANS' AFFAIRS,
Washington, D.C., June 5, 1973.

Hon. JOHN C. STENNIS,
Chairman, Subcommittee on Public Works, Senate Appropriations Committee, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: I have now had sufficient opportunity to review the President's FY 1974 budget requests for water and land resource development in the Wabash River Basin and would like to share with you and the members of your Committee my thoughts thereon.

As you know, the Wabash River drains an area of some 33,000 square miles, three-fourths of which falls within the boundaries of my home State—Indiana. While the Valley itself accounts for only 16% of the total land area of the larger Ohio River Basin, it is instructive to note that over the years we have consistently suffered more than one-third of the total annual flood damages in the Ohio Basin. In terms of dollars and cents, this amounts to a loss each year of nearly $40 million. I should hasten to add that only by virtue of Providential intervention were we spared from far greater havoc this year. While our neighbors to the east and west were subjected respectively to the uncontrolled fury of Hurricane Agnes and the record setting rainfalls of spring, we in the Wabash Basin miraculously escaped a similar fate.

It would, of course, be folly to anticipate what next year might hold in store for the people of the Wabash Valley. As Mr. Schenk pointed out in his testimony before the Committee, no one can predict with any certainty the timing, specific location, or consequences of a given flood. Of one thing however, we can be sure—the lakes, levees and other flood control structures already in place on the Wabash and its tributaries mitigate the destruction and human misery attendant upon any future flood in our Valley.

At this point Mr. Chairman, I would like to acknowledge the fact that your Committee has played a crucial role in affording the people of the Wabash Valley that measure of flood protection which they presently enjoy—and for this we are deeply appreciative. With your help we have, to date, completed construction of six multi-purpose lakes and many miles of local protection levees in the State of Indiana. Of course, much work remains to be done if we are to ultimately eliminate the destructive consequences of uncontrolled water and assure maximum development of our economic potentials through the wise utilization of available land water resources.

Fortunately, a blueprint now exists for the future development of these resources. I refer, of course, to the recently completed Wabash River Basin Comprehensive Study. This fifteen-volume document, representing the collective efforts of numerous state and federal agencies over the past seven years, is both an assessment of existing flood control-recreation-water supply needs in the Wabash Valley as well as a detailed plan for ultimately meeting these needs. Among the projects recommended for completion by the year 2020, including both early action and long range proposals, are some 20 major multi-purpose reservoirs, 149 watershed plans, and 382 small lakes and dams. Taken together, these projects will eventually provide the people in our Valley with maximum feasible protection against recurrent flooding.

Whole flooding may be the most obvious and dramatic problem in the Wabash Basin, the interrelated problems of water supply and water quality are also critical in nature and still await our final resolution. Here again, the Wabash Study identifies the scope of the problem and makes specific recommendations as to how the water needs of over 380 communities in Indiana, Illinois and Ohio can be more effectively met.

Then too, we must remember that a vital function of resource development is the provision of enhanced recreational opportunity for our burgeoning and ever more affluent population. Without question, outdoor recreation is one of the fastest growing industries in the U.S. Indeed, this growth has been so rapid that even if we proceed with construction of all lakes, large and small, as recommended in the Wabash Study, we shall still fall far short of meeting the projected demand for water oriented recreation.

Finally, I would like to emphasize that continued water resource development in the Wabash Basin will have a cumulative effect of greatly improving both the economic and social well-being of those who live in the Valley. It is not being melodramatic to suggest that the lower reaches of the Wabash remain even today a veritable Appalachia of the West.

Much of this area is characterized by chronic unemployment, impression-level in-

comes, and high outmigration—all of which contribute to a paralyzing cycle of poverty and despair. I am convinced that only through tapping the undeveloped potentials of this region can we hope to transform it into a land of abundance and opportunity.

Turning now to specific developmental projects in the Valley, I would like to comment briefly on several of the President's budget requests for the coming fiscal year. First, with respect to Patoka Lake, I note that the President has requested an appropriation of $2.2 million for continued construction of the project. Mr. Chairman, I consider this request to be grossly inadequate for several reasons and therefore urge that your Committee give favorable consideration to an appropriation of $3.5 million—a figure, I might add, which coincides with the Corps' announced capability on the project and comes much closer to matching appropriations already committed to the project by the State of Indiana. Only last July, construction finally began on this much needed project which lies in the heart of what I have just described as one of Indiana's most economically impoverished areas. It was the first construction start in the Wabash Basin since 1965 and I am indeed sorry, Mr. Chairman, that you were unable to join me in celebrating that event by participating in ground-breaking ceremonies at the site. Although you were unable to be with us on that festive occasion, your past support for Patoka did not go unnoticed and I can assure you that if you and your Committee see fit to meet the Corps' capability this year, you will have earned the lasting gratitude of all who patiently wait for this Lake to become a reality. With your continued help, we shall soon witness the complete transformation of Little Appalachia into a vast Water Wonderland.

Among the projects ready for advance engineering and design, we find that the President has requested some $25,000 for Highland Lake near Indianapolis, but nothing for the Flood Wall in Marion, Indiana. With regard to the former project, I would urge that the Committee approve the requested appropriation. Construction of Highland Lake is necessary to insure a future source of water for the people of Indianapolis and to provide central Indiana with a major recreation resource. Happily, Highland Lake is also one of the most environmentally sound proposals in the Wabash Valley developmental program.

As for the latter project—the Marion Flood Wall—I consider the President's non-request to be one of the most glaring oversights in the entire Wabash Basin budget. Mr. Chairman, the City of Marion has just completed a comprehensive plan for the future development and revitalization of its downtown area. Among the components of this plan are: 1) a large elderly housing project; 2) several improvements to State Highway 18 from Interstate 69; 3) a new juvenile center site; and, 4) an extensive park and recreation system. Virtually all of this development is to occur on land just east of the existing downtown center—a 107-acre flood plain bounded on three sides by the Mississinewa River. However, none of this development is likely to occur until such time as a dike and flood wall are in place along the river to protect the area against the type of flood which devastated it in 1913. Therefore, I strongly urge the Committee to correct what appears to be a serious deficiency in the President's budget by approving $30,000 for initial planning of the Marion Flood Wall. Your favorable consideration of this request will be deeply appreciated by the people of Marion who are most eager to proceed with the regeneration of their city.

In addition to the Marion Flood Wall, there are several other worthwhile local protection projects in the State of Indiana which warrant your serious consideration. These include the Greenfield Bayou, Island Levee, Levee Unit No. 5, and The Mason J. Niblack Levee. Both Mr. Schenk of the Wabash Valley Association and Mr. Gettinger of the Wabash Valley Interstate Commission have previously indicated the need to initiate construction on these projects and I vigorously support their funding requests.

Finally, in addition to Patoka, there are several major multipurpose projects awaiting further action in the State of Indiana. Under the rubric advance engineering and design we find the proposed Big Walnut Lake in Putnam County, Indiana. Until last year, Big Walnut remained as one of the most controversial proposals in the entire Wabash Basin. Of particular concern to many environmental groups was the adverse impact which the authorized site threatened to have upon natural values in the area. In the midst of this controversy, a special study covering alternatives to the site was undertaken and a new location for the reservoir—site D—was agreed upon by virtually all conservation and environmental groups concerned. Today, Big Walnut stands as a model for the satisfactory resolution of legitimate environmental objections to water resource development. As such, I believe it is deserving of our support and I respectfully request that the Committee approve $100,000 for advance engineering and design of this project which, when completed, will return over $4 million per year in flood control, recreation, and water supply benefits.

In a more advanced stage of consideration are the Clifty Creek and Big Pine proposals and we find that the President has requested $400,000 to begin construction of these reservoirs in the coming fiscal year. However, as was once the case with Big Walnut, there are presently serious environmental objections to both of these projects. Many of these objections have already been communicated to the Committee by Mr. Dustin of the Izaak Walton League, Mr. Jontz of the Indiana Conservation Council, Ms. Evans of the Indiana Eco-Coalition, Ms. Emlen of the Audubon Society, Ms. Parmenter of the Committee on Big Pine and others.

At the risk of gross oversimplification, I would like to summarize the views and concerns of these environmental spokesmen. First, they point out that Clifty Creek and Big Pine are among the finest natural, free-flowing, unpolluted streams in the State of Indiana. Aside from their rare scenic and geological value, both streams feature a unique profusion of animals, plant and bird life—all of which would be forever lost should inundation occur.

Mr. Chairman, I can personally attest to the veracity of these claims that Big Pine and Clifty Creek are streams of unusual natural beauty. In August of 1971, two of my sons canoed several of Indiana's most scenic rivers—including Clifty Creek—and their report left no doubt in my own mind as to Clifty's natural value and the need to preserve its most predominant feature—Clifty Falls. Only last month, I received a similar report on Big Pine from one of my staff assistants who, along with some 350 other outdoor enthusiasts, participated in a weekend of canoeing, hiking and camping at the site of the proposed reservoir on Pine Creek. The pictures my assistant brought back substantiate in full the claim that Big Pine is a prairie-land "wilderness" of incomparable natural beauty and value.

I might add parenthetically that several state and federal agencies have also recognized the natural significance of these areas. Indeed, the Department of Interior's Bureau of Sport Fisheries and Wildlife has already labeled the proposed reservoir on Big Pine Creek as being "environmentally unsound" and there is good reason to believe that the Indiana Department of Natural Resources may soon follow suit.

Secondly, the environmentalists have raised serious questions as to the economic feasibility of these projects, particularly with respect to Big Pine. To date, the Corps has studied six alternatives to the originally proposed site at Big Pine. Of these alternatives, the best benefit to cost ratio is for the report site: 1:46 to 1. However, it must be pointed out that this ratio reflects the use of an outdated discount rate—3¼%—and does not include anticipated costs accruing from the loss or alteration of Big Pine as a natural area. Indeed, when we reconstruct the benefit to cost ratio using the discount rate for currently authorized projects—as the economist David Dreyer has done—we find that the report site has a b/c ratio of 0.91 to 1—and this for the most feasible of the six sites studied! Mr. Chairman, in all candor, I ask whether we can justify the expenditure of some $30 million in public funds for the construction of a project when its costs to the taxpayers will very likely exceed its anticipated benefits.

It is for these reasons, Mr. Chairman, that I ask you and your Committee not to appropriate any funds for the Big Pine project in the coming fiscal year. I understand that the Corps has sufficient funds from last year's appropriation to complete its economic and engineering documents as well as its formal impact statement on Big Pine; hence, the deletion of funds for FY 1974 should not in any way deprive relevant state and federal agencies of that information necessary for them to render a reasoned judgment on the environmental and economic merits of this proposal. Indeed, I am told that these agencies already have sufficient information upon which to make such a judgment.

Mr. Chairman, I do not construe the withholding of funds for Big Pine to be a negative action. Rather, I view it as an opportunity to explore those alternatives whereby a stream of extraordinary natural value and inherent recreational potential might be preserved for use by generations to come. One such alternative lies in the possible designation of Pine Creek as a State Scenic and Natural River. Even now, Pine Creek is being considered along with two or three other primary streams in Indiana for preservation under this law. In addition, the Nature Conservancy has taken steps to acquire Fall Creek Gorge on a tributary of Pine Creek for preservation under another state act.

Surely, Mr. Chairman, we can afford to wait until these and other alternatives have been fully examined. Indeed, in view of the accumulated evidence, any other course would appear to be wasteful if not destructive.

As for Clifty Creek, I still retain the hope that an acceptable proposal may yet be formulated—a proposal which, like Big Walnut, would preserve those geological and biological features of significance while at the same time providing for enhanced flood protection and general recreational opportunity. Accordingly, I support the President's request for Clifty Creek but emphasize that my support is conditioned upon the eventual selection of a workable alternative.

Finally, I would like to comment at some length on the status of the proposed reservoir in Tippecanoe County, Indiana, although no mention of the project is made in the President's FY 1974 budget.

It has now been eight long years since construction of Lafayette Lake was approved by both Congress and the President in the Flood Control Act of 1965. In the intervening years since its authorization, numerous public meetings relative to the need for and acceptability of the project have been duly convened, appropriate environmental impact statements and other documents have been filed and requisite advance engineer-

ing and design studies have been undertaken and completed. In short, we were until recently making slow but steady progress toward eventual construction of this much needed project.

Then, in 1970, just as land acquisition was about to begin, serious problems arose—not so much with local or environmental opposition mind you, but with the President's Office of Management and Budget which, at the urging of certain Congressional interests, abruptly placed over $183,000 for this project in budgetary reserve. That money, I should quickly add, remains "frozen" to this very day.

Fortunately, this Executive impoundment of funds did not seriously impede completion of preconstruction engineering and design on the project. However, the Corps of Engineers informs me that money for these and all other purposes short of land acquisition has finally been depleted and that no further work may proceed until such time as budgetary reserves are released or new money is appropriated. Meanwhile, the people of Lafayette patiently wait for the fulfillment of an eight-year-old promise.

As presently conceived, Layafette Lake would serve three major purposes. First, it is an integral part of a control system designed to reduce costly and repeated flood damages further downstream. Second, it is needed to recharge ground water supplies for the City of Lafayette and to assure a future source of water for the rapidly growing City of Kokomo to the east. Finally, it is intended to fill a major recreational void now existing in Northwestern Indiana.

It is highly important to recognize that Lafayette Lake is the only lake site in the entire Wabash Basin located directly in the path of an expanding city. This fact has obvious implications. Already, developmental pressures at the site of the proposed reservoir (Wildcat Creek) are exceedingly intense and with each passing day it becomes more highly problematic as to how much longer local governmental units can resist this growing tide. While construction of a lake on the site has been condemned by some as being potentially destructive from an environmental standpoint, it is my contention that more of the natural area in question could be preserved if we were to proceed with the project. Indeed, even the most ardent critics of the reservoir acknowledge the fact that without some form of park or recreational development in the area, Wildcat Creek will soon fall prey to the onslaught of the bulldozer. Should that occur, everyone will be a loser, for the citizens of Lafayette and the surrounding area are today among the most park-starved, recreationally-disadvantaged people in all of Indiana.

In view of these circumstances, I consider further delay on Lafayette Lake to be both inexcusable and intolerable. Too much precious time has already been wasted discussing the merits of the proposal. What more do we need? We have the approval of the Governor of Indiana, the Indiana General Assembly, the Wabash River Basin Coordinating Committee, the Ohio River Basin Commission, the Mayor and Common Council of Lafayette, and the Congress and President of the United States. I say it's time to get on with it!

Therefore, Mr. Chairman, I urgently request that you and your Committee join with me in asking for the immediate release of all funds appropriated for construction of Lafayette Lake. The continued impoundment of these funds—funds which this Committee approved—must be considered as nothing less than an unwarranted violation of Congressional intent and authority. Should our efforts to secure the release of these funds meet with bureaucratic indifference or further delay, then I respectfully suggest that the Committee add sufficient funds to the budget to begin construction of this vital project during the next fiscal year.

Mr. Chairman, I appreciate this opportunity to share with you my thoughts on the President's pending budget requests for public works. With your continued forbearance and understanding, I feel certain that we can assure the orderly, balanced and environmentally sound development of our land and water resources in the Wabash Basin.

Sincerely,

VANCE HARTKE.

STUDENTS STRIVE TO IMPROVE ENVIRONMENT THROUGH POLLUTION CONTROL CENTER

Mr. PERCY. Mr. President, I have recently become aware of a constructive effort underway by a group of deeply concerned high school students in my State to improve the quality of our environment.

Oak Park and River Forest High School was one of four high schools across the country chosen to receive the newly established Presidential Environmental Merit Award for its Pollution Control Center. The active involvement of these students is a fine example of youth striving to improve their community and their country.

The center has formed workshops to clean up the community and conserve areas of natural beauty. After educating themselves about ecology, the students have, in turn, educated the members of their community and have established a public information office to handle inquiries and projects. The students research issues and follow legislation. These are but a few of the activities of Oak Park and River Forest High School students, which should serve as an example, not only to youth, but to us all.

I ask unanimous consent to include in the RECORD of these proceedings at this time a description of the many diverse and valuable achievements of the Pollution Control Center.

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

POLLUTION CONTROL CENTER

I. EDUCATIONAL ACHIEVEMENT

The 1970 conservation workshop

After participating in environmental workshops at Southern Illinois University in 1969 and 1970, two student chairman cooperated with faculty and administrators to plan the 1970 Conservation Workshop at Oak Park and River Forest High School in observance of the first Earth Day. The workshop brought together conservationists, scientists, educators, and industry representatives in order to educate the students, faculty, and community to pollution problems and ecological concepts.

After the administration agreed to reschedule school classes for the entire week, students selected and contacted speakers who talked to history, science, and English classes on separate days. Each class heard speakers relating to a subject so that teachers and students recognized the broad applications of environment to all subjects. For example, Attorney Joseph Karaganis, assistant to the Attorney General, spoke to history classes concerning environmental legislation, Mrs. Samuel Rome of the President's Environmental Board spoke to science classes regarding technical aspects of water pollution, and Mr. Gunnar Peterson from the Open Lands Project talked to English classes about ecological concepts and personal lifestyles. In addition, all classes heard representatives from industry in order to add perspective to industrial pollution projects. Over 4000 students, faculty, and citizens heard several of these lectures during the week.

The environmental science curriculum

As a result of the workshop, many students and teachers at Oak Park and River Forest High School realized the need for environmental education in the school and community. Along with several faculty members, the students suggested an environmental science curriculum and interdisciplinary environmental study to the board of education. As a result, many students now receive environmental science, field biology, earth science, physical science, biology, and AP honors courses in science.

Independent student research

Thanks to the many ecologically oriented classes now offered, many students go into depth research on their own, utilizing existing Pollution Control Center files and library resources.

In addition, Pollution Control Center has sponsored, or gotten other organizations to sponsor, students to special ecology workships like those at SIU and NIU during summers. In addition, many students have been excused from classes to attend hearings, such as those on the Lake Michigan Bill of Rights, the OSPI'S master plan for environmental education, and the Illinois Pollution Control Board, to name a few.

II. ENVIRONMENTAL AWARENESS ACTION

The Pollution Control Center

After the 1970 Conservation Workshop, students received permission from the administration to establish an office in the school equipped with a telephone. The Pollution Control Center is open each school day from 8:20 a.m. until 3:20 p.m., with a student volunteer to answer the phone. Students obtain free information in the form of pamphlets, periodicals, books, and audio-visual aids on almost every environmental topic. Cooperating with the library, the center has compiled an excellent collection of books to supplement its current pamphlet file. The center has also recommended and helped to purchase equipment for science classes for pollution analysis. By providing a phone service, citizens and students in the community can call to request information on environmental subjects, speakers for their school or club, or other services provided by the center.

But the center has expanded from its original role as just an information source. Students, rather than just waiting for a phone to ring, use the center as an operations base for their many outside-the-office activities.

Elementary school lectures

High School students share their knowledge by giving lectures to local elementary schools which lack environmental courses. Teams of students lecture to elementary schools and junior highs, grades kindergartent through eight. These programs center on basic ecological concepts and guidelines for children to follow both at school and at home, in order to increase their environmental awareness. Coloring books and buttons with ecological themes and lists of good conservation suggestions that the high school students bring for the younger children help to continue their interest, and provide the teacher with ideas for follow-up programs. Older children receive more sophisticated materials, and participate in question-and-answer-sessions with the high school students. Teachers can also request additional information from the Pollution Control Center on subjects that correlate with current class study.

Student lecturers for local clubs, organizations

Several students have spoken to local clubs and other groups as part of the Pollution Control Center's community education program. By appearing before organizations like the garden club, Illinois Federation of Sportsmen's Clubs, and the Daughters of the American Revolution, students present environmental ideas to adults and inform them of the services of the center. At the same time, students benefit from the exchange of ideas with adults. Several of these groups have contributed to the Pollution Control Center, or helped to finance a student to attend an environmental workshop.

Education of students and adults through the media

Through newspapers, a newsletter, displays, posters, photography, and radio and television coverage, the students have been promoting environmental awareness. The school newspaper, *Trapeze*, having featured articles on pollution, received the 1972 State Award for Environmental Journalism, sponsored by the Illinois Tuberculosis and Respiratory Disease Association. Local and major newspapers in Illinois have publicized the work of the Pollution Control Center, including interviews with students and citizens involved. Students have also represented the school on radio and television.

Permanent recycling program

The students of the Pollution Control Center helped to start a permanent recycling program for newspapers, glass, metal, magazines and cardboard. Beginning with paper recycling, a final site for glass, metal, and paper was started in June of 1971. The school and surrounding communities contribute materials to this project.

Students can claim as much credit for the success of the program as anyone else. In the words of the glass program co-coordinator (himself a student)—"Student manpower kept the bins alive during the first year." As a tribute to student involvement, only students, acting as paid village employees, operate the bins according to village policy. In addition, students act as a "watchdog," and work closely with the village on the recycling center.

"TRP" and "PPUP"

Students from the Pollution Control Center have also been providing a free pick-up service of newspapers for senior citizens in Oak Park and River Forest. This year, students wanted to expand a new program.

A model trial recycling program was organized. For four weeks, thirty students picked up separated garbage from a five-block area in the community. By collecting cans, glass, and paper on a house-to-house project, students gained information which they applied to PPUP, a follow-up project. With "PPUP," (the Paper Pick-Up Program), students and community Jaycees collected newspapers door-to-door for a twenty-block area, every two weeks, for a two-month period. The village has shown a reluctance to adopt this program on a trial basis for the area, however, and students are now lobbying so that the program may be adopted on a trial basis and, hopefully, expanded to all Oak Park.

The conservatory

In 1970 there were plans to demolish a local conservatory. Working with the Village Beautification Committee and other groups, students campaigned to save the conservatory for its educational and recreational value. Because the building needed major repairs, students worked for over one-hundred hours to paint, repair, and gain support for the conservatory. The center donated money to the conservatory and encouraged other groups to contribute. As a result of student and adult action, the conservatory was preserved. Currently, a variety of educational programs there provide information for elementary schools, high schools, and colleges, as well as for residents of the community. Crews from the Pollution Control Center assist at the conservatory on a regular basis.

Cooperation with other conservation organizations

The students have asked organizations like the Illinois Planning and Conservation League, the Clean Air Coordinating Committee, the League of Women Voters, and others, to help them filter through confusing legislation. These groups alert students in time to act before a crucial vote. Also, the students work with these organizations on projects such as gaining support for the 1970 Illinois Water Bond Issue, when students distributed leaflets, or obtaining signatures for worthwhile conservation causes. Particularly significant was the effort by students to prevent the North Shore Sanitary District from discharging poorly treated effluent into the Des Plaines River. In one weekend, the students obtained over one thousand signatures of residents along the river demanding a hearing before the Illinois Pollution Control Board. The hearing was granted, and the Pollution Control Center along with other groups demanded tertiary treatment for the effluent. The water quality standards were improved to require tertiary treatment as a result of these hearings.

The Pollution Control Center has also worked with government agencies such as the Youth Advisory Board of the Environmental Protection Agency.

Environmental legislation

Recognizing the importance of environmental legislation on all levels, the students have concentrated on being informed, informing others, and expressing their views to elected officials and other influential people. Interested students write individual letters or help to compose official letters and telegrams, and make phone calls voicing the opinion of the center. By checking the *Congressional Record*, Politicians and other groups, the students attempt to deal directly with elected officials whenever possible. Governor Richard Ogilvie, Lieutenant Governor Paul Simon, numerous state senators and representatives, federal representatives, and EPA administrator William Ruckelshaus visited the school and its Pollution Control Center. After listening to talks by these officials, students were able to question them concerning environmental legislation.

Locally, the center supported an Environmental Advisory Committee for the Village of Oak Park. With the faculty advisor of the Pollution Control Center and a student chairman of the Pollution Control Center among committee members, the Advisory Committee gives advice to the village board on environmental matters such as the recycling center and PPUP.

Environmental conference

The center has been instrumental in the formation of a student coalition which had several meetings in Chicago under the auspices of the Open Land Project. As a result of these meetings, a conference was held at Lake Geneva, with EPA, the Bolton Institute, the Cleveland Institute, and the Open Lands Project as sponsors. The center again was instrumental in the formation of the conference and the several coalitions formed out of it among high schools in Illinois and Wisconsin.

The Des Plaines River

Students from the center have long been interested in the Des Plaines River, a large, polluted river close to the high school. Students were instrumental in the formation and performance of several river clean-ups along the river.

The coalitions formed at the high school conference were organized along water lines. Thus, Oak Park and River Forest High School has been active in the Des Plaines River coalition, another weapon against pollution on the Des Plaines. In addition, several students working on their own outside the office have organized and are still organizing canoe trips and are now working closely with the Clean Streams Committee along the Des Plaines. The students hope to spot polluters for the agencies, and to conduct surveillance on these polluters for the agencies involved. Students engaged in this project have met with some initial success.

On the basis of these accomplishments, the Pollution Control Center entered the Presidential Environmental Merit Awards program, operated by the Environmental Protection Agency, to provide recognition for outstanding high school environmental work. The Pollution Control Center was then honored by its selection as one of four high schools across the nation to receive the first Presidential Merit Awards. Student coordinators Nancy Stockholm and John Rudzinski were accompanied by faculty sponsor Edward C. Radatz to Washington, D.C., where a three-day visit was climaxed by the presentation of the awards by Mrs. Julie Eisenhower in the White House Rose Garden. Upon their arrival home, these three and the Pollution Control Center were again honored, this time by House Resolution 598 of the Illinois General Assembly, co-sponsored by nine state representatives, honoring the Pollution Control Center for its work.

THE CHILDREN OF VIETNAM

Mr. INOUYE. Mr. President, I would like to bring to the attention of my colleagues a recent publication of a heartwarming and inspiring article about the undaunted efforts of some dedicated citizens who are active in assisting the truly innocent victims of our recent Southeast Asia confrontation, the children of Vietnam.

In it, the efforts and tribulations of the Center for Plastic and Reconstructive Surgery of Children's Medical Relief International, Inc., are highlighted. At this time, if there are no objections, I ask unanimous consent that the entire Maui News article be printed in the RECORD for all to read.

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

CHILDREN MATTER MORE THAN MONEY

(By Jeanne B. Johnson)

He came toward us—a tiny lad—and, as he approached I saw that he had only half a face. Most of the lower part of his face below the eyes was only a hole, and you could see his tongue and the back of his throat.

I should have been horrified. I should have had nightmares remembering. But I don't. What I do remember are his sparkling eyes—happy eyes!

Happy eyes! Smiling faces!

I think that I shall always remember the eyes of the pitifully scared, horribly burned, congenitally disfigured children that I saw in the Center for Plastic and Reconstructive Surgery of Children's Medical Relief International, Inc., (CMRI) in Saigon, South Vietnam.

Eyes look up at you when their bodies were bound together tiny leg to arm. While a slender strip of living skin struggles to feed a flap that may—in time—grow to cover a void left by a burn. How can eyes be happy, how can faces that still have lips smile when there is so much suffering?

The answer is that someone cares.

The answer is that there are people who believe completely that "Today's Children Are Tomorrow's World." And, because of this faith, they've taken time away from profitable practices all over the world to care for the children of South Vietnam.

"Why?" someone asked me the other day. "Why do they do it, they could make so much more money staying home?"

It's because the children matter—more than money—more than anything else to these physicians and nurses, and because of that faith in "today's children" they know that the surgical rehabilitation of children, their health and welfare is the securest foundation upon which to help build a viable democracy.

The little lad with half a face will, in time, be whole again. He may not be cosmetically attractive, but he will have a whole face, though the process will take many operations and a number of years. You see, he has an "acquired deformity" known as "Noma"—a condition which affects young, malnourished children. He's ten years old, but he looks no older than perhaps six or seven.

NOMA EXPLAINED

"Noma," explained Joyce Horn, hospital administrator of the Barsky Unit, ChoRay Hospital, of CMRI, "is a disease that starts out as an ulcerative, gangrenous sore in the mouth, and within a matter of days to months it eats away tissue, muscle, cartilage, bone, everything. It's self-limiting, so it does stop on its own. Only we get them after the disease has taken its course, and we build a new nose, or a new cheek or whatever it is that they've lost."

This horrible disfigurement, practically never seen in the Western countries, is by no means uncommon in Vietnam, and requires extensive, long-term reconstructive surgery—but at CMRI they give them new faces. And they feed them, too. Maybe that's why the eyes sparkle—the faces learn to smile. Their tummies are full and they have hope for a future, and they are secure in the knowledge that someone cares.

Food? Children who have never known a balanced meal, many suffering from protein malnutrition, have three complete meals a day and three high-protein snacks a day. Full tummies.

Children treated at the Center fall into several categories.

First, there are those who suffer injuries sustained in direct military action.

Second, indirect war casualties. These are children who are injured while playing with unexploded devices, such as mines and grenades, which they pick up as toys.

Third, the domestic accidents. Overcrowding in Saigon caused by the influx of refugees and poor living conditions produces many domestic accidents. Saigon has grown from a city of 300,000 to a population of three million in five years.

Fourth, the accidents caused by heavy motor car, bus, lorry, bicycle, cycle-taxi (pedicab), motorcycle and scooter traffic in unbelievable numbers.

Another group of patients suffer from congenital malformations. These include malformations of the hand, head and face, and cleft lip and cleft palate.

"WE ALL LOVE HER"

We walked into the clinic area, and there was a tiny little girl.

"She's been with us since she was three months old," said Miss Horn. "She had a cleft lip—bilateral, and a cleft palate. We all love her. She has a hole in her palate, so she requires extensive work. She's going to need speech therapy for many, many years, and she needs a revision of her lip and nose."

As we progressed through the Barsky Unit we saw a youngster in a "Stryker Frame", an apparatus which can be flipped over so that the child does not have to be touched. He had 50 percent body burns, with no chest area from which to take skin. Pig skin—as a protective covering—had been obtained from a military hospital. It isn't left on long, but serves as a biological dressing, reducing the area that is open and can be infected. It prevents the serious drainage of body fluids.

We saw a child with "an abdominal flap" to the right hand.

"For three weeks he's attached like this to the flap, then they cut it and he has it on his hand," explained Miss Horn.

There was . . . a young Vietnamese major who had survived a helicopter crash and was in a military hospital for two months with a wide open leg wound that exposed the entire bone . . . a child who had the side of her face burned . . . and a young boy who had had his arms grow to his sides and his legs grown together from burns. Now, when you see him, you can't believe it!

Happy eyes? Smiling faces? They're the faces of CMRI's children.

And just exactly what is CMRI? Who foots the bill? How did it get started?

That's what I went to Saigon with Samuel F. Pryor of Maui and Greenwich, Connecticut to find out. Pryor, a retired Pan Am vice president, had been invited to become a director of CMRI, and he wanted to see its operation first-hand.

We were met on arrival by Dr. Arthur J. Barsky, CMRI president, Mrs. Elizabeth Ferrer, executive director, and Mrs. Jack (Lillian L.) Poses, a New York attorney. Dr. Lester Silver, who is Dr. Barsky's assistant, joined us later.

ORGANIZED IN 1966

CMRI was actually organized by Dr. Barsky, professor of plastic surgery at the Albert Einstein College of Medicine, New York, and Thomas R. Miller, New York attorney, in the fall of 1966 against a background of conflicting reports about the number of war-injured children in South Vietnam.

In March 1967, a survey team consisting of Dr. Barsky and Dr. Daniel L. Weiner left for Vietnam. Officially, they were charged by the board of directors to "confer with United States and Vietnamese authorities and to explore the need for the possibilities of setting up in Vietnam, a surgical unit devoted to reconstructive plastic surgery principally for children, under United States direction and with Vietnamese surgeons participating for training."

It was projected that eventually the Vietnamese would take over and operate the unit.

"We went up to Hue and then traveled southward—visited the provincial hospitals to get an idea first of the number of war injured children, and very quickly came to the conclusion that there were sufficient number of children—war injured and others—to make it imperative to set up some sort of a treatment center," said Dr. Barsky.

The survey team made an extensive report to the Vietnamese Ministry of Health (MOH) and to the United States Agency for International Development (USAID), and both agencies accepted the report and its recommendations in principle.

In the summer of 1968, a 20-bed temporary surgical unit was set up on the first floor of a Saigon apartment house which is now used as a staff residence. There was also a Reception Convalescent Center.

Now, there's a modern efficient 54-bed surgical unit located on the grounds of Cho Ray Hospital, the largest municipal hospital in Saigon. It was completed in July 1969, and, appropriately enough named the "Barsky Unit" of Cho Ray Hospital. It was so named by the Vietnamese Minister of Health in honor of Dr. Barsky.

The Barsky Unit has three operating rooms, a recovery room, central supply department, out-patient clinic area, laboratory, X-ray, blood bank, intensive care ward and areas devoted to speech and physical therapy as well as a maintenance work shop.

In addition, about a 30-minute drive across the city is the Reception Convalescent Center, where there are 120 beds.

TEN REGIONAL CLINICS

"Since we began, we have tried to develop a clinic system, because it's important that we don't get just children from the Saigon area, but try and reach out to all the children in Vietnam," Miss Horn explained. "As a result, there are ten regional clinics where clinics are held once a month, and patients needing care are brought to Saigon."

Unless their condition is urgent, they go to the Reception Convalescent Center. Here they are examined, immunizations and necessary medical treatment administered, and when cleared by the pediatrician, admitted to the Barsky Unit hospital just prior to surgery. They go back to the Reception Convalescent Center as soon as it is safe to do so. There they stay until they're discharged or return for more surgery.

It isn't just a case of Western personnel coming to Vietnam and operating a hospital. It's training the Vietnamese to operate the Center themselves.

"Once there were more than 30 people from 19 different countries, now, we've gradually phased out all of the Western staff until there's only six left," Miss Horn disclosed proudly. "All of the rest are Vietnamese."

Smiling at Minh Duc, who will soon take the position of hospital administrator, she continued:

"The people have done a tremendous job here. All of the Vietnamese that we've worked with have been extremely good. The people we are leaving behind are so capable.

"There is a purpose here; an understanding that transcends cultural differences—our progress can be indicated and summed up, but the unified effort of pulling together, the wonderful sense of pride and satisfaction of gaining together cannot be measured. We have created a sense of responsibility in the person, a sense of pride in the endeavor, an earnest caring, a sincere sharing, a respect for what is done, a belief in why it is done and a humanitarian desire to carry it onward."

LEARN TO HELP SELVES

The Cease-Fire has been signed, the last Prisoner of War released, the role of the U.S. Army Vietnam has ended—but peace has to be won.

At the Barsky Unit Vietnamese are being trained to help themselves in the field of reconstructive plastic surgery.

"If you train sufficient numbers of nurses and doctors, if you give them proper facilities and the money to run them, the Vietnamese can have just as nice hospitals as you have in the United States," says Mrs. Ferrer, who pioneered the project with Dr. Barsky and was hospital administrator for four years.

Dr. Barsky said:

"We've come to the peace, and if we can devote a tenth of our interest, our resources and our attention to winning the peace, we'll have a stable peace. We can't simply say Democracy is better than Communism. That doesn't go any more than you can tell anybody that 'sin is bad.' We have to demonstrate WHY Democracy is better."

Dr. Barsky repeatedly stressed: "One of the basic foundations for any Democracy or stable government of any kind is the welfare of its children. If you don't have that, you're lost."

It costs about $350,000 per year—excluding the value of medical supplies contributed by the Vietnamese Ministry of Health.

In the past, substantial financial support has been received from USAID. With the Cease Fire and the tightening of the purse-

strings in the United States, our government—through USAID—may discontinue its support . . . and take a backward step in international relations.

NEED IS GREAT

So, now, CMRI is dependent upon private contributions from the Vietnamese and people of other countries—people who care about today's children and tomorrow's world.

Five dollars will transport five children from an upcountry hamlet to the hospital and back again.

Twenty-five dollars will provide ten days of nursing care for a critically injured child.

Five hundred dollars will rebuild a face—perhaps a face eaten away by Noma.

"The first thing that we would like to do is to be assured of continued operational support of the unit," says Dr. Barsky. Such assurance must come from somewhere."

The inscription on the dedication plaque at the entrance to the Barsky unit reads: "It is better to light a candle than to curse the darkness."

CMRI has lit the candle, but it is up to us to see that it continues to burn in the cause of freedom.

RESOLUTION ADOPTED BY THE LEGISLATURE OF THE STATE OF UTAH

Mr. BENNETT. Mr. President, I ask unanimous consent to have printed in the RECORD two resolutions adopted by the legislature of the State of Utah; one dealing with the 1976 Winter Olympics, and the other with the Aviation Trust Fund.

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

1976 WINTER OLYMPICS

A resolution of the 40th legislature of the State of Utah, commending the mayor of Salt Lake City and the Salt Lake City Olympic presentation committee; supporting the conditions of the committee's presentation before the United States Olympic Committee, and requesting the President and members of the Utah congressional delegation to seek a commitment of Federal funding to host the 1976 Winter Olympic Games in Salt Lake City

Whereas, Salt Lake City, Utah, has been unanimously selected by the United States Olympic Committee as the host city for the 1976 winter olympics competition; and

Whereas, that selection was made under the terms announced by the Mayor of Salt Lake City, E. J. Garn, to wit:

(1) No state or local funds would be committed to the construction of facilities or the operation of the games;

(2) No permanent facilities would be built or developments allowed in connection with the olympic games which would endanger the environment of the canyons and watershed areas of Salt Lake City; and

(3) The olympic games would be reduced in size and scope, from the level of promotional extravaganza and returned to the amateur athletes of the world for true athletic competition; and

Whereas, strict observance of these conditions inspires confidence in the Legislature that the olympic games can be held in Utah without damaging the environment or otherwise having any negative effect on the residents of the State or Utah; and

Whereas, the International Olympic Committee will meet in February, 1973, to determine the site of the 1976 winter olympics; and

Whereas, the Congress of the United States and the Executive Branch of Government of the United States must determine the availability of federal funds before Salt Lake City will make a presentation to the International Olympic Committee; and

Whereas, 1976 is the year in which the bicentennial anniversary of the birth of the United States will be celebrated and the winter olympics offer an opportunity for the nations of the world to join in the celebration of that bicentennial.

Now, therefore, be it resolved, by the Legislature of the State of Utah, that the Honorable E. J. Garn, the Mayor of Salt Lake City, and the members of the Salt Lake City Olympic Presentation Committee, be commended for their honest and thoughtful presentation to the United States Olympic Committee.

Be it further resolved, that the Legislature supports the conditions embodied in the Salt Lake City presentation and will lend whatever support is necessary to aid Salt Lake City elected officials in the enforcement of those conditions.

Be it further resolved, that the Legislature of the State of Utah requests its congressional delegation to do all in its power to obtain the commitment of federal funds to Salt Lake City for the purpose of hosting the 1976 winter olympic games, providing that such federal funds shall not replace or reduce any federal grants or programs committed to the state of Utah.

Be it further resolved. that the Secretary of State of Utah send copies of this resolution to the President of the United States, each member of the congressional delegation from the State of Utah, the International Olympic Committee, and to Mayor E. J. Garn.

1973 (AVIATION TRUST FUND)

A joint resolution of the 40th Legislature of the State of Utah, requesting the Congress of the United States to pass legislation to return to the States a portion of the Federal user charges flowing into the Aviation Trust Fund

Whereas, the federal government has a vital interest in the development of a national air transportation system and to this end has concentrated its efforts in airport development in the major metropolitan areas of our nation, which airports serve the national and international traveler;

Whereas, state government has a major responsibility for developing a state system of multi-sized airports which will complement and include the national system and bring air service to all citizens of our nation;

Whereas, the federal government has levied user taxes of such magnitude on the aviation public as to preempt the field in taxation; and

Whereas, the national policy has been established as being one to encourage the development of the small cities and towns of this nation and to avoid the problems associated with continued urban concentration.

Now, therefore, be it resolved, by the Legislature of the State of Utah that Congress is requested to find the proper avenue and pass the necessary legislation to assure that the funds amassed by aviation user taxes on the federal level be returned in part to the state on an equitable and proportionate basis so as to allow the states themselves to provide and maintain their share of the total air transportation system.

Be it further resolved, that the Secretary of State of Utah send copies of this resolution to the Senate and House of Representatives of the United States and to each Senator and Representative from the State of Utah.

THE MEANING OF A LIBERAL EDUCATION

Mr. HARTKE. Mr. President, the liberal education has been the backbone of this Nation's development, but its nature and substance have often been the object of intense debate.

Recently, I read an article on this subject which I would like to share with my colleagues. Mr. President, I ask unanimous consent that the article which appeared in the February 1973 edition of RF Illustrated and was written by the Reverend Theodore M. Hesburgh, president of the University of Notre Dame in Indiana be printed in the RECORD.

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

SOMEWHERE, IN THAT VAGUE MORASS OF RHETORIC THAT HAS ALWAYS CHARACTERIZED DESCRIPTION OF LIBERAL EDUCATION, ONE ALWAYS FINDS A MENTION OF VALUES

The true purists insist on intellectual values, but there have always been educators, particularly among founders of small liberal arts colleges in the nineteenth century, who likewise stressed moral values as one of the finest fruits of their educational process, especially if their colleges were inspired by a religious group.

I believe it to be a fairly obvious fact that we have come full circle in our secularized times. Today, one hears all too little of intellectual values, and moral values seem to have become a lost cause in the educational process. I know educators of some renown who in effect tell their students, "We do't care what you do around here as long as you do it quietly, avoid blatant scandal, and don't give the institution a bad name."

Part of this attitude is an overreaction to "in loco parentis," which goes from eschewing responsibility for students' lives to just not caring how they live. It is assumed that how students live has no relation to their education, which is, in this view solely an intellectual process. Those who espouse this view would not necessarily deny that values are important in life, they just do not think that they form part of the higher education endeavor, if indeed they can be taught anyway.

Moral abdication or valuelessness seems to have become a sign of the times. One might well describe the illness of modern society and its schooling as anomie, a rootlessness.

I would like to say right out that I do not consider this to be progress, however modern and stylish it might be. The Greeks (not the fraternities) were at their best when they inisisted that *arete* (excellence) was at the heart of human activity at its noblest, certainly at the heart of education at its civilized best. John Gardner wrote a book on the subject, which will best be remembered by his trenchant phrase: "Unless our philosophers and plumbers are committed to excellence, neither our pipes nor our arguments will hold water."

Do values really count in a liberal education? They have to count if you take the word "liberal" at its face value. To be liberal, an education must somehow liberate a person to be what every person potentially is: Free. Free to be and free to do. What?

Excuse me for making a list, but it is important. The first fruit of a liberal education is to free a person from ignorance, which fundamentally means freedom to think, clearly and logically. Moreover, allied with this release from stupdity—nonthinking or poor-thinking—is the freedom to communicate one's thoughts, hopefully with clarity, style, and grace, more than the Neanderthal grunt.

A liberal education should also enable a person to judge, which in itself presupposes the ability to evaluate: to prefer this to that, to say this is good and that bad, or at least this is better than that. To evaluate is to

prefer, to discriminate, to choose, and each of these actions presupposes a sense of values.

Liberal education should also enable a person to situate himself or herself within a given culture, religion, race, sex, and, hopefully, to appreciate what is valuable in the given situation, even as simple an evaluation as "black is beautiful." This, too, is a value judgment and a liberation from valuelessness, insecurity and despair, at times.

Liberal education, by all of these value-laden processes, should confer a sense of peace, confidence and assurance on the person thus educated and liberate him or her from the adriftness that characterizes so many in an age of anomie.

Lastly, a liberal education should enable a person to humanize everything that he or she touches in life, which is to say that one is enabled not only to evaluate what one is or does, but that, in addition, one adds value consciously to relationships that might otherwise be banal or superficial or meaningless: relations to God, to one's fellow men, to one's wife or husband or children, to one's associates, one's neighborhood, one's country and world.

In this way, the list of what one expects of liberal education is really a list of the very real values that alone can liberate a person from very real evils or non-values—stupidity, meaninglessness, inhumanity.

One might well ask at this juncture, "How are these values attained educationally?" Again, one is almost forced to make a list: Language and mathematics stress clarity, precision and style if well taught; literature gives an insight into that vast human arena of good and evil, love and hate, peace and violence as real living human options. History gives a vital record of mankind's success and failure, hopes and fears, the heights and the depths of human endeavors pursued with either heroism or depravity—but always depicting real virtue or the lack of it. Music and art purvey a sense of beauty seen or heard, a value to be preferred to ugliness or cacophony. The physical sciences are a symphony of world order, so often unsuccessfully sought by law, but already achieved by creation, a model challenging man's freedom and creativity. The social sciences show man at work, theoretically and practically, creating his world.

Too often, social scientists in their quest for a physical scientist's objectivity underrate the influence of freedom—for good or for evil. While a social scientist must remain objective within the givens of his observable data, his best contribution comes when he invokes the values that make the data more meaningful as de Tocqueville does in commenting on the values of democracy in America, Barbara Ward in outlining the value of social justice in a very unjust world, Michael Harrington in commenting on the nonvalue of poverty.

Again, it is the value of judgments that ultimately bring the social sciences to life and make them more meaningful in liberating those who study them in the course of a liberal education.

One might ask where the physical sciences liberate, but, even here, the bursting knowledge of the physical sciences is really power to liberate mankind: from hunger, from ignorance and superstition, from grinding poverty and homelessness that have made millions of persons less than human. But the price of this liberation is value: the value to use the power of science for the humanization rather than the destruction of mankind.

Value is simply central to all that is liberalizing in liberal education. Without value, it would be impossible to visualize liberal education as all that is good, in both the intellectual and the moral order of human development and liberation. Along the same line of reasoning, President Robben Fleming of Michigan last year asked his faculty why, in the recent student revolution, it was the liberal arts students who so easily reverted to violence, intolerance and illiberality. Could it not be that their actions demonstrated that liberal education has begun to fail in that most important of its functions: to liberate man from irrationality, valuelessness and anomie?

But, one might legitimately ask, how are these great values transmitted in the process of liberal education? All that I have said thus far would indicate that the values are inherent in the teaching of the various disciplines that comprise a liberal education in the traditional sense. However, one should admit that it is quite possible to study all of these branches of knowledge, including those that explicitly treat of values, philosophy and theology, without emerging as a person who is both imbued with and seized by great liberating and humanizing values.

I believe that all that this says is that the key and central factor in liberal education is the teacher-educator, his perception of his role, how he teaches, but particularly, how he lives and exemplifies the values inherent in what he teaches. Values are exemplified better than they are taught, which is to say that they are taught better by exemplification than by words.

I have long believed that a Christian university is worthless in our day unless it conveys to all who study within it a deep sense of the dignity of the human person, his nature and high destiny, his opportunities for seeking justice in a very unjust world, his inherent nobility so needing to be achieved by himself or herself, for one's self and for others, whatever the obstacles. I would have to admit, even immodestly, that whatever I have said on this subject has had a minuscule impression on the members of our university compared to what I have tried to do to achieve justice in our times. This really says that while value education is difficult, it is practically impossible unless the word is buttressed by the deed.

If all this is true, it means that all those engaged in education today must look to themselves first, to their moral commitments, to their lives, and to their own values which, for better or worse, will be reflected in the lives and attitudes of those they seek to educate. There is nothing automatic about the liberal education tradition. It can die if not fostered. And if it does die, the values that sustain an individual and a nation are likely to die with it.

SUPPORT FOR S. 1413

Mr. DOMENICI. Mr. President, I wish to speak today in support of S. 1413, which was passed by the Senate on Friday, June 15, 1973. The measure seeks to increase the authorization of appropriations to the Committee for the Purchase of Products and Services of the Blind and Other Severely Handicapped for fiscal year 1974 from $200,000 to $240,000.

When this committee was initiated 2 years ago by Congress, the cost estimates made at that time were based on little operating experience. During these 2 years, the staff positions have been filled and personnel have been working with the participating workshops. However, operating costs have exceeded estimates due to the recent pay increases for Federal employees, increased travel requirements of the staff to assist workshops in qualifying for participation in the program, and to budget for the rent for office space as well as other increases in administrative costs.

Mr. President, I believe the benefits of this program are self evident and the program should not be jeopardized by inadequate funding estimates of 2 years ago. Indicative of the program's success has been the increased number of workships during this time. They have increased from 78 to 83. In addition, the nonprofit status under the act of over 129 workshops serving the other severely handicapped has been verified, and 6 of these have been assigned a commodity of a service to perform.

Furthermore, the participating workshops have shown an improvement in each category of sales reaching a new high of $52,524,892. More importantly, the hourly wages for the blind or handicapped worker have also reached a new high of $1.80 an hour.

It seems clear to me that this program offers the severely handicapped an honorable and dignified way to support themselves and any dependents they may have. We must leave this avenue open—it must not be closed or inhibited because of inadequate funding at this point. The return to this country would be much more than the sum proposed here when one considers services rendered—as well as useful work opportunities for individuals who would otherwise be a burden to themselves, to their families, and to their communities.

EXECUTIVE PRIVILEGE—THE NEED FOR CONGRESSIONAL ACTION

Mr. ERVIN. Mr. President, on June 15, 1973, I had the privilege of speaking to the Illinois State Bar Association on the subject of Executive privilege.

I ask unanimous consent that a copy of my remarks be printed in the RECORD.

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

EXECUTIVE PRIVILEGE: THE NEED FOR CONGRESSIONAL ACTION

As every citizen must know, there is a great conflict going on in Washington between Congress and the Executive branch of the Government. Some commentators have described this conflict as a "constitutional crisis," and daily news reports clearly reflect the nature of the struggle over such issues as budget priorities, impoundment of appropriated funds, and the exercise of executive privilege and other devices by the Executive to withhold information from Congress and the American people—all in addition to the Watergate investigation.

Today I would like to discuss with you the issue of executive privilege, which is woven through many of the events that have occurred over the past few years. I have become quite familiar with this issue and the extent to which information has been withheld from Congress as the result of extensive hearings conducted by the Judiciary Subcommittee on Separation of Powers first in 1971 and again this year in conjunction with the Government Operations Subcommittee on Intergovernmental Relations, which is chaired by Senator Edmund S. Muskie. I am also familiar with the various statements by the President regarding executive privilege in connection with the Watergate investigation, some of which I have seen fit to characterize as "executive poppycock."

The varying positions of the Nixon administration on the exercise of executive privilege serve to demonstrate the difficulty of

defining the privilege and establishing the boundaries of its use.

As a general proposition, the administration's policy governing compliance with congressional demands for information was set out in a Memorandum for the Heads of Executive Departments and Agencies promulgated by the President on March 24, 1969.[1] According to the terms of that memorandum, the administration's policy is "to comply to the fullest extent possible with Congressional requests for information." It specifically says that executive privilege will be exercised "only in the most compelling circumstances and after a rigorous inquiry into the actual need for its exercise" and, even then, only with "specific Presidential approval."

On its face, application of executive privilege in accordance with the terms of the Nixon memorandum would seem to fit the narrow concept of the privilege to which I subscribe. That is, executive privilege is a right belonging to the President—and not to other Executive branch officers—to "withhold information, not privileged under the law of evidence, which relates to a subject within the legitimate authority of Congress, on the ground that disclosure would hinder discharge of the constitutional powers of the Executive."[2] Since the privilege is strictly presidential, it must be exercised personally by the President.

While the Nixon administration has seen fit to exercise the privilege formally under the terms of the memorandum on very few occasions, in actual practice it has withheld information from Congress for a variety of reasons. It is not the formal invocation of executive privilege alone that causes difficulty in gaining access to information; it is the multitude of specious reasons given by department and agency heads and other officers and employees of the Executive branch for their refusals to provide the information sought by Congress.

For example, the President has exercised executive privilege formally on only a handful of occasions. However, a survey being conducted by the Subcommittee on Separation of Powers already has turned up more than 100 incidents in which information was denied congressional committees and subcommittees by Executive branch officials and employees without executive privilege even being mentioned.

As Chairman of the Judiciary Subcommittee on Constitutional Rights, I tried during 1971 to obtain information from the Department of the Army relative to Army spying on civilians. The Subcommittee requested certain specific information and the appearance before us of the generals who had responsibility for the spying program. On one occasion, I was told that the information would not be supplied to the Subcommittee because it would not be "useful" to the Subcommittee. On another, in response to the Subcommittee's request to have the generals who were in charge of the program testify, the Secretary of Defense told me that *he*—and not the Subcommittee—would determine who would testify. The questions of executive privilege never came up during my extensive correspondence with the Army during that investigation. Instead, the give-and-take illustrated the frequent Executive tactic of resisting or ignoring congressional requests for information until they are reduced to the bare essentials, which are then in turn refused.[3]

The withholding of information has been made on rather frivolous grounds, such as the occasion information was refused Senator William V. Roth (then Congressman) of Delaware in 1967. At that time he was attempting to compile a catalog of Federal domestic assistance programs, information which Congress and the people have a right to know. Senator Roth requested a copy of the telephone directory of the Office of Economic Opportunity. His request was denied because—and I quote him—the telephone directory was "confidential."

The Comptroller General of the United States, who heads the General Accounting Office, an arm of Congress, testified recently before our hearings on executive privilege that much information has been deliberately withheld from the GAO by executive agencies during the past few years.

Comptroller General Staats said that the departments and agencies have interpreted the President's 1969 memorandum—

"To be not limited to the specific requests which prompted the exercise of executive privilege but rather as a standing directive that no internal working documents, detailed planning data, or estimates as to future budget requirements will be made available to the Congress or the General Accounting Office without the approval of higher authority . . . In other words, agencies have become super cautious and want to run no risk that either the letter or the spirit of the directives will be violated on an 'across-the-board' basis."

The Comptroller General ran head-on into executive privilege when he attempted to obtain from the White House certain manifest lists of flights made during the 1972 presidential campaign by the President and his family, the Vice President, White House staff and Cabinet officers in military aircraft from Andrews Air Force Base just outside Washington. John W. Dean III, who at that time was counsel to the President, wrote to Mr. Staats on November 20, 1972, and told him that "information of this nature has traditionally been considered personal to the President and thus not the proper subject of Congressional inquiry." Despite this assertion by Mr. Dean, to my knowledge no President in the past has refused to provide this type of information when requested to do so by the Comptroller General.

Even though this information was refused the GAO, I am hopeful that the Senate Government Operations Committee, of which I am Chairman, can acquire the material under title 5, United States Code, section 2954, which states:

"An Executive agency . . . on request of the Committee on Government Operations of the Senate, or any five members thereof, shall submit any information requested of it relating to any matter within the jurisdiction of the committee."

The Committee on Government Operations is charged with the duty of studying and investigating the efficiency and economy of operations of all branches of the Government, including the improper expenditure of Government funds in activities of the Government or of Government officials or employees. Information pertaining to travel by Federal officials and employees to points outside the District of Columbia in Government-owned aircraft clearly is within the Committee's jurisdiction and the purview of the statute. Therefore, at least five members of the Committee are prepared to request the information which was denied the Comptroller General, and the Committee could proceed with a mandamus action if it is not forthcoming.

The interpretation of executive privilege to cover manifest lists of White House flights serves to illustrate an important problem in defining the boundaries and limits of the privilege. That problem has to do with the nature of the privilege.

For example, under the 1969 Nixon memorandum, each request for information was to be weighed on its merits as to whether executive privilege should be exercised, and the President personally was to make the final determination. In other words, the privilege was to be applied to the particular information requested on an ad hoc basis.

On the other hand, President Nixon has in the past two years maintained that the privilege could be applied to a person who holds an Executive position, such as presidential assistant, rather than to the information sought.

This is an important distinction, for it the President applies the privilege to a person, then Congress would never be able to pose questions to that official in the first place. However, if the privilege is applied only to information, then Congress would be able to question the witness, who could in turn assert the privilege if the information sought pertains to a communication between the official and the President or to confidential presidential papers.

In practice, the application of executive privilege has depended on the policies of each incumbent President.

On May 17, 1954, at the height of the Army-McCarthy hearings, President Eisenhower sent a letter to the Secretary of Defense in which he directed employees of the Defense Department not to testify about any conversations or communications among themselves, or to produce any documents, that could have been construed as rendering internal advice within the Department.[5] Four years later, Attorney General William P. Rogers presented an exhaustive statement on executive privilege before the Subcommittee on Constitutional Rights in which he expanded the scope of the privilege. According to his reasoning, the Executive has almost unlimited discretion to withhold information from Congress.[6]

In 1962, President Kennedy attempted to end the practice of delegating to employees the authority to claim executive privilege. He said that only the President could invoke executive privilege, and that the privilege would not be used "without specific Presidential approval."[7]

So far as I can ascertain, this was the policy throughout the Kennedy and Johnson administrations, and it is reflected on the surface of the 1969 Nixon memorandum. However, it does not represent the true scope with which President Nixon and his administration have viewed executive privilege. Perhaps it was because Presidents Kennedy and Johnson were much more legislative-oriented than President Nixon, or because they served with Congresses dominated by their own political party while President Nixon has not, that the withholding of information has increased during the past four and a half years.

In fact, if we look back to 1948, we find then-Congressman Richard Nixon protesting on the floor of the House that President Truman had withheld information from Congress. He opposed the proposition that Congress could not question a refusal by the President to provide information with these words:

"That would mean that the President could have arbitrarily issued an Executive order in the Meyers case, the Teapot Dome case or any other case denying the Congress of the United States information it needed to conduct an investigation of the executive department and the Congress would have no right to question his decision.

"Any such order of the President can be questioned by the Congress as to whether or not that order is justified on the merits.[8]

Undoubtedly a man's opinions on certain issues are determined by the position he holds at the time he renders those opinions. That must have been the case of Congressman Nixon, for as President Nixon, he has shown on a number of occasions a reluctance to have Congress question whether the withholding of information by his administration was "justified on the merits."

During the Senate Judiciary Committee's hearings on the confirmation of Richard G. Kleindienst to be Attorney General in 1971,

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Footnotes at end of article.

the President extended executive privilege to Peter Flanagan, who was serving on the White House staff. It was only after it became clear the Kleindienst nomination would be blocked in the Committee unless Mr. Flanagan testified, that an agreement was made between the President and the Committee members to permit Mr. Flanagan's appearance and limited testimony.

The Flanagan case illustrated two important points about executive privilege:

First, the Nixon policy has been to extend the privilege in blanket form to positions in the Executive branch, as opposed to each particular request for information, thereby denying Congress an opportunity to question high Government officials.

Second, conflicts between Congress and the Executive over the exercise of executive privilege have been resolved basically by give-and-take between the branches, although Congress does have several weapons at its disposal. In essence, our tripartite system works best in good faith between the branches insofar as practical.

The Nixon policy of extending executive privilege to positions rather than to information has taken on new dimensions during the past several months. While he was still Attorney General, Mr. Kleindienst testified recently before our executive privilege hearings that the President has authority to order *any* of the 2.5 million Federal employees not to testify before Congress or to produce information requested by Congress. That is as broad a claim of the privilege as I know of, and I do not believe the law backs him up. The power of Congress to gather information for a legislative purpose was settled in the case of *McGrain* v *Daugherty* in 1927.[9]

During the President's initial statements on the Watergate matter, he said flatly that he would not allow any present or past members of the White House staff to appear and testify before the Senate Select Committee on Presidential Campaign Activities. That statement touched off an exchange in which I pointed out that White House assistants are no more immune from a subpoena to appear and testify before a congressional committee than is any other American citizen, and I called attention to the assertion of Chief Justice John Marshall in the *Aaron Burr* case [10] that even the President himself is subject to a judicial subpoena.

Subsequently, the President backed down from this position, and on May 3 of this year he issued new guidelines which would permit past and present presidential aides to appear and testify, but he enjoined them not to discuss conversations they had with the President, conversations among themselves involving communications with the President, or presidential papers.[11]

This construction of the privilege is more in line with the limited interpretation to which I subscribe. I certainly respect the right of the Executive insofar as executive privilege is confined to communications between presidential aides or other Executive employees and the President, or with respect to communications of a confidential nature between different presidential aides or Executive employees when they are assisting the President in carrying out the duties of his office. But I do not think there is any privilege that exists to withhold information about matters that have already been made public by other administration officials or with respect to official dealings between presidential aides and third persons. Nor do I think that there is a privilege which prevents testimony of presidential aides about any wrongdoing of which they may have knowledge.

Furthermore, I think that executive privilege should be narrowly applied to information which must of necessity be classified for national security reasons, and to internal communications that take place prior to the formulation of policy by the Executive. The withholding of information in these areas is often justified, but only when the information is properly classified for a legitimate reason.

For the most part, the appropriate committees of Congress are quite capable of receiving and protecting classified information, and while there may be occasions when very sensitive information—such as in the Vietnam peace negotiations—must be kept highly secret, the Congress should be provided with as much information as possible.

The experiences of the Joint Committee on Atomic Energy demonstrate that Congress can keep information secret. The Joint Committee never has had a leak of classified information entrusted to its custody. The Executive branch has provided fully and currently the information it is required by law to submit to the Joint Committee and has responded to all requests made by it. Even though the Joint Committee is privy to the most sensitive matters relating to our national defense, security for the classified information has never been an issue. Indeed, the Select Committee on Presidential Campaign Activities has entrusted to the Joint Committee some very sensitive papers bearing on the Watergate investigation; it has done so with the utmost confidence that there will not be a leak of the slightest proportion.

The Joint Committee on Atomic Energy operates under a somewhat unusual statute which requires the Atomic Energy Commission and the Defense Department to keep the Joint Committee "fully and currently informed" with respect to their activities "relating to the development, utilization, or application of atomic energy." It further provides that any Government agency "shall furnish any information requested by the Joint Committee with respect to the activities or responsibilities of that agency in the field of atomic energy." [12] The Atomic Energy Commission and the Joint Committee is kept abreast of every development in the use of atomic energy.

All too often the Executive equates disclosure of information to Congress as disclosure to the general public. This is a mistaken conception. Although Congress is the directly elected branch of Government, it also stands in its own right as a coordinate body under the Constitution, and its rights should not be equated with those of the general populace. In order to legislate wisely, Congress needs to know many items of classified information which must not be revealed generally. The experience with the Joint Atomic Energy Committee is proof that Congress is capable of handling highly sensitive information, and with a few internal improvements, it should be able to handle any information that it deems appropriate to its legislative function. It is capable of maintaining the security of the information both by physical means and by censure of its own Members.

When information is withheld by the Executive either on grounds of executive privilege or some other reason, it should be the Congress which rules on whether the privilege or reason is founded on law, or whether the information is being withheld because, for example, it may prove politically embarrassing to the incumbent administration or to the bureaucrats who serve under it.

As Congressman Nixon said in 1948, a refusal by the President to provide information "can be questioned by the Congress as to whether or not that order is justified on the merits."

The Supreme Court has indicated that a claim of executive privilege is not necessarily conclusive on the Federal courts in litigation between private individuals and the Government, though on occasion there may be reasons for not divulging information, even *in camera*, where "there is a reasonable danger that the compulsion of the evidence will expose military matters which, in the interest of national security, should not be divulged." [13] Now if the courts have a certain amount of discretion in reviewing claims of executive privilege in order to determine their validity, it seems only natural to me that the Congress—in its role as an independent branch of the Government charged with the legislative function—is able to request information it deems necessary to that function, and to determine whether or not a refusal to provide that information is founded in law.

Senator Muskie and I have introduced a concurrent resolution in the Senate which would require Federal officials to appear and testify when requested. Congress and its committees would then determine whether a claim of privilege is founded in law. If it is determined that such a claim is not well founded, then the appropriate House of Congress would take such action as it deems appropriate to require the information be divulged, whether that be by a contempt proceeding or other methods.

Congress can be more forceful in asserting its right to information from the Executive, and the resolution that Senator Muskie and I have introduced would provide a first step. On the whole, however, it will require cooperation between the Executive and Congress in good faith and with the good of the Nation foremost in our consideration. Our system of Government, with its powers separated among three coordinate branches, is not the most efficient ever devised, nor was it ever meant to be. As former Secretary of State Dean Rusk testified in 1971, our constitutional system—

"Requires an enormous amount of time on the part of those who are in it, particularly in the legislative and executive branches to make the Consitution work at all. There is in it always the danger of impasse. And the danger of impasse seems to me to be the principle threat to our constitutional system as it now exists" [14]

To my mind, our Constitution is the most magnificent legal document ever to come from the mind of man, and it must be protected, defended and maintained. To do so will require the cooperation of the President and Congress, and the active interest of every American citizen. That is why the great issues of separation of powers, such as executive privilege, must be of concern to each and every one of us.

Our freedoms are very fragile, and they must be protected at the price of eternal vigilance. We have seen a great accumulation of power in the presidency over the past 40 years, partly because Congress has been too ready to turn over the hard decisions that must be made to the Executive. Today Congress is moving to reassert its proper constitutional role in the operation of our Government, and I believe that is a very healthy development. The Founding Fathers left us with a delicate Government which, if maintained in its proper balance, will ensure freedom for generations to come. The vigilance that freedom demands must be provided by each and every citizen and especially by those of us who know and love the law.

I appreciate the opportunity to discuss the issue of executive privilege with you today.

Thank you very much.

FOOTNOTES

[1] *Hearings on Executive Privilege: The Withholding of Information by the Executive Before the Subcommittee on Separation of Powers of the Senate Committee on the Judiciary*, 92nd Cong., 1st Sess., 36 (Committee Print 1971), hereafter cited as *1971 Hearings*.

[2] Library of Congress, Congressional Research Service "Executive Privilege," memorandum of June 7, 1971, in *1971 Hearings* 543, at 547.

[3] See the testimony of Senator John V. Tunney, a member of the Subcommitee on Constitutional Rights, in *1971 Hearings* at 381.

[4] *1971 Hearings*, at 229.

[5] 100 *Cong. Record* 6621 (1954).

[6] Rogers, "Constitutional Law: The Papers of the Executive Branch," 44 *A.B.A.J.* 941 (1958), reprinted in *1971 Hearings*, at 551.

[7] *1971 Hearings*, at 34.

[8] 94 *Cong. Record*, 4783 (1948).

[9] 273 U.S. 165 (1927).

[10] 25 Fed. Cas. 30 (No. 14692d) (1807).

[11] Test of the President's guidelines is reprinted in 1971 *Congressional Quarterly Weekly Report*, at 1120.

[12] 42 U.S.C. 2252.

[13] *United States* v. *Reynolds*, 345 U.S. 1, at 10 (1953).

[14] *1971 Hearings*, at 342.

EXTENSION OF HEALTH BENEFITS FOR RAILROAD EMPLOYEES AND THEIR DEPENDENTS

Mr. DOMENICI. Mr. President, Friday I voted for H.R. 7357, a bill to extend kidney disease medicare coverage to railroad employees, their spouses and dependent children.

When H.R. 1 was passed during the 92d Congress, several changes were made with regard to kidney disease benefits. Usually changes in social security coverages automatically include railroad employees, but this time it was overlooked when H.R. 1 was finally passed. This measure is to rectify that oversight.

One provision of the bill pleases me in particular. The administration of the social security minimum guaranty provision contained in the Railroad Retirement Act is to be greatly simplified. This will result in a zero cost to the entire program as the extra benefits provided would be offset by those reduced operating expenses.

Finally, I would like to say that my support for this measure will not diminish my consideration and support for more comprehensive railroad retirement and health benefit bills in the future. These workers should be as adequately covered under their retirement and health programs as other workers in this country and I intend to support those legislative measures in the Senate which would guarantee that end.

ELECTION OF DR. ROBERT W. BRIGGS TO THE EXECUTIVE BOARD OF THE BOY SCOUTS OF AMERICA

Mr. HARTKE. Mr. President, recently I learned that Dr. Robert W. Briggs, a prominent physician from Indianapolis, Ind., has been elected to the National Executive Board of the Boy Scouts of America.

Dr. Briggs has been very active in Indiana civic and community affairs, including an outstanding record of service with the Boy Scouts. I share with my fellow Hoosiers a deep sense of pride in his work and his accomplishments.

Mr. President, I ask unanimous consent that a press release announcing Dr. Briggs' appointment to the executive board of the Boy Scouts be printed in the RECORD.

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

SCOUTS NAME BLACK INDIANAPOLIS PHYSICIAN TO NATIONAL EXECUTIVE BOARD

MINNEAPOLIS, MINN., May 25.—Dr. Robert W. Briggs, prominent Indianapolis, Indiana physician today was elected to the National Executive Board of the Boy Scouts of America.

The 51-year-old Briggs' nomination was confirmed during the 63rd National BSA Annual Meeting here at the Minneapolis Convention Center Auditorium.

As a member of the prestigious board, Dr. Briggs will have a voice in structuring national policies and programs of the 6½ million-member youth organization.

A past recipient of the coveted Silver Beaver Award, Briggs has been long active in the Scouting movement.

He is a member of the Region 7 BSA Executive Committee, council chairman of the Urban Relationships Committee, and national chairman of the BSA Urban-Suburban Relationships Panel.

From 1967 to 1969, he served as chairman of the Inner-City Study Commission of the Indianapolis Council, and is a past Vice-President of the Indianapolis Council.

Dr. Briggs is also an Explorer advisor, and was a delegate at the 1970 National Inner-City Relationships Workshop Conference in Denver, Colorado, where he served as vice-president.

Active in numerous civic and community activities, Dr. Briggs holds a chartered life membership in the National Association for the Advancement of Colored People (NAACP), is a member of the Fraternal Order of Police, the Navy League of the United States, the American Medical Association, the Fellow of College and Chest Physicians, and is an executive board member of the Indianapolis YMCA.

During the Korean Conflict, he served with the Army Medical Corps, attaining the rank of captain.

SOVIET SUBJUGATION OF LITHUANIA

Mr. FANNIN. Mr. President, World War II, brought suffering, privation, and hardships to all of Europe, but some peoples suffered more than others. Some still suffer. The Lithuanians were among the first victims of World War II, and unfortunately their suffering is not over yet.

The Lithuanians, who are justly proud of their distinct individuality and undaunted spirit of freedom, had regained independence at the end of World War I. They were enjoying freedom in their historic homeland under democratic government. For two decades they worked hard for their country and they were perfectly content with their lot. Then the Second World War ushered in a period of misery and misfortune which has continued for more than three decades.

The Soviet Government took advantage of the weakness and helplessness of these people to impose its despotic system upon them early in the war. First the government of the country was forced to sign a mutual assistance pact with the Soviet Union; then the Lithuanians were compelled to allow Russian garrisons to be stationed in the country; and finally, in June of 1940 the Red army attacked and occupied it.

The people were robbed of their freedom and independence, and became prisoners of the Red army. Meanwhile, Soviet agents instituted a reign of terror. Lithuanians by the tens of thousands were arrested, imprisoned and then deported to distant parts of the Soviet Union. The terror continued until the Red army was forced out of the country by the Nazis in late June of 1941. In mid-June, however, just before their eviction, Soviet authorities had intensified their reign of terror, and in one night alone, on June 13–14, many tens of thousands of innocent people were deported. All told, during the first stage of their occupation, Soviet authorities had deported many thousand peoples whose fate is still unknown.

Today, as we solemnly observe the anniversary of this event, the survivors of that tragedy still suffer in their homeland under Soviet totalitarian tyranny. We pay homage to the memory of those who have died for their cause, and pray for the freedom of those who still suffer in Lithuania.

OIL

Mr. HUMPHREY. Mr. President, I wish to bring to the attention of Senators two excellent articles which appeared in Sunday's Washington Post, dealing with the world's energy problems.

The first article, written by Ronald Koven and David B. Ottaway, is entitled "U.S. Oil Nightmare: Worldwide Shortage." The thesis is that while Congress properly is concerned with who is responsible for the closing of 2,000 gas stations across the land and farmers cry out that there is not enough fuel to move their tractors this summer, the Congress and U.S. policy planners should be even more worried that the worst is yet to come—an absolute worldwide shortage of oil.

The second article, by Carole Shifrin, deals with the interrelated nature of the oil industry. It is one of the most informative articles I have read dealing with a very complex subject. I strongly urge my colleagues to study this article, as it is an understandable primer on the oil industry.

I ask unanimous consent that both these articles be printed in the RECORD.

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

U.S. OIL NIGHTMARE: WORLDWIDE SHORTAGE

(By Ronald Koven and David B. Ottaway)

While Congress debates who is responsible for the closing of 2,000 gas stations across the land and farmers cry that there is not enough fuel to move their tractors this summer, U.S. policy planners are worrying that the worst is yet to come—an absolute worldwide shortage of oil.

No one disputes that there is an abundance of oil in the ground to meet the industrial world's enormous and growing appetite for energy—at least for a while.

The nagging question is whether those who have the oil will produce it, mainly to please the United States, whose wasteful ways the world is coming to resent.

There are growing indications that the answer might well be "no."

In the words of Deputy Treasury Secretary

William E. Simon, chairman of the Nixon administration's Oil Policy Committee, "The producing countries will produce their reserves, or conserve them, to the extent that they consider it to their economic and political advantage to do so.

The United States, whose 6 per cent of the world's population now consumes 33 per cent of its energy, is suddenly emerging as the leading importer of oil, destabilizing the international petroleum market.

As James E. Akins, the State Department's top energy specialist testified to the Senate Foreign Relations Committee recently, "The United States alone, through its increased imports, is creating a new demand for oil each year equivalent to the entire production of Algeria (1.1 million barrels a day) or approximately half that of Libya, or Nigeria."

America's traditional foreign oil providers—Canada and Venezuela—have determined that their reserves are relatively limited. They are turning their backs on America's calls for help with its energy problem to concentrate on their own national interests.

Other countries which earlier looked as if they might be a big help, such as Indonesia and Nigeria, now appear small factors in the changing world oil supply situation.

The only country capable of meeting the world's growing needs is Saudi Arabia, which sits on at least a quarter of the earth's proven oil reserves, but has only 4.5 million souls to provide for.

Not only is the economic incentive for the Saudis to expand their production limited (they now hold more than $3 billion in monetary reserves), but they are coming under increasing political pressure from their Arab brothers to refrain from bailing the Americans out.

"When we talk about our oil needs, we're talking about one country—Saudi Arabia," said Rep. John C. Culver (D–Iowa), chairman of the House Foreign Economic Policy Subcommittee.

The implications of this stark fact are only now beginning to be taken into public account by top U.S. officials. But Washington ignored a Saudi invitation last fall to establish a special oil relationship, and the invitation is no longer open.

After a decade during which oil producing capacity exceeded the need by about 30 per cent, world supply and demand is now in practically perfect balance. If one producer even an only moderately important one like Libya (2.2 million barrels a day), turns off its oil tap, a world shortage will be upon us.

In 1972, the world produced 52.9 million barrels a day and it consumed 52.7 million barrels, leaving practically nothing for inventories.

Until the turn of the decade, America's profligateways were no real problem. Until 1970, America produced as much oil as it consumed—a policy David Freeman, head of the Ford Foundation's energy policy research project, has described as "Drain America First."

Now, in a world of shortage, there may be a theoretical alternative to oil in the mountains of coal in this country which would be enough to cover U.S. energy needs for 500 years.

But American society has become addicted to oil and gas, which account for more than three quarters of all U.S. current energy consumption, to maintain its chosen lifestyle of cleaner industrial smokestacks and vehicles powered by the internal combustion engine. It is hard to conceive a shift back to the age of coal, which for a start would force abandonment of our self-imposed clean-air standards.

In effect, while waiting for the tardy atom and other Buck Rogers alternatives to start producing much of our energy in the mid-1980s, the United States is stuck on oil (already 44 per cent of all U.S. energy consumption and rising) and must count on foreigners to supply it.

There is no spare producing capacity in the United States. Alaskan oil, when it is finally extricated from its current judicial quagmire, will do little more than make up for the decline in the lower 48 states' production, according to the National Petroleum Council.

Last year, the United States imported 27 per cent of the oil it used and expects to bring in 33 to 35 per cent this year, according to official forecasts.

By 1980, most estimates—industry, university and government—are that the United States will need to import half or more of its total needs. One respected view is that this may happen as early as 1976.

The usual estimates are that the United States imported about 15 per cent of its petroleum products from the unstable Arab world and Iran in 1972—2.1 per cent of its total energy consumption.

But that statistic vastly understates the importance of Middle Eastern imports, since at least a third of petroleum refined in the Caribbean for the U.S. market originates in the Middle East, but is classified as Latin American oil.

A more accurate view can be had from a look at the percentage of unrefined oil imported directly into the United States. Using the U.S. Bureau of Mine's figures, Arab and Persian crude oil represented 28.6 per cent of U.S. imports last year.

The Arab world and Iran already produce 42 per cent of the world's oil, and they hold two-thirds of the 670 billion barrels of proven reserves. The trend is toward ever-increasing dependency on Middle East oil, at least through 1980 or 1985. In seven years, according to conservative estimates by the U.S. government, a third to a half of total U.S. oil imports will be from the Arab world and Iran.

It is estimated that one out of five barrels of oil then used in the United States will be coming from Saudi Arabia alone. The Saudis are expected to provide three-quarters of the growth in Middle East petroleum production from here on in.

A country by country source in the Middle East, has been playing on U.S. fears to present itself as a potential replacement. But the shah's own announced plans are that Iran will impose a plateau on production in 1977 so as not to deplete his country's dwindling reserves too fast.

Iran is now producing about 5 million barrels a day and will peak out at 8 to 9 million barrels. Most of that oil is already committed to Western Europe and Japan and could not be shifted to the United States in a crisis, except at the expense of America's allies.

Iraq is the Arab world's sleeper—its vastly underestimated reserves are second only to Saudi Arabi's. But the future of Iraq's oil industry is highly uncertain. Some oil economists believe that country should step up production from its current stagnating 1.5 million barrels a day to as much as 5 million. The political instability that has traditionally been a major obstacle to expansion of Iraqi production, however, raises serious questions about getting much oil from there.

Outside the Arab world, Nigeria is the only non-Communist country where oil production is now increasing significantly, with expectations of exports of 2.4 million barrels daily by 1975. The West African country has suddenly become extremely important to the United States. This, however, is a passing phase. America's voluminous needs will outstrip the limited capacity of Nigeria's fields. Some of the older ones are already declining in production.

Many energy planners have been fooled by mirages of great oil bonanzas outside the Middle East, especially in the seabed in places as near to home as the Long Island and New Jersey coasts and as far away as the China Sea.

No actual drilling has taken place in any of these offshore sites. The evidence is that they are potentially rich in oil, but many past explorations have proven the most geologically promising areas to be dry holes. The likelihood is high that most of the world's easy-to-exploit shallow-water offshore oil, like Venezuela's Lake Maracaibo and the Abu Dhabi Marine Areas in the Persian Gulf, have already been found.

Even if a gigantic offshore oil pool were to be found, exploiting it would almost certainly be far more costly and difficult than extracting the oil from the sands of Saudi Arabia, where a barrel of oil costs 8 to 10 cents to produce at the wellhead. From discovery to full-scale production involves a minimum lead time of five years even under the best conditions.

The troubles the Europeans have encountered in the North Sea are an object-lesson for many pursuers of fools' oil rushes. Deep in some of the world's stormiest waters, North Sea oil is proving to be a costly enterprise. Destruction by wind and waves of oil rigs worth millions of dollars is a common occurrence. There have been innumerable dry holes at $3 million each. The British government estimates North Sea production by 1980 at 2 million barrels a day—only enough to cover Europe's annual growth in demand for perhaps two years.

Closer to home, oil alchemists are dreaming up schemes to turn rocks, sand and tar into black gold, bedazzling their audiences with fantastic estimates of such deposits as the Athabasca Tar Sands in northern Alberta (300 billion barrels), the oil shale deposits of the Rocky Mountains (1.7 trillion barrels) and the Orinoco oil belt in northeastern Venezuela (700 billion barrels).

These latter-day alchemists have successfully developed the technology of extracting the oil. What they often fail to say, however, is that the investments in time and money are so high as to represent major obstacles for private industry alone—at least $5 billion in Venezuela and $6 billion in Canada. The lead times make major oil production unlikely in the crucial decade before us, if then. Extraction of more than 10 per cent of the oil in place under any of these schemes is highly doubtful.

Not only are these plans still farfetched from a practical viewpoint, but they do not deal with the political realities of mounting anti-American nationalism in Canada and Venezuela.

The turning point in Canadian-American economic relations may already have come in March of this year, when Canada's National Energy Board announced a "temporary" limit on crude oil exports to the United States of a little more than 1.2 million barrels a day, turning down applications for another 50,000 barrels. Last Thursday, similar "temporary" restrictions were placed on Canadian exports to the United States of gasoline and home heating oil after U.S. imports of gasoline jumped from 799 barrels in January to more than 500,000 in May, threatening to draw all of Canada's own supply.

Canadian officials cite the French proverb, "Nothing is so lasting as the temporary."

The Energy Board justifies its actions under a strict interpretation that its responsibilities require it to keep in reserve enough to cover Canada's energy needs for 25 years.

Canadian officials here point out that Canada's production from its established oil fields is expected to peak in three years, and that exploration on Canada's vast northern frontiers has so far turned up large gas deposits but relatively little oil.

From the frontier areas, where the expectation is that oil will eventually be dis-

covered in sizable quantities, the surpluses would normally go to the American market. But there are influential voices being raised in Canada, such as Eric Kierans, economics professor at McGill University and a former federal Cabinet minister, who questions whether it is in Canada's interest to invest the huge sums required to develop the north primarily for the benefit of the Americans.

"We reject continentalism," says one high-level Canadian official. "The idea is unacceptable to Canada. You know what happens to little guys."

This seems to be partly an expression of pique over the American failure to reply to a Canadian offer in March 1972 for a joint Trans-Canadian Pipeline to carry oil from Alaska's North Slope and Canada's promising Delta area to the American Midwest.

This alternative to the Trans-Alaska Pipeline was offered, according to a later letter from Canadian Energy Minister Donald S. McDonald to U.S. Interior Secretary Rogers C. Morton, to "enhance the energy security of your country."

But, McDonald warned, if the oil transportation problem from Alaska were "not solved with reason and wisdom by us today," then it "could produce difficult influences in Canada-United States relations."

Eleven months later, in February 1973, McDonald snappishly told the House of Commons that he still had not had a reply from Morton and that Canada has "no intention of renewing its representation."

In retrospect, the failure to take up the Canadian offer may turn out to be a major missed opportunity second only to the failure to respond to the Saudi offer.

The prospect is that Canada in the foreseeable future will remain a static source of oil for the United States. Even the present 1.2 million barrels of crude a day that the United States gets from Canada overstates its importance in the American import picture. A large amount of Canadian petroleum shipments to the U.S. Midwest represent oil freed for export by major imports of Venezuelan oil to Canada's energy-poor eastern coast. Much of the petroleum products the United States buys from Canadian refineries, moreover, are processed from Middle Eastern and Venezuelan crude.

As for Venezuela, traditionally the largest exporter of oil to the United States and once virtually an American economic colony, its current approach toward helping the "Giant of the North" is demonstrated by what happened last year. For technical reasons, Venezuela's production dropped by 9 per cent, while its oil revenues increased by 11 per cent, thanks to ever higher world prices.

This, Venezuelan officials indicate, is fine with them. They are mainly concerned with maintaining their country's income. They do not worry about whether the United States will get enough oil.

The Venezuelan attitude toward American hopes of getting a great deal of secure Western hemisphere oil in the future is reflected in one official's words:

"It is not Venezuelan policy to increase production abruptly. We want stable, gradual growth. . . . A lot of energy is being wasted in America. We don't want to waste our oil."

To U.S. Secretary of State William P. Rogers' recent invitation to the Venezuelans to produce more for the U.S. market, President Rafael Caldera replied, "Venezuela will not join the mad race of production."

When Americans talk about getting help, Venezuelans note that in the 1960s, during the world's oil glut, the effect of U.S. government policies was to draw private American oil investment away from Venezuela to the Middle East. As a result there has been practically no oil exploration in Venezuela for more than a decade.

U.S. companies have been told that their Venezuelan concessions will not be renewed after they expire in 1983. This expression of economic nationalism has cast a pall over new investment plans, including those for the development of the Orinoco River oil tar belt.

During his recent Latin American tour, Rogers offered a "long-term arrangement that would facilitate the mobilization of the necessary capital and technology, and establish stable trading arrangements" for the hard-to-extract Orinoco oil.

However, with Venezuela now immobilized in campaigning for its presidential election in December, no Venezuelan leader is prepared to risk a response to the Yankee offer.

Both major political parties in Venezuela have made it clear that the days of private oil concessions are over and that the government will insist on controlling any new oil ventures.

Venezuela's contribution to America's energy needs is not likely to rise much beyond the 1.6 million barrels a day of both crude and refined petroleum it now provides. Venezuelan oil specialists indicate that it should take two or three years for their country even to get back to its 1971 production level and that future production increases will be kept to a 2 to 4 per cent annual range.

"Venezuela realizes that oil is a non-renewable resource," was the way one Venezuelan specialist summarized his government's attitude.

For the United States and the world, then, Saudi Arabia is, in Jamer Akins' phrase, the "swing producer." It is the country whose production is expanding the most rapidly.

It went from 6.5 million barrels a day in January to 9 million daily this month, fulfilling its expansion plans six months ahead of schedule.

In other words, Saudi Arabia has added more than "another Libya" to world oil production so far this year and will add still another Libya some time in 1975.

The world's energy planners are banking on Saudi Arabia's meeting its announced plan of 20 million barrels a day by 1980. But Arab world pressures have been growing steadily on the Saudis to curb their production growth unless Washington changes its pro-Israeli policies in the Middle East.

Speaking in Beirut last week, Nadim Pachachi, former head of the Organization of Petroleum Exporting Countries (OPEC) and still an influential figure in Arab oil politics, said that to produce a severe American shortage within a year the Arab countries need only "refuse to increase production."

In the past few months, Cairo in particular has been bearing down on the Saudis to use their new-found oil leverage to force an American policy shift.

On May 3, King Feisal delivered a lecture to the president of the Arabian American Oil Co. (Aramco), the U.S. consortium producing practically all of Saudi Arabian oil. Aramco President Frank Jungers cabled home to the American parent companies a detailed summary of Feisal's description of the pressures he is feeling and of his attempt to transfer some of that pressure to the oil industry so that it would in turn place pressure on the U.S. government.

The king stressed that he is "not able to stand alone much longer" in the Middle East as a friend of America, Jungers reported. Feisal said every Arab country but his is "most unsafe for American interests" and that even in Saudi Arabia, "it would be more and more difficult to hold off the tide of opinion that was now running so heavily against America," Jungers cabled. The report of Feisal's plea continued:

"He stated that it was up to those American enterprises who were friends of the Arabs and who had interests in the area to urgently do something to change the posture of the USG [United States government]. He said a simple disavowal of Israeli policies and actions by the USG would go a long way toward quieting the current anti-American feeling. He kept emphasizing that it was up to us as American business and American friends to make our thoughts and actions felt quickly."

Abandoning their previous low profile, American oilmen have been doing just what Feisal asked—offering to testify before Congressional committees, buttonholing State Department policy makers, even taking their case to the White House.

Aramco officials are understood to be worried that their ambitious expansion plans will be curbed. U.S. intelligence analyses are already said to be based on the assumption that Saudi-Arabia will only be willing to expand production to 15 million barrels a day, rather than 20 million.

There are also reports that some influential members of the Saudi royal family are arguing within the government that their country does not need the extra revenue and that it would better serve Saudi interest at home and abroad to freeze petroleum production at present levels.

Saudi Petroleum Minister Sheika Zaki Yamani, who brought a similar message to Washington in April, is understood to be arguing for continued expansion. This position, however, may prove increasingly untenable in a country that stands to earn around $5 billion in oil revenues this year and was only able to spend 60 percent of its $2.4 billion budget last year.

Already, as a result of growing political pressures at home and an ambiguous U.S. response, the Saudi government has backed off its offer of last fall to provide the United States with a guaranteed large oil supply in return for preferential treatment in the American market.

Perhaps the best chance American oil diplomacy has to convince the Saudis to do the United States the "favor," as Yamani calls it, of expanding its oil production is to stress the tacit U.S. role as Saudi Arabia's great-power protector against major aggression.

Washington's problem is the tension between America's position as the tacit protector of Israel and as the tacit protector of Iran, Saudi Arabia's main rival in the Persian Gulf. Walking carefully among all those potential contradictions is not a task for narrowly defined oil diplomacy, but for Kissinger-style global thinking.

In the most concrete expression so far of the new American awareness of the need to placate the Saudis, the State Department announced U.S. willingness to sell Saudi Arabia a "limited number" of the coveted Phantom fighter-bomber, the same plane that is the pride of the Israeli air force and that has been the symbol of Israel's special relationship with America.

Israeli Defense Minister Moshe Dayan called the American offer to the Saudis a case of "oil and sympathy." A few days later, Prime Minister Golda Meir put things firmly in perspective:

"Let me tell you something that we Israelis have against Moses. He took us 40 years through the desert in order to bring us to the one spot in the Middle East that has no oil."

U.S. OIL IMPORTS LISTED BY SOURCE

In March, the United States imported 106 million barrels of crude oil. Refined petroleum products added about half again as much to the total imports. A breakdown of the crude oil imports, according to the trade publication Platt's Oilgram, follows:

Country and barrels					
Canada	39,638,000	Libya	7,080,000	Ecuador	1,751,000
Venezuela	13,835,000	Algeria	5,279,000	Tunisia	1,069,000
Nigeria	12,186,000	Indonesia	5,260,000	Other Arab states	1,379,000
Saudi Arabia	9,383,000	Iran	4,680,000	Other non-Arab states	2,763,000
		United Arab Emirates	1,772,000	Total	106,073,000

WHO HAS THE OIL?

	Proven reserves (billion barrels)	Estimated 1972 production (million barrels/day)	Percent increase over 1971	Projected 1980 production (million barrels/day)		Proven reserves (billion barrels)	Estimated 1972 production (million barrels/day)	Percent increase over 1971	Projected 1980 production (million barrels/day)
Saudi Arabia	138.0	5.7	27.0	20	Libya	30.4	2.2	−19.3	2–3
Russia	75.0	7.5	12.0	10–12	Iraq	29.0	1.5	−12.0	1–2
Iran	65.0	4.9	8.9	8–10	Venezuela	13.7	3.2	−9.8	3–4
Kuwait	64.9	2.8	−5.0	3–4	Canada	10.2	1.5	10.4	2–3
Other Persian Gulf	51.2	2.5	4.0	4–6					
Algeria	47.0	1.1	36.8	1–2	Total world	669.9	49.7	3.0	80
United States	36.8	9.5	−.3	12					

U.S. Suit Outlines Interrelated Nature of Oil Industry

(By Carole Shifrin)

An easy-to-understand primer on the complexities and interrelated nature of the oil industry was provided to the public in a suit filed last week by the Justice Department's Antitrust Division against Texaco, Inc., and an independent refiner, Coastal States Gas Producing Co.

Although there have been no federal charges that the interconnected character of the industry violates the nation's competition laws per se, the outline of the industry's function and who controls it hints at the degree to which the industry's operations are concentrated.

In a simplified form, the industry's operations are divided generally into four phases:

Exploration and production.

Transportation.

Refining.

Distribution and marketing.

Basically, the oil has to be found through exploration; through a production process, it is made into crude oil, which is then transported to refineries. At the refineries, the crude is made into the finished consumer products—such as gasoline or No. 2 fuel oil used in heating homes. The refined petroleum products are then distributed to the places where they will be sold to the consuming public, such as gasoline stations or the fuel companies which supply oil, for instance, to homes or businesses.

"A vast disparity exists in the size and scope of operations of these entities," the Antitrust Division states in its suit, ranging from multi-billion dollar corporations with worldwide operations which engage in all phases of the industry to a one-person owner of a single gas station with one or two pumps or a person with a half-interest in a single oil well.

The "majors"—numbering 17 according to Justice—are the largest domestic oil companies in terms of refining capacity. The majors are the well-known, generally heavily advertised names associated with gasoline: Texaco, the various Standard Oil companies (Indiana, California, Ohio), Exxon, Shell, Gulf Oil, Mobil Oil, Atlantic Richfield, Sun Oil, Union Oil, Phillips Petroleum, Cities Service, Ashland Oil, Continental Oil, Getty Oil and Marathon Oil, along with their subsidiaries.

To varying degrees, the majors are integrated companies with activities ranging from initial exploration and production through distribution and marketing of refined petroleum products.

In the initial production stage, the "majors" accounted for 66.5 per cent of all crude oil produced in the United States in 1971, the government said. In 1963, the gross production of the 17 majors had been about 55.5 per cent of the total crude produced.

Almost all of the crude oil produced in the United States is transported to refineries by pipelines, with most of the crude oil gathering and trunk pipelines owned and controlled by the majors, Justice said.

"Through their ownership of crude oil production, their oilfield purchasing organizations, and their control of pipelines, the majors have access to and control of the overwhelming majority of all crude oil produced in the United States," the government asserted in the Texaco-Coastal States suit.

Concentration in the refining stage is also high. The suit indicates that, as of Jan. 1, 1972, the 17 major companies operated 110 refineries representing 82.5 per cent of the total refining capacity in the 48 contiguous states. In 1963, the majors had accounted for 76.2 per cent of the total refining capacity.

Since 1963, there has been a decline in the number of firms operating refineries, and a decline in the number of refineries, too. In 1963, there was a total of 140 firms operating 286 refineries. By 1972, the number of firms fell to 120; and the number of operating refineries to 247.

The majors appear to run their refineries at a higher capacity, the figures also indicate for, in 1971, the majors accounted for 84.3 per cent of the total refinery "runs"—the crude oil put through the refining process—in the U.S., a little higher than the total capacity percentage.

Many of the majors' refineries are huge operations—one puts out more than 400,000 barrels of refined products a day—while some of the smaller firms operating refineries have small capacity operations—ranging down to 500 barrels a day.

All of the majors market their products by brand at least for the sale of gasoline which, Justice said, is the most important refined petroleum product both by volume and by revenue. The majors supply gas to retail stations bearing their brand logos either directly or through branded wholesalers, distributors or jobbers.

In 1971, the majors' branded sales accounted for approximately 75 per cent of all tax-paid sales of gasoline in the U.S., Justice said.

The majors' competition comes from other gasoline marketers commonly called "independents," which vary in the degree of integration. A few are fully integrated from exploration through marketing, and some are partially integrated, operating in two or more phases of the petroleum industry.

But "most independent marketers are nonintegrated and are totally dependent on others for supply" of crude oil, Justice says. (They are often referred to as rebranders or private-brand marketers.)

"Because of mergers and acquisitions of oil refiners within the last ten years, there has been a marked decline in the number of refined petroleum product supply sources for independent marketeers," Justice said.

Most recently, some independent marketers have gone out of business because their suppliers often majors—cut off their supplies on grounds there was not enough to go around, and they were supplying their own outlets first.

Loss of independents spells the loss of some downward pressure on gasoline prices, because the independents prices are generally lower than those charged by the majors for their branded gasoline. The majors, charging higher prices, attempt to appeal to consumers on the basis of nonprice forms of competition, Justice notes, such as mass media advertising, claims of product superiority, credit card services and road maps.

Even so, the Justice department has observed that retail price levels for gasoline generally—majors' gasoline too—tend to be lowest in those geographic areas where independents have the greatest market penetration.

The civil antitrust suit Justice filed against Texaco, the nation's leading oil refiner and marketer, and Coastal States, the nation's second largest independent refiner, alleged that an agreement between the two restrains the sale of gasoline to independents in violation of the nation's antitrust laws.

GOVERNOR LANDON DISCUSSES ENERGY POLICY

Mr. DOLE. Mr. President, former Kansas Governor Alf M. Landon recently spoke to the Topeka, Kans., Rotary Club. His topic was energy in the United States and the long-range outlook for its use, production, and implications for this country both domestically and internationally.

I believe Governor Landon's observations are well-taken and make worthwhile reading for those of us who are involved in the formulation of America's energy policies. Therefore, I ask unanimous consent that the text of the Governor's speech be printed in the RECORD.

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

The Coming Fuel Energy Crisis

The critical public transportation problems confronting the United States of America are many-sided and huge.

We are faced with basic long-range factors of the best use of fuel energy—the relationship between ecology and the present dynamic life which varies in different states, and the position of the various transportation components in our national economy.

The more critical concern of all for the next generation or two is the best use of our natural resources of fuel energy.

Oil, coal and natural gas are not renewable like lands and timber.

We are having a plain warning now in peace-time rationing of gasoline of what is ahead of us by the turn of the century if we do not start planning immediately to make the most effective use of the dwindling supplies of crude oil and natural gas, as well as the exploitation of atomic energy and our vast coal reserves.

All this means as evolutionary a change in our way of life as did the development of steam power and the internal combustion engine. That may be more of a blessing than a disaster. However, I will leave that to the doctors and psychiatrists in the coming generations.

There are 57 government commissions, agencies and departments now fiddling with the solution of this energy making problem. This is a perfect example of the old saw, When in doubt, name another commission.

In America, we use 16 million barrels of oil per day. According to government estimates, we will be using 24 million barrels daily by 1980. Our foreign oil imports in 1970 were 25%. In 1973, they will be upwards of 40%.

Our energy power comes from: Oil 44.6%; natural gas 31.6%; coal 19.7%; water 3.3%; atomic 0.3%.

The usages of all energy in the United States are: transportation 24%; utilities 25%; industry 32%; homes 14%; other 5%.

Coal is the biggest fossil fuel energy resource America has. According to Fortune Magazine for September, 1972, "There is enough for U.S. energy needs for nearly 650 years at the current rate of use." The problem is that pilot plants built over the years have not yet been able to convert coal into clean gas of good quality.

Experts differ as they always have over America's reserves of oil and gas. Perhaps the best guess, at the present rate of consumption, is that our natural gas will be exhausting around the turn of the century—unless its use as fuel for industrial plants ceases.

That can and should be extended for many more years by limiting the use of natural gas to its highest usefulness as the most convenient and cleanest fuel for household heating—though at a higher price.

Domestically produced oil cannot be the alternative. Again quoting Fortune's reasonable figures: "The country's total proved reserves counting Alaska and off-shore fields amount to a 10 year supply at the current rate of usage—which may triple by the year 2000."

Ecologists are preserving that for the future by preventing the drilling of those wells. They are now joined by the advocates of the Canadian—instead of the all American—route for laying the pipeline essential to marketing the Alaskan oil. The American route is the most practical and advantageous. At the best, when once started, it would take around three years to complete.

According to Barron's September 1972 hard look at the energy crisis, at the current and projected increased rate of oil usage, the ceiling of America's known supply will be reached in 12 years and the world supply in 20 years. "We are depleting our natural resources, including fuel, at a catastrophic rate."

Barron's concludes that, in around 12 years, the U.S. will be importing at higher cost more than half its crude oil. That, of course, throws a greater burden on our balance of trade dollar accounts, as well as on "many U.S. industries that have taken for granted ample supplies of low cost energy."

I quote a recent A.P. round-up of the energy crisis as a key to America's trade position:

"The great threat to any restoration of a trade balance because of the present energy crisis results from the demand in the U.S. for more and more fuel, out of all proportion to new supplies being discovered and developed in the country or nearby off-shore. This could mean that overseas purchases of energy-producing materials would place an immense burden on U.S. exports in order to maintain a trade balance."

I quote the New York Times:

"This outlook, if not altered by swift planning, would make America and its industrialized allies enormously over-dependent on the whims of that largely unstable group of West Asian and North African countries where most present-day known petroleum and natural gas reserves exist."

Quoting from Research Institute Recommendations of May 18, 1973:

"We've seen the transcript (of Dr. Starr—one of Nixon's top science aides) and it makes grim reading indeed. This somber set of assessments is so vital to everyone's future, especially for businessmen, that we quote:

"Dr. Starr argues that since half our oil goes for transportation, 'this is the likely area to be controlled—not electric power.' And he says no 'quick fixes' are available to get out of the mess. Also, 'It takes 10 to 20 years to significantly alter the trends of these huge systems,' at a time of galloping fuel consumption.

" 'Between now and 2001, the U.S. will use more energy than in its entire history . . . The annual worldwide demand will triple.'

"Dr. Starr takes out after the auto industry as the major villain. Cars are 'responsible for almost half the world's oil consumption, and a corresponding part of its air pollution. Except for planes, autos are the most inefficient mode of using energy for travel' Trains, he says, remain the best 'people movers' yet invented.

"This attack on ravenous autos is buttressed by hard facts: The U.S. is pumping all the oil it can, output can't be upped much. Petroleum refining is at 90% capacity. The first new refineries won't be on stream until late in 1976. Without some rationing U.S. dependence on foreign oil could cost $15 billion by 1980.

"Starr goes further: ecological hostility to nuclear reactors will linger, delay progress while the debate waxes hot and heavy.

"None of this, of course, means rationing will come tomorrow. As we've told you, there'll be selective gas shortages this summer, but chances are the U.S. will scrape through without rationing.

"What's happening now is the preparation of public opinion to accept the inevitability of rationing as the only way out.

"Recognition of the long-term nature of the energy crisis carries the seeds of solution. The crunch period is 15 years. After that new energy sources will begin to alleviate the crisis. In the meantime traditional comforts and life-styles will change; so may some of the long-accepted ways of business operations."

Of course, the gasoline shortage is but one aspect of our "energy crisis"—our shortage of energy—the true wealth of the world. Electrical energy is obviously in short supply.

Likewise, the construction of atomic energy generating plants—which we must have if we are to eliminate shortages of energy power for electricity.

In 1969, the Atomic Energy Commission believed that within the ensuing five years, at least 56 new atomic energy plants would be in production, or under construction. Today 26 are in operation. Many others are under construction or on order.

We have an illustration here in Topeka that a publicly owned power and light company is alert to solving this problem of dwindling fossil fuel energy. I know personally that the late Deane Ackers—who contributed so much to his community—and his state— became concerned as early as the late 1950's over the future supply of natural gas for the Kansas Power and Light Co. plants. Early in 1960, he led the contiguous power and light companies in joining in building an experimental atomic energy plant in Arkansas. Mr. Ackers visited Germany in 1963—then the leader in atomic energy—and brought a German company into that consortium.

That same group—with other companies from all over the United States—is now building a plant with the Tennessee Valley Authority to develop that first experimental plant for a "fast breeding reactor"—a more efficient atomic energy power. It will permit a more efficient use of the uranium fuel and will eliminate much of the radioactive material that now causes a disposal problem.

Some cities have installed equipment to convert sewage into a combustible gas which can be used for fuel. St. Louis is working with the Union Electric Company in burning waste to produce electric power. Up to 100 tons per day have been so utilized, equivalent to approximately 50 tons of coal.

I expect to see—in a few years—not only in higher cost, but by government regulation—that the consumption of gasoline will be permanently and drastically rationed for selective higher uses—just as natural gas will be.

We will be using electric power as an alternative to the internal combustion engine which supplanted the steam engine—which started the world's industrial revolution.

Batteries today are so much stronger and more efficient than they were at the start of the electric car that there is practically no comparison. Therefore, we will see the electric car supplanting the gasoline motor for intercity use as well as intra-city use.

There will be battery replacement and recharging at "filling stations"—the same as today. Only they will be switching batteries—exchanging charged ones all ready for use—in place of ones needing to be recharged—or recharging—in place of gasoline.

That automatically eliminates a huge amount of atmospheric pollution as well as noise.

Excessively fast driving will be eliminated, thereby reducing the cause of many accidents.

Gasoline will be reserved for military defense, and possibly for big construction machinery. Gasoline is essential for our military, whether on the ground—in the air—or on the seas. No change there is possible—except where more careful attention to waste dictates.

Gasoline will also be used for air passenger planes, but not for freight cargo planes or big trucks.

Air freight cargo planes are more flexible but far more costly than railroad freight. Furthermore, they pollute the air and use far more gasoline. The same is true of trucks. A truck uses about four times as much fuel energy as a locomotive per ton mile. Emissions and fuel energy follow the same ratio. Therefore, a truck per ton mile pollutes air four times as much per ton mile as a locomotive.

Reasonable estimates by consolidated figures for air pollution by passenger and cargo planes, including jets, are 10 to 12 times that of locomotives.

The consolidated figures for fuel energy consumed by passenger air and freight planes are also about 12 times that of a locomotive per ton mile.

What about atomic energy?

At the present time, there is not a small enough reactor or big enough cooling system available for use in the confined space of the biggest truck, locomotive or airplane. That might be developed with advanced technology. However, how will it ever be pos-

sible to get away from the threat of an accident?

Therefore, while the power and light companies are able to use this new form of energy with safety, it cannot be used for other energy demands, except for ships and submarines—where there is no problem of an essential cooling system. Of course, the threat of an accident to those ships and submarines is always present in pollution of the seas.

The conversion will not take place over night. There will be a gradual merging of electric power and the internal combustion engine as is already appearing on the railroads here and there over the country.

There is the San Francisco Bay Area Rapid Transit (called BART) three-way electric-like subway—with high fences and additional guards on the dangerous third rail.

There is the 100-mile-an-hour Metroliner between New York City and Washington with overhead wires something like the old street-car systems.

Morgantown, West Virginia, has developed an electric mass public transportation system. There are similar ones planned in our country. All take electricity and transmit power by traction motors.

As oil product shortages worsen, the Atchison, Topeka, and Santa Fe—a railroad with sound finances and a management alert to the evolutionary changes coming in our national existence—is already taking a long hard look in depth at working out the possible advantages of electrifying eventually all the way from Chicago to the Pacific coast.

The Burlington Northern is considering trading coal from their owned reserves to electric utilities in return for power to electrify its railway system.

An acute problem is intra-city transportation.

Our major cities are choking to death on vehicular traffic. We greatly need a rapid mass transportation system that will get people in metropolitan areas to their jobs in the morning and back home that evening with speed and comfort.

The Kiplinger Washington Letter of May 25 reports that the Department of Transportation will now beef up an attack on the problem of deliveries in the cities, promoting—

1. Consolidate deliveries, with several area firms using one truck.

2. Make deliveries at off-hours—not during the commuting times.

3. Force trucks to load and unload in empty lots and not in streets.

4. Put terminals on city fringes—near freeways for easy access.

5. Set aside some lanes of highways for trucks—sharing with buses.

6. Use commuter transit for freight—move small packages on buses.

A 56 passenger bus obviously saves more in energy, pollution and money than the equivalent of about 35 private automobiles now moving people in and out of our biggest cities in time-and-patience-wearing congested traffic.

The demonstrated workability of overhead trolley wires for trains can also do the job better, utilizing existing railroad rights-of-way extending into the centers of all our big cities. Surely technology is capable of working out ways of meeting this increasingly pressing problem.

Of course—in addition to technological solutions—there are human problems. Two generations of Americans regard the private car as the means of freedom to move on personal schedules. However, they will not long have that freedom with the steady increase of traffic funneled into our large cities by highways and the rapid depletion of present fuel resources.

Regardless of state differences in transportation problems, the situation boils down to the fact that the railroads are the necessity in meeting rapidly diminishing fuel energy supplies and rapidly increasing demands that will come to a head before the turn of this century. It is clear that the railroads will once again become essential as they were in breaking through the trackless prairies in moving settlers with ease and comfort and moving their products to markets

There must, however, be a complete overhaul—administratively and legislatively—of the arrogant federal bureaucracies with their proclivity for paper make-work and procrastination.

There are six bankrupt railroads, known as the northeast group. There are some nine financially strong railroads. The rest are tottering in between. Action must be taken to shore up the railroads.

Yet, the over-lapping government agencies regulating railroads slow implementation of positive planning and increase operating costs. These agencies include:

1. Interstate Commerce Commission.

2. Housing and Urban Development is involved in mass transit programs.

3. Department of Transportation.

4. Department of the Interior.

The application of the Santa Fe to buy the Western Pacific took six years for the Interstate Commerce Commission to decide. That cost the Santa Fe 2 million dollars, which it recovered in its profits on the Western Pacific stock when their petition was finally decided negatively.

It took the I.C.C. nine years to finally approve of the merger of the Burlington-Great Northern and Northern Pacific. Then the opinion was so confused that the Supreme Court had to interpret it.

These costly and time consuming over-lapping government agencies should be consolidated by the Congress if railroad managers and their union counterparts are to function efficiently in their responsibility to the public, the employees and the investors. The President has recommended legislation to the Congress to accomplish precisely this as an aid to the reorganization of the six bankrupt northeast railroads.

We must face the need for both national and private long range planning, for the sake of coming generations, for the effective allocation of our remaining fossil fuel energy.

There are pending proposals in the Congress attempting to deal with this problem. Unfortunately, they are bits-and-pieces approaches to nationalization of railroads, such as giving the Interstate Commerce Commission authority over railroad car service; another to designate a national network of rail lines; another to authorize the I.C.C. to direct that traffic not being properly handled by one railroad be routed over the lines of another; also one creating a federal rolling stock authority.

Finally, there is another proposing that the federal government *BUY* from the railroads ownership of railroad rights-of-way. That would cause the taxpayers of Kansas to lose 11 million dollars a year in taxes. However, of critical importance—when the roadbeds of a railroad are owned by the federal government and the rolling equipment by a publicly owned corporation, you have disjointed their operation to such an extent that the only answer is a forced sale to the federal government consolidating the whole together.

It is clear that the responsibility for train operation officials rests on the condition of its roadbeds and equipment. That responsibility cannot be divided with one or more federal agencies with safety to either crews or passengers.

The effect of so many bills of this kind pending in the Congress obviously makes financing for all railroads difficult—especially the weak ones. It prevents them from recuperating, rather than helping them to meet America's need.

Nationalization of railroads is not a solution to railroad economics—shippers weary of annual box car shortages—investors hoping to be bailed out by our government—a public tired of the perennial railroad question—and those who sincerely believe in public ownership and operation of all utilities see in that solution a final end to the problem.

Nationalization will, however, simply present a new set of problems—bigger and more complex and, in the end, far more costly to the public.

It is a well established fact that no transportation system—no nationalized railroad anywhere in the world—moves large volumes of traffic at the lower cost per ton mile that the American railroads do.

Furthermore, the nationalization of railroads would increase enormously the centralization of power in the American presidency that has been the steady trend of the self-styled liberal crowd for 40 years that further increases government of a republic by a federal bureaucracy.

What is needed is reorganization of government regulatory agencies for railroads so that they can operate on sound business principles with good operating officials. With appropriate federal regulation, they could then provide, with safety and efficiency, the service which our fuel and ecological crises will demand of them.

I have only briefly touched the high spots that our public simply cannot ignore the symptoms of fossil fuel shortages ahead. America must streamline its future planning accordingly. Fortune describes it: "The energy 'joyride' is over."

GASOLINE TAX

Mr. MONDALE. Mr. President, in recent weeks we have heard numerous reports that the Nixon administration will in the near future seek to impose a gasoline tax on American consumers, ostensibly to curb demand for gasoline and to slow the overheated economy.

A recent editorial from the Minneapolis Tribune gives what I believe to be convincing reasons why such a tax on gasoline would be most undesirable. In particular, the fact that such a tax would be regressive in its impact should lead us to be very wary of any such proposal made in the name of gasoline economy and fiscal rationality. Certainly, we all wish to ease the gasoline shortage situation which exists this summer, and we all wish to see measures which will cool the economy without plunging us into a recession. The gas tax, however, is the wrong means to reach both of these highly desirable ends.

Mr. President, I ask unanimous consent that the text of the Minneapolis Tribune 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:

GAS-TAX INCREASE: THE WRONG ANSWER

Trial balloons wafted by the Nixon administration suggest that it will ask Congress for an increase in the federal gasoline tax. As an added inducement to accept this back-door approach to the energy problem, administration sources cite the anti-inflation benefits such a tax increase would produce. For a number of reasons, we think the idea is a bad one.

First, it is an evasion of federal responsibility. A gasoline-tax increase would be federal action of sorts, but would slide

around the problem of regional scarcities by relying on higher costs to consumers to discourage consumption. But the price push on fuel is already gathering momentum. Oil companies agreed last year to accept oil-exporting countries' demands for increased prices. They did so again Friday night.

All forecasts point to an increasing percentage of American oil requirements being met by imports, and the upward trend in fuel prices is therefore clear. In other words, the disincentive of rising prices is already at work. Instead of accelerating that trend, the administration should in our view exert a stronger force in allocations around the country. So far, the White House has called only for voluntary allocations.

A second point against a gasoline-tax increase is that it would be regressive. The theory that the increase would inspire greater use of mass transit is sound—except that for millions mass transit is not a realistic option. In an automobile-developed society, the auto is an occupational necessity for many at all income levels. The proportionate burden of a gasoline-tax increase would be heaviest on those of lowest incomes.

That leads to our third objection: the fiscal bonus. The suggestion is made that such an increase would not only cool the overheated economy, but provide funds which, by legislative mandate, could be put into energy research and public transportation. If those are worthy national purposes—we think they are—then the funds should come by the more equitable route of an increase in income taxes. The related purpose of slowing the rate of increase in automotive energy consumption could better be fulfilled by excise taxes on new autos (being sold at record rates this year) in proportion to weight or horsepower.

Americans are accustomed to cheap, plentiful fuel produced domestically and distributed competitively. With domestic production inadequate, with world demand for oil now exceeding the discovery of new world reserves, fuel is neither plentiful nor cheap. But the Nixon administration seems reluctant to face a situation requiring allocation by means other than price. The latest evidence of that reluctance is its apparent hope for a "solution" by means of gasoline taxes.

JOHN HANSON

Mr. BEALL. Mr. President, several years ago, Senator MATHIAS and I sponsored a reception marking the 250th anniversary of the birth of John Hanson, the first President elected in accordance with the provisions of the Articles of Confederation, our first post-Revolutionary War constitution.

One of my constituent's, Peter Hanson, a 15-year-old Eagle Scout from Havre de Grace, Md., wrote a poem dedicated to John Hanson, and I ask unanimous consent that this poem be printed in the CONGRESSIONAL RECORD at the conclusion of my remarks.

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

JOHN HANSON

(By Peter Hanson)

There are times when I see the flag passing by
That I think of John Hanson and I wonder why
With your permission may I take the liberty now to say
Why are so few words
Of John Hanson passed our way?

I am not a poet, and I probably never will be
But it certainly seems mighty peculiar to me
That a Nation as big as ours and one that can go all the way to the moon
Yet our Encyclopaedias can give John Hanson our first President so little room

In the Nation's Encyclopaedia there are only a few lines
We feel they have only showed us the cobwebs of his time
The Encyclopaedia tell us that—he was our first President and that is that—

And with pleasure to me, goes on to tell us where his bronze statue is at
In our Nation's Capitol building, almost under our great dome
In 1903 Maryland found a fitting place to bring home her own
In Statuary Hall, this Nation, gave him a place to stand
I know you have seen him—he is the one with a heavy walking stick in hand
Some visitors claim they have caught him smiling across on the man
Who so admirably and generously did so much to finish his plan

He is dear to our land, to our home, to our hearts with a fame that will never grow dim
I am afraid in the case of John Hanson, this Nation has done a tardy act of justice to him
He held the highest Federal office in our land in his day
And our books of this man has only a few lines to say
Shall only a few lines and a bronze statue, proclaim
His worth in Maryland's history to each future age

Maryland my Maryland has been slow to fan the flame
To see that historians put a few more words down on that page

This Nation has document proof today
A man who under his administration, we can say
Gave us this Nation, our official Thanksgiving Day
And got the Post Office as we know it today, well on it's way
And yet our Encyclopaedia's of this man has so little to say
Remember a young boy lives with history books day by day
And I wouldn't want your bright name in history to be treated this way

I have been asked, What honors shall a generous people pay
Certainly not only a few lines and a bronze statue on display
You wise men in Washington will know better then I
Till then I'll pay tribute to him when I see the flag passing by
And wonder why a Nation has forgotten him and wonder why

To this Senate I say love, eat, drink, laugh, and sleep
And I say you have been good and wise beyond belief
And I hope we do as well in another generation when we will be sitting in your seat—
And we promise your bright name in history we will watch over and keep

NBC SPECIAL ON CHILDREN IN VIETNAM

Mr. KENNEDY. Mr. President, nothing so graphically reminds us of the massive human needs which have been created by a decade of war in Indochina, than the faces of maimed and orphaned children. Their plight reminds us as well of the human debris left behind by the war, and of our national responsibility to help bring relief and rehabilitation to heal the wounds of war, particularly among the youngest victims of the battle, the children.

Tuesday evening, June 19, all America will have an opportunity to see some of the faces of these children in need, when the National Broadcasting Co. will telecast at 10 p.m. a special "NBC Report" entitled "The Sins of the Father". In a clear and unbiased fashion, this film documents the plight of orphans in South Vietnam, particularly the American-fathered child who has often been abandoned. NBC News deserves high praise for outstanding public service in broadcasting this important report, and I commend it to the attention of Senators and all Americans.

The NBC Report captures on film what has been documented time and time again before the Judiciary Subcommittee on Refugees, which I serve as chairman. The humanitarian needs of the youngest war victims are great, and their condition is deteriorating. But precious little is being done by our Government, or any other government, to help meet the needs of the children of Vietnam.

As early as 1965, witnesses before the subcommittee told of a growing need for child welfare programs, trained personnel and long range planning for disadvantaged children in South Vietnam. In 1967, at the urging of the subcommittee, a special AID social welfare task force was sent to South Vietnam to make program recommendations for children and orphans. But, as with so many other reports on humanitarian needs in Indochina, the task force recommendations were filed away and all but ignored. The problems of child welfare went unattended because governments, including our own, were too preoccupied with aiding the war, instead of assisting those affected by the war.

This appalling record of neglect which has now been so poignantly captured in the NBC report, prompted the Subcommittee on Refugees to dispatch in March a special study mission to assess child welfare needs, and to recommend a series of specific steps to meet these needs. These recommendations were examined in hearings last month, and because I felt they demanded the immediate concern and active intervention by the highest officials in our Government, I addressed letters to the President and to the Secretary of State detailing the study mission's report, subsequently, members of the study mission met with officials in AID and elsewhere.

But despite the urgency of the problem and the fact that the record of need is clear, and that there are agencies and people ready and willing to help, our Government seems paralyzed in indecision. Conferences are held at AID; vague letters of inquiry are mailed out to voluntary agencies; position papers are prepared—but nothing tangible is done. No new effort has been launched to expedite programs for orphans, especially those abandoned children fathered by Americans.

The reluctant conclusion, Mr. Presi-

dent, of the Refugee Subcommittee after hearings last month, and after receiving the study mission's report, is that this administration is pursuing a policy of tokenism and lipservice toward helping the children in Vietnam. The study mission found evidence that high officials in the U.S. Embassy in Saigon and the Department of State, in effect, were undermining the legitimate efforts of other Americans to upgrade our country's priority in helping orphans and children. After many months of promises—after years of neglect—we find that high officials still put off decisions for helping these children. Token funds are set aside for child welfare but are not always used. Commitments to support voluntary agency programs in the field are bogged down in redtape in Washington or Saigon, and frequently are not fulfilled. Offers of international humanitarian assistance are all but ignored. Nothing new, in short, is being done.

Mr. President, no one who views the NBC report, as have members of the subcommittee study mission, can fail to come away with a powerful sense that something new must be done, that our Nation has a heavy responsibility to help meet the needs of these children. We have a backlog of responsibility toward the children of Vietnam which, as the NBC film shows and as the report of the study mission documents, is still not being met. And every day of delay means another hopeless day for a child in an orphanage—a day when that child might be in an adopted home, or at least in the care of an institution with adequate facilities to provide for his healthy growth and development.

As I stated in my letter to the President, there are no easy solutions to the problem of nearly 1 million orphans or half-orphans in Vietnam, nor to the 15,000 to 25,000 American-fathered children left behind—a thousand of whom now languish in orphanages. But there are few problems which evoke more public compassion and concern, and have greater significance for the future, than the special problems and needs of these children of Vietnam.

I share the view of many Americans that our country should do a great deal more to help these young war victims. But unless some greater measure of priority is attached to this task by the administration, and by our Ambassador in Saigon and other officials within our Government, and unless some impediments in our bureaucracy are removed, the crisis of children in South Vietnam and other war-affected areas of Indochina will continue to grow with each passing day.

Mr. President, I ask unanimous consent that the text of the letters I wrote to the President and to the Secretary of State be printed in the RECORD.

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

U.S. SENATE,
May 22, 1973.

The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: In March, a group of medical and welfare experts, representing the Senate Judiciary Subcommittee on Refugees, traveled in all areas of Indochina to study humanitarian needs and the kinds of additional efforts our country could make towards healing the wounds of war. In South Vietnam, especially, members of the Study Mission focused considerable attention on the plight of children, who represent at least fifty percent of South Vietnam's population.

Since the earliest stages of the war in Vietnam the special problems and needs of children have received scant attention among officials in our Government, despite the very active concern of other Americans in the private voluntary agencies and elsewhere. And even today, with the new opportunities for peaceful development, these special problems and needs of children are still not being given the priority they so rightly deserve.

There are no easy solutions to the many people problems that beset South Vietnam, and all of Indochina. But few of these problems evoke more public compassion and concern, and have greater significance for the future, than the special problems and needs of children.

I share the view of many Americans that our country could do a great deal more to encourage and support the efforts of the South Vietnamese Government in restoring the lives and spirit of the youngest war victims, particularly those who were maimed or orphaned or abandoned or fathered by Americans. But unless some greater measure of priority is attached to this task by officials in our government, and unless some impediments in our bureaucracy are removed, the crisis of children in South Vietnam and other war-affected areas of Indochina will continue.

Knowing of your personal humanitarian concerns in past emergencies, and sharing your present concern over the future of South Vietnam and the people throughout the area who have suffered so much for so long, I just wanted to appeal for your personal interest in the children of South Vietnam, and express the hope that our country will do whatever it can to help the youngest war victims of Indochina renew their lives.

I appreciate your consideration, Mr. President, and look forward to working with you and members of your Administration in helping to heal the wounds of war within our own society and among the people of Indochina.

Sincerely,

EDWARD M. KENNEDY,
Chairman, Subcommittee on Refugees.

TEXT OF LETTER TO SECRETARY OF STATE WILLIAM P. ROGERS BY SENATOR EDWARD M. KENNEDY

MAY 22, 1973.

Hon. WILLIAM P. ROGERS,
Secretary of State,
Department of State.

DEAR MR. SECRETARY: As you know, following the return of its Study Mission to Indochina, in mid-April the Judiciary Subcommittee on Refugees began a series of public hearings on humanitarian needs resulting from the war and the kinds of additional effort our country could make in helping to meet these needs. In light of the very high percentage of children in the population of the war-affected areas, and the special problems the conflict has brought to young people, on May 11 the Subcommittee held a hearing on the children of Indochina, especially those in South Vietnam. Witnesses before the Subcommittee included Mr. Robert Nooter, Assistant Administrator for Supporting Assistance in the Agency for International Development (AID), and two members of the Study Mission—Dr. James Dumpson, Dean, School of Social Service, Fordham University, and Mr. Wells Klein, Executive Director, American Council for Nationalities Service.

With regard to the situation in South Vietnam, the hearing record and Study Mission findings clearly establish that, until recent months, the special problems of children, including those fathered by Americans, received scant attention in official quarters; and, because of this, both our own government and the Government of South Vietnam have a backlog of responsibility in meeting child welfare needs. The hearing record and Study Mission findings also suggest that one of the continuing impediments to more meaningful progress in this area—especially as it concerns long-term rehabilitation goals—relates to conflicting assessments within the U.S. Mission in Saigon, over such matters as the urgency and scope of child welfare needs, the degree of priority our government should attach to these needs, and the kind of commitment our government should make to encourage and support the long-term efforts of the South Vietnamese Ministry of Social Welfare, the voluntary agencies and others, in restoring the lives and spirit of the youngest war victims.

Study Mission findings, supported by internal memoranda of the U.S. Mission and conversations in the field, strongly suggest that legitimate efforts by some American officials to upgrade our country's long-term policy and program priorities, have been repeatedly undermined by higher officials in the U.S. Mission, especially those representing the Department of State. Such conditions are distressing to me, as I know they are to others in the Congress and to many Americans.

As I recently wrote to the President, there are no easy solutions to the many people problems that beset South Vietnam, and all of Indochina. But few of these problems evoke more public compassion and concern, and have greater significance for the future, than the special problems and needs of children, who represent at least fifty percent of South Vietnam's population. I share the view of many Americans that our country should do a great deal more to help these young war victims. But unless some greater measure of priority is attached to this task by our Ambassador in Saigon and other officials within our government, and unless some impediments in our bureaucracy are removed, the crisis of children in South Vietnam and other war-affected areas of Indochina will continue.

In the hearing on May 11, Dean Dumpson and Mr. Klein submitted a number of recommendations to energize American policy towards the special problems and needs of children in South Vietnam. Enclosed are excerpts from their testimony, which, in consultation with members of the Study Mission and representatives of interested voluntary agencies, are currently under review by officials in AID.

Hopefully, our government will take immediate steps along the lines recommended by the Study Mission, and I look forward to getting your comments on American policy toward helping the youngest war victims in South Vietnam and the other countries in the area. Many thanks for your consideration and best wishes.

Sincerely,

EDWARD M. KENNEDY,

SUMMARY OF STUDY MISSION RECOMMENDATIONS CURRENTLY UNDER REVIEW BY THE AGENCY FOR INTERNATIONAL DEVELOPMENT AND THE DEPARTMENT OF STATE

1. Invite the establishment of, and fund, a consortium of experienced and professional competent voluntary agencies to facilitate and expedite inter-country adoption of Vietnamese children for whom adoption is legally possible and clearly the best plan. Particular priority should be given to the racially mixed child. The primary bottleneck with regard to inter-country adoption at present is the lack of adequate services

and staff in Vietnam. We view this recommendation as an urgent requirement, though we recognize that adoption must still be handled on a case by case basis to protect all parties concerned. The expensive services for the few at the expense of the many is unconscionable. Therefore, the consortium must equally concern itself with providing counselling services to mothers who may be considering abandoning their children, and with the immediate up-grading and improvement of child care services and institutions in Vietnam.

2. Expedite the inter-country adoption process by assigning one additional officer to the INS regional office in Hong Kong so that U.S. government formalities will not represent a bottleneck as they have, on occasion, in the past. INS is planning to transfer 1,000 inspectors to the U.S. Customs Bureau in the near future. We ask that one of these be diverted to Hong Kong.

3. The U.S. Government, through its Embassy in Saigon, should urge the Government of Vietnam to expedite passage, or interim implementation by decree, of sound adoption legislation which, we understand, is presently in draft form.

4. The Government of the United States should formally transmit to the Government of Vietnam a clear statement of intent of support for programs designed to assure the welfare of children in Vietnam. This recommendation will have the dual effect of indicating American commitment particularly in terms of funds on a more than a year to year basis, and of stimulating the Government of Vietnam to give its own child welfare programs and Ministry of Social Welfare reasonable support and priority. One of the persistent problems is that U.S. funding is only available on a year to year basis. The Vietnamese, understandable, are reluctant to commit themselves to long range programs with only a few months of funding in sight.

5. The U.S. Government should strongly urge the Vietnamese Government to lift its present restriction on hiring new personnel within the Ministry of Social Welfare. At present, the Ministry does not have adequate personnel, in terms of numbers of professional competence, to supply many of the child welfare services needed.

6. AID should be authorized to proceed with direct hire from outside its own personnel resources in order to replace departing child welfare personnel in Vietnam and expand the AID child welfare advisory and support program by several additional positions.

7. The Subcommittee on Refugees should review the various pieces of legislation addressed to the needs of children of Vietnam which have been introduced over the past two years to determine whether modification of previously proposed legislation, or new legislation, is warranted to ensure that we can and will continue to exercise our responsibilities to the children of Vietnam.

8. The appropriate Subcommittee of the Judiciary Committee should be asked to explore some modification of our present Immigration and Nationality Act in order to enable American fathered children in Vietnam to obtain American citizenship, if they so wish, upon reaching their majority.

9. Until such time as multi-lateral mechanisms can be determined and utilized, the Agency for International Development should continue to work with the Government of Vietnam, particularly the Ministry of Social Welfare, in an advisory and supporting role, to assist that government in carrying out its responsibility to the children of Vietnam, responsibilities which we share. After many years of inaction, AID has initiated a well-thought out program of child welfare assistance in Vietnam. The AID continuing effort should be encouraged and supported by the Subcommittee and by the Administration.

TWO REMARKABLE WOMEN

Mr. PERCY. Mr. President, Elizabeth Browne and Suzanne Sumner are two Illinois women whose lives can be an inspiration to many others. They are truly remarkable women, and I feel their stories should be even more broadly known.

Miss Sumner has just received her master's degree from the Illinois Institute of Technology. She has worked as a designer the entire time she has been at IIT, and she intends to continue her education at Northwestern University. Miss Sumner can boast of these accomplishments even though she has been deaf since birth.

Mrs. Browne is a wife and mother of five children, and she has just received her doctorate from Loyola University. Mrs. Browne's achievement is noteworthy in that she has been blind since childhood.

These two women have overcome their physical handicaps and have reached impressive academic goals that most nonhandicapped Americans never attain. Their determination to succeed despite difficulties imposed by their disabilities is indeed commendable.

Miss Sumner has the good fortune of already being employed in her chosen field. Mrs. Browne, however, feels that she will face difficulty in finding a teaching position. I sincerely hope that such will not be the case. But, to be absolutely realistic, we all know that handicapped people often are discriminated against in employment—not because they are unable to perform the necessary functions, but because employers have fears and prejudices about hiring people with handicaps.

On May 30, Senator HART and I introduced a package of bills designed to help the handicapped. One of these bills, S. 1911, would provide tax incentives for the employment of handicapped individuals. If plain common sense is not sufficient to convince employers that handicapped persons can be valuable employees, perhaps a tax-incentive plan will help them overcome their doubts and skepticism.

I hope that Suzanne Sumner and Elizabeth Browne have little difficulty in their professional careers. I am certain that, if these remarkable women are given the opportunity, they will demonstrate their capabilities.

I ask unanimous consent that two news articles from the Chicago Tribune about Miss Sumner and Mrs. Browne be printed in the RECORD.

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

DEAF, SHE'LL GET MASTER'S: HER SILENT TRIUMPH

(By Anne Keegan)

Suzanne Sumner won't hear a word of the commencement speech tonight. But she'll understand everything said.

She'll read the speaker's lips and feel the vibrations of the applause thru her chair.

Miss Sumner, 425 W. Surf St., who has been deaf since birth, is getting her master's degree from the Illinois Institute of Technology.

It's a long way from 1960, when no one would hire a deaf woman even if she was a college graduate.

But Miss Sumner lived by her motto, "I can do anything." That's how she got her job of 12 years as a designer for Science Research Association. She was unemployed and looking for free lance work when "I looked thru the windows of this big building and saw drawing boards, so I just walked in and asked about a job."

She says that, altho it takes someone two weeks to understand her speech perfectly, she has no trouble communicating. She learned to speak when she was 8, and two years ago she learned sign language—to help teach the deaf after she retires.

Miss Sumner is in her forties. She has traveled to Africa, twice to Mexico, and four times to Europe—even managing once in Athens to strike a good bargain on commemorative coins, quite an accomplishment in a foreign language for a woman who can't hear.

It has taken her 4½ years to get her master's in visual design—attending school part-time and taking her work home at night to make up for her absence at her job. She says she wants to attend Northwestern University next, in a program teaching the deaf.

"Perhaps in English," she says smiling. The only thing that bothers her is that she will have to learn two foreign languages.

"There is really nothing a deaf person can't do," she says.

BLIND WOMAN WILL GET DOCTORATE

(By Robert Enstad)

Elizabeth Browne and Reba, a 3-year-old yellow Labrador Retriever, will walk together in commencement exercises today at Loyola University.

The recognition will go to Mrs. Edward Browne, who will receive a doctor of philosophy degree in American literature.

But if Mrs. Browne had anything to say about it, her dog also would receive some recognition.

Reba is a guide dog that has, as much as Mrs. Browne's fortitude and inspiration from her family, enabled her to achieve the highest honor in academia.

"I guess I am an eternal optimist," Mrs. Browne said, discarding suggestions that her loss of sight was a handicap to her education. "The more obstacles you have to overcome, the more exciting and challenging your life can become."

Mrs. Browne, who has been married 17 years, lost her sight when she was 10 years old.

Part of her challenge to winning the doctorate also has been being a mother to five children at the same time. She and her husband, a supervisor at Western Electric Co., have two girls in high school and three boys in elementary school.

Her husband, during her seven years of graduate study at Loyola, put all her textbooks on tape.

She took lecture notes in braille and wrote her papers and doctoral dissertation—a critique on the fiction and poetry of the late American poet Randall Jarrell—on a regular typewriter.

Martin J. Svaglic, professor of English at Loyola, said Mrs. Browne's academic work was of the highest caliber.

"What's more important, she has conducted herself as if she did not have a handicap," Svaglic said.

That handicap may, however, be standing in the way of Mrs. Browne obtaining a teaching position in English at one of the Chicago-area colleges or universities.

Tho she has taught English classes at Loyola, Mrs. Browne, who lives at 10525 S.

Christiana Av., believes she has not been given credit for being an effective teacher.

"People don't give you a chance to show what you can do," she said. "I think I have a lot to prove as a teacher. My sight has been a handicap in getting a job."

THE SAHELIAN DROUGHT AND FAMINE

Mr. HUMPHREY. Mr. President, the current crisis in six African countries caused by 4 years of drought has received far too little international attention.

Partly because of this inattention, the international donor community is in the position of doing too little too late to save livestock and crops and alleviate hunger in this area.

I am happy to see that this crisis is finally receiving some public attention. In the last 2 days, there have been three articles in the Washington Post and New York Times on the drought and famine. These articles include descriptions of the tragic situation from first-hand observers, analyses of the situation in the six countries, and statements of the tremendous needs for emergency and long-term assistance to end the suffering in these countries.

The concern the press has shown for this problem and the research reporters have done to bring to the public the full story are indeed welcome.

On Friday, the Foreign Relations Committee Subcommittee on Africa, of which I am privileged to be chairman, held hearings on the Sahelian drought. I want to assure my colleagues that the subcommittee will continue its examination of this disaster.

Mr. President, I ask unanimous consent that Thomas A. Johnson's article from the New York Times, William Raspberry's article from the Washington Post, and Larry Heinzerling's article from the Washington Post be printed in the RECORD.

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

[From the New York Times, June 17, 1973]

DROUGHT BLIGHTS SUB-SAHARA AREA

(By Thomas A. Johnson)

OUALLAM, NIGER, June 11.—Every two steps Souleman Tiam flicked a gnarled stick fitted with a metal blade—a daba—into the yellow sand and made a shallow hole in the moist earth. His wife, carrying their youngest of three children on her back, followed him and threw at least 10 millet seeds into each hole and with a stamp of her bare feet, she covered the seeds.

A farming family in a region hard-hit by a five-year drought and famine, the Tiams were gambling, beneath a scorching sun, that the night's heavy rains would be followed within three weeks or so by more rains.

Neither paid any attention to the herdsmen who drove small groups of cattle—all skinny animals with each rib sharply outlined under the skin—along the road to Niamey. This route toward Nigeria's capital is dotted with the carcasses of cattle and camels. The village of Ouallam is 70 miles north-northwest of Niamey.

It is the farmers and the herdsmen who make up 90 per cent of the black African and Arab peoples living in the six sub-Sahara nations struggling now in the grips of a five-year drought.

The years of irregular rains have depleted grain stores and overgrazing has destroyed much of the grasslands.

And while many thousands of people have fled this sub-Sahara region—stretching from Mauritania to Chad—many thousands more have remained to work and to hope that the elements this season will be kinder.

"The birds have built their nests high in the trees this year," Mr. Tiam told a stranger. "That is a sign that we will have much rain."

Like other farmers in the region, the Tiams planted on the day following the first of the summer season's major rains. If it rains again within the next three weeks, chances are good that their seeds will flourish. If it does not rain in time, the seeds will probably not take root but simply bake in the hot, dry sands. "And if that happens we will have to wait until after the next heavy rain to replant the fields," Mr. Tiam said.

The region—consisting of a belt of nations hugging the southern fringes of the Sahara—suffered a poor harvest during last year's three-month growing season, when the rains that came were spaced badly for the farmers.

Generally the region's harvests of millet, sorghum and peanuts produced a little more than two-thirds of their expected yields. The five years of poor rains have just about exhausted grain reserves in the sub-Saharan countries and massive food shipments are being sent to the region by the United Nations, the European Economic Community, France, Canada and the United States.

"If the rains are good the harvest will come in about 80 days," Mr. Tiam said. He said that he was planting the last of his reserve seed and would have to apply for relief supplies from government distribution points to keep his family fed "until the harvest."

MANY HERDSMEN FROM MALI

Many of the herdsmen passing the Tiam fields had come from across the border in Mali. One group of six men—four on foot, and two perched atop swaying camels—had traveled from near Menaka, a village in Mali about a hundred miles away.

One herdsman, Mohammad Diouf, said that they would sell the cattle in Niamey and buy grain to take back to Mali. He knew, he said that the poor-conditioned animals might bring a tenth of the $50 to $100 that well-fed cattle sold for during normal times, but that his village needed the grain.

He said in a combination of Huasa, Arabic and French: "The rains have started and the grasses will grow and the herds will come back and grow fat again."

[From the Washington Post, June 18, 1973]

HUNGER AND HERDSMEN

(By William Raspberry)

When I visited there some 11 months ago, the city of Agades, Niger, in central Africa, was ringed with the tents and huts of nomad cattlemen, impoverished by the third or fourth rainless year in a row.

These proud herdsmen, once owners of hundreds of cattle, sheep, goats and camels, and therefore acknowledged to be rich, had lost most of their herds. Some were reduced to begging in the streets of Agades.

A year or two before that, there was only the inconvenience of having to travel farther and farther for grazing, and now, nearly a year later, I am told that the carcasses of their cattle literally block some of the roads outside Agades.

Six countries of central and western Africa are in the grip of the century's worst drought. Famine is in the air, with perhaps as many as half of the region's 22 million inhabitants under direct threat of starvation.

And yet, that disaster has had little impact on the rest of the world. There have been some news stories, of course, and some official effort at providing assistance. But there has been nothing to catch the imagination of the American public. We are too event-oriented, and there is no "event" associated with the impending famine. There came no time at which a reporter could write: "Several hundred formerly rich nomadic herdsmen were reduced to begging yesterday, officials said." Or: "The Malian government yesterday announced the death of the first of several million people, who will soon become victims of a six-nation famine."

It's easier for reporters to cover, and for the rest of us to react to one-shot disasters: fires, floods, earthquakes. Famine is too hard to get an emotional grip on.

So while the government has been doing some very useful things to bring relief to the drought-stricken region (Chad, Niger, Mali, Upper Volta, Senegal and Mauritania), there has been little public pressure on the government to do more. (Sen. Hubert Humphrey (D-Minn.) has started hearings on the crisis.)

"The whole area has been a creeping disaster," according to Dr. Samuel C. Adams Jr., assistant administrator for Africa of the U.S. Agency for International Development (AID). "What makes it critical now is that one has run out of options."

That is a fair assessment of the crisis. Cattlemen have lost their herds, after the herds first destroyed all the sparse grasslands, parched by a drought that has endured for as long as seven years. Farmers have run out of food and have been forced to eat their seed grain. Governments have so strapped their meager budgets trying to feed their people that there is now no money to pay teachers or run health services or dig wells.

Some critics—not Africans—have complained that the U.S. aid has played a role in accelerating the crisis. They charge that U.S.-sponsored programs to innoculate cattle have eliminated disease as a natural control, and thus allowed the herds to grow, destroying much of the vegetation and permitting the Sahara to creep still further south.

That complaint may be both inaccurate and unfair, but it does raise one problem that predates the threatened famine and will survive it. That is the problem of uncoordinated assistance.

"The problem with foreign aid," said one experienced diplomat, "is that it always addresses one particular problem. The officials always want to know your priorities.

"What they mean by that is that they want you to choose one problem out of all the problems you have and then they will help you with that one. Try to talk to them about across-the-board help, and they aren't interested. I suppose they think that will spread their contribution too thin and make it appear that they aren't doing anything.

"And yet, the alternative of tackling one single item often has the result of making other things worse. It seems silly to build roads when there is nothing to haul on them. But then they give us aid to increase our crops and then there is no way to get them to a market because there are no roads. It's like patching an old shirt and causing it to tear in a new place. What we need is a new shirt.

"I don't mean this to sound ungrateful for what is being done. I recognize that these problems are created from goodwill."

But that has to do with the long-range crisis. The immediate problem is far less complicated. There is urgent need for seed grain, which must be air-lifted to the stricken areas before the planting season is past. There is need for food, which must arrive in the African ports before the approaching "rainy" season washes out the roads and makes distribution impossible. And there is need for replenishing cattle herds. Losses have been estimated at anywhere from 45 to 80 per cent.

Only after the emergency is met will it make sense to address the general problem, what Dr. Adams calls the "creeping disaster."

"After this immediate problem is solved, I'd like to see some assistance with such things as roads, irrigation, health—a coordinated effort that will help us begin to do for ourselves," one diplomat told me. "It's the same with poor countries as it is with poor people. Nobody wants to be on welfare all his life."

[From the Washington Post, June 17, 1973]

U.S. FLIES FOOD TO PARCHED WEST AFRICA

(By Larry Heinzerling)

TIMBUKTU, MALI.—Howie and his "desert rats" brought the big U.S. Air Force C–130 cargo plane to a smooth halt in front of the sandswept little airport in Timbuktu.

The rear door of the aircraft, nicknamed the African Queen by the American crew, yawned open.

A score of waiting Malians unloaded the cargo of 15 tons of emergency food grain in 20 minutes, carrying the heavy bags on their heads to a waiting truck.

It was just one of dozens of missions in a U.S. airlift of food to near-starving people in far-flung outposts of Mali's barren, drought-stricken interior.

In the distance, the mud-brick buildings of Timbuktu—the ancient Islamic center of trans-Saharan trade in gold, salt and slaves—baked in the 115-degree heat.

"I'v heard of Timbuktu all my life," said a member of the five-man crew from Pope Air Force Base in North Carolina. "But I never believed I'd get here."

"This plane has carried grunts, gooks and garbage," said one veteran of Vietnam aboard the plane. "Now we are carrying grain."

Maj. Howard Seaboldt, the African Queen's jovial pilot, sipped a soft drink on the burning tarmac and watched the unloading with other crew members he calls the "desert rats."

"After Vietnam, there are other people who need help, and it feels good to be helping them," he mused.

Remote and legendary Timbuktu, often a synonym for the end of the world, has become a major distribution point for relief food to thousands stricken by the four-year-old dry spell.

The drought has hit six sub-Saharan nations in West Africa: Mauritania and Senegal on the Atlantic as well as landlocked Mali, Upper Volta, Niger and Chad.

It has destroyed vast acres of crops, wiped out millions of cattle and, according to United Nations officials, could bring death to some 6 million Africans through famine.

Mali, one of the worst-off nations in the region, was described as a disaster area in April by outgoing U.S. Ambassador Robert O. Blake and has become the target of a major U.S. relief effort.

Two U.S. C–130s are making daily flights from Bamako, the capital, to Mali's remotest regions in a determined effort to stave off starvation. Another plane is operating a similar airlift in Chad. The operation which began April 15, is to run through mid-June.

The planes, part of the U.S. Air Force's 217th Tactical Airlift Wing at Pope, are flying to Timbuktu, Goundam and Gao in the northeast and Nioro and Nara in the northwest.

From Timbuktu, as in the other towns, the grain is being dispersed by trucks and camels deep into the sandy wastes of the Sahel, as the land just south of the Sahara is known.

The U.S. planes will ferry about 1,000 tons of grain to Mali from the United States, Europe, China, Canada and other sources.

The American operation is being run by Army Brig. Gen. David O. Morris of the Readiness Command at MacDill Air Force Base in Tampa, Fla.

The Soviet Union and West Germany have completed similar airlifts in Mali.

The United States is providing Mali, a nation of 5 million, some 40,000 tons of grain through a variety of programs. Other nations are giving this impoverished land an additional 100,000 tons of emergency grain supplies.

But officials in Bamako say it won't be enough and it won't arrive quickly enough.

Mali, a land of subsistence farmers, produces some 850,000 tons of grain in a good year. This year the drought has reduced the harvest to about 450,000 tons. Even with foreign donations of 140,000 tons of grain, the total will be 260,000 tons short of a normal year.

And if rain finally comes in June or July, when the rainy season usually starts, officials fear that vast areas of the country—the largest and perhaps poorest in black Africa—will be cut off from road transport.

U.S. officials estimate that almost two-fifths of the country's 5 million cattle will perish from hunger. The death of each cow is a personal tragedy to the frightened farmers, who watch helplessly as their only riches in life pass away before them.

But most Africans, hardened by years of struggling to stay alive, seem to accept the tragedy as a matter of fate.

"Yes, we are hungry," said one Tuareg nomad in his desert camp outside Timbuktu. "But we will survive. Maybe this year will be better."

An American official who works near the Mali-Guinea border said that some families there are eating only once every three days—and that then their meals include seeds that were to be planted this season.

A mass movement of bush villagers to the towns is under way. While this is not immediately apparent in Bamako, officials there say that Mopti, a town of 25,000 has swollen to 75,000, in recent months.

"This in a way is good, because if you get food to the cities where most of the people are it's easier to distribute," said one U.S. relief official.

The "port" of Timbuktu at nearby Kabarra is bone dry. In better years, food and other goods are shipped up the Niger River to Kabara via a natural canal. The canal is now a sandy trough.

COMMENTS ON FEDERAL EDUCATION LEGISLATION BY DR. J. O. JOHNSON

Mr. COOK. Mr. President, for 2 months earlier this year I had, as a temporary member of my personal staff, Dr. J. O. "Oz" Johnson, the assistant superintendent for research of the Jefferson County public schools in Kentucky. I had asked Dr. Johnson to come to Washington specifically to aid me in my review of the President's most recent proposals in the area of elementary and secondary education and their impact on the State of Kentucky.

I have here his very candid summary of that situation, which I would like to ask unanimous consent of the Senate to have printed into the RECORD.

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

COMMENTS ON FEDERAL EDUCATION LEGISLATION

R. J. Breckinridge, Kentuckys' first Superintendent of Public Instruction, who served in the 1850's, when talking about the leadership role in education said: "The school system of this state has gained nothing without a struggle, and has retained nothing without incessant watchfulness. Upon every point where resistance was possible, resistance has been made; and during my long connection with the system, every step in advance has been carried after long conflict."

This hundred-year-old statement which underlines the words "struggle" "resistance" and "conflict" is definitive of the situation in which education in Kentucky finds itself today.

Since World War II, a rising stream of outmigration away from the hills and farms of Kentucky, coupled with the rise of urbanization within the state, has created unique and hard-to-manage school problems.

According to the 1970 census in Kentucky, there were 8,850 black and 78,849 white children between the ages of 16 and 21 who were high school dropouts. Of these 87,699 dropouts 52,481 were unemployed.

Thirty per cent of Kentucky students who entered the 9th grade in 1967–68, dropped out of school before graduation in 1971.[1] In short, Kentucky ranks dead last among the states in the median educational achievement of its people. The median number of years Kentuckians have spent in school is 9.9 years, more than two years below the national median of 12.1 years.[2] The National Education Association reports that 9.4 per cent of Kentuckians over 25 in 1970 had less than five years of schooling, 45 per cent had less than a year of high school, 38.5 per cent had finished high school, and only 7.2 per cent had graduated from college.[3]

The per capita personal income in Kentucky in 1971 was $3,306—42d in the nation.[4]

Ranking 43rd with an average per pupil expenditure of $797 for 1971–72, it is easy to see why the state ranks low in almost every educational category.[5]

Kentucky's efforts in education are helped by federal funds which provide 15.8 per cent of the money for public schools.[6]

I have presented these data to point up the dilemma in which school people in Kentucky find themselves. At a time when the Dean of the Harvard Graduate School of Education, Paul N. Ylvisaker, and the Secretary of Health, Education and Welfare, Casper W. Weinberger, are urging that educational resources—in research, in training and in sensitive kinds of clinical and community experiences—be brought to a critical mass, Kentucky, and other states poor in resources I might add, is back to its place of "gaining nothing" and "retaining nothing" without "incessant watchfulness."

School people in Kentucky are quick to point out the merits of the "Better Schools Act of 1973." They talk disparingly about the boon-doggle, the red tape, the waste, the inflexibility and, often times, the unfairness of the existing categorical aid to education.

The school superintendents and school board members—those responsible for making school budgets—are for self-determination. They feel, and rightly so, that it is the local level that the best educational decisions are made. Consequently, they view with alarm the existing ambiguities which now permeate the whole process of allocating federal monies to local school districts. For example, most superintendents maintain that in essence Section B of P.L. 874 is federal largess, going primarily to large metropolitan school districts. In addition, superintendents of small school districts have a feeling that the guidelines of other title programs preclude their adequate participation in these federal monies, because of a lack of numbers, a lack of staff to develop programs and a feeling that the Office of Education is so big-city oriented in its thinking that "nothing good can come from Bethlehem," as it were.

I hasten to add, however, that school people do not speak in one voice. While there is consensus that federal funding to education

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Footnotes at end of article.

needs a complete overhaul, there is a deep and fearful concern about the implications of the "Better Schools Act of 1973." They look with askance at the allocation formulas in "The Better Schools Act of 1973" which would reduce the amount of money going to Kentucky in 1975 by $9,669,000—or 15 per cent of that now being allocated. They concur, as I do, with the senior senator from Colorado, Mr. Peter Domonick, the ranking minority member on the Senate Education Subcommittee, who has stated: "a significant number of school districts may not be able to survive the fiscal shock of 'cold turkey' withdrawal of funds. . ."

The budget cuts outlined for the fiscal year 1975 would be ruinous to many school systems in Kentucky, and much of the South I might add. The dire predicament in which school systems would be placed causes school people to use such expressions as "Federal guillotine," "meat ax" and "budget knife" when referring to the cuts outlined in that act.

Some, who have many students whose parents work on, but live off, federal property, give testimony that their school systems could not survive the immediate withdrawal of P.L. 874 Title B funds. Those that are now in the initial stages of providing vocational education maintain that their efforts would be thwarted by the 2.8 million proposed cut in that category. Others, those who have done much work in trying to develop meaningful programs of education for the disadvantaged, express another fear. They are afraid that if Title I money goes to the local education agency with no strings attached that the school staff will bargain and negotiate that money into salary schedules, leaving little money to provide compensatory education for the disadvantaged.

The most perplexing circumstance of all and the one most often voiced to me by school superintendents is their concern about the aura of uncertainty that pervades their decision-making processes concerning federal funding of education. Sound decisions, made after much deliberation and study at the community level, are often times rendered worthless by late funding, changing guidelines and red tape. Educators are kept bewildered and guessing. In fact, the mark of a "good school superintendent" is often times equated to his ability to outguess the Congress and the Office of Education and not upon the sound educational practices he is able to incorporate within his school district.

At this time, school superintendents should be in the final stages of budget making for the fiscal year 1974. Yet in my state, superintendents can only speculate as to how much federal money will be available. By state law teachers must be notified by May 15 if they are not to be reemployed. Consequently, school superintendents and thousands of teachers are caught in unenviable situations. Because superintendents do not know what the Congress will do, or whether the President will continue to impound money or not, they cannot act. The teachers, on the other hand, become pawns, to be moved and placed at a later date, provided money is made available. And, in the long run, it is the pupils who are shortchanged in this process.

For too long, those pupils needing compensatory educational opportunities have been shortchanged by the "on-today off-tomorrow" dictates of the Congress, the President and the "middle men" of education. This situation should not exist. Rather, the Congress should separate the education budget from the H.E.W. budget and give it prompt expedient action. Now is the time for this Congress to be decisive. Succinct arguments have been and are now being developed for and against greater funding for education at the federal level. N.E.A. and other educational associations call for greatly increased federal spending for education. Other organizations and individuals maintain that increased spending has had little effect upon improving educational opportunity, which in turn is supposed to enhance equal opportunity in all sectors of our society.

In my judgment, the solution lies somewhere between these two views. I, therefore, urge the law, one that guarantees all of this nation's children an adequate portion for education of our resources, one that assures that monies go, with as little red tape as possible, to the cities, towns and hamlets where it is needed, one that gives assurance to local education agencies that a steady continuity of effort at the federal level will be maintained, and finally one that will give us signs of perceptible improvement in the education process, will be passed and then become the bench mark of this the 93rd Congress.

FOOTNOTES

[1] National Education Association, Rankings of the States, 1973—Research Report 1973–RI. p. 31.
[2] *Ibid.*
[3] *Ibid*, pp. 30–1.
[4] *Ibid*, p. 34.
[5] *Ibid*, p. 48.
[6] *Ibid*, p. 51.

RENEWED CRISIS OF PEOPLE IN BURUNDI

Mr. KENNEDY. Mr. President, news reports in recent weeks, including an article in the June 17 issue of the New York Times, tell of renewed violence and death in Burundi and the flow of thousands of new refugees into neighboring countries. A similar human tragedy, which a United Nations mission called staggering, occurred in that country just a year ago, in the spring and summer of 1972.

As I suggested in this Chamber a year ago, I do not rise to blame or condemn, or to offer any magic solution for meeting the political and humanitarian problems in Burundi. But, as chairman of the Judiciary Subcommittee on Refugees, I do rise to express a deep personal concern over the plight of the people caught in the latest wave of violence—and to urge renewed international efforts to bring peace and relief to the people of Burundi.

Mr. President, I ask unanimous consent to print in the RECORD a letter of inquiry regarding the situation in Burundi that I have sent to Secretary Rogers, and the June 17 article from the New York Times.

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

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, D.C., June 18, 1973.

Hon. WILLIAM P. ROGERS,
Secretary of State, Department of State, Washington, D.C.

DEAR MR. SECRETARY: As you probably know, concern continues in many quarters over developments in Burundi. News reports in recent weeks, including the enclosed report from the June 17th issue of the New York Times, tell of renewed violence and death in Burundi and the flow of thousands of new refugees into neighboring countries.

As Chairman of the Judiciary Subcommittee on Refugees, I closely followed similar developments in Burundi during 1972, and the present deteriorating situation reported from that country today is new cause for American and international concern. I am writing again to inquire about American policy and views, and to urge that our government give some public evidence of concern over the people problems of peace and relief in Burundi.

Many thanks for your consideration and best wishes.

Sincerely,

EDWARD M. KENNEDY,
Chairman, Subcommittee on Refugees.

WITNESSES TELL OF HORROR IN NEW BURUNDI SLAUGHTER

DAR ES SALAAM TANZANIA, June 16.—More than 20,000 members of the Hutu tribe of the tiny Ceneral African nation of Burundi who have fled to Tanzania in the last month are painting a grim picture of slaughter taking place in the southern part of Burundi.

How many Hutu tribesmen have been killed since then is not known, but it is thought that the number runs into the thousands.

A month ago, members of the Hutu tribe, which numbers three million, tried to oust the ruling Tutsi tribe, which has about 600,000 members.

Just over a year ago, after a similar uprising, the Tutsi Government of Col. Michel Micombero began a program of repression in which, according to statistics assembled throughout the country by missionaries, some 80,000 educated Hutu tribesmen were slaughtered.

The Hutu, a Bantu people of stocky build, came to the region that is now Burundi several centuries ago from the southwest. A thousand years ago the Tutsi, generally tall and slender, began arriving from the north. The Tutsi became overlords, dominating the Hutu peasants.

Witnesses coming from Burundi have reported open mass graves on the outskirts of the capital, Bujumbura, as well as truckloads of bodies in the city and the central town of Gitega.

This week a letter was received here from eight Roman Catholic priests who are working in missions at Muhinda, Mulera and Kasumo, just inside Tanzania on the Burundi border. The letter, signed by the Rev. Ramon Vicens, secretary of the Mulema deanery, said that the priests felt they could no longer remain silent while the world ignored the slaughter in Burundi.

WORSE THAN LAST YEAR

Father Vicens wrote: "Eight days ago I interviewed a group of Hutu who had just managed to safely reach Tanzania. I asked them what they had seen in Burundi and why they were running away. They told me they were running away from a program of genocide against the Hutu worse than the one last year.

"They said, 'last year we managed to stay and nothing happened to us because they were more interested in leaders and influential people among the Hutu population.' Now the refugees say they are killing everybody.

"Then they told me that a group of about 50 soldiers armed with automatic weapons helped by 400 to 500 youngsters of the Jeunesso Revolutionaire [the youth wing of Colonel Micombero's ruling party] armed with spears and knives were systematically moving from one hill to another burning houses of the Hutu and killing any Hutu they could find."

Father Vicens continues: "Then they told me that women and girls had had their bellies opened and breasts cut. Pregnant women had had their children taken out and left dead by their sides. Even people with physical defects were killed. This time is worse than the first they say. Now they want to finish all the Hutu population in the south either by killing them or making them run away."

Many of the refugees arriving at the missions are wounded. One woman who arrived

at a Seventh Day Adventist mission hospital had had both her hands hacked off with a machete. That is a common reprisal, for when the short Hutu find the tall Tutsi, they often cut off their legs at the ankles.

CARRYING DEAD CHILD

Father Vicens said that one woman arrived at Kasumo mission after walking for two days with two children strapped to her back. It was not until the European sister took them down that the woman learned one was dead—its back split open with a knife. Another refugee told the priest he had seen Tutsi troops herding peasants into a grass hut at gunpoint. The hut was then set afire and the Hutu burned to death. "In front of such suffering we priests thought we could not keep silent," Father Vicens said.

SOME 800 REFUGEES A DAY

Tanzanian officials in the frontier area estimate that a minimum of 800 new refugees are crossing every day. After last year's repression at least 30,000 fled to Tanzania. Of these, 16,000, plus 6,000 who have crossed in the last month, have been moved 250 inland to a refugee camp at Ulyankulu where schools, clinics and permanent water have been provided along with permanent housing, land, tools and seed.

But many thousands remain in the frontier area. At Mulera mission alone 7,500 are being cared for. A refugee collecting center has been established just outside the Lake Tanganyika port of Kigtma in Tanzania but conditions are pitiful.

The refugeess who remain in the frontier area constitute a continuing point of tension. In March, Burundi troops crossed into Tanzania after a Hutu band had ambushed a group of troops inside Burundi, spearing a colonel. In the attack on Tanzania they ravaged three villages, killing about 80 people—half of them Hutu refugees.

KAIPAROWITS POWERPLANT

Mr. BENNETT. Mr. President, coming from a State that is rich both in natural resources and unsurpassed scenery, I have always operated under the philosophy that it is possible to strike a balance between judicious use and protection of the land, air, and water.

Recent developments involving my own State, however, lead me to believe that this balance which we seek has been tilted to the side of those who would prefer to have us return to the era just prior to the invention of the wheel when everyone created their own heat and light with two sticks.

The recent Supreme Court ruling that there must be no "significant" deterioration in air quality in areas where the air is already cleaner than standards set by law will have a profound impact throughout the country, and especially in my own State of Utah. It has been said by some, in only half jest, that strict interpretation of this ruling would forbid campfires.

Utah's most important water resource development project, the Bonneville Unit of the Central Utah Project, is likewise becoming a victim of environmentalist overkill. An environmental impact statement on the project, which should have been completed long ago, has been delayed due to attempts by environmental groups to bring construction to a halt. This project to impound scarce Utah water to meet human needs, is one of 13 water projects in the country which several environmental groups have vowed to stop.

The list goes on. The environmentalists have already won a major decision in the Rainbow Bridge controversy, which, if allowed to stand, could be very costly to the State of Utah in water and power revenues lost by not allowing Lake Powell and Glen Canyon dam to operate at maximum capacity. The next target will undoubtedly be the test oil shale leased to develop technology for producing needed petroleum products from the vast oil shale lands in Utah, Colorado, and Wyoming.

Last week Utah lost yet another round on the environmental front when the Kaiparowits powerplant became the sacrificial lamb of the Southwest energy study. The Secretary of the Interior announced that he will reject all applications for right-of-way permits to construct the plant, which has been on the planning boards for nearly a decade.

The Kaiparowits project would use Utah coal and water in producing electricity for the southwest United States from a coal-fired steam electric generating plant on the Kaiparowits Plateau in southern Utah. There is no question that the production of power from coal-fired plants in the Southwest poses enormously complex environmental problems. But there is also no question that the energy produced by those plants is vital to this densely populated area of our country. The Secretary's own Southwest energy study work group recognized this need in its interim report last December by stating that there was no alternative to the construction of these plants, including Kaiparowits.

The utility companies involved in the Kaiparowits project have spent a year and a half and over $1 million to prepare a comprehensive environmental impact report detailing the steps that would be taken to protect the air, water, and scenic beauty around Lake Powell. This report was to have been submitted to the Secretary in the next few weeks, and unfortunately his decision was announced without consideration of this new data. I have, therefore, asked the Secretary to reconsider the Kaiparowits controversy in light in this new evidence.

Mr. President, I certainly do not claim that the Secretary's decision to reject Kaiparowits was an arbitrary action, but I cannot help but wonder whether this particular plant was sacrificed simply because it was the only one of the six included in the study which was not yet either operating or under construction, and therefore the most vulnerable from a political standpoint.

A Federal study commissioned because of environmental considerations could not very well come back without containing something to please the environmentalists, and so the Southwest energy task force looked around and spotted Kaiparowits.

I will continue to work for the balance which I mentioned earlier. We need the water and the electricity. We need to develop and use our natural resources to meet the needs of a growing population and to sustain the standard of living which we all enjoy. We also need to protect our scenic wonders for the enjoyment of future generations, and I am convinced that we have the technology, skill, and wisdom to do both. But the score is becoming lopsided, and it is getting late in the game.

Mr. President, I ask unanimous consent that two editorials from the Salt Lake Tribune and the Deseret News on the Kaiparowits decision be printed in the RECORD.

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

[From the Salt Lake Tribune, June 15, 1973]

KAIPAROWITS DENIAL DEMONSTRATES AN ENVIRONMENTAL INCONSISTENCY

In killing the Kaiparowits Plateau electric generating project has Interior Secy. Rogers C. B. Morton acted on the basis of a sincere conviction that it would involve unacceptable environmental impacts? Or, has he acted to gain support of conservation groups for other projects with heavy environmental damage potential, projects the secretary believes are of a higher national priority than one in southern Utah?

The first two projects that come to mind are the Alaska Pipeline and the expansion of offshore drilling for petroleum, particularly along the Atlantic seaboard. While the need for additional electrical generating capacity is accelerating daily, at the moment this nation's most critical need is for more oil. Conceivably the need for more and bigger power plants can be put off longer than the search for and acquisition of more oil.

Having turned down all applicants in the Kaiparowits venture, Morton is now in a position to say to conservation groups, in effect, "See we recognize environmental hazards, when we see them and will disallow projects creating them, if doing so does not jeopardize this nation's security."

Attributing such political crassness to the secretary may be prompted in part by our disappointment over his rejection of the Kaiparowits project. Nevertheless, Mr. Morton owes Utahans a fuller explanation than the inexcusably vague one he has presented to date.

The interior chief has long championed the trans Alaska pipeline. In fact, The Tribune on April 28 ran a lengthy letter from him in which he candidly and in great detail outlined his opposition to any alternate route for the Alaska pipeline.

It is hard to believe that the environmental impacts of the Kaiparowits proposal will be anywhere near those of the Alaska pipeline. For that matter, based on testimony by officials and engineers of the consortium planning the project, they intend to observe the strictest of environmental standards.

The coal to be used in the plant and to be mined by underground methods 15 miles away contains less sulfur than that currently being stripped from fields in Montana and Wyoming. That coal is being shipped to eastern areas because its sulfur content falls within the limits allowed by national air quality standards.

This hardly sounds like an awesome environmental impact. It most certainly doesn't come close to digging a trench 800 miles across Alaskan tundra deep enough and wide enough to accommodate a 48-inch steel pipe.

When Mr. Morton rejects the Kaiparowits project for environmental reasons, but supports the Alaska Pipeline in the face of more severe environmental damage potential his reasons become suspect. An explanation of his inconsistency is now called for.

[From the Deseret News, Salt Lake City (Utah) June 14, 1973]

MORTON SHOULD RECONSIDER HIS KAIPAROWITS DECISION

As the fair and reasonable man he has constantly shown himself to be, Interior Secretary Rogers Morton ought to reconsider his decision killing the Kaiparowits power project.

The need for a review is clear from the report by one of the electric utilities involved that the decision was reached without the benefit of a new environmental impact statement to be submitted in the next 30 days.

We don't suggest that the fate of the Kaiparowits project hinge solely on an environmental study prepared by those with a financial interest in making sure the coal-burning power plant is built.

Nor would we argue that the environmental statement is the last word on the impact on Kaiparowits even though it's the latest. The work on the study was done before this week's Supreme Court ruling that there must be no "significant" deterioration in the quality of the air in areas where it is already cleaner than what is prescribed by federal law.

But it's easy to verify or discredit what the utilities say, and they ought to claim the project can be built without doing unacceptable damage to the environment.

Even without this environmental impact statement, there's room for wondering precisely what constitutes a "significant" deterioration in the quality of the air. A standard that vaguely seems to invite much litigation. That likelihood seems enhanced by the fact the Supreme Court did not provide guidance through a written opinion.

Moreover, the rich coal deposits in the Kaiparowits plateau can't be allowed to remain undeveloped forever.

Indeed, Secretary Morton tacitly conceded as much himself when he urged this week that work go ahead on finding ways to meet the power needs of the Southwest without doing serious damage to precious scenic and recreation areas that should be preserved for future generations.

In fact, only six months ago the Interior Department's own study on power needs in the Southwest acknowledged there seems to be no practical alternative to the construction of coal-burning power plants if the power needs of the next two decades are to be met.

The basic question is not whether such plants should be built but where they should be located—near congested cities already suffering from air pollution, or in outlying rural areas where we all like to go to get away from urban smog?

It's seldom, if ever, an easy choice, and Secretary Morton is certainly to be commended for wanting to make sure that whatever power development takes place in the Southwest is the right kind of development.

But the country has a stake in making sure that stagnation doesn't set in for want of more power. The ideal would be both more energy and a cleaner environment—and that objective doesn't seem entirely beyond reach as technology advances. When we can't have both, let's strive for a reasonable balance between the two.

For the time being, the West can live with Secretary Morton's decision on Kaiparowits. But it should be subject to constant review in light of new technological advances and new environmental studies like the one that is soon to be submitted.

Moreover, with gasoline in short supply while oil and natural gas reserves drop dangerously low, the U.S. simply must develop its coal resources. This necessitates more research on ways to put coal and other energy sources to work with the least possible harm to the environment.

Just as there was a concerted scientific effort that put Americans on the moon, there should now be an all-out effort to solve America's needs for more power here on earth.

CENTRAL UTAH PROJECT

Mr. MOSS. Mr. President, a great debate is raging in my State of Utah over the environmental impact of the central Utah project of the Colorado River storage project, and particularly of the Bonneville Unit, a key unit which will bring more water for municipal and industrial use to heavily populated Wasatch Front area of the State. Without completion of this unit, the heartland of Utah will run short of water in several years.

Recently KLUB, a public-spirited radio station in Salt Lake City, broadcast an editorial which gives the essence of the arguments being offered by those who oppose central Utah, and those who favor it, and comes down emphatically on the side of completing the project as soon as possible. I ask unanimous consent that the KLUB editorial of June 5, 1973, be printed in the RECORD.

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

KLUB RADIO PUBLIC AFFAIRS PROGRAM BROADCAST, JUNE 5, 1973

Completion of the vital Central Utah Conservation Project, on which some eighty million dollars has already been spent, is now drawing strong opposition from several so-called environmental groups.

The organization making the loudest noise at the present time is the California-based Sierra Club. This club is well-known to Utahans. It has made nationwide protests against every Utah water project for more than 25 years. The main fight between Utah state officials and the Sierra Club took place in the "fifties" over the Upper Colorado River Project, which has resulted in the creation of such recreation spots as Flaming Gorge and Lake Powell.

Now the Sierra Club is battling completion of the Central Utah Project which would bring water from the Uinta Mountains into the Wasatch Front, and most of Central Utah even to points as far west as Delta.

KLUB believes that the Central Utah Project should be completed as soon as possible. Of course it will change some of the Utah environment, but we believe that those changes will be for the better.

While some stream fishing in the Uintas will not be as good as it has been in the past, construction and enlargement of reservoirs will provide water for many more fish and fishermen than the streams now can handle.

The avowed purpose of the Central Utah Water Conservancy District, as stated in its recent annual report, is to "improve living in Utah by providing not only much needed water, but also better recreational, wildlife, and outdoor facilities to the residents of Utah."

The conservancy district board has formally recommended "that funds be made available to the Forest Service and the National Park Service so that . . . recreational facilities can be completed concurrently with the construction of each feature of the Central Utah Project."

Completion of the Central Utah Project has the support of Utah's congressional delegation, Governor Calvin L. Rampton, the Utah Board of Water Resources, and the Ute Indian Tribe.

This project is one more step in allowing Utah to use its fair share of Colorado River Basin water, as allocated by the Colorado River Compact which decades ago set up the formula by which the water was to be divided among the states.

If Congress is influenced by the unfounded arguments presented by the Sierra Club, Utah's share of the Colorado Basin water will end up in California. KLUB believes the Central Utah Project should be financed and completed as soon as possible.

"AMERICA—AN UNCOMPLETED WORK," MRS. LYNDON B. JOHNSON'S COMMENCEMENT ADDRESS AT THE UNIVERSITY OF VIRGINIA

Mr. KENNEDY. Mr. President, I would like to take this opportunity to express my admiration and respect for a great lady and former First Lady of the United States, Mrs. Lyndon B. Johnson.

So many of us here, I am sure, can testify to the honest elegance with which she has shared so much of herself, and to the energy and enthusiasm underlying the record of her active commitment to improving the quality of life for all of us.

Even after the loss of her husband last year—a tragic loss for all Americans—Mrs. Johnson has continued to strive, in a great many capacities, in both public and private, to serve her guiding moral principle and strongest trait; a deep abiding faith in humanity.

As a public figure and businesswoman before entering the White House, Mrs. Johnson committed herself to many varied interests and involvements, ranging from managing her husand's congressional office in Washington and owning and operating a radio station in Texas, to supervising the family cattle ranches and cotton lands in Alabama. With her fine reputation and many successes, she has received numerous business awards and citations for her humanitarianism and togetherness.

During her years in the White House, Mrs. Johnson always wonderfully combined grace with initiative in performing her varied duties, earning for her a place in the history of First Ladies alongside Mrs. Woodrow Wilson and Eleanor Roosevelt.

Every American who is indebted to the greatness of the late President Johnson owes something also to Lady Bird because of the way she was always there to support him. As Mr. Johnson said on his 61st birthday last year:

Presidents are lonely people. The only ones they really are sure of all the time are their womenfolk.

As First Lady, Mrs. Johnson also often had to take politics on herself. In 1964, she traveled all over the South campaigning for her husband and discussing such issues as civil rights, when civil rights was particularly explosive.

On behalf of the Government, Mrs. Johnson also traveled to over 30 countries, spreading her good will and enthusiasm. Also, Mrs. Johnson initiated the Head Start program, today one of the best working and most important Federal social programs.

Clearly, Lady Bird Johnson's greatest and most enduring achievements have

been in her work to beautify and conserve our natural environment. No First Lady in history has done as much in this respect. The welcome esthetic improvements which she made and encouraged in Washington and in parks and other areas all over the United States have made her dedication to beautification both an impetus for today's great interest in vital ecological matters and a lasting monument to her works, imbedded in the geography of our daily lives.

While dedicating a grove of saved Redwood trees in 1969, she said:

Conservation is indeed a bipartisan business because all of us have the same love for it and the same feeling that it is going to belong to our children and grandchildren . . . and the same opportunity to work in our time to see that it stays as glorious.

Earlier this month, in the compassionate spirit of her lifelong public witness, Mrs. Johnson delivered the commencement address to the graduating class of 1973 at the University of Virginia. A year ago, President Johnson had accepted the invitation to deliver the address. He was looking forward to the occasion with great expectation before he died, and so his wife fulfilled the commitment herself on June 3, 1973.

Mrs. Johnson's thoughtful and inspiring address reflect her faith in America and her affinity with the student generation. She speaks of a change in the interests of university students toward large concerns that are not abstract concepts but are "real and vital," and she also praises this generation's parallel concern with interrelationships between individuals and the most personal ethical matters.

The theme of Mrs. Johnson's speech, which has also been the driving force behind her faith and work for America, is that this country is an unfinished work. To Mrs. Johnson, America's faults are work to be done, and America's accomplishments of the last decade reflect the record of a people who are sincerely going about trying to get that work done.

In concluding her address, Mrs. Johnson emphasized her view that it is individuals who can make the difference in all the Nation's real concerns, and she served a personal mandate for action on each of the graduates. As she stated:

A cleaner neighborhood begins with your own broom.

A more beautiful city begins with a seed in your garden.

A more just society begins in your own heart.

A better government begins with your own vote.

A safer world begins with your own active concern.

Because Mrs. Johnson's speech delivered to the University of Virginia reflects so well her care for our country and our youth, and because her words mean so much for all of us today, I ask unanimous consent that her address, entitled "America—An Uncompleted Work" may be printed in the RECORD.

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

"AMERICA—AN UNCOMPLETED WORK"—COMMENCEMENT ADDRESS OF MRS. LYNDON B. JOHNSON, UNIVERSITY OF VIRGINIA, JUNE 3, 1973

This is a special day—I know—for every family represented in these ceremonies—a day of much pride, many satisfactions, and the utmost happiness.

As I am sure you realize, this is an occasion of very special meaning for my family, too. Months ago, in the summer of last year, we circled this date on our calendar. Lyndon had about retired from what he called "the speech-making business," but when your invitation came he was immensely pleased and excited—and we were hoping to be all together here for a joyful family time. A winter of sorrow intervened in our home and in our hearts. But now that this awaited day has at last arrived, it brings a fresh and very welcome happiness.

Before saying more, I do want to express, for my daughters and myself, our gratitude to all of you at the University of Virginia—and to the people of Charlottesville. Last year, when we were here through anxious times, and earlier this year, after Lyndon's death, your kindnesses meant so much to us. Our memories of this campus—and of this city—will always be dear and cherished.

On this occasion, I find myself cast in a rather unusual role. I seem to be here as a sort of mother-in-law to the Class of '73. That role is not at all unwelcome. At this time in my life, I share a deep empathy with the feelings which Thomas Jefferson once expressed.

After leaving public life and returning to Monticello, Mr. Jefferson wrote these words to an old friend:

"The motion of my blood no longer keeps time with the tumult of the world. It leads me to seek for happiness in the lap of my family, in the society of my neighbors and books, in the wholesome occupation of my farm and my affairs, (and) in an interest or affection in every bud that opens, in every breath that blows around me . . ."

In that spirit, may I say that I have no wish or intention to play again any part on the public stage. I speak today, not as an active public person, which I am not, but as an always interested private person—engaged in savoring the adventure of being mother, grandmother and mother-in-law; in relishing the excitement of a changing world; and in drawing strength from the marvel of "every bud that opens and every breath that blows around me."

All this is a personal preface to the thoughts I want to express today—thoughts about you and your lives.

Over these last few weeks, I realize your higher destiny may have seemed distant. With sleepless nights and final papers, with a book in one hand and a coffee cup in the other, it has probably been hard to see beyond the next exam.

Let me put it this way. Every graduating class—every new generation—seems to have some characteristics that are different and distinctive. From my own close and affectionate perspective, two such characteristics distinguish the Class of '73, here and across the land.

The first is what I would describe as your special relationship with large concerns.

There was a time when university students were rather usually associated with pranks and mischief—things like hazing escapades or stealing the rival team's mascot. Many of the interests of student years tended to be immature and frivolous. But there has been a decided change—a change embodied in your class.

Today our student generations seem to have a new dimension. Your interests run to matters of the very largest scope and size and consequence. "Peace" and "justice" and "freedom" are not abstract concepts to you—they are real and vital concerns. This itself is not unique. You share them with certain other generations of our past who have helped to write and forge some of the most stirring chapters of our story. But the accelerating challenges of history have also presented you with new causes of global dimension; such as saving this planet's ecology and improving the quality of life in an age that grows both more impersonal and more urban.

Along with this, there is a second distinctive characteristic of your class and contemporaries. That is your parallel concern with very personal and individual matters; such as ethical standards and all the wide spectrum of interrelationship between human beings.

In these realms, you are questioning as no other generation has questioned in a long time. I agree with what my husband expressed in one of his last public addresses last autumn. "We are not living in times of collapse", he said. "The old is not coming down. Rather, the troubling and torment of these days stems from the new trying to rise into place." Building on the framework of what endures from the worthy past, you are searching for new understanding and new meanings so you can establish standards that are more relevant in your own lives and times.

Some of your elders may occasionally be anxious over your questions and uneasy about some of your tentative answers. But, thanks, in large part, to the patience and tolerance of two dear daughters of my own, I have made my passage through the generation gap without becoming "uptight" about where this is leading.

As I see it, the end of this can be very good. What is happening among young people today is much the same as what happened here in Virginia—and all along this seaboard—when Thomas Jefferson's generation was young. Mr. Jefferson and his contemporaries dared to think very large thoughts; at the same time, they cared intensely about personal and individual concerns. The end result was a new nation—a new nation which, at one end of the scale, could embrace as its cause "the cause of all mankind," while, at the other end of the scale, it could be dedicated to "life, liberty and the pursuit of happiness."

The two go together. If we are to build anything enduring, we must always build on concern for the individual. If that concern is in our hearts, we strive to answer those great questions which so affect the individual. I like to believe that your distinguishing characteristics reflect a renewal of America and foreshadow an energizing of its spirits and its prospects.

I envy you—how I envy you—your opportunity to be a part of the times ahead.

As I offer this personal perspective, I am very much aware that you have been—and are—regularly exposed to some different perspectives.

You of this class—and this generation—have heard more than your share of talk about a doomsday destiny; about the dreadful fate that awaits this planet, about the delay and decline of this country, about the degeneracy of your own generation.

At the risk of sounding rather like a mother-in-law, let me say this to the Class of '73: I don't believe it—and I ask you to keep an open mind.

Certainly I am by no means expert on all—or any—of our very complex challenges. But I fervently believe that for what the present seems to pose as unanswerable questions, the future can and will produce workable answers.

I do not believe that the poison clouds of polluted air must inevitably consume our atmosphere or that our life style must inevitably kill our waters. It is not foreordained that our forests must disappear or that our topsoil erode away or that famine must someday decimate the human race.

I believe there are answers, and I think I am looking into the faces of several hundred of those answers this morning.

In that same vein, let me say a word about your country.

Over these recent years, you have heard and read many doubts, much dismay and no little derision about America. I would not

attempt to dispute each criticism, but respecting as I do what you bring to America, let me make this point.

Our country—your country—is not a completed work. Over the two centuries since 1776, America has gone from beginning to beginning. It began anew with Mr. Jefferson's generation. It began anew in the years when I sat where you sit now—for the mid-30's were a yeasty time of many changes. Today, in these times of the 1970's, you have in your hands the new clay of all that was wrought in the 1960's.

Of faults and flaws, America may have them a-plenty. But you can do something about them. Keep in mind that only in the last decade—since you left grade school—have we made many of our longest strides; toward national support of public education, toward assuring hospital care for older citizens, toward enlarged pursuit of knowledge through scientific and medical research. Only in this short span have we added many treasures of nature to our public trust for future generations. Only in these years have we really begun to concern ourselves with the beauty of our roadsides, the care of our environment, the quality of life for all our people.

This is not the measure of a nation grown old or a system grown tired—certainly it is not the measure of a people grown callous or corrupt. No, the record of our land in your lifetime is that of a principled and purposeful people who care very much about doing the very best for—and with—their homeland.

Don't despair of America—rejoice in your hearts that it is yours to work with and work for the rest of your days.

That brings me, then, to this final thought.

Not all of us can—not all of us want to—occupy places at the center of large affairs. But it is never necessary to stand in high position to have effect upon one's times.

The world out yonder—beyond these Grounds—is a world receptive to and responsive to the individual. That is what you are all about. All your years of education have their meaning in what you do—and try to do—as an individual.

Keep your interest in large concerns. Pursue your search for stronger values and higher standards. And, remember, what America most needs is within each of us, as individuals.

A cleaner neighborhood begins with your own broom.

A more beautiful city begins with a seed in your own garden.

A more just society begins in your own heart.

A better government begins with your own vote.

A safer world begins with your own active concern.

On the largest questions, as on the smallest, it is often true that what is everybody's business often proves to be nobody's business. For the work of making this a finer land, we cannot wait for everybody—we must begin ourselves, as individuals.

As you go, let me pass to you the advice I read recently in the diary of a lady who knew America in earlier times. She traveled across this land in the 1870's—by riverboat steamer, on wagon train, and on the first western railroad.

"The important thing," she said, "is to miss a little as possible and to share as much."

Certainly, for the Class of '73, that is the important thing. You will be part of such epochal times. Miss little, my friends, and multiply all the good things by sharing with those you love.

I rejoice with you for all that lies ahead. I wish for you a life changed with challenge and blessed with fulfillment.

ISRAEL—MODEL MELTING POT

Mr. MONDALE. Mr. President, I would like to call to the attention of my colleagues an excellent series of articles depicting life in Israel which recently appeared in the Minneapolis Tribune. The author, Frank Premack, traveled extensively throughout the country in order to present a well-balanced picture of the problems Israel faces as it celebrates its 25th anniversary.

Although emphasis is usually placed on the external problems Israel faces with her neighbors, the article describes the severe internal problems faced by a nation which serves as a melting pot for immigrants from 102 different countries.

When Israel was granted statehood in 1948, its population stood at 650,000; today her population has swelled to 3 million, including Oriental Jews from Yemen, Tunisia, Iran, Iraq, Libya, Morocco and other underdeveloped countries, as well as the Soviet refugees. Mr. Premack illustrates the enormous problem Israel faces in integrating these various groups into a Western society.

One Israeli is quoted as saying:

> We tried to impose Western standards . . . on these people (Orientals). We were trying to have integration in two years when it takes 200 years . . . Imagine the breakdown in social structure when you tell them such things . . . that women are equal to men.

Israel channels all newly arrived immigrants into absorption centers, where the Hebrew language is learned, new skills developed, and job placement determined. Most Israelis Mr. Premack interviewed believe that the nation is now a "model melting pot." As one Israeli put it:

> One day, no one will remember where anyone came from. There will be one cohesive people.

Mr. Premack also discusses the poverty which exists among the new immigrants, particularly with regard to the housing shortage unable to meet the surge of people. It is not uncommon to find, 6-, 8-, or 10-member families crowded into 2- and 3-room apartments.

Mr. President, while presenting the enormous number of problems which this young nation faces, this series does not lose sight of the overriding spirit of optimism and confidence which the Israelis bring to solving them.

Mr. President, I ask unanimous consent that these articles be printed in the RECORD.

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

(First in a series)

PROBLEMS IN THE PROMISED LAND

(EDITOR'S NOTE:—Israel celebrates its 25th year as an independent nation this year. Staff Writer Frank Premack traveled throughout the young country recently talking with Israelis young and old, immigrant and native-born, about life in the land they have chosen for their home.)

(By Frank Premack)

JERUSALEM.—Rafi Bar-Am's blue suede boots, multi-zippered aviator jacket, open-neck striped sport shirt and tightly tailored flared trousers reflect an interest in material well-being.

He looks hip but not hippie in a society that has produced no hippies, that has no time for that sort of thing, that is too purposeful even for leisure.

Rafi Bar-Am is 30, a hustler with Israeli chutzpah, a young man on the go and on the make. He is not a typical Israeli because there are no typical Israelis in a country of immigrants from 102 nations. But he is part of a new generation of Israelis who want and are getting nice new apartments, Danish modern furniture, cars, clothes, TV and stereo—a practical generation that is building a middle class in a 25-year-old country that has had no middle class.

The Rafi Bar-Ams want a better life, a more comfortable life than the older generations who lived in tents and tin shacks while transforming the malaria swamps of the Upper Galilee and the desert of the Negev into a flourishing agriculture.

The old-timers are still around and, while they lament the passing of the simple life, the pioneer life, the replacement of the nightly passionate debate over fine ideological points by mediocre TV programs imported from the U.S., they complain about the changes wistfully, not bitterly. And they, too, enjoy the affluence that is beginning to creep across the land.

Rafi Bar-Am didn't come to Israel to wallow in its new affluence. For one thing, there's no time for wallowing. For another, what passes for affluence in Israel simply isn't by American standards.

He came in the summer of 1969 as Fred Greenberg from Chicago, where his parents were ardent Zionists and United Jewish Appeal contributors. He came with a B.A. from the University of Wisconsin; a wife and two sons; the skills of a public-relations man; the determination to stick, and, like many American immigrants, thousands of dollars to spend tax-free and duty-free on consumer goods that most Israelis covet but cannot afford.

The Greenbergs, like most new immigrants, spent their first five months in an absorption center, aptly named for its intensive efforts to Hebraicize the 40,000 Jews who now come to Israel each year in all imaginable shapes, sizes and colors. The Greenbergs, again like most immigrants, spoke no Hebrew; at the end of five months they were bilingual, and, as a badge of their new existence, changed their family name to Bar-Am, Son of the People.

Bar-Am took a job as public-relations director of the Jewish Agency, the Israeli arm of the United Jewish Appeal; moved his family into a posh new section of Jerusalem, and spent his considerable savings on a car and other luxuries.

Bar-Am's life style keenly illustrates the progress and problems of Israeli society. He is quick to acknowledge its very considerable accomplishments and just as articulate and candid about what it hasn't accomplished.

Immigrants, the Bar-Am family included, are Israel's life blood. They, their children, their children's children have caused the population to swell from 650,000 when statehood was granted in 1948 to 3 million. They have created a society in the amazingly short span of 25 years. But immigration is ironically at the root of Israel's principal problem—the growing gap between the haves and the have-nots; between the Western Jews from Europe and America and the Oriental Jews from Africa and the Middle East; between the relative affluence of the Rafi Bar-Ams and the relative poverty of his neighbors in an adjoining quarter of Jerusalem.

The problem is called "the gap" and it rivals national defense as the principal preoccupation of Bar-Am, his poor neighbors and the government. Everyone talks about it, worries about it. Not simply social workers, but everyone, and especially young Israelis in their late teens and twenties and thirties. They are not at all willing to settle for a two-class society of rich Westerners and poor Orientals.

"The country wants, needs and must take

people," Bar-Am said. "That's the glue; that's the raison d'etre. But the question is, do we want to survive as a South Africa with Western leadership and a black problem?"

Israel's population has been transformed radically since the 1948 War of Independence. Twenty-five years ago the overwhelming majority of the population consisted of Westerners who came mainly from Eastern and Central Europe and, in some cases, from America. Today more than half of the population is of Asian or African origin.

The transformation shows up more clearly in an examination of the three groups in Israel's Jewish population. The Westerners (27 percent) have little chance of being noticeably increased by new waves of immigrants, who could come in substantial numbers only from the Soviet Union or the United States; the Orientals (26 percent) have a birth rate among the highest in the world coupled with a mortality rate that is very low because of progress in public health and medical services; the sabras or native-born (47 percent) obviously will soon be the dominant group but just as obviously most of them already come from Oriental parentage.

While population has shifted radically, leadership and social dominance have not. The Western Jew continues to enjoy the cream of Israel's political, economic and social life, and the disparity, as once naively believed, has not disappeared with a new generation, or even two or three, born in Israel.

Israelis do not try to hide, or shrink from, the disparity between Western Jews and Oriental Jews. The government now officially classifies the gap as the country's chief domestic concern and is spending millions of dollars on a variety of social-welfare experiments that are reminiscent of the United States War on Poverty in the 1960s.

While the government likely would not put it this way, the net effect of its efforts to narrow the gap is to try to westernize the Oriental Jew, to get to him early in the educational system and fill him with the striving values of his Western neighbor.

The goal of making Israel into a model melting pot is sincerely believed in by most Israelis, Rafi Bar-Am is no exception. "One day," he said, "no one will remember where anyone came from. There will be one cohesive people. I don't see that possibility anywhere else on earth."

Press Bar-Am about his seemingly simplistic belief and you get a simple answer. More and more, Western and Oriental Jews are intermarrying. The rate is now about 20 percent. "The bed," Bar-Am said, "will solve the problem."

There are other problems besides the social gap in Rafi Bar-Am's world. Many of them are the product of a hot-house society that has grown at a rate that seems to match the time-lapse sequence of a Walt Disney nature film. They include:

Inflation. The economy is booming (9 percent yearly increases in the gross national product) but prices are soaring. (While the cost of living in the United States and Europe last year rose between 3 and 8 percent, in Israel it went up 14 percent.) Wages are low and taxes are high. Most Israeli men hold two jobs, and there are many working wives.

Bar-Am is an example of why Israelis work so hard. If you want things, you must. His salary at the Jewish Agency is $322 a month. After taxes, he takes home $207. He and his family each month spend $69 for housing, $46 for a cleaning woman, $161 for food, $57.50 for operating the family car, $46 for household bills and $46 for miscellaneous expenses.

His expenses are more than double his salary. He makes up the difference by doing free-lance writing and public-relations work and by playing poker.

He is not a typical Israeli. His salary is higher than average, his expenses are higher than average and his outside jobs are unusual. But his dilemma is not—middle-class comforts are costly and the ultimate cost is two jobs for anyone who wants them. Most young people want them.

Housing. It is extremely expensive for young Israeli-born couples. Israelis live in apartments, not detached houses, and the apartments usually are for sale, not for rent. It takes $30,000 to $40,000 to buy a three-room apartment in most urban areas in a country that is 85-percent urban. That is a great deal of money in Israel, and many people don't have it. If you don't, you might be able to borrow it—at interest rates of 17 to 18 percent. Once a couple gets an apartment, they are virtually wedded to it; there is very little upward mobility in terms of housing.

Bar-Am and other married immigrants do far better than the singles and the sabras, and there is friction because of it. To encourage immigration, the country not only permits new immigrants with money to buy consumer goods tax and duty free, but finds housing at bargain terms for those who are married. New immigrants who aren't married quickly scramble to get married to take advantage of those terms.

For the sabras, housing is the toughest nut to crack. Bar-Am, whose work for the country's main social agency makes him knowledgeable, put it this way. "A kid finishes school, gets out of the army and he simply has to live at home. An apartment becomes an absolutely overriding obsession."

Families help their youngsters by pooling money. They plan this with the meticulousness of an American middle-class couple who want to send their son to Harvard, and they fret about it constantly at the dinner table.

One other problem with housing—it is discriminatory in terms of time. In the late 1940's and early 1950's new immigrants got tents and little better. It made no difference whether they were Yemenites or Poles; they all got the same. Each succeeding wave of immigrants was treated the same way. Except that the housing has improved with each wave. Now, a Moroccan who came 10 years ago can live in what he thinks is squalor while the Russian who just came is getting his piece of the pie—a much nicer apartment in a new development adjacent to the Moroccan's.

There isn't enough money to build new immigrants' housing and to rebuild the old, and the priority clearly is on housing for new immigrants.

Generation gap. There is one, and Bar-Am is a good example of its nature. He said of the country's leaders:

"I resent being where 56 (the age of Moshe Dayan, youngest person in the Israeli Cabinet) is considered young. I have great respect for what they, the leaders, have done. (Their stories are legend and deserve to be . . . conquering malaria swamps . . . their loss of life in building and defending this country . . . But I know Jewish history and I don't want it pointed out every minute of the day to me. I have a dream, too, that we are a special people, a unique people and I believe in a Jewish state if for no other reason than as a haven. But when I get into an argument with an older person about, say, poverty, and he says so much, so much has been done in taking in thousands of people, when I talk with an older person about a present problem I just don't want to hear about Zionism. It isn't good enough, it isn't enough any more." Bar-Am, like many other young people, feels that the establishment not only is elderly but that it is closed and narrow, leaving little room for argument.

"Putting aside the accomplishments and talking about where we are going," he said, "Golda Meir would say to me that I'm only 30 years old, that I've only been here a few years, that she's been here 50 years; but that's not fair. Sure, my contribution is minute, but I have put it all on the line, and that's okay because I like it here. But I don't buy being here 20 years before you can contribute, before you can become part of the decision-making process."

The split between religious and nonobservant Jews. The orthodox are at most 20 to 30 percent of the Jewish population but, as part of the governing coalition, have been given control over a broad variety of social situations. Marriage, divorce, abortion, birth control, Sabbath observances, to mention a few. The gulf between the religious and nonreligious Jew seems to be growing, and so does the irritation of the nonobservant Jew over the control of part of his life by the orthodox.

Nonreligious Jews like Bar-Am recognize that religion has been a key to centuries of Jewish identity. But statehood, they feel, changed that, and they want synagogue and state separated. Religious Jews cannot understand this, cannot understand how there can be any identity without religion.

"Sure," Bar-Am said, "I recognize that for 2,000 years we were kept together by the tenets of Judaism. So fine; but now we have a state.

"I'm not a believer. I'm an atheist who is willing to be shown, but I'm awfully pragmatic. I had the religious teachings, and my children will get them in school. I will respect anybody's right to believe as they will, if they respect mine, but with the orthodox there is no two-way street. I'm irritated and aggravated about no public transportation on Saturday, my one day off; or no movies on Friday night; or telling me and my kids who we can and can't marry.

"That's nonsense, and, worse yet, it's really all political. Take Haifa. They have public transportation there on the Sabbath. And you know why? Because they don't need the religious party's votes to put together a coalition to run that city's government. That's why. So they threw them out and started running the buses on the Sabbath, the only place where there's public transit on the Sabbath in Israel.

"If you talk religion to me," he concluded, "then I want to separate it from the state. I'm a nationalist Jew. I'm an Israeli nationalist. First and last."

The question of identity—what is a Jew—is debated and argued in the homes, on television, in the newspapers, in school and in Parliament and the Cabinet. When the Queen Mary docks on a Sabbath, or when someone foolishly drives his car into the Hasidic quarter of Jerusalem and small boys with long curls for sideburns surround the car and throw stones. Or when elder statesman David Ben-Gurion, who arranged the political coalition deal with the orthodox, suggests from his retirement that there's no need to fuss over marriage when his son flew to Nicosia for a civil ceremony, and someone responds that such tactics are dandy but limited to those who have the money to fly out of the country.

Israelis have dozens of answers to the identity question, so many that you can soon mistakenly think there's a separate response for each of the country's 2.6 million Jews.

But Bar-Am's answer has become the dominant answer of the young. What happened to him on a hijacked airliner provides a clear glimpse of that identity. On May 8, 1972, he was flying back to Tel Aviv from Brussels on a Sabena jet when it was seized over Vienna by four Black September Movement Arab terrorists.

Eventually, the plane landed safely, two terrorists were killed and two were captured; but something happened aboard the airliner that left an impression on Bar-Am far greater than the fear and helplessness generated by the hijacking.

It happened when the hijackers separated the passengers into Jews and non-Jews. Jews to the rear, non-Jews to the front.

"I'll never forget those people raising their hands and waving them and saying over and over again that they were not Jews, not Jews. I'll never forget their frantic efforts to avoid being classified as Jews.

"The things I believed in then I believed in now," Bar-Am said. "If we don't stick together we won't survive."

(Second in a series)

AN ORIENTAL JEW WHO MADE IT

(By Frank Premack)

JERUSALEM.—Meir Zion Cohen's father and mother walked to Jerusalem from Tehran 50 years ago.

For years, as orthodox Jews in Persia, they had prayed individually three times a day that God should cause them to live in the Holy City. That desire permeated their lives, and when their marriage was arranged, the father of Meir Zion presented the trip to his new bride as a present, the most wonderful wedding present an orthodox man could present to an orthodox woman.

They walked the 900 miles, and when they came to Jerusalem they had no home. They slept under the steps of houses and they loved Jerusalem, the Holy City, the only place for deeply religious Jews to live.

They raised nine children in one room, and Cohen's father, a rabbi descended from rabbis, worked as a janitor in a religious school.

Cohen's parents are elderly now, their children are grown, and Meir Zion, at 35, handsome and strongwilled, is the prototype of an Oriental Jew who has made it, who has managed to work his way out of the poverty of his birth without wholly rejecting his heritage.

He greatly respects and loves his father, but he does not want to be like him, and he isn't.

His father taught him the Torah and the Talmud, about Eretz Yisrael, about the quality of the Holy City, about all, things religious and Orthodox, and Cohen absorbed that but did not stop with that. He added a secular dimension to his life, a dimension unknown to his father and his father's father, a dimension that has enabled him to close the gap between himself as an Oriental Jew and Western Jews while opening a gap between himself as an orthodox sabra and his father as an orthodox immigrant.

They are worlds apart, the elderly immigrant and his son, but there is no regret on either's part and the father more than condones the secular, Western side of his son's life.

Cohen tells a story of his childhood that illustrates his rejection of the poverty his father accepts.

"When I was a boy and winter came with its rains, water would collect in our room and in the morning I would find my shoes floating and filled." He said, "I would ask my father about it and he would quote from the Talmud, that Israel is one of the presents attained only through affliction."

Cohen can stand affliction. He has lived through much and he is tough, but he is not willing to accept poverty as God given, to live umpteen in a room, to raise many children when he cannot afford them.

"My father told me many times that it's a sin to have only a few children, that God will punish those who do," Cohen said. "It's the old orthodox belief, and there is much pride in his generation in having many children. Obviously, this makes matters worse, but many Oriental Jews believe, like my father and mother, that it's their duty to have many children."

Cohen is not married. Not because he doesn't want to, because he does, someday. And not because women find him unattractive, because they don't. But because it is part of the price he is paying for closing the poverty gap.

He works full time as a school teacher, and as often as possible as a tourist guide; takes a full course at Hebrew University toward a degree in history and geography; attends lectures once a week on the Old Testament; studies one night a week at an institute in Jerusalem; reads widely in his remaining time in secular and religious thought, and engages in the Israeli pastime of wandering in the desert or Judean Hills or at an archeological site, relating what he sees to what he has read.

He lives in Kiryat Moshe, a new religious quarter in Jerusalem, in a single room furnished with a bed, a chair and a wall of shelves for his books. There is no luxury and no time for it anyway. He has no regrets about that. "I am busy in the things that I love," he said.

He has basically conservative views about why he has succeeded and why so many Oriental Jews have not. Part of the problem he properly attributes to the very large families of the Oriental immigrants.

"The fathers earn very little and there is not enough for 10 shirts or 10 pairs of pants, for 10 of this and 10 of that," he said. "It is impossible to live with 10 children in one or two or three rooms, with two or three children in one bed. It is impossible to learn and grow under those conditions."

But his feelings about the poor are ambivalent. "I took myself by my own hands. I had ambition. I didn't want to be like my father," he said. "But these people (the Orientals who do not make it) accept their lot; they want from the government and the government can't give them everything. We are a poor country. These people must take some things into their own hands. It is not enough to say only the government, the government, the government. Certainly the government must help, as it is helping the new Russian immigrants, but people must organize and help themselves, too."

He believes in the national policy that education is the key to closing the gap, as it has been in his life. He however, is the unusual product of a dual education.

All morning he went to Talmud Torah and all afternoon to secular school until he was 13, then he went to a strict, didactic religious school for two years. One day he went to pray in the Yeshivat Rav Kook and the son of the famous rabbi received him so warmly that he decided to go there to learn. The curriculum was entirely religious and he wanted a secular education as well, so he went to the yeshivat during the day and studied at a secular high school in the evening. It was hard and not many young men did that, but he was determined to do both. After four years, at the age of 19, he finished.

"Then I heard about the new immigrants in the Negev, how they had no teacher and how their conditions were bad," he said. "I knew I must teach others and so I wanted to go to the Negev to help the Moroccans and the Persians, the very poor. I told the son of Rav Kook and he blessed me warmly. I went to a teacher's seminary specially geared for teachers of new immigrants."

By studying and taking courses day and night he received his teacher's certificate in 14 months. With that, he decided to get his mandatory army service out of the way. After he finished basic training, the army, noting he was equipped to be a teacher, sent him into the Negev to do just that for four years in a border settlement not far from Beer Sheba.

"When I came there," he said, "there were no classrooms, no books. There was no work for the men. The children were confused and had nothing to do. There were no chairs, no tables for the classrooms. I went and got building boards and bricks and made benches. I took a piece of wood and painted it black and made a blackboard. Then I collected all the children and taught them."

Conditions were difficult, even primitive. At night he and others went on border patrols. In the beginning there were no electric lights. "When I wanted to give an especially good student a prize," he said, "I gave him a candle."

Eventually classrooms were built, books were furnished and a central school was created, "After four years as a teacher in the army," he said, "I loved the children so much that I stayed another five years as a civilian." It was not just his love of the children; their fathers begged him to remain. Cohen put it much more modestly. "It was very satisfying work."

Cohen now teaches 35 youngsters in an 8th-grade class in the Jerusalem corridor. "I want to help make them into good men, good citizens, so they will grow and will love Israel," he said. "Our problem is materialism. This is a time of materialists. We must teach them to go to the Negev to build, to go there to build villages. It is not so easy, because of the atmosphere. If you want to educate in this ideology, you can, but it is not easy at all."

The good life, the right life, he believes, is based on religion. As an orthodox Jew he believes that every Jew is a man of belief. "In some," he said, "the belief is hidden, and sometimes there is discovery among those whose beliefs are hidden. There are no nonreligious Jews, only Jews."

He has several stories to support his view, and his favorite is one told by many young orthodox men who served in the Israeli Army during the Six-Day War. At the conclusion of the war, when the Old City had been captured, his unit returned to Jerusalem and went to the Wailing Wall.

"On Sunday we came back from the Golan through the Jordan Valley to Jericho and to Jerusalem," he said. "When we came to the Old City, we made our way to the wall and all the soldiers wept and wept some more. I saw hard, hard men weep. And even the hardest nonreligious soldiers prayed and kissed the Wall. If they did not believe, why did they go to the Wall? If they did not believe, why did they weep? Why did they pray? Why did they, if they are not religious underneath that hardness?"

After the journey to the wall, Cohen went to his school in the Negev to pick up his belongings. "The children ran and kissed me, and the headmaster told me to go quickly back to Jerusalem because my parents mistakenly thought I was dead." So I went to Jerusalem and at the central bus station I saw a neighbor of my parents and he ran and told my mother and father. On my way to their home my father and mother met me in the road and they wept and they gave the traditional blessing of seeing someone alive.

"I saw the newspaper when I got home and saw that many of my good friends were dead, so there was happiness and sadness together. And then I gave the traditional blessing for having lived through a time of danger."

Because of the war, "because of things that happened," Cohen, like most young Israelis, has no Arab friends. He sees Arabs on the bus on his way to and from work. They say shalom to each other, but no more than that. "We don't speak the same language. We have nothing in common," he said.

Cohen intends to continue to teach the children of Oriental immigrants, but he has no illusions about Israel as a melting pot.

"How soon will it be, you ask," he said. "It will take a very, very long time to close the gap, but I hope that slowly, slowly it will be better. When a country is destroyed, it can be rebuilt. When men are destroyed it is very difficult.

"But you must remember that to be poor here is much better than being poor in the United States. To be poor here is to at least have enough to eat and good medical care. Maybe not much else, but at least that."

Cohen, an orthodox Jew descended from generations of orthodox Jews, sees his path in life with great clarity and has but two more dreams. "Our danger is the assimilation of Jews around the world. It would be good to go to these places and teach them and save them and bring them to Israel.

"Also, to find one good girl who loves what I love and to be married," he said.

(Third of a series)

CONTRADICTIONS IN ISRAELI LIFE

(By Frank Premack)

JERUSALEM.—Pnina Kipnis sees contradictions in Israeli society, contradictions she has not resolved.

She is 25 and a sabra who sometimes feels a close kinship with Israeli life and sometimes finds it foreign. Sometimes it is beautiful and sometimes it rubs her the wrong way.

Her mixed feelings are perhaps not common in a 25-year-old country that has been kept together by an intense nationalist spirit, a pride in all things Israeli. But her mixed feelings clearly illustrate the counter currents in Israeli life, the contradictions and the conflicts.

One chilly midnight in May she joined thousands of Israelis who crowded the narrow, twisting streets of Jerusalem to watch the full-dress rehearsal of the military parade that was to celebrate the nation's 25th year of statehood.

There had been much argument among Israelis about that parade and whether a military celebration was really the proper expression of what Israel is all about. Yet they crowded the sidewalks from midnight to the wee hours of the morning, giving up precious hours of sleep, to gawk like children at the tanks and the half-tracks and the arm-swinging and smart-stepping young men and young women. They came to see and it made no difference whether they approved or not—the hawks and the doves, the young and old, rich and poor, atheists and Hasidim; a neat slice of Israeli life.

Pnine Kipnis went to see and this is what she felt. "I had so many mixed feelings. There was the strength and there was the tension of war. It was a war country, and it was not. The soldiers were a cohesive unit, but each person in it was one person. There were the two realities in the street—the obligation of the country and the country's obligation to the individual.

"When the music came in the line of march it was a relief. It was like hoping the war character would change to song. The Jewish people have so much diversity and so many controversies that sometimes you feel we need enemies to pull us together," she said.

Pnina Kipnis lives in Geula, an orthodox quarter of Jerusalem. Her father, a Russian immigrant who served in the Haganah, the pre-independence Jewish army, died when she was 4; her mother, a Latvian, learned her husband's job as a statistician to support the family. Both parents were Zionists who left Europe for Israel in the 1930s before Hitler and the holocaust that resulted in the extermination of 6 million Jews.

The family was neither very poor nor rich, and certainly not destined to amass much materially after the father's death. They have remained in the three-room apartment of a nondescript building of Jerusalem stone, wedged in by other nondescript buildings of the same stone on the sidestreet named Zefania. The apartment is old and spotlessly clean. Its decorations are few and its furniture is old-fashioned, but no one minds.

Pnina grew up with a love for Judaism and orthodoxy that is enmeshed in every detail of her life. She knows nonobservant Jews from her classes at the University of Tel Aviv, where she commutes by bus to work on a master's degree; she even has acquaintances among her non-religious classmates. But she does not feel close to them. There is a gulf between Pnina Kipnis, the only religious girl in her class of 20, and the nonobservant students, just as there is between most religious and nonobservant Jews in Israel.

The gulf can be seen in the way she talks about one girl she knows particularly well in her class. The girl lives unmarried with her boyfriend.

"I can understand that, and although I do not agree, that fact is not a barrier between us," Pnina said. "I am bothered by something else.

"When they eat, they eat without the ritual washing of their hands. When they eat, they do not keep kosher. They live without any holiness in their lives, and I feel strange when I am with them. I ask myself how they can live like that, without any divinity in their lives."

Pnina had a discussion with the young couple about the question of their identity as nonreligious Jews. "They said they put their trust in God, but there was no real communication. I didn't want to argue with them, but real belief is not just a point of view. To change from nonreligious to religious to change the whole structure of your life. Orthodoxy is not just a point of view."

Not long ago she met a boy who wanted to date her. "He was attractive but he was not religious and I just couldn't," she said. "I have a girl friend who said, "Go marry him. He'll keep his way and you'll keep yours." But, no, someone who keeps himself holy and learns all day, he's a different person from someone who doesn't believe.

"I remember him asking me if I wasn't jealous of nonreligious girls because they can wear pants instead of skirts, and I said no, that it wasn't important to me. I told him that orthodoxy is not only a way of life, it's part of your whole personality."

Pina rejects the arranged marriages that exist among some Jews in her quarter and particularly among the orthodox in the adjoining Hasidic neighborhood of Mea She'arim. "I can't simply marry any religious boy," she said. "The basic relationships have to be the same, whether we are talking about religious couples or nonreligious couples."

Pnina Kipnis was away from home, away from Israel for five years, from just before the Six-Day War until a year ago. She lived with an uncle in the suburbs of Detroit and got a bachelor's degree in child psychology from Wayne State University before she returned. The time away, and the year back gave her an unusual perspective on Israeli life. It changed her but has allowed her to see the changes of the past few years in Israel very clearly.

This is what she sees:

The Six-Day War was the first war for her generation. In the beginning, her friends regarded it as catastrophic, but now her generation knows it can live with limited wars, with wars of short duration, just as it lives with occasional acts of terrorism.

She finds herself thinking about bombings from time to time but manages to put them out of her mind. "Otherwise," she said, "people could not go on living and they are living very normal lives."

Whenever she goes shopping, or when she takes the bus to school or to her part-time job, she mingles with the thousands of young Israeli men in the army. They are in uniform and they are armed with submachine guns but she does not stare at them or take particular notice of them. "It's not frightening at all to have armed Israeli soldiers in the streets. Just the opposite—it increases my sense of security," she said.

There has been a very considerable increase in material well-being in the past few years. Pnina said she was struck by that change more than any other.

"It's not that people didn't want material things before, but that they now had these things, the cars, the refrigerators, the washing machines. People have always wanted them, and now they have them."

The material changes show up in a host of little ways: In so many cars and buses in Tel Aviv that the government this spring decided to plan a subway. In the television antennas that have sprouted like wire weeds atop the buildings, even the buildings of the Old City of Jerusalem . . . Among the women who no longer have to be content with two dresses, and the teen-agers whose clothes show the very latest in cuffed flares and platform heels and are beginning to congregate at discotheques.

All these little signs reflect the normalization of a once ascetic and doctrinaire society. There is a relative prosperity in certain sections of the population, and a growing desire for material comfort.

While the two-job ethic still dominates Israeli life, there is a budding interest in leisure. That is best seen in the town center of Tel Aviv, the district between Dizengoff Square and Ben Yehuda St., a noisy, cosmopolitan center of shops and cafes that is neither Tel Aviv nor Israel, and not the lifestyle of Pnina Kipnis.

There is an almost wrenching, violent difference between the world of this town center and life on a kibbutz or almost anywhere else in Israel. People sit in outdoor sidewalk cafes, actually killing time by drinking capuccinos and espressos and leafing through magazines. In the evenings the young people, all looking casually modern, congregate outside the movie theaters, tirelessly waiting to absorb the latest American films, which are frequently not the best of their kind.

There is a great deal of discussion among Israelis about the gilded youth of the towns. Some do not even like to acknowledge its existence; some see it, do not like it and attribute it, rightly or wrongly, to a creeping materialism.

Israelis can be very narrow and provincial in their attitudes. Pnina said she sees this and uses Israeli newspapers as an example of this provincialism.

"If a Jew fell off a curb in New York and broke his foot, there'd be a story about it in the Israeli newspapers," she said. "Or if someone made an anti-Semitic remark in Detroit, it would find its way into print in Israel. We are very self-centered," she said, "but it is needed here. It is part of our survival."

There is a narrowness, too, in her orthodox neighborhood. "Whatever I do, everyone else knows about," she said. "Everyone makes it his business to know what everyone else is doing. There is no privacy here and it disturbs me very much."

Sometimes, she said, she hates to go out for a walk in the neighborhood with her boyfriend because it becomes small talk all over the neighborhood.

Israel is a small world. Pnina could not go to the midnight parade rehearsal, or a book fair, or the Wailing Wall on a Friday night without meeting most of the people she knows. "We have taken on the character of a small town in the United States, where everybody knows everybody, and that is both good and bad. It's a small world, and it seems that whatever you do affects somebody else."

The closeness is felt especially in a religious circle, such as Pnina's, but exists in Israeli society generally. Its existence has created a phenomenon that the Israelis call "proteksia," the influence one supposedly gets from living close enough to know government officials and bureaucrats. Some Israelis are fond of saying they don't have to pay their parking tickets or speeding fines because they "know someone." Whether that's actually the case is not the point; the fact is that many Israelis believe it is.

There is a surface rudeness to daily life in Israeli cities and Pnina Kipnis notices it and is of two minds about it. She had noticed, since her return from the United States, that young people have stripped many niceties from their conversations and manners. She is very proud of being Israeli and of other Israelis but now finds some of the behavior abrupt and bordering on the rude. On the other hand, she attributes that to a worthy goal of wanting to strip life of any phony veneer, and she mentions the pasted-on smiles of Americans as an example of that veneer.

"Young Israelis are interested in the essentials, not in surface politeness, especially if that surface is forced," she said.

Criticism of the government has become a

national pastime, perhaps the national pastime. "Consensus is not that important except in periods of crisis, at times of war, and we are not at war at the moment," Pnina said. But there is a strong feeling of national unity, of nationalism. While it's dandy for Israelis to attack the government, Israelis take a dim view of outsiders saying the very same things.

The world of Pnina Kipnis is changing and has changed much in the past few years. She is a worldly orthodox girl whose sophistication has caused her to have mixed feelings about Israeli society.

She is not at all troubled, however, by her goals of marriage and children and playing the traditional role of an orthodox woman in raising a family. She sees no conflict in having a career and that role as the keeper of family life. Some Israeli women do, and they are beginning to complain about it.

The complaints came out this spring at a Hebrew University symposium on "The Status of Women in Israeli Universities." What the Israeli women said at the meeting could have been said by a gathering of female academicians at the University of Minnesota.

The view that emerged from the discussions is that university women are asked to play a double role as mothers and professionals but Israeli society doesn't allow them to compete on equal terms with men.

The usual kinds of statistics were cited—almost half of the students studying for bachelor's degrees and graduating are women, while 27 percent of those getting MAs are women and 13 percent of the Ph. Ds are women. Twenty-five of the 500 professors are women and six of the 190 full professors are women.

One woman, a university administrator, said she encountered no overt discrimination but wondered if she didn't always "look sideways" at her husband's status so as not to outrun him and felt it was very difficult to be both a good mother and a hard-working professional.

The discussion ended with Dr. Rivka Bar Yosef, a sociologist who moderated the discussion, saying, "Why shouldn't husbands make good fathers, too."

(Fourth in a series)

LIFE ON A KIBBUTZ HAS CHANGED

(By Frank Premack)

KIBBUTZ KFAR RUPPIN, ISRAEL.—The trenches are covered at Kfar Ruppin, and Yacob Noy's children no longer live underground at this Jordan River kibbutz.

Grass and flowers grow in the commons that was criss-crossed by the trenches, and one of the underground concrete shelters has been converted into a discotheque for the teen-agers.

Yacob Noy and the other men of the kibbutz used to make twice-daily patrols of the barbed wire that separates the kibbutz—and Israel—from Jordan. Now when Noy and his wife go to the wire at the crack of dawn, it is to watch the brilliantly plumed birds, not to look for the mines or the Arab terrorists who once put them in the ground.

Life has changed at Kfar Ruppin, just as it has in all of Israel in the past few years.

The kibbutz movement has spread to 230 locations, but only 4 percent of Israel's population takes part in this unusual experiment in communal living. Kibbutzniks are a declining fraction of the population (they once were 9 percent) but they continue to hold a disproportionate share of the positions of political and military leadership (at least 20 percent).

So the kibbutzins are important, and what has happened and is happening to them illustrates where Israeli society has been and is going.

Take Yacob Noy and Kfar Ruppin, for example. Born in Czechoslovakia, Noy was orphaned as a child, joined the Zionist youth movement as a teen-ager and became an illegal immigrant at the age of 18 in 1939.

He spent three months on a ship packed with 1,600 Jews seeking illegal entry, with little food or anything else, dodging the British patrol boats, looking for a way through, until the British captured them near Cyprus. The ship was escorted to the shores of Palestine, and the British made plans to deport them. The Haganah decided to set off a controlled explosion aboard the ship, enough to immobilize it and keep it and the illegal immigrants in Palestine. The explosion was too powerful. It killed 250 Jews and the ship sank. Noy and the rest of the survivors were stripped of their clothes, sent to a prison camp and deported.

"We were depressed," he said with his customary understatement. "It was a very difficult time, and we were depressed."

A year and a half later Noy returned to Palestine with a Czech army group that was supposed to become pilots. He disappeared shortly after arrival and joined the kibbtuz in 1942.

"When I came to Kfar Ruppin," he said, "there were tents, a few barracks, swamps and malaria. We slept in the communal shower rooms at night because it was too hot in the tents. But you managed, if you were a little idealistic . . ."

Noy joined the Palmach and became a commando, then an instructor of commandos and finally was sent under cover to Cyprus to instruct interned Jews in how to sneak into Palestine.

When Palestine became Israel he fought in the Jerusalem corridor. He met his wife in the War of Independence, and they have raised three children on the kibbutz.

Kfar Ruppin is the border settlement closest to the border in the Galilee. When the Six-Day War ended in 1967, the kibbutz was shelled for three years on an almost daily basis by Arab terrorists operating out of Jordan. That time was called the War of Attrition, the time when the trenches were dug, the underground shelters were constructed and the children were moved into them.

The children lived underground for those three years, while the teen-agers and adults tried to live as normal a life as possible. "We discovered," Noy said, "that they cannot break you."

If external threats have not caused the kibbutz to change, then the normalcy of the past few years has.

"Today," Noy said, "we are less idealistic, far more practical than we were when I came. But I do not regret that." And, as if to prove his point, he took his visitor to a community room in midafternoon and produced espresso and ample slices of pastry cake.

"We are becoming more practical with the passing of time," he said, "but we are still more idealistic than the cities. You have to remember," he said without any bitterness, "that while we were being shelled for three years they were dancing and eating in Tel Aviv."

"If a kibbutz and the kibbutz movement does not change with the time," he said "then there is something that is wrong, very wrong. You must grow with the time. Our children like cars. TVs, luxuries and you must give them to them. But we try to teach them not to want too much luxury. We say, 'If somebody can have all of the luxuries, let them have them.' "

The first ideas and the initial ideals of doing without during the time when the malaria swamps were turned into orange groves have given way to different ideas and ideals—just as the orange groves have been supplemented with industries: just as TV has made its way to the kibbutz; just as the old leadership is recognizing the wishes of the young.

It was bound to happen, and it has happened quickly, in the span of 25 years of statehood, although not quickly enough for many young Israelis. It is happening as it is happening in the rest of Israeli society.

Yacob Noy, a short, stocky man who now is in charge of kibbutz transport and once was a Palmach commando, recognizes the change and is prepared to deal with it.

"To bridge the gap," he said, "we have given the young ones the power to decide for themselves. If we hadn't, they wouldn't be with us. It's as simple as that."

KIBBUTZ KFAR BLUM, ISRAEL

So'adia Gelb is 60 years old, a middle-aged kibbutznik with battered black shoes and gray, shapeless trousers.

Gelb came to Minneapolis from Poland with his family when he was 12, grew up on the North Side and was graduated from the University of Minnesota in 1933. He knocked about all over the United States for 13 years, married a Minneapolis girl, fathered three children and decided in a moment of pure Zionism to take them all to Israel.

Gelb ended up as a farmer at Kfar Blum, a kibbutz in the Upper Galilee.

"When we came here there were thousands of Arabs in the valley," he said. "Our relations were quite good. We couldn't have come otherwise. They kept the high ground (the Golan Heights) and looked upon us as fools. We pitched our tents in the swamps. They sold us manure and thought we were very foolish to buy it."

Thirty-nine of the first 40 settlers of Kfar Blum contracted malaria, but they slowly transformed the swamps into fields of cotton, groves of citrus and forage for a herd of cattle.

Kfar Blum has gone through nine distinct stages of housing, from the settlers' tents to the reinforced concrete structure now being built for teen-agers; from outhouses to flush toilets, and from chronic dysentery to a disease-free existence.

Those are dramatic changes, very visible to the old-timers like Gelb. Those changes have taken decades. But there are other changes, more recent changes, and, while less visible, these later changes seem to be having a more profound impact than the changes that took decades.

"As we progress economically," Gelb said, "the more you have, the more you need and the more you want. We used to stay up all night arguing and talking theory. But not any more. For one thing, with the changed economic status you can't be an idealist all of the time. You get much more practical. It isn't that our ideology has changed so much; it's less conscious; we do things now out of need and normalcy, and the kids are much more practical than we were, so much so that many people think they are not interested in ideology at all.

"Well, they may not be theoreticians, and there may be much less theorizing and much less vocalizing, but the kids come through in a crisis and there is much more doing," Gelb said.

KIBBUTZ EIN HAROD IHUD, ISRAEL

Renne Frank, 34, came from Golden Valley to this prosperous kibbutz in the Jezreel Valley five years ago with her husband, Moshe, 38, and their three children. They intended to stay a year but after a few months decided to stay, period.

Ein Harod Ihud is lush and lovely, a bit like Golden Valley around the creek, and not at all a difficult place to live. Its prosperity, and what has happened in the five years the Frank family has lived there, are examples of what is happening in the kibbutz movement, in all of Israel.

Originally agricultural, with grapefruit, cotton, sugar beets, alfalfa, olives and cows, the kibbutz still has all of those things—but its biggest money-maker is its stainless steel plant. It has become industrialized, just like the whole of Israeli society.

There have been other changes, not perhaps, important in themselves, but symptomatic and symbolic of more important changes.

Television, for one. "There were two sets when we came," Mrs. Frank said. "Then there was one in the cultural center, then one in the dining room and the coffeehouse and

then people began buying their own sets. Our kibbutz is kind of liberal and not much was said when a few people bought sets on the side. But then a few more bought TVs and then a few more and then eventually the kibbutz decided to buy them for everyone. The same thing happened with electric teakettles and refrigerators and radios. Now it's TVs."

There was a stage at Ein Harod Ihud, as there has been at all of the kibbutzim, during which the elders carped about the easy life of the young. But that stage has passed at Ein Harod, and younger couples in their 30s and early 40s are clearly in charge.

They have brought more significant changes than teakettles and TVs:

Young couples have caused the kibbutz to change its policy on the raising of little children. Instead of living in children's houses away from their parents, they now live at home.

"The needs of the pioneers were different," Mrs. Frank said. "They had to go out in the fields to work and they couldn't take the little children with them. But mothers have decided they like raising their own kids and want them at home when they are little. It's a change in ideology."

Young people are becoming increasingly interested in advanced education and in finding their principal interest in their occupation, rather than in simply working at any job on the kibbutz.

"So far," Mrs. Frank said, "they have been returning from the universities to the kibbutz, but it's far too early to tell whether this will continue to happen in the future, whether the kibbutz will be able to absorb their specialized work interests."

The kibbutzim have turned to outsiders for certain work and have accepted them as nonmembers who live in the communal society.

The Franks are not members of the kibbutz but have been welcomed into it as paid workers. Moshe Frank is the kibbutz dentist; Mrs. Frank is the dental assistant and cultural affairs director.

KIBBUTZ KFAR ETZION, ISRAEL

The road between Jerusalem and Kfar Etzion has the twists and turns of a pretzel gone berserk.

Twenty-five years ago, when the new state of Israel decided that Kfar Etzion was the vital outpost on Jerusalem's southern flank, the road was half its present width. That was when a convoy sent to relieve Kfar Etzion was ambushed and destroyed, when Kfar Etzion itself was wiped out.

Abraham had grazed his flocks on the ridges leading to the barren, wind-swept hilltop of Kfar Etzion, and the orthodox Jews who came to build an agricultural community were as dedicated to combining a rigorous observance of the Torah with a collective existence as they were to defending the outpost from Arab irregulars. Women and children were evacuated, and the men stayed to be annihilated in the 1948 War of Independence.

The land became the Arabs' and remained that way until retaken by the Israelis in the Six-Day War of 1967. Not long after, the two-dozen children of the men who died at Kfar Etzion returned to rebuild it. They have been joined by a handful of other young couples, men and women in their 20s and early 30s who demonstrate daily that pioneering is not quite dead in the Israel of 1973.

Among them are Myron Joshua, 25, born and raised on Minneapolis's North Side; his wife, Hindy, 24, from New York City, and their two children, girls of 6 months and 2½ years.

Myron and Hindy Joshua were settled in Kfar Etzion after a year's visit in Israel and because of their strong desire, as orthodox Jews, to live on one of the dozen or so religious kibbutzim.

Joshua was an art major in college, and the walls of their spare apartment in the lean environment of Kfar Etzion are decorated with the fine wood-cut prints he made in his early 20s. He has made none since, probably because he is too tired from his dawn-to-dusk job on the kibbutz as fixit-man and garbage hauler.

But he is not unhappy about his job or about living on the rebuilt kibbutz, a craggy outpost with few of the niceties of a town, let alone a city. He and his wife reject material things and values to a very high degree, and they have become deeply tanned and toughened at Kfar Etzion.

To them, as well as the few dozen others on the hilltop, Kfar Etzion is Israel. To Myron Joshua, as well as the others, there is a very distinct difference between Israeli nationalism and Jewish nationalism.

And Myron Joshua sees himself as a Jewish nationalist. "I see, like many young orthodox, a renewed interest in religion in the young Israelis," he said. "A return to the sources . . . whether it be in the archeology of Yigael Yadin (who directed the Masada Expedition), or the interest of the young in Jewish history or biblical study or what have you. It all has a religious character."

But Myron Joshua is not totally pleased with every aspect of Israeli society. Although his orthodoxy plays a very key role in his life, he is not at all certain to vote for religious party candidates in next fall's elections.

"The religious parties," he said, "must start to concern themselves with the broad social issues, with poverty and class distinctions, not simply with whether people should or should not ride public transportation on the Sabbath.

"Getting our own homeland is no solution for all the rest of the problems that afflict mankind. Like death and taxes," Joshua said.

(Fifth in a series)

JEWS WHO LIVE IN POVERTY

(By Frank Premack)

JERUSALEM.—Three generations of the family of Moshe Schraga live in three cramped rooms in the apartments of Shmuel Hanavi, a neighborhood in Jerusalem. Shmuel Hanavi means Samuel the Prophet in the Hebrew language, but it means poverty for the Oriental Jews who live there.

It is not the only neigbhorhood of poor Oriental Jews in Jerusalem, or in Israel. There are others, but they are not markedly different, and Israelis candidly acknowledge that the problems of the Shmuel Hanavis are the most pressing problems of Israel.

The crux of these problems is what the Israelis call the gap, the disparity between Western Jews who first settled the country and the Oriental Jews who have since become a majority.

Moshe Schraga can see the gap every day from the windows of his apartment. Right next to the low-slung, ugly-looking and garbage-strewn apartments of Shmuel Hanavi are the neat new towns of Ramat Eshkol, a neighborhood of American and Western European immigrants. They have far more money and goods, far better jobs and education, than Moshe Schraga and his family.

Most of the families of Shmuel Hanavi have 5 to 10 children. They must live in the same size apartments as the much smaller families of Ramat Eshkol. The Moshe Schraga family has 9 members: Schraga and his wife, who left Iran 40 years ago; their six children, all born in Israel, and a grandson.

When the mattresses are spread on the floor and beds at night, there is no room to walk about, no sexual privacy. There is so little room that the married son sleeps at home and his wife sleeps with her parents.

There is so little room that Mrs. Schraga fixes on it as her main problem in life and says to any visitor, no matter what his function, "Please. Do us a favor. Please make us a little porch." If a balcony were attached to the Schraga apartment it would not be used for sunning, but for sleeping, for separating some of the wall-to-wall mattresses.

Large families packed into small apartments are but one symptom of the problems of Oriental Jews in Israel. There are other problems—juvenile delinquency, crime committed by teen-agers, prostitution among young girls and formation of gangs.

The problems do not exist to the degree that they do in an American city. The poverty from which they spring is not that of an American Indian reservation or a black ghetto, but Israelis find any kind of poverty intolerable. They are also finding it hard to cure.

Take the garbage in Shmuel Hanavi. The walkways and gutters of Shmuel Hanavi are filled with trash, and small boys frequently set it on fire. The garbage is an old problem, and no one has solved it. Not the families who do not like it, because they think that all families should stop littering and the city should clean what is there. Not the city, because the administration believes the families should clean it up. And not the landlords, because they feel it's a problem for the city and tenants to solve.

The garbage of Shmuel Hanavi is a little problem. There are bigger problems—the problems of integrating Western and Oriental Jews. Two major integration efforts are under way in Shmuel Hanavi, and they are characteristic of the efforts being used everywhere else in Israel to close the gap.

One is a community center designed to bring together the people of Shmuel Hanavi and the people of Ramat Eshkol. Another is the integration of the school systems of Shmuel Hanavi and Ramat Eshkol. Both are based on the belief that the gap will be gradually closed only through massive educational efforts.

So far, neither attack has been a smashing success. But they are new attacks by a government of Western leadership that once naively thought the gap would disappear by itself in a generation or two.

Some Oriental Jews explain their difficulties and disappointments by attributing them to deliberate discrimination by the Westerners who control the political, social and economic life of Israel. There is little evidence of that.

What has happened is that Israel, which opened its gates to all Jews regardless of origin, received waves of immigrants who were ill-adapted to its Western needs and Western institutions and who came at a time when the country was just beginning to recover from war and the chaos of independence.

They came from Asia and North Africa—from Morocco, Tunisia, Iraq, Iran, Yemen, Turkey, Libya and Syria; they came from societies and cultures of poverty, backwardness, slow rhythm of life and lack of interest in social striving and upward mobility.

They found themselves lifted out of Third World countries and dumped into a rapidly developing Western society created by the first immigrants from Europe and America. And they found that they were encouraged to have the large families that their parents, and parents' parents had; they found that encouragement in a national policy of population growth that still exists as an important security goal in a small nation of Jews surrounded by many times more Arabs.

At first the government was not at all prepared to help create a true melting pot. It wanted to, but it didn't have the means. Then it believed it could create one in short order.

Now its thinking is along the realistic lines expressed by such people as Menachem Sadinsky, the director of the three-year-old community center serving Shmuel Hanavi and Ramat Eshkol.

"We tried to impose Western standards, to force them on these people," she said. "We were trying to have integration in two years when it takes 200 years. These people, the people of Shmuel Hanavi, were clearly un-

able to adopt the Western social conventions overnight. Imagine the breakdown in social structure when you tell them such things as that women are the equal of men.

"They were lost. On the one hand, they were told that their old traditions were no good. And then, on the other hand, we gave them nothing but imitations of Western life, just thin veneer, and of course that does not stand up under the hard rubbing of Israeli life."

Sadinsky has no illusions about what has been accomplished at the community center. It has a nice building, put up with the money solicited by the Jewish Agency from a wealthy American Jew. And it has considerable usage. But it has difficulty in attracting, and holding, the parents and children from Ramat Eshkol. They seem to come with a reluctance that reminded a visitor of the reluctance of many Minneapolis parents to send their children to schools integrated by pairing.

"Integration does not come from a building," Sadinsky said. "It comes from within people and it's a very, very slow process."

Nor does it come any more easily from simply combining neighborhood schools. Israeli sociologists and social workers discuss the successes and failures of school integration in terms that again remind an American visitor of home. School integration in Israel seems to be working fairly well in neighborhoods where teachers and parents were well trained and prepared beforehand; it seems to be working least well where it was installed rapidly without preparation.

If education is the key, then the gap between Oriental and Western Jews is enormous. Six percent of the Oriental young people finish high school and go to a university; 38 percent of the Western young people enter a university.

There are few success stories in Shmuel Hanavi, perhaps because most of the residents are overwhelmed by personal problems and the problems of daily living.

And there is little leadership among the neighborhood's residents to provide the spark for organizing and planning a better life. The social workers say they think it is there, but when a visitor asked to meet with the community's leaders, a 10-year-old girl was produced. She had made a list of the children in her block, and had decided to check daily to see if they had scrubbed their hands.

The few residents who have made it in Western Israeli society are among the most eager to move out of Shmuel Hanavi.

One such man, the father of two children, put it this way: "When I grew up in Iraq I was so afraid of the Arabs that I didn't go out much as a child. Now, in Shmuel Hanavi, I don't like to send my children outside because I am afraid that they will pick up bad habits from the other children. I know I can't keep my kids indoors forever, and now that they are growing I don't want to live here anymore.

"There's a group of teen-agers who take hashish under the stairs: I know, because I've seen them. I remember when they first started taking dope. They were 12. Now they are 17 and the problem will grow worse and worse. Maybe that will help you understand why I want to take my family out of here. Not for me, but for my children."

Amidst all the problems of Shmuel Hanavi is a warmth that is quickly felt by a visitor. Enter any apartment building and there are countless offers of endless cups of tea and plates of cookies, a hospitality laid on as richly as its poor residents can possibly afford.

Or go to the Maimouna, a festival gathering of 50,000 Moroccan Jews who completely filled a huge park in Jerusalem at the conclusion of Passover.

They came by rattling bus from the city and the surrounding villages and towns and created a noisy, motley fair that expressed great ethnic pride. They sang and shouted, ate and danced, drank without getting drunk.

They divided the ground by families, by clans, by tribes. The women, clad in the brightest of shawls, produced endless amounts of food from the yellow plastic babies' bathtubs they used to transport it. Teen-agers produced instruments and instant music and dance.

There were young and there were old, and they produced an astonishing tumult. At dusk they went home—to Shmuel Hanavi and all the other Shmuel Hanavis of Israel.

(Sixth in a series)

A YOUNG WOMAN WHO ENJOYS ARMY LIFE

(By Frank Premack)

DIMONA, ISRAEL.—Erica Davidovich wears the short skirt, shirt and sandals of a young woman in the Israeli army when she works as an unschooled social worker among new immigrants in the Negev.

She is 19 and grew up in suburban Tel Aviv with the notion that nearly every young Israeli must serve in the army. Erica, like most Israelis, accepts that notion and feels she is doing civilian work in a military uniform.

"For me and the others," she said, "this is not a military service but a national service. We are giving things and doing things that perhaps we would not give and do otherwise. I don't feel I am missing anything in life by serving in the army. We are doing important work, and I'm content with my work, I enjoy it, and I feel very strongly that I'm doing something more than if I were a secretary in Tel Aviv."

Erica Davidovich works and lives with other young Israeli army women in the development town of Dimona in the desert. They befriend, help, teach and live among new immigrants, now mainly Soviet Jews, who have been settled in Dimona and are causing its population to swell.

New immigrants have problems—forms to fill out, bureaucratic red tape to cut through, a new language to learn, a new culture to absorb—and Israel is using its army to help solve those problems. It is not the only use of the army, but it is characteristic of the way the army is used in Israel and of its civilian nature beneath its military garb.

The army women at Dimona are an experiment, one that seems to be working well in two key areas of Israeli life—finding useful national tasks for young people and helping new immigrants to get rooted.

Dimona is not a pretty town, and it is not an easy place in which to live. Its buildings and apartments reflect the standard ugliness of Israeli architecture, and its desert location makes it subject to sandstorms and 120-degree temperatures.

Erica's life in Dimona is an example of how the army has become a key institution in Hebraicizing the diverse peoples of Israel.

The army is an artificial melting pot for the children of the immigrants. It takes religious and nonobservant Jews, the well-off and the poor, Oriental Jews and Western Jews; it puts them together without distinction or segregation, makes them mingle and works them hard. It provides academic instruction for those who need it, and it is yet another place where the Hebrew language, the national language for immigrants from 102 countries, can be learned.

Those things are done within the army itself, and now the army is also being used to Hebraicize new immigrants, to help them become absorbed into Israel life. The army girls at Dimona teach Hebrew to the middle-aged and elderly immigrants, teach immigrant children in the public schools and act as social welfare workers for new immigrants with problems.

Erica works the customary six days a week. She starts at 8 a.m. in the office, or earlier if she is bringing new immigrants from the airport. She finishes late at night, sometimes as late as 11 p.m. She takes new immigrants to their first jobs and their children to school, to see that they get in the proper classes; she does their paper work and arranges their government grants; she helps them solve their little problems and arranges social life among the new Russian immigrants and between the new Russians and the Israelis. "Most important of all," she said, "is being their friend."

In the afternoons she leaves the office at the absorption center and goes out in the community to talk to the new immigrant women. Walk with her and you will see the children. They greet her warmly, stop what they are doing to chat and come to her with every imaginable problem. "Even their gynecological problems," Erica said.

Stop with her at the apartment of the Furmanksy family, the home of Mrs. Anna Furmansky, 48; her husband, Gersh, 54, and their daughter, Vera, 17. They came from the Soviet Union to Dimona three months ago, and their problems are the problems of the Soviet Jews who are coming to Israel.

Furmansky is not at home in the afternoons; he is at the factory where bedspreads are made and where he does a simple job. In Russia he was a skilled worker in a furniture factory, and his new job is not what he likes to do, but it is a job.

The daughter is not at home, either, but at school where she is finishing her last year before matriculation. Language is a problem for her, and she is going to special classes conducted in Russian rather than Hebrew so she can finish on schedule.

Anna Furmansky is home at the new three-room apartment that is almost barren of furniture. She is taking care of a little boy, the son of a brother, while both parents work. She serves tea and tells why there is no furniture yet.

"It was very difficult for us to leave," she said. "We had to pay much money (the Soviet 'education tax' extracted from Jews who want to leave) and we had to wait many months before we could come. We were able to bring no money. We brought nothing, really."

Mrs. Furmansky, like all of her middle-aged neighbors, spoke no Hebrew when she arrived in Israel; and, like many of her neighbors, speaks no Hebrew now. She does not go to the classes for older immigrants.

Erica knows why and speaks calmly, insightfully and without rancor about it. "She feels she's too old to learn," Erica said. "That is not true, of course, but that is what she feels and what she feels is what is important and what we must deal with. Her husband works and doesn't have time to learn during the day. He feels he is too tired to go to classes at night. That may not be true, but that is what he feels.

"The daughter is learning Hebrew at school, but is finishing high school in the Russian language and will need time to catch up. But she is learning and she will catch up. She is our hope. She will become an Israeli," Erica said.

Erica Davidovich's parents came to Israel from Rumania, and she knows from them some of the problems of new immigrants. She has a year left of her 20-month army service and would like to finish it with the new immigrants in Dimona. Her army work will carry over into her civilian life. She intends to go to a university, get a degree in social work and then find a job in an absorption center for new immigrants, whoever they may be by that time.

The imprint that is being left by army service on Erica is not unusual. The girls she lives and works with in Dimona have all been influenced in similar ways.

One afternoon six of Erica's coworkers gathered during their work break in the apartment shared by four of them, the usual three rooms in a building of immigrant families. They drank tea and relaxed and chatted. Eventually they got into a serious discussion of their lives and Israeli life, an exchange of beliefs that represented a microcosm of the thinking of young people.

All six are sabras, all six are in the army

and are working among the new immigrants at Dimona:

Tsila Sharaby, 21, an orthodox Yemenite from Tel Aviv, assists in teaching a first-grade class in an elementary school. She defied her parents' orthodoxy by volunteering for military service when most orthodox girls elect to be excused from conscription because of religious beliefs.

Orna Goldberg, 20, from Beersheba, works with young immigrants with psychological problems.

Maya Shteinberg, 21, from Tel Aviv, teaches Hebrew to adult immigrants.

Malka Cohen, 20, Ashkelon, teaches an elementary class.

Tally Makovsky, 19, Beersheba, is a lieutenant and the girls' boss.

Michel Ben-David, 20, Petah Tikva, is Tally Makovsky's assistant.

They talked for several hours and they talked about such things as the generation gap in Israel.

Maya: "My father is 56, my mother 53. They were born in China and my father came here when he was 22, when he was still young; my mother came later. They were married here.

"My mother is nothing like me. She was educated and cultured abroad. I think differently from the way she does, about education, about life, about the behavior of young people. For example, until I went to the army, she didn't think a girl could spend any days or nights away from home. But now she's used to it; I've educated her. It was hard for her to understand that a girl could spend some days away on a trip.

"My father is very liberal, a very understanding person. He's open, open to understanding new ways of life, so I can talk with him. But there are many people like my mother in Israel, especially when you talk about girls."

Orna: "Both of us—my parents and myself—want to be happy and content. We mostly think you can gain this in about the same ways. There are differences, but they are not principal differences. They say they thought the same as I when they were my age, and that I will change when I get older. My father thinks I care about too many things, that I'm fighting too many things, too many battles that can't be won, too many things that can't be changed. There are differences, but I don't feel the same way Maya does."

Tsila: "There are many differences of opinion between my parents and myself, but at the end we try to reach a compromise on each one of them. Sometimes I give and sometimes they give. But there has been one time where we didn't reach a compromise at all.

"My parents didn't want me to go to the army. Not only because of their orthodox religious beliefs but because they believed that the army is where 'good' girls get 'spoiled' (lose their reputations for chastity, if not their virginity). They thought I would meet a different type of life than at home, even a different morality, and certainly more boys. They also thought it was a waste of time.

"But they have changed their minds, slowly and at least partly, if not completely. They have become convinced because they see that I want to be a teacher and teaching here in the army will give me seniority when I get out; and they know that I have not been 'spoiled' as a young girl in the army."

Tsila's last remark, the euphemism she chose to describe her parents' concern, brough a spate of laughter from the other girls. She joined in, and when the laughing and giggling was over, turned the discussion to a favorite topic of all Israelis, young and old. What, she asked the other girls, is your identity as a Jew if you are not religious?

Maya: "I get my identity from living in this country, from belonging to this people, from working and living for the same things as other Jews working and living in Israel. Some people have to believe in something, but I don't."

Tally: "I can't really answer. It's something I've been thinking about day and night, but I can't answer yet."

Malka: "I don't believe in a god, but I believe that as a Jew I am a man. I see the word as something which includes us all here. I really think that being here in Israel is what really unites us."

Michel: "I agree, and I feel that every Jew has to be here in Israel. A Jew has got a special character, a special way. We have to develop this character, this unity. We haven't done it so far because of our walls, our security conditions and our problems, the problems between religious and nonreligious people, and the fact of the Diaspora. But while there are problems to Jewish unity, there are many elements of unity. There is the common knowledge of the Old Testament as a living book, as history. There is knowledge of the country, through walking the length and breadth of this land, not by driving. There are the holidays which are not only religious in character but national, nationalistic."

Tsila: "When I see a Jew I see a man who has been living in Eretz Yisrael and who gives of himself for the people and the country. As an example, I could give you my parents, who live in Israel, didn't want their daughter to go to the army but gave of themselves by letting her go.

"And I also see a Jew as the man who believes in God, who knows the religion, the Torah and who keeps the Commandments, the instructions and is bound together with other Jews by that.

"And I see Jews who live abroad. Some of them, from the religious point of view, are Jews, but from a national point of views they are not and will not be until they are here."

Orna: "I feel I am a Jew. Jewish history is part of me, it interests me and maybe whatever has happened to Jews didn't happen to me but I identify with them.

"I feel I am a Jew because I was born in Israel and grew up here, and even though I'm not religious, every holiday is felt and I know why it is celebrated.

"I believe that the most important thing a Jew can do is to come to Israel. I can't understand Jews who don't want to come here. It's such a natural combination—to be a Jew and to be an Israeli."

Maya: "That may be natural but to start anew is very hard, certainly very hard at first for any immigrant. But, then, I think they discover that it's harder to be a Jew in some other country, that it's like being two parts of one thing.

"When I was in Germany on a trip a woman sat next to me on the bus. We talked for a while, quite pleasantly, until I told her I was from Israel. Then she said, 'Oh, a Jew,' and I said, 'Yes,' and she moved to another seat. She talked very nice until she found that I was a Jew. That happened in Germany but it could happen anywhere. Anywhere except Israel. You can go around here with your head up, you needn't be afraid.

"I'm not religious, not me and not my parents. But we are Jews. We are Israelis."

(Last in a series)

FROM AUSCHWITZ TO ISRAEL

(By Frank Premack)

RAMLE, ISRAEL.—Numbers are tattooed on her left forearm. "Auschwitz," she said. "To be a Jew is very difficult, but very beautiful."

She is a Soviet Jew, the mother of a family that arrived in Israel a year ago and has been settled in Ramle, midway on the plain between Jerusalem and Tel Aviv. She is one of 30,000 Russian Jews who arrived in airlifts last year.

They are the newest immigrants in a country of immigrants. Most of them found life as Jews difficult in the Soviet Union, and now they have found that life in Israel can be hard, too. A few of the new immigrants became so dissatisfied that they left, and a very few of those who left returned to the Soviet Union.

The family at Ramle will stay. They have problems, but, like most of the new immigrants, they will not go back. The lives and the problems of the family at Ramle are a clear illustration of the lives and problems of this latest wave of new immigrants.

Never mind their names. They left relatives behind when they came to Israel, and they fear, rightly or wrongly, that if their names were published their relatives would never be permitted to leave.

They are the mother, 46; her husband, in his 60's; their daughter, 22, and her husband, 28. The daughter and the son-in-law met en route to Israel in a transit camp in Vietnam. They were married a month later in Israel and she is now pregnant.

The father had been married before. His first wife and his parents were killed in a Nazi concentration camp in 1942.

The mother and her 11 brothers and sisters were taken to Auschwitz in 1944. Four survived—herself, one sister and two brothers. Each managed to get to Israel, where one of her brothers was killed serving in the Haganah during the 1948 War of Independence. He was 18 at the time and had been in the country only three weeks.

The mother and her husband, a storekeeper, applied for exit from the Soviet Union for 16 years. They were permitted to leave when he reached retirement age and developed a heart ailment that prevented him from working.

The daughter and son-in-law were sent to a kibbutz for two months, the older couple to an absorption center for new immigrants. The four now live together in a standard three-room apartment. The young couple has been promised an apartment in Petah Tikva, where the son-in-law works, but it has not been built yet.

When the four of them came to Israel they heard there was a language called Hebrew but they knew nothing about it. In the past year they have learned little of the language, and still do not converse in it. That is one of their problems, for it limits their contacts in Israeli life to other Soviet immigrants. They have no close friends outside the family.

The father is unable to work, so he has little to do. The mother and daughter sew and peg bedspreads at home. The son-in-law coaches and plays on a handball team, the same job he had in Lithuania.

The older couple scarcely partake of Israeli life but they have adjusted better to living in Israel and have fewer complaints than the younger couple.

A conversation the four had among themselves one day illustrated the difference between the generations.

The mother: "I have no regrets, there is no way back. Of course it is difficult, but it would be difficult to move from one place to another in the U.S.S.R., it would even be difficult to move to America."

The father: "I, too, have no regrets, although we were not poorly off in the U.S.S.R. I was fed up with our fate; there was no guarantee that Auschwitz wouldn't happen again, this time in the Soviet Union. Here, it is difficult and there are many little problems, but here you're standing with a gun in your hand and if they hit you, you can at least hit back, even if you don't win. It's a very strange feeling for a Russian Jew to know you can defend yourself . . . just the possibility itself of direct self-defense for Jews."

The son-in-law: "My experience is different. I didn't live through all of the things of the older generation. I didn't feel anti-Semitism so much. I was living a full life in the Soviet Union, coaching a team and traveling. I was satisfied with my life, and when my parents decided to go to Israel, I had no

great objections, but I had no great complaints about my life up to that point."

The father, showing signs of anger: "The children are very short-sighted. They didn't know anything of the past. They are used to a comfortable life. They have been protected. They are good Jewish children, but they can't imagine that things might change; they are not concerned that the Holocaust, the extermination of six million Jews, might happen again."

Son-in-law: "He is ideological and I am not. I feel a bit lost in Israel without friends, and many young immigrants feel as I do."

Father: "For the young, the religion doesn't exist any more. We are not religious but I know the religion well, but for the children, it doesn't exist at all. And for them, the notion of nationality doesn't exist. If it were not for their parents, they wouldn't identify as Jews. They feel they are human beings, period. If not for their parents, they would have intermarried.

"I'd love to see the sweet idea of the end of nations and nationalities, but my experience teaches me otherwise. If it weren't for the death of six million Jews, I might be able to forget. I see it as a duty to make the young see it this way . . . because they don't think much about the past, and not much about the future, either."

Daughter: "Father is right. We feel as human beings more than as Jews . . . humans first and Jews maybe not even second . . ."

Father: "When I was in Russia I felt guilty about not being an observant Jew, and when I came to Israel I hoped the religious feeling that had been sleeping in my breast would awaken. But when I came here, it did not happen. Forbidden fruit is sweet and here it is not forbidden.

"I went to the Wailing Wall and I expected to be moved and to be excited, but I wasn't awed, I was just curious."

Son-in-law: "I don't like the hypocritical religiosity in Israel at all . . . no buses on the Sabbath and all of that. I just can't stand the sight of the religious children, the children of the Hasidim. They look sick and undernourished; they look pale, like they were kept in the dark . . . I don't like the Sabbath restrictions; it's my only free day and I can't go anywhere or do anything . . . Young immigrants like myself don't like the religiosity, and neither do the young sabras, either."

Mother: "I am a Jew, although not a very religious one, perhaps not religious at all. But I do not mind the Sabbath. I am not bothered by Jews who are more observant than I. And I am a Jew, because the more you torture a Jew, the more that Jew becomes a Jew. My experience makes me a Jew."

Father: "You cannot get rid of something you got in your childhood."

Mother: "We don't hit our heads together against the wall to prove that we are Jews. We observe the major holidays, but we are not very religious in our practices."

Father: "It is not all necessary for a Jew to be religious to call himself a Jew. It is enough for him to know that his father and his father's father were Jews, and whatever happens, there is this Jewish feeling in his soul."

The family's discussion continued into the evening, and they repeated what they had already said. Before the light faded completely the father told a story.

He started by pointing to a small box atop television set. The lettering on the box solicits coins for a religious school in Israel, and the father puts money into it from time to time. He is not very religious but he contributes, and his story tells why.

One day while shopping in a store in Israel, he noticed two small boxes, just like the one now atop the TV. One box was for a religious school, and one was for the sick and poor. The poor box was full, and the religious box was empty of coins. He asked the storekeeper why, and the owner said that religious people didn't deserve any support because their daughters usually do not serve in the army, because they insist that everyone must keep the Sabbath, because they only want to sit and read the Torah and the Talmud, and because of them, there is unrest in the country.

The father went home and thought about what the shopkeeper had told him. Then one day a man came to the apartment and asked him to take a little box and put coins in it for the religious school. He took it.

"I took the box because I know that some fight, and others build; that some sit and learn, while others do other things. I am not like the religious Jews in Israel, but I cannot condemn them, and I am willing to take their little box."

BUNKER HILL DAY

Mr. KENNEDY. Mr. President, yesterday the citizens of Massachusetts celebrated Bunker Hill Day commemorating the Revolutionary War Battle of Bunker Hill of June 17, 1775. Though the Americans lost the battle, it was in this action with British soldiers that the Colonists joined together to protect their liberties and gained the confidence to continue the struggle.

I have introduced legislation to establish the Boston National Historical Park which would include the Bunker Hill Monument. This legislation, which will be the subject of public hearings in Boston on July 17, would preserve these precious sites for generations to come and assure that visitors during the Bicentennial celebration will not be disappointed in the maintenance of these historic structures. The citizens of Boston, the city of Boston, and the Commonwealth of Massachusetts have over the years protected Bunker Hill and other historic sites against time and the toll of constant visitation. I am hopeful that the Federal Government can become a partner in this effort through the Boston National Historic Park.

I ask unanimous consent that the following historical notes on Bunker Hill be printed in the RECORD.

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

BUNKER HILL MONUMENT

Bunker Hill Monument stands on Breed's Hill, Charlestown, where the Battle of Bunker Hill was fought June 17, 1775. In the main path leading to the Monument stands a bronze statue of Colonel William Prescott representing the American commander restraining his impatient men with his famous command "Don't fire until you see the whites of their eyes," as the enemy advanced up the hill.

Bunker Hill Monument is the second memorial erected on this ground: the first a Tuscan pillar of wood eighteen feet high erected in honor of "Major-General Joseph Warren and his associates" by King Solomon's Lodge of Free and Accepted Masons in 1794. A model of this memorial is preserved in the entrance floor of the present Monument.

The Monument occupies the southeast corner of the American redoubt which was about eight rods square. It is built of granite quarried in Quincy. The first railroad in America was built in Quincy to carry this granite from the (Bunker Hill) quarry to the wharf on the Neponset River from which it was transported to Charlestown by boat. The Monument is two hundred and twenty-one feet high (ninety courses of stones) thirty feet square at the base and fifteen feet square at the top. Two hundred and ninety-four winding stairs (no elevator) lead to the observatory room seventeen feet high and eleven feet square. In this observatory two light brass field pieces are displayed which were taken from a British gun-house by young patriots, used during the Revolution and named Hancock and Adams by Major-General Henry Knox (then Secretary of War).

The Museum at the base contains interesting memorials and relics. The fine marble statue of General Joseph Warren, who was killed in the battle (statue by Henry Dexter), the gun with which Peter Salem, a Negro, mortally wounded Major Pitcairn (British), who is buried under Christ Church, "The Old North Church of Paul Revere Fame," in Boston and old prints of General Lafayette are particularly interesting.

The corner stone was laid by General Lafayette, June 17, 1825, Daniel Webster delivering the oration. "A national salute fired at half past six o'clock on the evening of July 23, 1842, by the Charlestown Artillery announced the completion of the Monument." Dedication exercises were held June 17, 1843; Daniel Webster was again the orator. In the great crowd that day were President Tyler, members of his Cabinet and a few survivors of the Battle. The Monument was designed by the sculptor Horatio Greenough; Solomon Willard was the construction architect.

The cost of the shaft alone was about $150,000; the total expenditure was about $200,000. All but $7,000 of this total was raised by public subscription. Bunker Hill Monument is truly a monument erected by the people to honor "Major-General Joseph Warren and his associates."

A large number of the British troops left their crowded camp on Boston Common the morning of June 17th, 1775 to embark for Moulton's Point in Charlestown. They landed on the "Point" (where now the United States Navy Yard is established) between twelve and one o'clock that afternoon, and, about three o'clock, advanced through the fields in two wings to the "Battle of Bunker's Hill" attacking the redoubt and rail fence. This first attack failed; a second attack and repulse followed; then General Howe (British) massed his troops who had been twice reinforced, for a third assault, concentrating the attack upon the redoubt.

The ammunition of the Americans was nearly exhausted, and after desperate defence Colonel Prescott ordered a retreat. It was at this time General Joseph Warren fell, mortally wounded, and the loss of the Americans was greater than at any other period of the battle. By five o'clock the British had taken possession of the heights.

The Americans lost the Battle of Bunker Hill, but on that day the United Colonies won their war for independence. That battle proved Colonial troops could withstand British troops in battle. Said Washington, "I am content. The liberties of the country are safe."

BUNKER HILL BATTLEFIELD AND MONUMENT

The extent of the battlefield of Bunker Hill that can be readily figured out by visitors today is restricted to the area enclosing *Bunker Hill Monument* known as Monument Square. The latter is actually at a rectangle 400 by 417 feet adding up to a plot just under 4 acres. Thus formally treated, the square is hardly recognizable as part of the original battlefield. The monument itself rests on a square base of 30 feet at the center of the square and rises to a height of 220 feet.

The erection of the impressive obelisk of granite between 1825 and 1842 was the most grandiose enterprise of its kind undertaken anywhere in its day and its construction set new standards for size in honoring heroes from the country's past—standards that were to remain unsurpassed until four decades later the Washington National Monument in the Nation's Capital was to be completed to an elevation of 555 feet.

Bunker Hill Monument was placed on hal-

lowed ground, occupying the center of the site of the redoubt, 8 rods square, which a detachment of 1,000 or more yeomen from the provincial army in Cambridge had made rapid progress in throwing up during the early hours before daybreak on June 17, 1775. The troops were in command of Col. William Prescott, who under cover of darkness the evening before had left Cambridge with the detachment and wagons loaded with the necessary entrenching tools.

The Provincial Committee of Safety, of which Dr. Joseph Warren was chairman and Gen. Artemas Ward, the senior officer in the Army at Cambridge, a member, had learned that General Gage, gravely concerned at the besieged condition of the British in Boston, had formed plans to occupy Dorchester Heights on the night of Sunday, June 18. As a result of a vote taken by the Committee of Safety urging the seizure of both Bunker Hill and Dorchester Heights before the British took similar action, the Council of War in the camp at Cambridge had decided to move at once and on Friday, June 16, General Ward had issued orders to Colonel Prescott and the commandants of two other regiments to have their men ready to depart for immediate service.

The three regiments of Massachusetts yeomen were prepared to leave on their mission at the end of the day, accompanied by a new company of artillery under Col. Richard Gridley, an experienced military engineer, and some 200 men from Gen. Israel Putnam's Connecticut regiment, who swung into line along the route of march. By 11 o'clock in the evening, the party had crossed Charlestown Neck and was proceeding to Bunker Hill to begin the night's work of fortifying a strong position.

Colonel Prescott's orders from General Ward had designated "Bunker's Hill" as the position to be occupied. The latter was the larger of the two highest hills that dominated the Charlestown Peninsula and that together were then loosely referred to as Charlestown Heights or "Bunker's Hill." The ridge of "Bunker's Hill" proper was an elevation of 112 feet a quarter of a mile east of Charlestown. Being nearer the neck and the road into Cambridge, it was in a position to be more easily supplied and reinforced. But it was of less value as a potential source of annoyance to the British in Boston than Breed's Hill, a large spur of "Bunker's Hill" less than a third of a mile to the south and east. Breed's Hill was only 62 feet high, but it looked directly out upon Copp's Hill in the North End of Boston, less than a mile of space, including the Charles River, lying between the two elevations.

As midnight was fast approaching, it was necessary to make a decision and it was decided to excavate fortifications on Breed's Hill rather than "Bunker's Hill," the name Bunker Hill, however, persisting in connection with the great battle in spite of the change in location of the defenses that were to be assaulted by the redcoats the next day. A British plan of the action prepared soon after by Lieutenant Page reversed the two names, designating Breed's Hill as "Bunker's Hill." The correct name of Breed's Hill, furthermore, was probably well known only locally among families who were familiar with the pasture owned by one Breed on the green slopes of the picturesque elevation.

The redoubt Colonel Prescott's men threw up on Breed's Hill under the direction of the chief engineer, Colonel Gridley, was built with its strongest side approximately facing the present Winthrop Square and the village of Charlestown in front of *Town Hill* at the southeasterly corner of the peninsula. It was constructed with both projecting and entering angles. On its easterly side, the redoubt, after a short distance, became contiguous with a breastwork "nearly 400 feet in length," which ran down the hill toward the Mystic River, extending beyond the north side of the existing Monument Square by a considerable number of feet into a swamp. It was against the long line of this redoubt and breastwork that General Pigot, in command of the British left wing, directed the assaults made by the 5th, 38th, 43rd, 47th and 52nd Regiments, and marines under Major Pitcairn, the ranks of the 47th Regiment advancing up the slope and over the ground of the old "trayning-field" in Winthrop Square.

The redoubt that was taken by the British in their third assault had disappeared by the time the cornerstone of *Bunker Hill Monument* was laid in 1825, an article in *Silliman's Journal* in 1822 stating, "At Breed's Hill, that blood-stained field, the redoubt thrown up by the Americans is nearly effaced; scarcely the slightest trace of it remains; but the intrenchment, which extended from the redoubt to the marsh, is still marked by a slight elevation of the ground." The remains of a redoubt raised by the British after the battle, in a location just west of the future monument, however, were still "easily distinguished" and were not entirely eliminated until the grounds of the monument were clearly cut into a square, or more precisely a rectangle, about 1839, so that house lots could be laid out on the opposite sides.

COMMEMORATION OF 300TH ANNIVERSARY OF EXPLORATION OF MISSISSIPPI RIVER BY FATHER MARQUETTE AND LOUIS JOLIET

Mr. NELSON. Mr. President, yesterday, June 17, 1973 was the 300th anniversary of the opening up of the upper Mississippi River by Jacques Marquette and Louis Joliet, two French explorers.

Their bold trip in 1673 took the two Frenchmen from Michigan's upper peninsula, down the Wisconsin River to Prairie due Chien, and south on the Mississippi River to Helena, Ark. In the course of their 4-month adventure, Father Marquette took extensive notes of the journey, providing the first accurate map of the Mississippi and Wisconsin Rivers. As a result of the efforts of Marquette and Joliet, a whole new section of the American continent was opened up to exploration.

This year, the event is being celebrated throughout the Midwest. The National Father Marquette Tercentenary Commission, established jointly by the States along the Marquette-Joliet route, has coordinated many tricentennial celebrations in which citizens throughout the area are commemorating the courageous trip which unlocked the gates to America's vast system of inland waterways.

Here in Washington, a celebration was held in Statuary Hall, at which representatives of all of the surrounding States gathered before the statue of Father Marquette.

Perhaps the most exciting celebration is taking place now through the end of August. Reid Lewis, a young French teacher in Larkin, Ill., is leading a party of four along the same route and schedule followed by Marquette and Joliet 300 years ago. Beginning at St. Ignace, Michigan on May 17, the crew is travelling down the Wisconsin and Mississippi Rivers, experiencing the same exhileration and excitement that undoubtedly was felt by Father Marquette.

To mark the journey of Reid Lewis and his crew, I ask unanimous consent that an article from the New York Times of June 18, 1973, 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, June 18, 1973]

SIX INTREPID VOYAGEURS PADDLING INTO HISTORY

(By Seth S. King)

PRAIRIE DU CHIEN, WIS., June 17.—Fog blurred the tree-covered islands all around them and the towering bluffs to the west could barely be seen. But Jacques Marquette and Louis Joliet had no doubts that the dark, rolling waters beneath their two slender birch bark canoes was the Great River.

Three hundred years ago today the two French explorers, accompanied by five rough, woods-wise French-Canadian voyageurs, became the first white men known to have paddled in the nation's mightiest river.

Their discovery of the upper Mississippi on June 17, 1673, unlocked the gates to America's vast system of inland waterways that today carry billions of tons of grain, oil, fertilizer, and molasses from Montreal, Pittsburgh and Minneapolis to New Orleans and as far west as Sioux City, Iowa, and Tulsa, Okla.

The vast mouth of the river was seen by the Spanish adventurer, Cabeza de Vaca, in 1528 and Hernando de Soto crossed its mouth in crude boats 13 years later in a futile search for gold in Arkansas and Oklahoma.

But there were no maps or records of the river northward nor of the great fresh water veins of the Mississippi—the Missouri, the Ohio and the Illinois.

WESTWARD FROM MACKINAC

This was changed dramatically in 1673 by Joliet, a Quebec-born Frenchman, who, at age 27, was already a toughened explorer and Marquette, a young Jesuit missionary who spoke seven Indian dialects.

On May 17, at St. Ignace Mission, they put their 30-foot canoes into the Straits of Mackinac, and turned westward.

Hugging the northwest shores of Lake Michigan until they reached Green Bay, Wis., they turned up the Fox River. With the help of two Miami Indians, they found the Indian pathway from the narrow source of the little Fox River across the forests that divide it from the Wisconsin River at Portage.

Down this broad, swift-flowing stream they sped, the first white men who had ever dipped a paddle into the Wisconsin.

In the surprisingly short span of a month, they were groping through the fog just south of this Wisconsin village and had reached the upper Mississippi.

Father Marquette, a meticulous note-taker, recorded their journey down the Mississippi to the mouth of the Arkansas River south of Helena. He told of their dismay at learning from the Indians there that the Spanish already controlled the mouth of the great river. He recounted their decision to return northward into the Illinois River and back into Lake Michigan by way of what is now Chicago.

This year, on May 17, six young historians and environmental scientists, accompanied by a Jesuit priest from Chicago, put two fiberglass canoes, carefully built to duplicate those of the Marquette and Jolliet party, into the water at St. Ignace.

MARQUETTE ROUTE FOLLOWED

The Tricentennial party, led by Reid Lewis, a handsome young French teacher at Larkin, Ill., High School, has followed the 300-mile route and schedule Marquette recorded.

Last night they were encamped at Wauzeka, Wis., a village just east of here. Today they slipped through the scores of islands at the mouth of the Wisconsin and entered the Mississippi. By July 17, they expect to reach the mouth of the Arkansas, after stopping at 42 riverside communities to present minipageants of the voyage. At many of these towns, their arrival will start tricentennial celebrations.

The fog hung again over the Wisconsin and the Mississippi early this morning. But it was the only thing Marquette and Jolliet would have recognized today. The huge catfish and spoonbills that smashed against their canoe are gone. So are the great herds of buffalo they saw on the western bank. The enormous flocks of ducks and the curious deer they saw are now hard to find.

This sleepy village, then only a sandbar, still slumbers under the narrow bridge that leads to the Iowa shore, preserving its historic houses, and a copy of Fort Crawford, testimonials to the early 1800's and to the great days of the fur trade and the steamboat.

LITTLE HUMAN CONTACT

This morning, in the racing channel of the Mississippi under the bluffs at McGregor, Iowa, four enormous barges were being hustled downriver by a throbbing towboat. Laboring alongside the towboat, on tracks squeezed against the bluff, a long train of grain cars was easing into the elevator at McGregor.

The Joliet-Marquette party had remarkably few frightening adventures in the comparatively brief month-long journey downstream to the Arkansas.

For their first eight days they saw no humans until they stumbled onto a wandering group of Illinois Indians, probably near the mouth of the Des Moines River at Keokuk, Iowa.

Today, to reach this spot, the Reid Lewis party will have to work its way past the Quad Cities of Davenport and Bettendorf in Iowa and Rock Island and Moline in Illinois, a throbbing industrial area in which part of the nation's meat is packed, a good part of its farm machinery manufactured, and, in more belligerent times, some of its arms and ammunition made at the Rock Island Arsenal.

About the end of June, the Jolliet and Marquette canoes were almost destroyed when they suddenly swept into the mouth of another enormous river. They had reached the Missouri near St. Louis. And the Missouri, as it did this year and in many unhappy years earlier, was flooding, sweeping huge clusters of trees and logs into the Mississippi and driving the Joliet canoes into a perilous passage along the east bank.

It was 131 more years before Lewis and Clark set out in 1804 from the bustling river town of St. Louis to find a westward passage to the Pacific, a hope the French had held for the Mississippi until Joliet and Marquette showed that the Mississippi flowed only southward into the Gulf of Mexico.

INDIANS IN ARKANSAS

On past the mouth of the Ohio River at what is now the racially troubled town of Cairo, Ill.; on past what is now Memphis, the great cotton city that gave the world the blues, the countryside was changing to the subtropical, with great oaks and cane brakes and swarms of mosquitoes.

Near Helena, Ark., the party was suddenly set upon by a band of Quapaw Indians who tried to sink their canoes and capture them.

Marquette persuaded them that the party had come in peace and the Indians finally let them go.

Marquette and Jolliet would have had no way of identifying the bluff on which Helena, now called "Port City of Arkansas," sits. Nor to know that millions of tons of oil, gas, and chemicals are shipped from this thriving city today nor that some of those cargoes now come down the once shallow, sandy Arkansas River, all the way from Tulsa through the string of man-made lakes that keep the river navigable.

Reid Lewis and his modern-day party will be headed back northward by July 18, as were Jolliet and Marquette.

Their personal satisfaction from their exertions may be about equal to those of Marquette and Joliet. The Jesuit at least had several towns and a university named for him. Joliet, who lost all his records and maps, had little left except debts. There is a small city named after him, but Joliet, Ill., misspelled his name and pronounces the "t," which Louis JOE-LEE-AY wouldn't recognize.

Mr. NELSON. Mr. President, there would be no more fitting action to celebrate the Marquette-Joliet explorations than to proceed in a timely manner to consider legislation to add the lower Wisconsin River to the list of rivers being studied for inclusion in the National Wild and Scenic Rivers system.

This bill, S. 1391, was introduced last March. It will, if enacted, provide for the protection of the Wisconsin River from Prairie du Sac in central Wisconsin to Prairie du Chien, on the Wisconsin-Minnesota border. The legislation will assure that the lower Wisconsin River, which has both environmental and historical significance to this Nation, will be preserved for the recreation and enjoyment of many generations to come.

I have today written Senator HENRY JACKSON, the chairman of the Senate Interior Committee, requesting that action be considered for S. 1391 as soon as is convenient.

RESPONSES TO PRESIDENTIAL SPEECHES

Mr. MOSS. Mr. President, one of the most important principles in a democratic society is freedom of expression. Fortunately, the President has used his right to express himself regarding major policy issues on several occasions. This has involved free television and radio time on all major networks. However, as a result of the President's usage of the media, certain problems have become evident. Often adequate responses to the President's viewpoints have not gotten into the "marketplace of ideas" due to the inability of responsible individuals to get access to the media. Thus, a barrier has existed in the United States to the right of a free exchange of viewpoints.

For some time the major networks have used the so-called "instant analyses" to analyze the President's remarks. This has not always been satisfactory, but it has at least provided some review of the President's position on important issues. In order to provide better analysis, the Columbia Broadcasting System recently announced a change of policy regarding Presidential broadcasts. CBS will now provide free air time for a reputable spokesman to present opposing views to the President. Such action will not degrade the President's stature or image. But, it will allow the American people to help determine the direction that U.S. policy should take. This is the right of every individual in a democracy.

In an editorial in the Washington Post on June 18, 1973, the Post argued that—

As an attempt to open direct access to the public for serious dialogue on national issues, the CBS plan is an important improvement in television's approach to coverage of the President.

I agree. Because of the timeliness of the editorial, entitled "Air Time for Responding to President's Speeches," I ask unanimous consent that it be printed in the RECORD.

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

[From the Washington Post, June 18, 1973]

AIR TIME FOR RESPONDING TO PRESIDENT'S SPEECHES

Unlike President Johnson, who often monitored three television channels at a time, President Nixon doesn't watch TV much at all, according to White House staffers. But we all know that Mr. Nixon, like his predecessor, *uses* television a lot—for it is one of the most powerful tools at a President's fingertips. With little or no indication of what he wants to talk about, the President can commandeer free television and radio time on all major networks at once, at whatever hour he chooses.

The utility of this practice, from the President's point of view, is the extraordinary access to the people to deliver the administration position on issues—carefully scripted and unchallenged, packaged as a "special program, live from the White House." The problem with this practice, from the networks' point of view, is that it has a built-in imbalance: their willingness to "cover news" can be exploited to deliver one particular side of a public issue with no comparable format for differing viewpoints.

But now the Columbia Broadcasting System has announced a new policy on presidential broadcasts, providing free air time for the presentation of contrasting views. From now on, the network said, after every presidential television or radio speech "on matters of major policy concerning which there is significant national disagreement," free time will be made available to holders of opposing views.

CBS will decide which presidntial broadcasts merit replies, and will determine the length and format of the responses, as well as the person or persons to make them. The replies will be scheduled "as soon as practicable," and generally no later than one week after the President speaks. (Officials noted that the policy would be suspended during presidential election years, when the Federal Communications Commission's "equal time" regulations apply).

Obviously, this move will not offset entirely the advantage of a President in drawing national attention to the administration's point of view; by virtus alone of his office, the President is likely to win better ratings than some appointed opponents who disagree with him—especially when he can preempt all three networks simultaneously. But as an attempt to open direct access to the public for serious dialogue on national issue, the CBS plan is an important improvement in television's approach to coverage of the President.

In announcing the policy change, however, CBS also said it will no longer broadcast news "analyses" immediately after presidential appearances—the so-called "instant analyses" by network correspondents and others that are frequently used to round out TV time segments when a speech is over. Instead, said CBS, "such analyses will be scheduled by CBS News during the normal CBS News schedule."

At their worst, of course, the post-speech roundups by correspondents are of dubious worth; they can easily degenerate into a collection of flippant and useless adlibs based on a few quick notes. When this is the case, the audience can well wait until the next scheduled newscast for more coherent comment.

But on many occasions the analysis is neither "instant" nor argumentative, let alone flippant or worthless. Experienced correspondents, having studied a presidential text well before the speech is delivered—and often having attended lengthy White House briefings on the subject matter—can

be in a position to provide viewers and listeners with useful insight. In such cases, must they ignore the audience that has listened to the President, in hopes that it will be back for the next network news show? At a minimum, might there not be some rundown of highlights right after the speech?

We raise these points not because we believe that immediate comment or quickie panel discussions are essential for public understanding of a presidential address (or of the response that CBS may or may not broadcast at some later date), but because thoughtful summations of the content of a speech, as well as additional pertinent information, can be immensely helpful to those who care to stay tuned.

TECHNOLOGY, TRADE, AND TEACHING

Mr. MOSS. Mr. President, the United States has long prided itself on being a nation of practical and pragmatic bent. Our pantheon of heroes includes such great, inventive geniuses as Benjamin Franklin, Thomas Edison, and Orville and Wilbur Wright.

Throughout much of the 20th century we have been the undisputed world leader in the area of technological progress. In recent years, however, we have become content to rest on our laurels, and, as a result, our technological superiority is no longer unquestioned.

In a graduation speech earlier this month at the University of Utah, Prof. M. L. Williams examined some of the ramifications of the recent loss of American technological preeminence. Professor Williams is one of the world's foremost experts in the field of fracture mechanics, and for the past 8 years he has been dean of the College of Engineering at the University of Utah.

Professor Williams makes some very perceptive observations and recommendations in his address, and every Member of Congress would do well to read it. I ask unanimous consent that it be printed in the RECORD.

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

TECHNOLOGY, TRADE, AND TEACHING

(By Prof. M. L. Williams)

The subject of my address today is the national posture in technology, particularly with respect to international commerce and the United States trade balance, and implications for engineering education. To the extent you may not have previously thought upon this important subject, I commend it to your professional attention in the firm belief that awareness is the prelude to action. My point of departure is the fact that with about 6 percent of the world's population, America consumes approximately one quarter of the world's resources. To satisfy this ravenous appetite, we import great quantities of goods which must be paid for with similarly large exports. To the extent these exports exceed imports, we enjoy a favorable trade balance. Indeed, this has been the situation for several decades.

In recent times, speaking in terms of logarithmic time and rate theory, it is quite apparent that the pace of life is increasing while the real time scale is continually collapsing. This same phenomenon holds in world trade, particularly with respect to the time lag between the birth of an idea, such as the telephone, its technological exploitation by the innovator, and its being appropriated by our competitors—and in some cases even sold back to us when they can do so at an advantage. Thus, this historical time-lag, which in earlier days protected our head start and our profits in exploiting the fruits of our innovations, no longer exists to the same extent. This international diffusion time is becoming shorter and shorter—thus requiring us to innovate faster and faster and increase labor productivity at an accelerating pace if we are to remain internationally competitive.

During the 1960's the United States enjoyed a favorable balance of trade of up to $8 billion mainly as a consequence of our international leadership and large exports of sophisticated manufactured goods, called technology-intensive products. Typical examples include jet aircraft and complex computers. Beginning in the late sixties, our advantage began to erode until in 1971 for the first time in 80 years our trade balance turned negative reaching a current debit of the order of $8 billion. In the case of trade with Japan, for example, our imports have exceeded exports every year since 1965. The old phrase "sound as the dollar" is no longer true, and most Americans are aware of the current international financial crisis which was precipitated by America's abandoning the long-time fixed price for gold at $35 per ounce due primarily to our deficit in international trade.

So much for some of the patient's more obvious symptoms—what happened?

THE NATIONAL POSTURE

Consider for a moment the national situation at the close of the Korean conflict. Generally speaking, the United States was at a relative maximum in terms of national well being. We had survived a period during which we had been able to enjoy both "guns and butter." Our technological superiority was essentially unchallenged, notwithstanding strong competition in various areas. One searches for a simplistic explanation of the change, such as did the British during the nineteenth century when their industrial leadership passed to their former colonies. The quality of their engineering and products was high, even down through the Comet aircraft and the Rolls-Royce engine. Aside from statistical explanations such as bad luck with good ideas, the basic difference seems to be that American industry was prepared to sacrifice a certain amount of handmade precision quality for interchangeability and mass production at reduced cost for increased markets. Thus, the absolute criterion of superior quality was tempered by what is now termed cost-effectiveness. The engineer became cost conscious, a factor which is not, perhaps, sufficiently emphasized in our modern curricula. Was there ther such a simplistic explanation of our changed position in world technology?

If there is, it can probably be expressed in terms of the three basic problems recognized by Mr. Nixon in his 1972 speeches relating to the relations between technology and prosperity in terms of employment, labor productivity, and the international trade balance. While these latent problems areas have always been important factors in our national health, they, and their technological underpinning, suddenly moved into first order importance when triggered by the relatively sudden reversal in public opinion toward technology in 1967–1968. A variety of factors have been advanced to explain this reaction, including a reduced interest in space exploration, disenchantment with the Vietnam War, less concern for national defense, and the emergence of a social conscience for domestic problems. This precipitous decline in public support for technology was in the mathematical sense nearly a step-function change, and nearly as instantaneous as the over-night dismantling of our defense capability after World War II. As any engineer knows, such an unplanned step function change induces violent consequences. Is there any wonder that the much publicized episode of "engineers driving taxicabs" and the concomitant 25 percent decrease in engineering student enrollments occurred?

Mr. K. G. Harr, president of the Aerospace Industries Association, in a Washington speech in April a year ago commented upon this American tendency for over-reaction by saying: "In our violent transition from a period of accelerated technological advance—a virtual technological revolution—to a period of intense and almost exclusive preoccupation with domestic social problems, we have come perilously close to throwing the baby out with the bath water." Note that it is not implied that the baby doesn't need a bath, or, by analogy, that technology doesn't need to have its image improved. It is more a need for a plan to wash the baby with minimal screaming, or accomplish the technological redirection with minimal pain.

In any event, as a result of this backwash against technology, certain effects upon our national health have become rather evident during the past five years, sufficiently so that Mr. Nixon saw fit to deliver on March 16, 1972, the first ever message to Congress on technology. In it he pointed out that, ". . . the impact of new technology can do much to enrich the quality of our lives. The forces which threaten that quality will be growing at a dramatic pace in the years ahead. One of the great questions of our time is whether our capacity to deal with these forces will grow at a similar rate. The answer to that question lies in our scientific and technological progress."

If then, one is prepared to admit that technological health is the mainstay of our overall national well being, it is prudent to recognize and enunciate the technological ingredients in the three problem areas.

EMPLOYMENT

There has been a serious dislocation problem in realigning scientific and engineering employment with new national goals, particularly as a consequence of the step function retreat from our aerospace exploration. Aside from the men and women already in the field and already feeling the direct effect, the adverse and sometimes ill-considered publicity has done its work in influencing engineering enrollments. So much so that widespread negative career guidance counseling in the high schools presages an engineering shortage in the 1978–1980 time scale. A Wall Street Journal feature article of November 13, 1972, points out: ". . . that this drop in enrollments indicates a continuing decline in graduates, to about 32,000 in 1975 (according to) the Engineers' Joint Council (EJC) estimates. The drop in enrollments—they totalled 58,566 last fall, down 25 percent from the 1967 high of 77,551—reflect students' souring on technology oriented careers. It also reflects all that publicity about raking leaves and painting houses." While the engineering schools can help improve the situation by concentrating upon increasing the number of entrants converted to graduates, the basic problem remains one of increasing the initial input. Increased effort by the academic staff is needed to negate the poor public image of engineering opportunities by using direct people-to-people contact in the community and in the high schools.

PRODUCTIVITY

From 1870 to 1950, the United States annual productivity rate exceeded Europe's by 60 percent and Japan's by 70 percent. In contrast, since 1965 the United States has trailed Europe by 35 percent and Japan by 60 percent. As a matter of fact, the current rate of productivity growth per year is only

1.7 percent in the United States compared to 4.5 percent in Europe and 10.6 percent in Japan. Increased productivity of labor is directly related to production costs and it is not at all impossible to price oneself completely out of the international market. By way of comparison, one finds that in the 1959–1965 period, the compensation per man-hour for all U.S. manufactured products increased by 25 percent, and the productivity during the same period had increased 25 percent also. By contrast, however, during 1965–1969 compensation increased another 25 percent but productivity rose only 8 percent. A continuation of this trend will head only to an inescapable conclusion.

I was interested in noting that Mr. David Ginsberg, representing Associated Food Stores Inc., in a Salt Lake City speech on May 20 of this year, made essentially the same point regarding the imbalance between wage increases and productivity improvements in the food products industry. He noted, for example, the resistance met by labor in introducing a technological improvement in the form of an improved chicken knife. When technical improvements emerge, they must be introduced in order to justify wage increases.

In the national interest, labor and industry must not only agree that technological improvement is a necessity in today's international marketplace, but also that normally wage increases should only accompany increased productivity.

Commenting on another factor in labor productivity which is of growing concern, and perhaps reflecting an apathy toward the principles that led to our prosperity, Mr. Richard Gerstenberg, Chairman of the Board of Directors of General Motors, spoke of absenteeism: "In this country today, many people seem to be placing special emphasis on more leisure time both on and off the job."

TRADE BALANCE

The impact of technology upon our trade balance has not been as well appreciated as it might have been. Recently, however, Mr. Michael Boretsky, an economist from the Department of Commerce, has focused attention upon the relation of technology to international trade by discussing the import-export process with respect to four categories: (1) agricultural products, (2) minerals, unprocessed fuels, and raw materials, (3) non-technology intensive manufactured goods, such as textiles and steel, and (4) technology intensive manufactured goods, such as electronics including computers and transportation equipment including jet aircraft. The last category, of major interest to this discussion, is defined primarily by how many engineers and scientists are employed by the manufacturer—in this category about 60 percent of the supply.

Agricultural products are essentially self-explanatory and currently yield the United States a small favorable trade balance of approximately $2 billion per year which has remained reasonably steady over the last decade or so.

In the minerals area, we are not self-sufficient in about 26 categories of those natural resources which are consumed in quantities exceeding $100 million per year. They include such important products as iron ore, copper, zinc, lead, nickel, chromium, oil, and natural gas—the last becoming widely recognized through the publicity given to our energy crisis. The contributions of the mining industry are probably not as widely appreciated as they should be. Mr. Ellery Sedgwick, Chairman of the Board of Directors of Medusa Portland Cement Company, wrote in the Mining Congress Journal, November, 1971, that: "Life has become so complex that few people realize where the money for their paycheck comes from. If it were not for the mining industry first, and the manufacturing industry second, there would be no money to pay anyone's salary. Take the example of the school teacher: he gets paid by the local school district which, in turn, collects the taxes from the residents of the community."

The lawyer pays taxes, the dentist pays taxes, and the steelworker pays taxes. But who pays the lawyers and the dentists? The source of the pay they receive comes directly or indirectly from the earnings of the people who make the things that everyone wants—from people who work in the mines and factories. There is no other source of money than the wealth provided from the earth." Nevertheless, despite the strenuous efforts of the mining and petroleum industries to produce at a level commensurate with America's insatiable natural resources appetite, we are currently operating at approximately a $5 billion annual deficit of exports over imports.

The category of non-technology intensive manufacturing products is also operating with a net trade deficit of about $10 billion. As a general rule, sales in this category are primarily a function of price. The inroads upon our steel exports made by Germany and especially Japan are reasonably well known. It is something of poetic justice that foreign price competitiveness results to a large extent upon the efficiency of their new plants which, with U.S. capital, replaced their older plants destroyed during the war. Meanwhile, among other things, the tax regulations in America seem to have largely prevented replacement of older amortized steel plant facilities in America.

The important category of technology intensive manufactured goods currently yields exports amounting to approximately $26 billion. Imports run on the order of $20 billion, and are rising. For example, prior to devaluation, foreign automobile producers were able to pay the costs of transoceanic shipping and still compete favorably in local markets. In terms of percent of American market, imported automobiles have been steadily rising and exceed American exports, even though our productivity in output per man hour is greater. This factor, however, is to a large extent conditioned to consumer demand which differs as to models desired in the United States and foreign countries.

The situation is clearer as to aircraft and computers. Presently, 80 percent of all civil aircraft throughout the world was produced in American factories; but parenthetically our decision to postpone entry into the supersonic transport (SST) market will probably cost us about $17 billion in foreign trade balance over the near term. As to the computer business, it is probably the most important single product in our export business. This point was also noted just recently by Dr. Edward Teller during his visit to the University of Utah campus during the "Frontiers of Science" series. Its importance is also reflected in the emphasis placed on computer science education, including our own university. From the very small beginning instigated by Professors Paul Tuan and William Viavant in 1964–1965, it has through the leadership of Professor David Evans, and recently, Professor A. C. Hearn, become the largest cost center in the College of Engineering as well as having attained an international reputation in research. The computer industry's rapid and sophisticated development is one of the brightest spots in our trade potential. Its growth rate has literally outstripped the publication time of research papers, and in terms of my initial comments on the decreased internal diffusion time, its progress seems to be measured in terms of the time required to transmit the spoken rather than the written word. The dictum pronounced by Dr. Leo Cherne is beautifully appropriate: "The computer is incredibly fast, accurate, and stupid. Man is unbelievably slow, inaccurate, and brilliant. The marriage of the two is a force beyond calculation."

When one summarizes the trade data assembled by Mr. Michatel Boretsky, one finds that as of 1970, the United States had a slightly favorable import-export balance in the agricultural category, a $3 billion trade deficit in minerals and unprocessed fuel, a $6 billion deficit in nontechnology intensive manufactured goods, and a $10 billion favorable balance in technology intensive products. Further inspection of the Boretsky data for trends indicates that during the early 1960's we enjoyed favorable trade balance of the order of $8 billion; but it has gradually eroded away until it became negative, for the first time in 80 years, in 1971 when the deficit was nearly $2 billion. In 1972 the deficit increased to about $6 billion. Furthermore, this deficit arose mainly because of increased imports in all areas except agricultural goods—and in such amounts that our favorable balance in technology-intensive exports could no longer compensate for the unfavorable balances in the other two areas.

For example, West Germany, in 1970, for the first time relegated the United States to second place in the international market place as prime exporter of all manufactured goods. Indeed, the European Common Market, including Britain, will export twice the manufactured goods as the United States. It is not surprising therefore to now find some "reverse back-lash" building up in this country to establish as U.S. policy the maintenance of a favorable trade balance, insofar as reasonably consistent with other national goals.

REGAINING THE BALANCE

Two approaches are open. The first is de-facto dollar devaluation which prior to last year was considered against national policy. Since then, two devaluations totaling approximately 20% have been instituted to make our export products more attractive. The other is to recognize that the major part of our previous favorable balance arose from our superiority in manufacturing and exporting technology-intensive products. One might therefore attempt to restore the balance by increased technological effort. But, what went wrong before?

It is not accidental that our decline in high technology growth rate occurred at the same time as decreased federal emphasis on research and development (R & D) expenditures. During 1958–1967, the U.S. investment in R & D doubled. Since then, however, national outlays have steadily decreased as a percentage of either the federal budget or grosss national product (GNP). From a 9 percent annual growth rate in 1966, the federal portion of R & D support dropped to a bare one percent per year. The industrial portion fortunately stayed relatively constant at 10 percent per year. The total United States investment, which is broadly distributed, is the lowest annual R & D growth rate of any major nation. For example, one has France 13 percent, Japan 25 percent, Germany 35 percent, and Russia 10 percent—all of which incidentally are more focused efforts than those in America. This national decline has been accompanied by a decreased number of science and engineering graduates which, in view of the long lead time required to reverse the trend, will tend to reduce the breadth of technological competition which the United States can enter effectively.

Now is the time to act upon the President's recommendations to the Congress. Indeed the federal government has already begun, although not particularly by injections of unstructured R & D funds out by exploring *methods* by which industrial research and development can be stimulated and magnified. The most well known of its programs is the National Science Foundation's R & D Technological Incentives Program. It is still

in the experimental stages and is weathering growing pains. Nevertheless, industry is responding, although perhaps more in awareness than in dollars; after all it did *not* reduce its annual growth rate which remained consistent with past experience and practice in the absence of special incentives, such as tax relief. Thus, one finds industry somewhat adopting a wait-and-see attitude, although, perhaps, while Rome is burning.

THE EDUCATIONAL IMPACT

The direct opportunity for the educational system to make a first order impact upon restoring the balance through improved high technology is small because of the built-in four year lag in the university graduation cycle. Nevertheless, contributions can come from three sources: (1) community and national service of the academic staff, (2) research, both basic and applied, and (3) students with improved orientation and training.

Service contributions as direct consultant could be through advisory committees to local, state, and federal agencies. This component will respond essentially with the same time constant as informed public opinion. Hence the accompanying importance of disseminating the facts regarding the place of technology in today's economy to an increasingly informed electorate.

The research progress component will tend to respond to the "technology transfer" time constant, i.e., a function of communication efficiency between industry and academia, whether by enlightened adoption of outside ideas by company engineers in spite of the NIH ("not invented here") syndrome, individual academic consultants, or professional meetings and symposia. Considerable effort has been devoted to the mechanisms of technology transfer and technology assessment. Indeed, the words have almost become intellectual toys, but the words, the meanings, are real. We must make it work. The present best way seems still to be people-to-people contact. As to research progress itself, to the extent qualified manpower is available, the output of academic research is proportional and reasonably sensitive to financial pump priming.

Student supply is perhaps the thorniest area to discuss, if for no other reason than more people and more facilities are involved—to say nothing of the differing philosophies of engineering education. During World War II there was a swing away from practitioner-oriented curricula to research oriented ones. Initially, engineering education was job and product oriented and it was an improvement to inject a higher degree of sophistication which in turn permitted development of high technology, e.g., atomic power, jet aircraft, systems engineering, thus supporting and promoting a profitable export business. We are now experiencing a reverse swing of the pendulum toward increased specific relevance in today's technical education, as exhibited by the spawning of increased trade and technology schools which are filling the void left as engineering schools moved more toward science and research with staffs having reduced experience in professional engineering. Engineering schools sensitive to changing requirements should especially note this trend because a recent EJC survey indicates four engineering graduates enter practice for every one entering research.

CONSIDERATIONS FOR CHANGE

The science-engineering-technology (SET) communities should jointly reconsider their responsibilities in the light of changed national priorities. Engineering and technology especially should work to cooperate rather than compete. It is rather unfortunate that engineering, as a profession, developed in specialties first, with integration accomplished at the higher levels of graduate school, compared to, say, the medical profession which provided for commonality first—and one effective lobby organization—and then subsequent specialization. The several individual specialties and associated professional societies are technically excellent for their engineering purposes, but the absence of a unifying single professional engineering spokesman is sorely felt.

The scope of the engineer has broadened, unless he chooses to abandon societal involvement to the politicians. If this premise is accepted, it follows that his education, and perhaps his curriculum, should be expanded to require substantial exposure to relevant topics in law, economics, communications media, and political science. Public affairs should not be an unknown domain for the engineer. After all, as Professor D. H. Pletta wrote: "Individuals associated with the professions have always considered their service to laymen as a most privileged obligation."

Finally, research must remain as an essential experience in an engineering education. Nevertheless it may be prudent to reconsider the distribution of basic and applied research, perhaps weighting the former more toward the universities and the latter toward industry. To maintain and increase our technology-intensive growth rate, one might be able to show a cost benefit for more industry-wide trade associations supporting common interest fundamental research in the universities. Such a return to closer cooperation with industry would tend to reduce the gap which widened with the injection of massive federal research support.

INNOVATIONS IN MEDICAL PEER REVIEW IN CALIFORNIA

Mr. CRANSTON. Mr. President, when peer review of medical care in the United States is discussed, the conversation inevitably will turn to CHAP, the certified hospital admission program, carried out by the Sacramento County Medical Society through its medical care foundation. This program was begun in April 1970, under the leadership of Dr. James Schubert and Dr. John Babich, two dynamic physicians practicing medicine in Sacramento, Calif.

These two physicians pioneered in the establishment of CHAP, a peer review system which has resulted in dramatic reductions in inefficient utilization of expensive hospital inpatient care. The effectiveness of this program was recently described by Dr. Earl Brian, administrator of California's health and welfare agency, in an article published in the New England Journal of Medicine on April 26, of this year. In that article Dr. Brian compared the effectiveness of the CHAP program to the effectiveness of a hospital utilization program implemented by the State of California for services provided under the title XIX MediCal program and found that under both programs hospital utilization was reduced, but that the total length of hospital stay was reduced to a greater extent under the CHAP program.

One interesting statistic which the comparison shows is that hospitalization utilization was higher in the CHAP area than in the comparable area using the MediCal utilization review. The article attributes this higher utilization to the availability of specialized services in the Sacramento area.

I think it interesting to note—and it may well be unrelated to the hospitals utilization rate—that one major difference in the two programs was that of prehospital admission review. Under CHAP there was no restraint on hospital admissions except in the case of patients of physicians who were on review for previous records of unnecessary utilization of hospital care. Under MediCal all hospital admissions, except in the case of emergencies, required approval.

I have serious reservations about the implications and desirability of requiring approval for all nonemergency hospital admissions of patients under the medicaid program. I believe it sanctions the clear possibility of a double standard of care—one for the affluent and one for the medically indigent—in that decisions on hospital admission for those unable to afford care could be based on budgetary considerations rather than optimal health care considerations.

Mr. President, the article describes in detail the differences in method and approach utilized under both programs in comparable communities.

I believe it will be useful to Members of the Senate to have this information available to them as examples of two methods of peer review which are currently being utilized. Mr. President, I ask unanimous consent that the article be printed in the RECORD.

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

FOUNDATION FOR MEDICAL CARE CONTROL OF HOSPITAL UTILIZATION: CHAP—A PSRO PROTOTYPE

(By Earl Brian, M.D.)

ABSTRACT

Operating concurrently with a California government program to control hospital utilization in a Medicaid program is the Certified Hospital Admission Program (CHAP), carried out by the Sacramento County Medical Society through its Medical Care Foundation.

During the CHAP eight-month study period, May through December, 1970, the observed hospital days of stay declined nearly 17 per cent. The observed number of admissions declined more than 11 per cent, and the average length of stay decreased from 4.7 to 4.4 days—6.4 per cent below the expected number. These reductions exceeded those found in comparable areas where a similar control program was operated by the California state government.

Thus, CHAP not only has proved to be as effective as the government-operated program, but has the added dimension of being operated by a medical society, free from direct government intervention. (N. Engl J Med 288:878-882, 1973).

Through the past decade, government-financed programs for the poor, the aged, and the disabled have generated a tremendous influx of money into the country's health-care system. The intent of these programs was, of course, to make health care more readily available to groups of people who had historically been excluded from the mainstream of American medicine. The expectation of the government in establishing this subsidy for health care appears to have been that a largely undefined natural system of informal controls would ensure the discretionary utilization of the nation's health-care resources. However, the government dollars rather tended to stimulate a rapid and sometimes capricious expansion of health-care services, facilities and equipment. Con-

sequently, the net effect of this "new" money in the health-care system was to aggravate the already inflationary trend in health-care costs.

Recognizing this trend, the California State Health and Welfare Agency, through its Department of Health Care Services, implemented in April, 1970, a program to control hospital admissions and lengths of stay for the Medi-Cal program. This program was designed to reduce unnecessary hospitalization.

In reporting previously on a study of the effectiveness of this government-operated program, I stated:

". . . because of insufficient action in the non-government health community to control hospitalization, a requirement was made in California under the Medicaid (Medi-Cal) program that all non-emergency admissions be approved for a specified number of days of stay before admission, by Medi-Cal Program physicians (known as Medi-Cal consultants). Extensions of approved lengths of stay also required approval. During the nine-month study period, April to December, 1970, an overall decrease in Medi-Cal hospital utilization of approximately 16 per cent was observed . . . (This reversed an upward) hospital utilization trend that had been developing under Medi-Cal since 1968. The (primary) effect of the control was . . . to deter unnecessary hospitalization." [1]

The hazards of introducing such a system of government controls are that the system has a tendency to expand and to become permanent, and that the government is not a welcomed partner in the health field.

To avoid such difficulties, California laid the groundwork to transfer control of the health system back to the local communities by establishing concurrently a system of Prepaid Health Plans [2] similar to Health Maintenance Organizations (HMO's), and hospital utilization programs modeled after the government program, but managed locally by physician organizations, not unlike the Professional Standards Review Organizations (PSRO's) established in the HR–1 legislation.[3]

This article examines the effectiveness of this locally managed program and suggests an alternative structure to the government that can function in the public interest.

THE MEDICAL CARE FOUNDATION PROJECT

The Certified Hospital Admission Program (CHAP) was implemented for Medi-Cal recipients, effective April 13, 1970, by the Sacramento County Medical Society through the Medical Care Foundation of Sacramento. The Foundation is ". . . a corporate organization of the Sacramento County Medical Society with an enrollment of 500 of the 700 private practitioners in Sacramento and El Dorado counties. Its chief function has been the establishment and approval of minimum standards for health insurance programs underwritten by commercial carriers." [4] Before the implementation of CHAP, the Foundation reviewed and processed Medi-Cal claims of physicians and clinical laboratories.

CHAP grew out of a co-operative effort between the California Western States Life Insurance Company and the Medical Care Foundation to develop a ". . . comprehensive private health insurance plan that could be presented at a reasonable premium, that allows for freedom of choice of physician and hospital, that is adaptable to various consumer groups and that would be supported by both insurance industry and the medical profession." [4]

The CHAP approach to utilization is based on experience in the Foundation's peer-review mechanism, which demonstrated that any program to control hospital utilization must be carried out before and during hospitalization and not after discharge. More often than not, utilization control procedures introduced after discharge have proved ineffectual and have caused substantial administrative difficulties.

The mechanism of the Certified Hospital Admissions Program are as follows:

Medical advisers

The Medical Care Foundation appoints experienced local physicans to serve as medical advisers. Each adviser is assigned a "panel" of practicing physicians from his own particular specialty. With assistance from the nurse co-ordinators, the medical adviser reviews and certifies both the admission and the hospital length of stay for patients to be admitted by physicians in his panel.

Nurse coordinators

The Foundation appointed a single senior medical adviser to supervise all the nurse co-ordinators directly. Basic day-to-day administration of the program is performed by registered-nurse co-ordinators employed by the Foundation. The nurse co-ordinators are assigned to one of two functions: either pre-admission screening or inpatient monitoring.

The nurse co-ordinator at the CHAP headquarters certification desk screens all nonemergency Medi-Cal admissions and refers questionable cases to the medical advisers for review and appropriate action. The nurse maintains a central record of all admission approvals and denials.

Physicians with past records of unnecessary hospitalizations were placed "on-review" by the CHAP administrators. This included about 5 per cent of the physicians. All admissions by physicians "on-review" are submitted to a medical adviser for certification or denial. Each physician, except those "on-review," certifies the necessity of each patient he is admitting to the hospital. Thus, except for the individual physicians placed under special review, CHAP functions as a *preadmission notification program*, and not as a *prior authorization* system.

Emergency admissions are reported either to the CHAP headquarters admitting desk or to the hospital nurse co-ordinator no later than the first working day after the date of admission.

The nurse co-ordinators assigned to the hospitals review the facts surrounding the admission, the course of treatment, the planned length of stay, and the patient's general condition through the hospital records and frequent contact with the patient and attending physician. The medical adviser is consulted on such questions as the medical necessity for extending a length of stay.

When an unresolved disagreement exists between the medical adviser and the attending physician, a specialty consultant appointed to arbitrate disagreements reviews the case. The specialty consultant thus serves as a first step in the appellate mechanism. Experience reveals that the mechanism is used infrequently.

During the study period there were no formal guidelines giving criteria for allowable admissions. The criterion used was a medical necessity for the patient to be hospitalized. The guideline for length-of-stay was the 50th percentile for the diagnosis and age group, as published by the Commission on Professional and Hospital Activities. Other authors [4–6] have discussed the mechanics of CHAP in greater detail.* None of these authors, however have presented evidence demonstrating how the results of CHAP compare with government-operated controls. The data presented below make this comparison.

The government controls, which were more completely described earlier,[1] are also based on the peer-review concept. The peer is a state-employed physician called a Medi-Cal consultant. The Medi-Cal consultant approves or denies the requested service by reviewing a Treatment Authorization Request (TAR) initiated by the attending physician. The request contains the "initial diagnostic impressions," the recommended treatment, the age and sex of the patient and identification of the patient and the attending physician.

From this information, and in some instances, after consultation with the attending physician, the Medi-Cal consultant either denies the hospitalization request or approves the hospitalization for a specified number of days. (No nurse co-ordinators are used in the government program.) Extensions of the approved lengths of stay also require approval. Emergency admissions do not require approval for admission, but do require approval of stays for more than eight days. The government controls primarily affected admissions whereas the CHAP procedures, having nurse co-ordinators in the hospitals, stressed reductions in the length of hospitalization.

DATA AND METHODS

The population studied was the Aid to Families with Dependent Children (AFDC) category in the Medi-Cal Program. This category constitutes about 73 per cent of the total Medi-Cal population and apart from its young average age, is more comparable to the total civilian population than the other welfare categories.

The analysis encompassed hospital-discharge data for patients in the Aid to Families with Dependent Children category. Admissions to extended-care beds and newborn infants were excluded from analysis. However, when the newborn infant remained in the hospital after the mother's discharge, it was considered to be receiving acute care and was included in the statistics.

The interval selected for the study was May, 1970, through December, 1970, the same period as was used in the previous study.

The evaluation method consists of comparing the projected 1970 rate of admissions, length of stay and days of care for recipients of Aid to Families with Dependent Children in community hospitals with the observed 1970 rate of admissions, lengths of stay and days of care. The May-December, 1969, monthly rates of admissions (admissions per 1000 recipients of such aid) were used to project the expected rates of admissions for May-December, 1970. The May-December, 1969, average lengths of stay multiplied by the monthly expected admissions were used to project the expected hospital days for May-December, 1970. The expected 1970 average length of stay was projected by division of the expected May-December, 1970, hospital days by the expected May-December, 1970, hospital admissions. The basic comparison was between the observed rates for the variables studied and the projected rates that would have been expected in a particular area if the controls had not been implemented.

From this evaluative base—i.e., the comparison of projected 1970 rates versus the observed rates—the fundamental study question was examined: How successful was CHAP in controlling unnecessary utilization as compared to government controls under similar conditions?

The government-operated utilization control program for the other Central Valley counties of California was selected as the control region for comparison with CHAP. California, as a whole, displays a diversity of geographic, demographic, social, economic and political conditions. The Central Valley comprises one distinct geographic region of the State, often referred to as the agricultural heartland of California.

Sacramento County as one county in this valley shares with the other counties sim-

Footnotes at end of article.

ilar demographic, economic, social and health conditions. Unlike most of the other valley counties, however, Sacramento contains a metropolitan center, Sacramento. To investigate the effect that the presence of a metropolitan center might have on the data, an additional comparison was made between Sacramento County and Fresno County, Fresno County ranks second in size to Sacramento within the Central Valley and contains a metropolitan center, Fresno.

Illustrations of the civilian population, selected population characteristics, and the annual community hospital experiences for Sacramento County, Fresno County and the valley counties are included in Tables 1 and 2.

TABLE 1.—POPULATION CHARACTERISTICS BY STUDY AREA APRIL, 1970 [1]

Characteristic	County area		
	Sacramento	Fresno	Valley [2]
Total population	631,498	413,053	2,020,877
Median age	26.9	26.2	27.7
Percent female	50.9	51.2	50.4
Percent 65 and over	7.1	9.0	9.4
Percent nonwhite	10.3	9.8	7.6
Percent income under poverty level	10.5	18.6	16.3
AFDC [3] study population (monthly average, May–December)	60,064	50.866	206,830

[1] Source: U.S. Bureau of the Census: Final Report PCI–B6, table 35; Final Report PCI–6, table 24. Government Printing Office, Washington, D.C., 1971.
[2] Valley counties comprise Amador, Butte, Calaveras, Colusa, Fresno, Glenn, Kern, Kings, Madera, Mariposa, Merced, San Joaquin, Stanislaus, Sutter, Tehama, Tulare, Tuolumne, Yolo, and Yuba.
[3] Aid to families with dependent children.

TABLE 2.—ANNUAL COMMUNITY HOSPITAL EXPERIENCE IN SACRAMENTO COUNTY, FRESNO COUNTY AND THE VALLEY COUNTIES [1]

Type of experience	Sacramento county	Fresno county	Valley counties [2]
1970:			
Total admissions	77,365	43,568	212,288
Admissions/1000 civilian population	124	105	106
Average length of stay [3]	6.60	5.64	5.94
Occupancy rates	75.4	66.9	66.3
Number of beds/10,000 civilian population	29.8	24.3	25.9
Number of nonFederal physicians providing patient care/100,000 civilian population	153.2	118.2	104.8
1969:			
Total admissions	74,009	42,558	207,261
Admissions/1000 civilian population	122	104	105
Average length of stay [3]	6.87	5.93	6.35
Occupancy rates	82.1	68.8	71.1
Number of beds/10,000 civilian population	27.9	24.5	25.6
Number of nonFederal physicians providing patient care/100,000 civilian population	142.8	114.9	105.7

[1] Source: Hospitals Guide Issue. Hospitals (JAHA), Vol. 44, No. 15, Aug. 1, 1970; Vol. 45, No. 15, Aug. 1, 1971; State of California, Health & Welfare Agency, Department of Public Health, Facility Files; California Medical Association records.
[2] See Table 1 for list of counties included.
[3] Average length of stay computed by multiplication of average daily census by 365 and division by number of admissions.

FINDINGS

During May-December, 1970, the hospital admissions in Sacramento County declined from a projected rate of 13.2 per 1000 eligible recipients of Aid to Families with Dependent Children to an observed rate of 11.7 per 1000, a percentage decrease of 11.4. By comparison, under the government program the relative decline in Fresno County over the same period was 13.0 per cent. In the contiguous valley counties under the government program a relative decline of 8.1 per cent was observed during the same period (Table 3).

The Certified Hospital Admissions Program was successful in reducing the average length of hospital stay for eligible recipients of Aid to Families with Dependent Children (Table 3). The average length of stay for CHAP-monitored hospitals declined 6.4 per cent from 4.7 to 4.4 days per stay, whereas the government programs in Fresno County and the Central Valley group each experienced a 2.4 per cent decline in the length of stay.

The cumulative effect of CHAP in limiting both unnecessary admissions and hospital length of stay was a 16.7 per cent reduction in total hospital days. Concurrently, the government controls in the valley counties and Fresno County produced reductions in the number of hospital days of 9.5 per cent and 13.5 per cent respectively (Table 3). The denial rate for hospitalization requests was approximately 3 per cent under both the CHAP and the government programs.

TABLE 3.—AVERAGE MONTHLY ADMISSIONS PER 1,000, AVERAGE LENGTH OF STAY AND AVERAGE MONTHLY DAYS OF CARE PER 1,000, MAY–DECEMBER 1970 [1]

County area	Average monthly admissions per 1,000		
	Expected [2]	Observed	Percent change from expected
Sacramento CHAP [3]	13.2	11.7	−11.4
Fresno County	9.2	8.0	−13.0
Valley counties [4]	11.1	10.2	−8.1
	Average length of stay		
Sacramento CHAP [3]	4.7	4.4	−6.4
Fresno County	4.2	4.1	−2.4
Valley counties [4]	4.2	4.1	−2.4
	Average monthly days of care per 1,000		
Sacramento CHAP [3]	61.6	51.3	−16.7
Fresno County	38.4	33.2	−13.5
Valley counties [4]	46.3	41.9	−9.5

[1] Source: State of California Health and Welfare Agency, Department of Health Care Services, Program Analysis Bureau; Hospital Utilization Records, MCF–CHAP. Job 4073.
[2] Expected rates per 1,000 based on experience in May–December 1969. The study involved 20,188 admissions in 1969 and 22,657 in 1970 for a total of 87,968 hospital days in 1969 and 94,509 in 1970. Expected length of stay derived from the ratio of expected days of hospitalization to expected admissions.
[3] Certified hospital admission program.
[4] Valley counties include Amador, Butte, Calaveras, Colusa, Fresno, Glenn, Kern, Kings, Madera, Mariposa, Merced, San Joaquin, Stanislaus, Sutter, Tehama, Tulare, Tuolumne, Yolo, and Yuba.

DISCUSSION

The study clearly demonstrates that a local-medical-society utilization control program can be at least as effective in controlling unnecessary hospital utilization as a government-operated program. And, in view of the low rate of denials of requests for hospitalization reported above, the effectiveness of the controls under both programs appeared to lie in the deterrent effect of the controls and in the procedures employed.

The procedures used by both CHAP and the government program to eliminate unnecessary hospitalization differed rather clearly. CHAP placed no constraints on admissions, except for the few physicians "on-review," whereas under the government programs, all nonemergency admissions required approval. Nevertheless, very important reductions were achieved under both programs. It appears that the mere establishment of any peer-review activity will eliminate some of the marginal admissions.

The procedures for controlling lengths of stay also differed between CHAP and the government program. The on-site presence of nurse co-ordinators, reviewing charts, seeing the patients and talking with the physicians, appeared to achieve more effective control on extended stays than was possible in the government program, where there was no on-site review.

The on-site presence of nurse co-ordinators and the involvement of the community medical staff were probably most responsible for CHAP's other advantages.

The CHAP program appeared to be more acceptable to the community physician and the hospital staff than the less personal government control program. CHAP afforded an excellent opportunity for physician education on an ongoing basis. By the nature of the program each physician's practice was reviewed regularly, and the physicians receive reminders periodically from their peers on the standards of acceptable medical practice.

Hospital acceptance of CHAP related to three factors. The first was that hospital administrators are acutely aware of the many instances of misuse of hospitals and would naturally prefer to see their facilities used appropriately. Secondly, the administrators were involved in the earliest planning stages of CHAP, and the mechanics of the program were worked out to avoid disruption of the internal procedures. Thirdly, the presence of CHAP staff in the hospital virtually guaranteed the review of each admission and extension in length of stay. Hence, after a careful study of the reliability of the control procedures, Medi-Cal administrators were able to guarantee the hospital payment for each Medi-Cal patient by granting to CHAP a waiver of the normal State regulation requiring prior authorization. By contrast, under the government program, State regulations mandated that the prior authorization request be attached to the hospital claim for payment. If an authorization had not been obtained, payment could not be made by Medi-Cal, with the result that the hospitals usually established their own internal control systems to ensure that authorizations had been obtained. Hospitals in the CHAP area were freed of this complication.

Interestingly enough, notwithstanding the success of the CHAP program in improving use patterns, hospital utilization was substantially higher in the CHAP area than in the comparison areas. Table 3 shows an average days of care per 1000 in the CHAP area of 51.3 as compared with 33.2 and 41.9 for Fresno County and the Valley counties.

The Valley counties surround Sacramento County as well as the metropolitan comparison county of Fresno. Altogether, they comprise the Great Central Valley of California and share the same general social, economic and demographic characteristics. Any factor that would affect the motivations, behavior patterns or need for medical assistance in one study area would be expected to affect all three study areas. An additional indication of the common health pattern of the Central Valley region was found in an analysis of the major causes of death, in which no substantial differences were found between Sacramento and the other counties.[8]

The differences in utilization patterns can therefore be more parsimoniously attributed to the availability of particular services in Sacramento than to any particular geographic, economic, social, demographic or health factor.

The higher hospital utilization rates in Sacramento County for the population eligible for Aid to Families with Dependent Children is consistent with the pattern of utilization for the entire population in the county (Table 2). The overall higher rate of utilization in Sacramento County might be accounted for, at least in part, by the substantially greater availability of physicians and hospital beds in Sacramento County as against the control regions. Shain and Roemer,[9] as well as others, have argued that the availability of beds will affect utilization. It is reasonable to conclude, therefore, that because of this greater availability of services in Sacramento County more specialized serv-

ices were being provided to a wider range of people than in Fresno and the valley counties.

Finally, the availability of particular specialized services in a particular area such as Sacramento should not logically in itself affect the ability of one type of program over another to control unnecessary hospital utilization. The results obtained by CHAP are then comparable to what would have been expected from the government-operated program if it had been operative in Sacramento.

The controls described for CHAP and for the statewide Medi-Cal program fall short of those required of PSRO's. PSRO's not only have the authority to require authorization for hospital admissions [10] and for extending lengths of hospital stays [11] but also require, when possible, that services be provided on an outpatient basis, or in an inpatient health-care facility of a different type that is more economical.[12]

At the date of this study neither CHAP nor Medi-Cal had well developed programs to stress outpatient alternatives, nor to ensure that nursing homes, intermediate-care facilities, day surgery, etc., were used whenever these levels of care were appropriate for a specific patient. Therefore, the 15 to 16 per cent patient-day savings by CHAP and the statewide Medi-Cal controls appear to be the minimum possible under PSRO programs once they are fully implemented.

Although governmental control procedures are not inherently bad, they do tend to become onerous and, once established, to pre-empt the development of alternative approaches. Those possessing a real interest in maintaining the present pluralistic system of medical care must accept the responsibility for both leadership and action, now. The alternative will be sweeping governmental programs that run the risk of seriously jeopardizing the future of such a pluralistic system.

The model presented by CHAP and, let us hope, the PSRO will offer society, to quote Kissick,[13] a ". . . social instrument short of government that [can] function in the public interest."

I am indebted to Drs. James Schubert, James C. Bramham, John M. Babich and H. John Rush, of the Medical Care Foundation of Sacramento, for their leadership in developing CHAP and for their effective management of the Medi-Cal project, and to John Keith, of the California Department of Health Care Services, for assistance in the preparation of the statistical reports contained herein.

FOOTNOTES

* The interested reader is also referred to the Illinois Hospital Admission and Surveillance Program.[7]

[1] Brian EW: Government control of hospital utilization: a California experience. N Engl J Med 286:1340–1344, 1972

[2] *Idem:* The Medi-Cal reform law. Calif Health 29(10):1–5, 1972

[3] Public Law 92–603 (HR–1), 1972, Title XI, Part B, Section 1152

[4] CHAP—Certified Hospital Admission Program. Sacramento, California, Medical Care Foundation, Sacramento County Medical Society, 1970

[5] Daiger S: Peer review: cost control or quality control. Calif Med 113(6):75–80, 1970

[6] Schubert JJ, Braham J, Schiro F, et al: The Certified Hospital Admission Program, Calif Med 115(1):100–101, 1971

[7] Flashner BA, Reed S, White R, et al: The hospital admission and surveillance program in Illinois. JAMA 221:1153–1158, 1972

[8] Death Records Sacramento, State of California, Health and Welfare Agency, Department of Public Health, 1971

[9] Shain M, Roemer MI: Hospital costs relate to the supply of beds. Mod Hosp 92(4):71–73, 168, 1959

[10] Public Law 92–603 (H.R.–1), 1972, Section 1155.

[11] *Idem:* Section 1156

[12] *Idem:* Section 1151

[13] Kissick WL: Health-policy directions for the 1970's. N Engl J Med 282: 1343–1354, 1970.

MANDATORY ALLOCATION SYSTEM FOR PETROLEUM

Mr. MONDALE. Mr. President, the need for a mandatory allocation system for petroleum and petroleum products has been shown over the past 3 weeks. Under the leadership of the Senator from Washington (Mr. JACKSON) the Senate recently passed strong legislation to achieve that end.

The need for such legislation is shown in the experience of Midland Cooperatives, of Minneapolis. Midland, which serves 100,000 farm families in the upper Midwest, has been unable to convert public assurances of support into actual barrels at its Cushing, Okla. refinery. This has meant severe hardship for thousands of farm families in Minnesota and other States throughout the upper Midwest, who rely heavily on Midland for fuel products.

Last week, Midland obtained approximately 11,000 barrels per day of Federal royalty oil to help keep its refinery in operation. But its efforts to get its historic allocations—or a reasonable percentage thereof—from its suppliers have been frustrated, in spite of the fact that Midland serves farm communities all over the upper Midwest.

Mr. President, I ask unanimous consent that the statement of Midland Cooperatives, Inc., on the effectiveness of the voluntary allocation plan be printed in the RECORD at the conclusion of my remarks, as a further indication of the need for a mandatory control plan as soon as possible.

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

STATEMENT OF MIDLAND COOPERATIVES, INC.

SUMMARY

During the base period set up on May 10, 1973, for voluntary allocation of crude oil and refined products, Midland Cooperatives, Incorporated, was supplied by four major oil producers with 60 percent of the crude oil necessary to operate Midland's 19,500 barrel per day refinery at Cushing, Oklahoma.

Since the announcement by William E. Simon, deputy secretary of the Treasury and chairman of the Oil Policy Committee, of the voluntary allocations program, Midland has contacted each of these historical suppliers. One has responded affirmatively. Whereas during the base period, this supplier furnished 37 percent of the Cushing refinery's throughput requirement, Midland was informed that under the voluntary allocations program it is only entitled to 7½ percent of that supply. That amount of crude oil is inconsequential. It does nothing to solve the problem of supplying the needs of the Cushing refinery.

It has been Midland's experience that the voluntary allocation system is ineffective. The alternative is mandatory allocation, a system which should carry appropriate penalties for failure to comply and a system which should be augmented by a specific list of priority users.

Descending priorities should be: Agriculture; transportation; health care; federal, state, county and municipal government; vital industry.

Midland Cooperatives also supports following endeavors:

Coal supplies must be used wherever possible to replace fuel oil and natural gas for industrial and commercial purposes;

Alternative sources of energy, including atomic, solar, geothermal and shale oil must be developed;

The federal government should own a six-month reserve supply of crude oil and distribute it only for emergency and national security purposes.

STATEMENT

Midland Cooperatives, Incorporated, is a regional supply cooperative owned and controlled by some 600 cooperatives in Minnesota, Wisconsin, Iowa, North Dakota and the Upper Peninsula of Michigan. Midland was organized in 1926 primarily for the purpose of supplying petroleum products to its members. Although Midland's services have expanded since its 1926 organization, its major product still is petroleum. Approximately 350 of its member cooperatives are involved in petroleum distribution and they are the principal suppliers of an estimated 100,000 farm families.

Midland acquired its 19,500 barrel-per-day refinery in Cushing, Oklahoma, in 1943. The regional cooperative also has a small interest in a refinery in McPherson, Kansas. The Cushing refinery is Midland's main source of supply.

Throughout the history of Midland's refinery operations, it has depended upon the purchase of crude oil outright on domestic markets and an exchange of import allocation tickets for its sources of supply. Midland owns only about 5 percent of its crude oil needs.

Despite this dependence on external suppliers for crude oil, the refinery has operated at a steady rate throughout 30 years of petroleum refining. Until October, 1972 Midland was able to provide a constant and steady supply of sufficient petroleum to meet members' needs. Midland was forced to allocate products to its member cooperatives in December, 1972. This situation continues.

Since January, 1973, the refinery has operated at only 33 percent of its capacity due to a lack of crude oil. Some historical suppliers ceased to furnish Midland with crude oil late in 1972. Although Midland has import tickets on hand to supply 9,800 barrels of crude oil per day for the remainder of 1973, no historic supplier has been willing to trade domestic crude oil for those fee-exempt import tickets.

Since President Nixon's imports fee program was implemented on April 18, 1973, Midland has been unable to trade any tickets for domestic crude oil supplies. It is Midland's experience that major oil companies, which formerly exchanged domestic crude oil for Midland's import tickets, now are purchasing whatever tickets they need in addition to their fee-exempt tickets from the federal government at a license fee of 10½ cents a barrel. This situation puts Midland in the possible position of losing its right to import allocations tickets if these tickets are not used during 1973. In addition, major oil companies have established precedent need for additional allocation tickets so that they will continue to receive them in the future.

The voluntary allocations program of May 10, 1973, offered a further avenue for Midland to explore in its search for crude oil supplies to operate the Cushing refinery. Telegrams were sent to the four major oil companies that supplied Midland during the base period set up by the program: Continental Oil Co., New York; Kerr-McGee Corp., Oklahoma City; Mobil Oil Corp., New York, and Sun Oil Company, Philadelphia. (These firms no longer supply Midland; their record of supply is explained in the table attached to this statement).

Replies were received from three: Continental, Kerr-McGee and Sun. Continental and Kerr-McGee said they would study the matter. They have not yet reported results

of their studies. Sun said that based on its computations, Midland was entitled to 475 barrels per day of crude oil. During the base period, Sun supplied the Cushing refinery with 6,400 daily barrels of crude. Midland would rate the results of its experience with its former suppliers under the voluntary allocations program as highly unsuccessful. Crude oil in the amount of 475 barrels per day is inconsequential to solving the needs of supply for the Cushing refinery.

Currently the refinery is operating at 10,000 barrels a day or 50% of its capacity. This is made possible only because Midland has been able to work out a processing arrangement with a major oil company to process 7,000 barrels a day, of which that firm takes a major portion of the finished product. This arrangement only provides Midland with less than 10 percent of its needs.

In order to supply member cooperatives, Midland has purchased large quantities of burner and power fuels from domestic and foreign sources at premium prices. These sources are becoming increasingly more difficult to find and the premiums are mounting almost daily.

POSITION

Midland Cooperatives endorses a program that would make it mandatory for oil importers to exchange oil import tickets with independent refiners before they are permitted recourse of obtaining more import allocations tickets from the federal government.

Midland Cooperatives also supports a mandatory system of allocation of crude oil and petroleum products, with penalties for noncompliance and with a system of distribution to priority users.

CONCLUSION

The United States is short of refining capacity, yet the Midland Cooperatives refinery at Cushing, Oklahoma, located in the richly-agricultural, mid-continent area, operates at half of its capacity. Currently it is producing less than 10 percent of the petroleum needs of the 350 cooperatives and 100,000 farm families it serves.

With such severely curtailed refinery production, Midland has purchased gasoline and distillates on domestic and foreign markets at premium prices to supply its members. These premium-priced products are becoming scarce. Unless refinery production is restored and unless external supplies of petroleum become more available, Midland will not be able to supply the needs of its members during the fall harvesting season. Without a warm winter in the Upper Midwest and wet planting conditions this spring, the situation would already have been more critical than it already has proven to be.

Midland operates in an area that has been abandoned by Triangle Refineries, Inc.; Bell Oil and Gas Company; Gulf Oil Company—U.S., and Sun Oil Company. These firms have made official announcements of their withdrawals. There are other suppliers who unofficially have withdrawn from supplying many rural jobbers and marketers.

These firms are leaving a void that must be filled by cooperatives such as Midland and other remaining petroleum marketers in the Upper Midwest. To fill the void means that refineries must run at capacity. The current import program and voluntary allocations system do not fulfill this need.

The following table is a listing of Midland's external suppliers during the base period of October 1, 1971, through September 30, 1972.

Of these suppliers, Koch Oil P.L., Koch Oil Truck, Permian Corp., O.K.C., and Tonkawa Refy. continue to supply the Midland Refinery.

MIDLAND COOPERATIVES, INC., CUSHING REFINERY, CRUDE OIL SUPPLY, OCT. 1, 1971, THROUGH SEPT. 30, 1972

	Barrels Oct. 1, 1971, to Sept. 30, 1972				Oct. 1, 1971, to Sept. 30, 1972, barrels per day		
	Percent crude oil supply	Total crude supply	Purchase	Exchange	Total crude supply	Purchase	Exchange
Sun Oil	37.08	2,356,246	1,627,009	729,237	6,455	4,458	1,997
Koch Oil P.L	26.70	1,696,468	1,666,936	29,532	4,648	4,567	81
Koch Oil Truck	2.53	160,694	160,694		440	440	
Kerr McGee	13.89	882,520	882,520		2,418	2,418	
Mobil Oil	9.12	579,553		579,553	1,588		1,588
Continental	5.79	368,000	251,068	116,932	1,008	688	320
Permian Corp	2.44	155,091	155,091		425	425	
O.K.C	1.64	104,228	104,228		286	286	
Tonkawa Refinery	.81	51,810	51,810		142	142	
Total	100.00	6,354,610	4,899,356	1,455,254	17,410	13,424	3,986

PANORAMA

Mr. ROBERT C. BYRD. Mr. President, on Monday, April 23, I was interviewed on "Panorama," a production of Washington's WTTG, channel 5. The interviewers were Bonie Angelo of Time magazine and John Willis, a regular member of the Panorama team.

I ask unanimous consent that the transcript of that interview be printed in the RECORD.

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

"PANORAMA"

ANGELO. We are so pleased to have with us today, even though the Senate is in recess, the number two Democrat of the United States Senate. He is Senator Robert Byrd of West Virginia, Democratic Whip. This year, even after 21 years on the Hill, Senator Byrd's star has never been so high. He was the man who led the battle in defeating the nomination of Patrick Gray as head of the FBI. But because this whole city is convulsed by the Watergate, because Senator Byrd has had a great deal to do with that, we've got to start on that. Senator, what would you have the President do with all we know about Watergate now?

BYRD. The President can't absolve himself from accountability for the actions of those around him. I do not at this time, nor do I want to, believe that the President had advance knowledge of the Watergate bugging. But I feel that in view of the statement that he made last week—to the effect that because of serious charges which had been brought to his attention on March 21, he had launched an intensive new investigation—even going so far as to indicate that there may be indictments—he certainly ought to know the names of those around him who are under suspicion or may be about to be indicted. I think that he has to extricate himself from this developing scandal, and I believe that to do this he is going to have to yield ground—not grudgingly, nor stingily, nor reluctantly, under pressure. He is going to have to act decisively; he is going to have to cut sharp and to the marrow of the bone. And he needs to act now—not wait for the indictments to fall.

WILLIS. Senator, who do you think is going to help him do that?

BYRD. I don't think he needs any help.

WILLIS. Somebody in the White House has got to give him the facts, apparently. If we believe what we have been reading, he's been the end product of a lot of misinformation.

BYRD. I think that's true. But as I indicated, I think he already knows to whom the finger of suspicion is pointed. He should act quickly to suspend all those persons who are about to be indicted. I think he knows who they are. Frankly, I don't think he ought to wait for the indictments to fall.

ANGELO. Judging by what has already come out in the press, who do you think he would have to suspend?

BYRD. I think at the very beginning, he would have to suspend John Dean, because John Dean conducted the investigation on which the President, on August 29 of last year, stated categorically that no one in the White House or in the Administration presently employed had anything to do or was involved in this bizarre incident. I think that John Dean misled the President, and I think that John Dean ought to resign out of loyalty to the President. Certainly, the President ought not wait for this. And there are others, undoubtedly. I don't know who they are.

ANGELO. What about Mr. Haldeman?

BYRD. I don't want to name any of the names. I only mentioned John Dean because he played center-stage in connection with the confirmation hearings of Patrick Gray. He was the one who conducted the investigation, which certainly had something to do with misleading the President.

ANGELO. Over the weekend, Senator Brooke of Massachusetts, who, of course, is a Republican, suggested that the President almost had to know a certain amount about this affair. What do you think about that?

BYRD. I have no facts which would indicate that. And I would not want to believe that. The President was deeply involved in the Paris talks; he was involved in the fight against inflation. I don't want to believe that the President was personally involved. I think he must bear some responsibility for any attempted cover-up, and I think, in order to save himself and the Republican Party, he is going to have to act decisively. I think that he ought to dismantle the Committee for the Re-election of the President summarily. I think he ought to appoint a special prosecutor in the Watergate case. And I think he ought summarily fire every person on his staff involved in the Watergate affair, and reconstitute his staff. There are a lot of good people on his staff. They are, by association, probably being judged guilty in the eyes of a lot of people. I think the President needs

to reconstitute his staff, retain those people who are loyal and dedicated and whose integrity is not questioned, and get rid of the others.

WILLIS. Senator, a moment ago I'm sure you heard somebody raise the possibility of FBI involvement. Do you think there is any credence to that?

BYRD. Again, I have no facts that would indicate that.

ANGELO. Senator, what do you think about the effects on the President in dealings with Congress, as you have already been at a pretty bad pass as a result of the Watergate?

BYRD. Well, when the President is in trouble, we're all in trouble. I think the President has many friends on the Hill in both parties. I am sorry to say that the Administration's abrasiveness in recent weeks and months, especially with reference to executive privilege, has hurt the President with his friends on the Hill. He is going to need those friends now more than ever.

ANGELO. Do you think it might be harder for him to get the two-thirds vote necessary or to get his veto sustained on the Hill?

BYRD. I don't know that it would directly affect the overriding of vetoes. I think in those instances it would depend more upon the issues, upon the item that is to be overridden, and the circumstances that are involved. I don't see this effect so much in that regard.

WILLIS. Senator, turning to your sponsorship and support of the idea of making the FBI a separate agency. Do you think you are going to be able to get that through?

BYRD. To begin with, my bill is not the alpha and the omega of legislative ideas. It does provide a vehicle, however, whereby the Committee on the Judiciary can conduct hearings. I think the hearings ought to be conducted in depth and with respect to the role of the FBI. There are many questions that ought to be answered. The Congress has never conducted a study, in depth, of FBI policies. My bill would provide a seven-year tenure for the Director and the Deputy Director of the FBI. It would also make the FBI an independent agency, and, by virtue of the need for the re-confirmation of the FBI Director every seven years, my bill would regularize the oversight function of the Congress with respect to the agency.

WILLIS. But you're not adamant about that period of seven years, right?

BYRD. No, I'm not particularly wedded to that. I saw in the course of the hearings on the Gray nomination the need for Congress to take a first, deep look at the FBI. There are so many questions that ought to be answered. For example, should the domestic intelligence activities be united with law enforcement activities? What should be the relationship and the connection between the FBI Director and the Attorney General? Who should make the decisions as to whether or not a particular case is to be given "full-court press?" These and many, many other questions are involved.

ANGELO. Senator, when you made this proposal, Senator Edward Kennedy made a speech in opposition to it. He suggested that setting up the FBI as a separate agency might lead to something more similar to what exists in police states. It might dig the ground work for that. How do you counter that argument?

BYRD. I don't say that my proposal is the best one, but it seems to me that, due to the experience of the hearings on the confirmation of Patrick Gray, Congress ought to play a constructive role in protecting the FBI against improper political influence—while, at the same time, insuring its accountability to competent authorities. I was concerned with the dominance by the Attorney General—and I don't speak with respect to personalities here. I think that the Committee ought to conduct long hearings regarding the FBI, and its policies. It's a very interesting thing, or ought to be, to note that the FBI's intelligence-gathering activities are founded, apparently, on "inherent" presidential powers. There's no legal standard. The Congress has never gotten into this area, and it ought to get into this area. It's my understanding that the FBI's intelligence-gathering activities are based, insofar as authority is concerned, on FDR's 1939 Executive Order to the Attorney General to increase the intelligence-gathering personnel of the FBI, so it could adequately cope with the additional duties imposed by the national emergency facing the country.

WILLIS. Would you believe that the FBI's investigation of the Watergate was as thorough as it should have been?

BYRD. No, it was not. The sitting judge in that case indicated such. I think that the hearings also clearly brought that out.

ANGELO. You suggested that Mr. Gray was simply not a fit choice to head the FBI. What kind of man do you think of as the next FBI Director?

BYRD. Of course, this is the President's prerogative.

ANGELO. Why, why is it necessary?

BYRD. Well, it's his prerogative to nominate the Director, and it is not for me to tell him what to do in this regard. But I should think that in view of the unfortunate experience with Mr. Gray's nomination, the President certainly ought to nominate someone whose stature is beyond question—especially in view of this terrible Watergate incident. I think that the President owes it to himself to select a nominee who can immediately stimulate the enthusiasm and support of both parties behind the nomination. Since the FBI has been without a leader now for 11 months, it's very important.

WILLIS. Do you have a candidate?

BYRD. I do not. It's very important that the President nominate someone who can stand the test and who will reflect credit upon the Administration and upon law enforcement throughout the country.

ANGELO. Senator, you just said you don't have a personal choice, but give us an example of a kind of man you have in mind. Maybe even not one that would figure in the selection right now. But looking backward a little bit, what sort of figure do you think of?

BYRD. I don't think of any specific figure in that regard. I think of someone, however, who has the courage, the ability, and who has never been associated with the Watergate incident.

ANGELO. Senator, there's another facet that you've introduced this year to the area that is very interesting and very innovative. That is your proposal that cabinet officers be subjected to reconfirmation hearings at the beginning of a second term. If that were the case, which of the Nixon cabinet officers would you have some serious second thoughts about?

BYRD. I like the Attorney General personally. I think he's a man who's very congenial, with a winning personality, and he must have an exceptional amount of ability. I like him personally, but his exorbitant claims with respect to executive privilege certainly shook the foundations from under me. These were wild claims, and I think that they were abrasive. I think that they might cast a reflection upon the Attorney General's own ability. I just couldn't believe that he was serious. So I would think it might be well to have the Attorney General back. I also would be very interested in seeing Mr. Butz come back before the Congress. Incidentally, I supported his nomination, but I noted on television recently that he spoke of those "free-wheeling, free-spending Congressmen up there," and I think that it might take a little of the arrogance out of people like Mr. Butz if they had to come back every four years and be reconfirmed.

ANGELO. The initial confirmation procedures are usually on things like conflicts of interest and whether they're qualified to serve. But this would actually bring them back to see what they've done and see if it has met with Senate approval, so to speak. Would that be a new precedent altogether?

BYRD. It would be a new precedent, but I think that Congress, if it's going to reassert its proper role in the system of checks and balances, ought to have a continuing oversight function with respect to these cabinet officers. I don't think it's too much to ask that they be required to come back before the appropriate committees of Congress, and render an accounting as to how they have conducted their business, and let the Congress make another judgment as to whether or not they should be reconfirmed.

WILLIS. Senator, I was just sitting listening to you speak and I was curious because it seems all the publicity is, of course, with the Watergate and the Republican Party right now. But what about the climate and the health of the Democratic Party as you know it on the Hill today?

BYRD. The Democratic Party—I hope it learned a lesson from the past election; that is, to get back in the middle of the stream where the majority of the votes are, because it has to have the majority of the votes in order to win an election.

ANGELO. Senator, with just a few minutes left, the last major scandal involving the White House that the people talk about was the Teapot Dome scandal that affected the Harding Administration. How do you compare the Watergate affair with the Teapot Dome scandal?

BYRD. The Teapot Dome scandal involved the Secretary of the Interior and the Secretary of the Navy. It had to do with oil leases on Naval oil reserves, and the passing on of those leases to certain oil companies. This is an entirely different kind of thing. It involves electronic bugging; it involves apparent coverup in the White House; it involves burglary. But I think this in common can be said with respect to the two: as the Teapot Dome has linked the Harding Administration over the past 50 years with corruption, I think that the Watergate scandal will also link this Administration with corruption for a long, long time to come.

WILLIS. Would you say though Senator, comparing the two, the Watergate was more political than the Teapot Dome, which involved out-and-out millions of dollars changing hands for these leases.

BYRD. I think there are many intangibles in our society and our Democratic system that can't be measured in terms of dollars. The Watergate scandal goes to the very heart of the political process, and, in a time when so many people are losing faith in the political process and in the government, I think it's most unfortunate that this had to happen. It impairs the credibility of the President and the government, and, when this is done, the people lose faith in their government. All of this cannot be valued in terms of dollars.

ANGELO. Senator Byrd, thank you very much for being with us on Panorama.

WILLIS. Thank you Senator.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

ARCTIC WINTER GAMES IN ALASKA IN 1974

The PRESIDING OFFICER. Under the previous order, the Chair lays before the Senate S. 907, which the clerk will state by title.

The legislative clerk read the bill by title, as follows:

A bill (S. 907) to authorize the appropriation of $150,000 to assist in financing the arctic winter games to be held in the State of Alaska in 1974.

The Senate proceeded to consider the bill.

The PRESIDING OFFICER. This bill is being considered under a time limitation. Who yields time?

Mr. STEVENS. Mr. President, I yield myself 15 minutes.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I urge the adoption of S. 907, which will authorize the appropriation of $150,000 to assist in financing the arctic winter games scheduled for Anchorage, Alaska, in 1974. This legislation authorizes the Secretary of Commerce to disburse these funds under such conditions as he deems appropriate to the host of the arctic winter games.

The arctic winter games is a new concept in international sports. First held in 1970 in the Northwest Territories of Canada, it is a biennial competition for athletes from the far northern countries, States, and territories. The first two games were held in Canada—the first, as I have indicated, in Yellow Knife, Northwest Territories, and the second in Whitehorse, Yukon Territory. Original participants were the Northwest Territories, the Yukon Territory, and the State of Alaska. Arctic Quebec has since joined the games. I believe Greenland and Labrador will participate in 1974. Other northern countries, including the Scandinavian countries and the Soviet Union, have also stated an interest in participating in the future.

These games were originally held because the athletes from the northern States did less well in the Olympics, even in the winter sports, than would have been expected. This is because the opportunity for international participation, particularly among lower socioeconomic groups, is very limited. Because of the relative isolation of most northern States, even the best athletes are normally limited to local competition. As a result, most winter Olympic sports have been won by athletes from below 60th parallel north. These games were established specifically to foster athletes above that parallel of latitude. They have succeeded admirably.

The 1972 games involved approximately 250 athletes each from the Northwest Territories, the Yukon Territory, and the State of Alaska. Arctic Quebec, which entered the games in 1972, sent approximately 60 participants. It is expected that Quebec will have a full contingent by 1974.

The 11 basic sports in the program include badminton, basketball, boxing, curling, figure skating, hockey, shooting, skiing, table tennis, volleyball, and wrestling. In addition, there will be six Eskimo and Indian sports indigenous to the northern Native peoples. There will also be Native craftwork and cultural exhibits.

The State of Alaska and the city of Anchorage have each appropriated $50,000 for the games. The Arctic Winter Games Corp. has estimated that local sales, concessions, and donations will contribute an additional $50,000 toward the expenses of the games, which are budgeted at $300,000. This legislation will authorize an appropriation sufficient to cover the differences between the anticipated expenditures and receipts; namely, $150,000.

I call the attention of the Senate to the fact that the bill that was passed last year by the Senate would have authorized $250,000. After discussions and in negotiations with the people that are working with the Arctic Winter Games Corp. in Alaska, we have reduced the authorization to $150,000 this year because we feel that is sufficient.

I am pleased that the Senate has moved so quickly on the bill again this year. S. 907 is similar to S. 2988 which passed the Senate in May of 1972, but S. 907 authorizes a lesser expenditure than did S. 2988. It has become apparent in the last few months that less Federal assistance will be necessary, because the games have received the commitment of additional financing from other sources.

S. 907 authorizes the lesser expenditure I mentioned. By assisting young people from the northern States to come together in a spirit of international friendly competition, this legislation will do much, not only to foster physical fitness and sports skills, but also to create an atmosphere of international cooperation and good will among many competing countries around the polar rim.

Mr. President, this morning we have received a highly favorable report on S. 907 from the Department of State. Far from opposing the bill, they have endorsed it. I would like to read the letter for the RECORD at this point. It reads:

DEPARTMENT OF STATE,
Washington, D.C., June 18, 1973.

Hon. WARREN G. MAGNUSON,
Chairman, Committee on Commerce, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: The Secretary has asked me to reply to your letters of June 12 and 13, 1973, requesting comment on S. 907, to authorize the appropriation of $150,000 to assist in financing the arctic winter games to be held in the State of Alaska in 1974.

The Department has been encouraged in recent years to observe that an increasing number of international sports competitions are being held in the United States. We believe that the Arctic Winter Games, which would be hosted in the United States for the first time, can contribute to closer understanding with areas above the sixtieth parallel.

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

Sincerely yours,

MARSHALL WRIGHT,
Assistant Secretary for Congressional Relations.

Mr. President, this authorization was not in the Department of Commerce budget, because no request was received and it had obviously not been authorized. It is not opposed by the administration. On the contrary, we have received a departmental report on the bill which interposes no objection to its enactment.

Mr. President, I would like to read into the RECORD at this point a letter from the Department of State which is addressed to our chairman, Honorable WARREN G. MAGNUSON. The complete letter reads as follows:

GENERAL COUNSEL OF THE
DEPARTMENT OF COMMERCE,
Washington, D.C., June 15, 1973.

Hon. WARREN G. MAGNUSON,
Chairman, Committee on Commerce,
U.S. Senate,
Washington, D.C.

DEAR MR. CHAIRMAN: This is in reply to your request for the views of this Department with respect to S. 907, a bill

"To authorize the appropriation of $150,000 to assist in financing the arctic winter games to be held in the State of Alaska in 1974."

The bill would authorize the appropriation of $150,000 to the Secretary of Commerce to assist in financing the games. The Secretary would be authorized to provide for the disbursement of these funds under such conditions as he deems appropriate. The Department interposes no objection to the enactment of this legislation.

The 1974 Arctic Winter Games will be the third occurrence of the games, with the United States as the host for the first time. Previous games have been hosted by Canadian cities with substantial contributions from the Canadian Federal Government. The appropriation to be administered by the Secretary of Commerce would be for the purpose of general funding for the games. An Arctic Winter Games Corporation has been established as a quasi-governmental corporation in the State of Alaska to administer the games. The Secretary of Commerce would establish terms and conditions for the disbursement of appropriated funds to appropriate persons or organizations and for reports on their expenditure as necessary to protect the interests of the United States.

We have been advised by the Office of Management and Budget that there would be no objection to the submission of our proposed report to the Congress from the standpoint of the Administration's program.

Sincerely,

KARL E. BAKKE,
Deputy General Counsel.

The significant paragraph of the letter is:

The 1974 Arctic Winter Games will be the third occurrence of the games, with the United States as the host for the first time. Previous games have been hosted by Canadian cities with substantial contributions from the Canadian Federal Government. The appropriation to be administered by the Secretary of Commerce would be for the purpose of general funding for the games. An Arctic Winter Games Corporation has been established as a quasi-governmental corporation in the State of Alaska to administer the games. The Secretary of Commerce would establish terms and conditions for the disbursement of appropriated funds to appropriate persons or organizations and for reports on their expenditure as necessary to protect the interests of the United States.

Mr. President, I think it would be plain that the prior competitions that have been held in our sister countries on this North American continent were substantially assisted by the Canadian Federal Government. We are asking for an authorization for only $150,000 to assure that our country gives these games support in at least the amount involved in this authorization which is required for its successful completion. This is less money than was provided by the Cana-

dian Government on both prior occasions.

I think that we have tried to be as frugal as possible. It is not the first time that Congress has been requested to support international competition or even local competition with Federal funds.

I think it is highly important to point out that there is a precedent on the part of the Federal Government supporting games of this type.

Since 1876 the U.S. Federal Government has supported 45 similar programs.

Since 1960, Congress has appropriated money many times. It appropriated $3.5 million for the Squaw Valley winter olympics. It appropriated $4 million for the Defense Department to use for preparation for the 1960 Olympic winter games.

Four million dollars was appropriated, of which $500,000 was earmarked for the U.S. Armed Forces for preparation, and the remainder, $3.5 million, was to go to a nonprofit corporation in California.

I think it is highly important to note that the Senate passed in September 1972, S. 3531, which authorized funds for the 1976 winter olympics. The authorization level was $3.5 million.

S. 907 provided funding which, as far as I am concerned, would carry out our national responsibility toward these games and would foster their continuance. As I travel across the north country of my State, which is one-fifth the size of all the rest of the United States combined, I am very much reminded that often it is practically impossible in our State for these young people to participate in other sports events, in their local schools. It would not be at all uncommon for the high school students and college students from the State of the distinguished Senator from Delaware (Mr. BIDEN), who now is presiding over the Senate, to be able to have involvement in sports events that involve people from other communities.

That is the reason we organize these games, so as to be sure that athletes who are considered to be outstanding could be brought into one point so that they might compete with other athletes from various other areas of the arctic. It is not often that they would get such a chance. On the other hand, students from the State of Delaware would have the chance, perhaps every week, to engage in such activities.

Mr. President, I think this is a very small amount of money authorized to assure that the arctic winter games, which are very significant for the people of the arctic, can continue as scheduled for 1974.

Mr. PROXMIRE. Mr. President, I understand from the assistant majority leader that I am to have control of the time in opposition.

The PRESIDING OFFICER. The Senator is correct.

Mr. PROXMIRE. Mr. President, I yield myself such time as I shall require.

Mr. President, when American teams travel to the Olympics, they are not subsidized. Funds are raised by voluntary subscription.

When our AAU athletes—national champions in track, diving, swimming, gymnastics, and other sports—travel to the Soviet Union in a few weeks, the Government of the United States will not pay their way.

But when the State of Alaska hosts the arctic winter games the Treasury of the United States is asked to subsidize them.

My first point is that this bill sets a very bad precedent. Up until now, at least generally and in principle, amateur and professional athletics in the United States, are supported by private subscription and by personal funds.

Local funds assist the sports events that go on all over this country in advance of the Olympics. They are widely publicized and the U.S. athletes are in competition with the athletes from other countries. We do not, however, provide funds for the Russians to come here and compete with our athletes or for our athletes to go to Russia.

Nevertheless, it has been said that sooner or later the Government of the United States will subsidize everything.

And, believe it or not, in this bill we do it. In this bill we subsidize ping pong and badminton, curling and figure skating, basketball, hockey, shooting, skiing, volleyball, and wrestling.

You name it. We subsidize it, if this bill goes through. The $150,000 asked for in this bill is not a lot of money.

But it sets a very bad precedent and helps to establish a very bad principle, namely that the costs of amateur and private sports will be paid for by the Federal Treasury.

Perhaps the United States will come to that. Personally I hope not. But if we do come to that, let us not do it by the backdoor and through a bill such as this.

Fundamentally, then, I oppose this bill on principle. It subsidizes yet another activity in this country which should be paid for by private citizens through contributions.

Not only will we subsidze gas and oil, minerals, shipbuilding, sugar, farm products, exports, transportation, servants for generals and admirals, reclamation projects, pubic works, highways, the mai services, wefarle recipients, and housing, to name only a few, but if this bill goes through we will add parlor and garden sports to the list.

Mr. President, this bill carries things, too far.

NO BUDGET BUREAU APPROVAL

Congress has been told time and again that if we pass bills not approved by the President and the Budget Bureau, that we are or will be responsible for the economic consequences.

The spending of the small funds in this bill, obviously would not have dire economic consequences. But we still have the principle.

The Senator from Alaska just came through with a letter like the Marines coming on the scene, from the State Department, to indicate that the administration has now asked for this $150,000. I shall comment on the irony of that in just a moment. This year, when we are denying funds for the poor, they come in with plenty of money for volley ball and curling in the Arctic.

The OMB resisted until the last minute. The committee report itself says, for example:

> Views of the Commerce Department, Treasury Department, and General Accounting Office were requested. However, no comments were received.

That, of course, has been taken care of by the letter this morning, but only at the last minute.

WRONG PRIORITIES

In addition, it establishes wrong priorities. This is a year in which all funds for the OEO have been impounded. Disaster loans for farmers were stopped. The interest rate for REA loans was raised. All new public housing starts were suspended, as were starts for section 235 housing. No funds are provided in the budget for counseling for the poor in subsidized housing units.

But, we are asked to subsidize table tennis, volleyball, figure skating, and badminton. I suggest that our priorities are upside down. Nothing for poverty—thousands for volleyball

A SINGLE STATE

Further, this event is not an international event in the sense that the United States takes part. One State and one area takes part. The athletes come from Alaska, the Yukon, the Northwest territories, and perhaps Quebec. The funds would go to a single State for a single purpose. It is a peculiarly Alaskan affair which, in my view, should be supported by Alaskans.

And if there is an odd hockey player from Minnesota or Maine, then let the sponsors of the games solicit funds in the areas where the shooters or ping pong players come from.

Let me add, Mr. President, that this opens the door for Wisconsin to have games with Ontario. It opens the door for Delaware, I suppose, to have international games with Bermuda. Why not? It would be a great thing for the country. Call the Delaware extravaganza the Biden Games; they really might amount to something. Let them have a competition, for example, in scuba diving.

In Wisconsin, we will take on anyone for a competition in beer drinking, polka dancing, cow milking, or polo. Few people realize what a great polo team we have in Milwaukee. It would be a great place for an international quilting bee. We could get the State Department involved if we make it a croquet contest. I understand they have some great boys with the wickets over there.

But I think we have gone too far in this bill. If every State in the Union, such as Delaware, Kentucky, and Wisconsin, got what Alaska gets altogether in subsidies, the Federal budget would be $840 billion. Yesterday the New York Times published the amount each State receives per capita, and leading the list was Alaska.

Alaska is a marvelous State, a beautiful State. As the Senator has pointed out, it covers one-fifth of the territory of the entire United States. It inspires us in many ways. But I do not know why we have to shovel out so much money to Alaska. And certainly this is the kind of thing, it seems to me, that should remind us we must draw the line somewhere.

We should help the Indians in Alaska. They deserve it. We should help others in

Alaska who are deserving, just as in every other State. But to break precedent by instituting a so-called Alaska international competition by helping one State play Ping-pong and volleyball seems to me is going too far.

I am curious, Mr. President, in view of the President's tight budget, to know what the administration is going to knock out. They are now coming in with $150,000 that was not in the President's budget when they sent it down. They are coming in with $150,000 for volleyball games and figure skating in Alaska. I just wonder what they are going to knock out.

I understand, now that the measure has the support of the administration, that there is not much hope or prospect of blocking it. That support has just come in within the last couple of hours. Until that time, there was indication that the administration, if not opposed, would not support it.

Under the changed circumstances, I do not expect to ask for a vote, and I hope we can dispose of the legislation promptly.

Mr. President, I reserve the remainder of my time.

Mr. STEVENS. Mr. President, I am happy to yield such time as he may require to the Senator from Kentucky (Mr. COOK).

Mr. COOK. Mr. President, I think it is unfortunate that whenever a matter of this nature comes before the Senate, we have to mix everything together in one pot. Regardless of the amount involved, it seems that everything has to be weighed in relationship to every other problem we face, instead of talking about the issues. Maybe some day, if we can ever get down to a logical debate on the issues, we can accomplish more than we do.

The Senator from Wisconsin has said that the AAU receives no funds, and, in the Olympic games, U.S. athletes receive no Government funds.

We have just conducted hearings on a number of sports bills introduced by the Senator from Kansas (Mr. PEARSON), the Senator from Alaska (Mr. GRAVEL), and the resolution of the Senator from Illinois (Mr. STEVENSON) about the disaster the United States faced in the last Olympic games. As a matter of fact we were quite shocked when the president of the Olympic Committee took pride in the fact that we are the only country in the world that provides no funds from the Government; and yet the Olympic Committee itself is set up by the Congress of the United States in perpetuity, as a matter of fact. If you once get on that committee, you stay there forever; and the United States has some individuals who have stayed on the committee for most of their lives, and have forgotten and lost touch with the whole concept of what the Olympic competition really meant.

For example, we saw them going to Europe first class and staying in the most fabulous hotels in Munich, while the athletes had to be put in athletic villages, where they had absolutely nothing. We saw athletes who had to go all the way to the west coast, the State of Washington, on their own funds, to even compete. They did not have a dime from any source. They ate hot dogs and potato chips while they were out there, to find out whether they could be on the team and participate for their country.

Frankly, the reason I am for this bill is that this may be the first breakthrough, so that we can do what the Senator from Wisconsin thinks is bad, and that is for this Federal Government to participate, and participate financially, so that we will not have an Olympic Committee that does not care about its athletes, that gives the girls' track team a track in New York City to practice on where they had to put pads up against a brick wall, because while the kids tried to break the record and go over the last hurdle, they had to bounce up against the brick wall in order to stop.

I cannot figure out for the life of me how we as a country could sit here and make a determination that the track and field meets for competitions to go to the Olympics were way out in the State of Washington instead of being in the center of the United States, so that many more individuals could participate. Much as I hate to say it, in this respect the Canadian Government is smarter than we are. When first the winter arctic games were established and opened, who was there to welcome the athletes but the Prime Minister of Canada? Because he knew the importance of it. He knew the importance of the situation, and yet somehow or other we do not. The reason we do not is because it costs $150,000, and we can carry the argument to a degree of demagogery that it will have to wait until everything else is taken care of.

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

Mr. COOK. I yield to the Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, much of what the Senator has said makes sense. I think we should have much further consideration of the possibility of providing more generous subsidies to athletics. I believe strongly in physical fitness. I believe we ought to do much more than we are doing to prevent ill health in this country, in all kinds of ways.

But I say this is the wrong way to go about it. The Senator has just admitted that this is a foot in the door, a step toward getting us to move in the direction he wants us to move.

If we are going to establish a principle and a policy, it seems to me we would be better served if the Committee on Commerce would come in with a program to provide equal help for people all over America in all of the 50 States to participate in athletics on a larger basis. Let us debate and consider it on its merits and not have it come in on a $150,000 bill for one State when the report from the administration does not come in until the last hour of the day until we have one short letter and a 1½-page report.

The Senator from Kentucky says that we are deciding a principle this morning. We may very well be, but if we are going to do that, we should have far more mature consideration and greater equity, so that everyone in this country has an equal opportunity.

Mr. COOK. Let me say to the Senator from Wisconsin that I do not disagree with many of the things the Senator has said. I can only say that I do not stand here as an administration spokesman for the bill under any circumstances. The Lord only knows that no one in the Commonwealth of Kentucky will be eligible to participate in the games at Anchorage. I am only making the point that we now have the opportunity, on a pilot basis, to start the program. I can only say further to the Senator that the reason for the Senator from Alaska's bringing up this bill is that the games will be held next year.

We did not get into a situation as a legislative body in evaluating the olympics or in evaluating the obligations and the responsibilities of the United States to take an affirmative position until we saw the disasters that befell our athletes, until we saw our swimmer have his gold medal taken away from him, until we saw our American basketball team that played the Russians, who played under rules that no one who plays basketball in this country ever heard of in his life, and who watched a group of volunteers from the United States do nothing about it.

The only point I am trying to make is that the Canadian Government has realized for the last two times the importance of this, especially the importance of this for those individuals in the Northwest Territories. I am not saying that Kentucky should have $150,000 so that it can get a basketball team to play. When basketball is played in our State, we get 18,000 to as high as 28,000 people to come out and see the games. We do not need it. But they do. We should not overlook the need that others have. It should be given serious consideration.

It is unfortunate that it took the signature of many Senators, that this Senator circulated a letter to Mr. Byers of the NCAA, so that we finally got 58 Members up to now to sign a letter to make him capitulate, that college basketball in the United States could compete against the Russian team that came over here.

I might suggest that it was not until we had absolutely brow-beaten that gentleman that he allowed us to have a competitive team go against the Russians, the Russian team that was totally and completely financed by its own government and brought over to the United States to compete.

Thus, I would suggest that this is a good start. I would suggest further that it is a logical appropriation, that we consider it as a pilot project. I wholeheartedly endorse the expenditures so that we, too, can have an opportunity to do the same thing the Canadian Government and apparently its Parliament had far greater insight into subsidizing and appropriating for, for the individual

athletes and the athletic competitive teams in the respective northwest territories of Canada.

I thank the Senator from Alaska for giving me the opportunity to make these comments.

Mr. STEVENS. Mr. President, I yield myself such time as I may require.

I am grateful to the Senator from Kentucky for his support.

I should like to say to the Senator from Wisconsin that there were almost 600 Canadians in the last games. What the Senator is asking us to do in our State of Alaska, which has a population of only 350,000 people, is to provide the same support for the arctic winter games that was supplied by the whole of the Federal Government of Canada. There were some 40 to 50 U.S. citizens on the Canadian contingent the last time. I do not know where they resided in the United States, but they participated with the Canadians. There were about 60 permanent residents from other States in the Alaskan contingent who happened to be stationed in various areas of Alaska with U.S. military forces or attending college in Alaska, or temporarily working in Alaska at that time. They were, I think, performing a service to participate with Alaska teams in this kind of international cooperation among the people who live above the 60th parallel North.

Mr. President, I ask unanimous consent to have printed in the RECORD an article published in Time magazine on March 27, 1972, concerning the Biennial Arctic Winter Games.

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

ANYONE FOR AQRAORAK?

As the second biennial Arctic Winter Games got under way this month in Whitehorse, Yukon Territory, it became painfully clear that the organization of the event left something to be desired. Take the case of Simon Tookoome, the Northwest Territories' leading *ipirautaqturniq* (precision whip flicking) virtuoso. Not only did Tookoome have no competition in his specialty, but the games committee was not even certain that another whip maestro had been invited. For his part, Tookoome left his sealskin whip at home in Baker Lake. But resourcefulness, as much as *ipirautaqturniq*, is the name of the game. Improvising a whip from a length of rope, Tookoome put on a crackling display highlighted by the extraction of a toothpick from the sole of an assistant's boot at 25 ft.

Some might call the noncompetitive performance a hollow triumph, native sports do not even call for medals. There are, however, gold, silver and bronze ulus (medals shaped like the Eskimo whale-skinning knife) for individual and team winners in such conventional sports as cross-country skiing, figure skating, basketball, ice hockey and table tennis. The combination of exotic native feats and intense territorial rivalry have made the games the liveliest sporting event north of the 60th parallel.

Ear Pull. While there was no one to stand up to Tookoome in *ipirautaqturniq*, there was competition aplenty in *aqraorak* and *nalukataak*. Mickey Gordon, 23, an Eskimo from Inuvik, and Reggie Joule, a sophomore at the University of Alaska, battled for honors in *aqraorak*. The event consists of trying to kick a sealskin ball dangling from a pole. Kicking furiously aloft, Gordon came within a toe of breaking his own world record of 8 ft. 2 in. Joule—all 5 ft. 5 in. of him—performed just as brilliantly, though it must be remembered that *aqraorak* is not his forte. Joule is the world champion in *nalukataak*, in which contestants bounce on a walrus hide held fireman-style by two dozen assistants. Joule bounced to within inches of the ceiling in the town's gymnasium but later confessed that he does not really know what determines a winner in his chosen sport. "I think it has something to do with height and form," he said.

Many of the native contests held at Whitehorse evolved from the self-torture games devised by the Eskimos long ago. Explains Roger Kunayak, another University of Alaska student: "The traditional Eskimo life included lots of pain—hunger, cold, frozen ears. So indoors we would torture ourselves to get used to the pain." To drive home his point, Kunayak swept the field in his own fearful event, the knuckle hop, by hopping 40 ft. on his toes and knuckles. Other such tests of mettle include the finger pull (two combatants locking middle fingers and pulling until one hollers uncle) and the ear pull, in which the toughest ears in the Arctic are wound with cord and pitted against each other in a tug of war.

Botch. The Arctic Games were inspired by the abysmal performances of the athletes from the Yukon and Northwest Territories in conventional sports at the Canada Winter Games held in Quebec City in 1967. Says Lou LeFaive, director of Sports Canada: "The idea was to provide a level of competition that would enable Northerners to develop skills at a rate more compatible with that in the South." Native events were included to add to the fun.

The games at Whitehorse proved that the quality of play in the Northern provinces has measurably improved. The same cannot be said for the advance planning of the Northerners especially those at Baker Lake. Tookoome's lapse aside, the townsfolk made rather a botch of things in the *aksunaiqtuq* (rope gymnastics). In place of their gymnastics team, they inexplicably dispatched an old Eskimo drum dancer—without her drum.

Mr. STEVENS. Mr. President, the article is interesting in that it deals with some of the unique aspects of this competition. For instance, I wonder whether the Senator from Wisconsin, a very well-known and distinguished physical fitness advocate, would like to stand up to some of our Eskimo children in ear pulling, which is one of the contests that takes place in these games. All of these Native games are devised because of the small space available for competition indoors during the Arctic winters. I would tell you, Mr. President, that I have watched these games in small areas throughout the Arctic. It is an interesting thing, the type of game that stresses the issue of physical endurance. But that is not really the question here. What is really involved here is the support that exists in my State for this because Alaska is the U.S. portion of the Arctic.

Now the Senator from Wisconsin has mentioned the report of the subsidies to Alaska, and I would counter by telling him that, unfortunately, the U.S. support is all too little for what the Federal Government has gained in Alaska. Over 100 million acres have been withdrawn for the military for the protection of the United States in Alaska. No taxes are paid to our State or local governments on this land. We are now in the process of withdrawing an additional 80 million acres for national parks, for wildlife refuges, for scenic rivers, and national forests. There will be no taxes paid on these lands, either.

In my hometown of Anchorage, which has fewer than 100,000 people, we have put up $50,000 already for the Arctic winter games, far in excess of what the local people did in Canada when they were hosts of the games twice. I should like to know how many other cities in this country are putting up $50,000 to host some international competition that will bring people in from all over the world to participate in an event relating to their own portion of the world—we are talking now about the area above the 60th parallel north.

Mr. COOK. Mr. President, I would merely ask the Senator from Alaska, what percentage of his State is actually under the taxing jurisdiction of the State government?

Mr. STEVENS. Less than 1 percent of the State of Alaska is taxed by the State of Alaska. Ninety-nine percent is controlled by the Federal Government. We are in the process of changing that.

I should like to say to my good friend from Wisconsin that I would be willing to bet we spend more money controlling the interstate transportation of oleo margarine to protect the butter made in the State of Wisconsin than we will spend to foster the development of sports among the people in my State.

Whether we like it or not, my State is located in the U.S. portion of the Arctic. Here we have this vast area of the Yukon Territory, the Northwest Territory, all of northern Quebec, the whole rim of the northern Arctic, and less than one-fifth of it belongs to the United States.

All we are saying is that the United States should do no more than the Canadian Government did when Yellow Knife hosted these games on the last occasion they were held.

The city of Anchorage has appropriated $50,000 for the funding of the games. I request unanimous consent to have printed in the RECORD a statement in support of the bill on behalf of Mayor George M. Sullivan of Anchorage and another statement by Robert E. Sharp, the city manager of Anchorage, and Mr. Larry Landry, chairman of the Arctic Winter Games Commission. Both statements describe local funding and the games.

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

STATEMENT OF MAYOR GEORGE M. SULLIVAN, CITY OF ANCHORAGE

The Arctic Winter Games in 1974 will bring together in a dozen or more competitive sports over 1100 young men and women from the Arctic in Canada and Alaska. The acquaintances and good fellowship developed from these Games serve to cement good relations among the countries represented by these young people. The Games develop in each of these countries healthful, competitive sports and many thousands more over and above the participants compete to repre-

sent their geographic area in the Games. It is readily apparent these Games provide a wide physical fitness program and, more important, occupies the time of young people and helps mold good citizens.

The people of the Anchorage community have supported these Games since they were initiated in 1970. We feel privileged to host the 1974 Arctic Winter Games and to assist in broadening the number of sports events and participants. In addition to the appropriation by the Council of the City of Anchorage for direct staff support in organizing for this event other City officials and departments are devoting thousands of hours to make this a successful event in which our State and country can take pride and credit. The Arctic Winter Games Commission, with its seventeen (17) volunteer citizen members, will spend thousands of hours planning and conducting the 1974 Arctic Winter Games.

We are pleased the State of Alaska has appropriated $50,000 to assist in financing the Games. This is a sizeable sum in light of the economic uncertainty confronting the State by the delay in the construction of the Trans-Alaska oil pipeline.

$50,000 is to be raised from business, professional and private donations and purchases of souvenirs and similar fund raising activities.

S–907 would appropriate $150,000 to provide federal assistance in financing these Games. This sum represents fifty (50) percent of the $300,000 budget for the Arctic Winter Games.

I urge this Committee and the Congress to approve S–907 and thereby lend federal financial assistance to this international sports event. Approval of this bill would also provide United States recognition of what we believe is an important foreign relations tool in cementing relations with Canada.

STATEMENT SUBMITTED BY ROBERT E. SHARP, CITY MANAGER, AND LARRY LANDRY, CHAIRMAN, ARCTIC WINTER GAMES COMMISSION

The Arctic Winter Games is a sports event of major proportions, bringing amateur athletes from Alaska and Canada together in endeavors of mutual interest and to promote a broad program of physical fitness.

Held biennially, the Games are scheduled for Anchorage in March of 1974. Previously, the Games have been held in Yellowknife, in the Northwest Territories, and at Whitehorse, in the Yukon. Yellowknife saw some 700 athletes, while Whitehorse hosted almost 900, and more than 1100 athletes will arrive in Anchorage for the 1974 Games, as the Games continue to grow.

The Games came about through the efforts of James Smith, Yukon Commissioner, Stuart Hodgson, Northwest Territories Commissioner and then Governor of Alaska, Walter J. Hickel. The objectives of the Games are manifold. The development of competitive ability on all levels, the opportunity for competition between areas of similar population and environment, as well as a desire to broaden the possiblities for participation by the Arctic's population in a broad range of sporting events all figured into the creation of the Games.

This international sports tableau that will unfold in Anchorage is unprecedented in the history of the Arctic. The competitors from Northwest Territory and the Yukon have been joined by athletes from Arctic Quebec and observers from Labrador will be in Anchorage preparing for their joining the Games in 1976.

As would be expected in something called the *Arctic* Winter Games, sports on snow and ice figure prominently. Cross country skiing, snowshoeing, figure skating, hockey and curling are those winter oriented activities. Snowshoeing is a newcomer to the Games with both sprint and distance events planned.

Opportunities to participate are not limited. The Games are open to any resident of the participating areas, with residency defined as six months. In almost all sports there is an open . . . that is no age limit category, a women's category, and a junior—in most cases under nineteen—category.

In addition to the purely winter sports already mentioned, other events are those that people in the northland concentrate on because of the weather limitations. Such indoor activities as table tennis, volleyball, basketball and judo have large participation levels. Other sports have dedicated devotees, such as badminton, boxing, shooting and archery and will have many participants in the team selection trials to come.

Wrestling is the province of the juniors, as are the Arctic Native Sports. The Wrestling teams will be drawn, in all probability, from the high school teams of the areas. The Arctic Native Sports will again be one of the highlights of the Games, but this time as a medal sport in its own right.

In the two previous Games, the Arctic Native Sports were exhibition events, and proved to be tremendously popular. This array of competition includes rope gymnastics, the one and two legged high kick, the kneeling jump, the back bend and the one hand reach. Just to give you an idea of the difficulty of these sports—the one hand reach involves balancing yourself on one hand (no fair letting your feet touch the ground!) in a horizontal position then reaching with your other hand to strike a target suspended at arm's length, recovering to your original position—all without having anything touch the floor except the one hand that you are balanced on. Try that one tonight, after the kids have gone to bed!

Sports is a universal language, and is one of the few ways that people of different backgrounds can get to know and understand each other. In the Arctic, opportunities for competition are limited. Thus, the Arctic Winter Games is a unique opportunity to test the development of ability among people who walk similar trails of life.

The City of Anchorage has created a fifteen-member Commission, made up of citizens from all walks of life who are responsible for planning and conducting the Games. There are representatives from the Military, the National Guard, the Greater Anchorage Area Borough and the School District, as well as from the business and professional community on the Commission. A full-time Director of Arctic Winter Games has been appointed and is currently working on Games plans.

This is an international event calling on the total resources available to conduct a good athletic event. The Military will assist in many ways, including providing communications facilities. The National Guard has made available nearby Camp Carrol to house and feed the participants on a reimburseable basis. All of the Anchorage Schools will close during the week of the Games, making their sports facilities available to hold the contests. Many Anchorage students will take part in the Games as will students from all over the State of Alaska.

The business community is also involved with transportation to be provided for the athletes and their coaches and for officials and dignitaries, souvenir items to be made and sold, and services to be provided, in addition to their support of the Games themselves.

In the months to come, the job of selecting the specific sites for the different events, selecting co-ordinators for the sports . . . and finally . . . selecting the competitors themselves, will occupy the attention of the competing units. There is much yet to be done, but the task is well begun.

Financing of the cost of hosting the Games is the biggest problem confronting the City of Anchorage and its Arctic Winter Games Commission. The total budget estimate is $300,000.

Over 70 percent of the cost of hosting the Games in Canada was paid by the Canadian Federal Government.

The City of Anchorage has agreed to fund $50,000 and the State of Alaska has appropriated $50,000, making a total of $100,000 in State and local funds. Two bills before Congress (S–907 and HR–6540) would provide $150,000. Approval of these bills would bring the total government funding up to $250,000. This would leave $50,000 to be raised locally from sales and concessions, and from donations from the business and professional community and general public.

The City of Anchorage supports the passage of S–907. This funding request represents only 50 percent of the total budget, with State, local and private sources providing the balance. This event is international in character; it helps create good will between the United States and Canada; and it promotes good character and physical fitness among young people in all the participating countries.

Therefore, we urge the favorable consideration of this Committee, and the Congress.

Mr. STEVENS. Mr. President, the State of Alaska has matched the city's funding. The State has always appropriated $15,000 each year the games have been held, even outside Alaska. This year because the games are in Alaska, the State government is appropriating an additional $50,000 to raise the total to $65,000. I request unanimous consent to have printed in the RECORD at this point a letter from the State department of administration's division of management and budget and an accompanying chart.

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

JUNE 7, 1973.

Hon. TED STEVENS,
U.S. Senate,
Washington, D.C.

Attn: Mr. Max Gruenberg

DEAR TED: Mary Jo Hobbs has requested that I furnish the pertinent data on State appropriations for the Arctic Winter Games to you.

The State of Alaska has routinely appropriated $15,000 each year the Games have been held in the past to offset Alaska's cost even though the Games have never been physically held in Alaska.

With the scheduling of the Games in Alaska next winter, the Free Conference Committee on the Budget for the First Session of the Eighth Alaska Legislature, at the request of Governor Egan, increased the amount by $50,000 making a total of $65,000 appropriated as the State's contribution for next winter's Games.

I am enclosing a copy of page 185 of Volume IV, Free Conference Committee Report, which is the detail report support Ch. 91, SLA 1973, the annual Appropriation Act. As you will note, the intent shown, fully explains how the funds are to be used.

Good luck in your efforts in this regard.

Sincerely,

M. R. CHARNEY,
Director.

NATIONAL RESOURCES MANAGEMENT AND ENVIRONMENTAL CONSERVATION

OFFICE OF THE GOVERNOR

Code and expenditure by object	Actual, fiscal year 1972	Authorized, fiscal year 1973	Maintenance, fiscal year 1974	Request, fiscal year 1974	Governor's recommended, fiscal year 1974	House, fisca. year 1974	Senate, fiscal year 1974	FCC, fisca. year 19/4
100 Personal services								
200 Travel	0.6	1.7	1.7	1.7	1.7	1.7	1.7	1.7
300 Contractual services	.9	.5	.4	.4	.4	.4	.4	.4
400 Commodities	.1		.2	.2	.2	.2	.2	.2
500 Equipment								
600 Land and structures								
700 Grants	15.0	15.0	15.0	15.0	15.0	15.0	15.0	65.0
800 Miscellaneous								
Total	16.6	17.2	17.3	17.3	17.3	17.3	17.3	67.3
900 Interagency charges								
Funding source:								
Federal receipts								
Required general fund matching								
Other general fund	16.6	17.2	17.3	17.3	17.3	17.3	17.3	67.3
Interagency transfers								
Other								
Positions:								
Permanent full-time								
Permanent part-time								
Temporary (full-time equivalent)								
Numbers of man months								

Note: FCC Intent.—Appropriation includes $65.0 for grants to be made to the Arctic Winter Games on the basis of 1 to 1 match with local funds with accounting for expenditures before reimbursement by the State.

Mr. STEVENS. Mr. President, the games are governed by the Arctic Winter Games Corp. This board consists of two directors for each participating unit—Arctic Quebec, and Yukon Territory, the Northwest Territories, and the State of Alaska. The duties of the board of directors are administrative. They provide the continuity for the international competition. They formulate the rules of the games.

Each unit has a board of directors. These directors select the board's coordinator who in turn chooses all athletes, coaches, and subcoordinators, arranges transportation, and so forth.

The corporation requires the highest elected officials of the city to sign a contract guaranteeing each athlete and coach will receive three well-balanced meals, sleeping quarters, sanitary facilities, and so forth.

Various other groups and societies also have been created to assist on a volunteer basis.

The international corporation watches over the expenditures and an audit is supplied to each participating government.

It is extremely important that the games receive action by Congress now. We are in a "critical time frame." The Arctic Winter Game Corp. has been unable, because of the dire straits in which the State of Alaska finds itself presently, to receive as much State funding as they had hoped. Because most of the expenses will have to be incurred in 1973, it is extremely important that Federal funding be granted by Congress as soon as possible. Because this legislation only authorizes the funds, and the appropriations process still remains, Congress must act on this bill as soon as possible.

I request unanimous consent that a letter describing the plight of the games and the urgent necessity for funds, which was sent to me by the city manager of Anchorage, Mr. Robert Sharp, and dated June 4, 1974, be printed in the RECORD at this point.

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

MEMORANDUM

JUNE 4, 1973.

To: Senator Stevens, Senator Gravel, Mr. Young.

Subject: 1974 Arctic Winter Games Appropriation (H.R. 6540 and S. 907).

I am taking this informal method to bring to your attention our concern over the "critical timeframe" in obtaining both the authorization and appropriation of $150,000 for the 1974 Arctic Winter Games. As you will recall, the total budget for this program is $300,000. We had planned on raising $50,000 by City appropriation (done); $100,000 from State (only $50,000 appropriated in 1973); and $150,000 from the Federal Government. The State's "tight" budget situation was such that maybe we were lucky to get the $50,000 appropriated in 1973. We are formulating plans to raise the $50,000 we did not get from the State by a local fund drive and souvenir sale effort.

In light of the host of other local fund drives, it is a formidable undertaking.

This is the reason we are highly concerned over obtaining the Federal appropriation before Congress adjourns its current session. If the appropriation is not made this year (even though the authorization is passed by Congress), we would be in a "state of limbo" since most of the expense will have to be incurred in 1973. We are hopeful a simultaneous effort can be made to get the authorization and appropriation

We would appreciate your reviewing the current situation and advising us of anything more we can do to assure the Federal appropriation of $150,000 this year.

Regards,

ROBERT E. SHARP,
City Manager.

Mr. STEVENS. Mr. President, I am certain that the Senator from Wisconsin makes a good point. I am certain there are other things the people of Anchorage think are more important than spending $50,000 to enable 600 Canadians and people from the rest of the Arctic to come to Alaska to participate in sports. But thank God there are some people who also believe that the young people of the Arctic, those who are sports-minded, ought to have a competitive experience similar to that enjoyed by people in the sunny climates every day.

The gas tax builds super highways that buses use when they transport basketball players in Nebraska. Amtrak, which costs $150 million, carries basketball players up and down the east coast. I would be willing to bet that it costs more money than this bill authorizes to keep the Senate in session right now, in order to hear this debate.

It is very difficult for a Senator from Alaska, when we sit on the richest portion of the United States in the northern part of this continent. We are waiting, and we have been waiting for 5 years, to develop the oil and gas of the Arctic. The Senator from Wisconsin had his part in delaying that development. Certainly, if we were getting the royalties from that oil and gas, we might be able to absorb $150,000. But we are in circumstances that we do not have control of our own land for taxation. We do not have control of our own land to provide the transportation system for our natural resources, and we have been forced to give up control of an additional 80 million acres for parks, wildlife, and refuges for national interest purposes, solely to get justice for the Alaskan Native people.

I see the Senator from Nevada here, and he will recall that. That provision setting aside 80 million acres in the national interest had nothing to do with the settlement of the claims of the Alaskan Native people. But as a quid pro quo to the other 49 States, we agreed to withdraw an additional 80,000,000 acres of land and set it aside forever, in order to get justice for the Alaskan Native people.

I think my good friend, the Senator from Wisconsin—and he is my good friend—is sincere in his opposition as a matter of principle. But I wish he would aim his "Big Bertha" at a whale instead of a minnow. That is what this is—this is a "minnow" bill. We even reduced it $100,000 this year from last year, and it passed the Senate without objection on the consent calendar last year, without any departmental reports. That is why we did not ask for departmental reports this year before reporting it out of committee. These reports were requested weeks ago to the House Commerce Committee.

I assure the Senator from Wisconsin

that we are not trying to run off with the Federal Treasury or start something that would lead to international expositions in every part of the country every day.

If anyone can show me an area of the country where the people who live in that area will not have a competitive experience available to them without Federal assistance, then I think that is the time we should provide Federal assistance. I agree with what the Senator from Kentucky has said. It is time we recognize that the rest of the world is subsidizing its athletes.

The PRESIDING OFFICER. The time of the Senator has expired.

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

Mr. BIDEN. Mr. President, while I sympathize with the objectives of the arctic winter games as they have been outlined here today, I regret that I find it impossible to support the bill introduced by my distinguished colleague from Alaska. I have said many times that I think we in the Congress must become more fiscally responsible and that we must carefully examine the ranking of our priorities for spending money. While I support events such as this one that promote sports and participation in them, I still believe that we have problems more directly related to the social and economic well-being of our people as a whole on which the taxpayers' money should first be spent.

I recognize that this is a small sum of money we are talking about, but I believe there is a matter of principle at stake here. That principle is using our limited monetary resources to achieve the best for all our people. Furthermore, I am disturbed that these games, which are international in that they involve two countries—Canada and the United States—are hardly national in scope because they involve only one State. I am concerned that this will set a precedent which will cause our financial support of various athletic events to grow with a consequent greater drain on our resources which should be directed toward higher priorities. Therefore, I reluctantly but nonetheless firmly conclude that on the basis of fiscal responsibility, I cannot support S. 907.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

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

S. 907

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there is authorized to be appropriated to the Secretary of Commerce the sum of $150,000 for the purpose of assisting the financing of the arctic winter games to be held in Alaska in 1974. The Secretary shall provide for the disbursement of such funds (including the making of grants to appropriate persons or organizations) on such terms and under such conditions as he deems appropriate, including the submission to him of such reports from persons or organizations to which such funds are disbursed as the Secretary considers necessary to protect the interests of the United States and assure that such funds have been used for the purpose for which they were disbursed.

[Applause in the galleries.]

Mr. ROBERT C. BYRD. Mr. President, may we have order in the galleries? No demonstrations are allowed.

The PRESIDING OFFICER. There will be order in the galleries. No demonstrations are allowed in the galleries.

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.

REGULATION OF TRANSACTIONS OF MEMBERS OF NATIONAL SECURITIES EXCHANGES

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 177, S. 470, and that the unfinished business, (S. 268) be temporarily laid aside and remain in a temporarily laid-aside status until the disposition of S. 470 today or until such time as it is completed, whichever is earlier.

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

The second assistant legislative clerk read as follows:

A bill (S. 470) to amend the Securities and Exchange Act of 1934 to regulate the transactions of members of national securities exchanges, to amend the Investment Company Act of 1940 and the Investment Advisers Act of 1940 to define certain duties of persons subject to such Acts, 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, which had been reported from the Committee on Banking, Housing and Urban Affairs with an amendment to strike out all after the enacting clause and insert:

SECTION 1. Section 11(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78k(a)) is amended to read as follows:

"(a)(1) The Commission shall prescribe such rules and regulations as it deems necessary or appropriate in the public interest or for the protection of investors, to regulate or prevent trading on national securities exchanges by members thereof from on or off the floor of the exchange, directly or indirectly for their own account or for the account of any affiliated person or, in the case of floor trading, for any discretionary account. Such rules shall, as a minimum, require that such trading contribute to the maintenance of a fair and orderly market.

"(2) It shall be unlawful for a member to effect any transaction in a security in contravention of rules and regulations under paragraph (1), but such rules and regulations may contain such exemptions for arbitrage, block positioning, or market maker transactions, for transactions in exempted securities, for transactions by odd-lot dealers and specialists (within the limitations of subsection (b) of this section), for transactions by affiliated persons who are natural persons, and for such other transactions as the Commission may deem necessary or appropriate in the public interest or for the protection of investors."

SEC. 2. Section 11 of the Securities Exchange Act of 1934 (15 U.S.C. 78k) is amended by inserting after subsection (e) the following new subsection:

"(f)(1) It shall be unlawful for a member of a national securities exchange to effect, whether as broker or dealer, any transaction on such exchange with or for its own account, the account of any affiliated person of such member, or any managed institutional account. As used herein the term 'managed institutional account' means an account of a bank, insurance company, trust company, investment company, separate account, pension-benefit or profit-sharing trust or plan, foundation or charitable endowment fund, or other similar type of institutional account for which such member or any affiliated person thereof (A) is empowered to determine what securities shall be purchased or sold, or (B) makes day-to-day decisions as to the purchase or sale of securities even though some other person may have ultimate responsibility for the investment decisions for such account.

'(2) The provisions of paragraph (1) of this subsection shall not apply to—

"(A) any transaction by a registered specialist acting as such in a security in which he is so registered;

"(B) any transaction for the account of an odd-lot dealer in a security in which he is so registered;

"(C) any transaction by a block positioner or market maker acting as such, except where an affiliated person or managed institutional account is a party to the transaction;

"(D) any stabilizing transaction effected in compliance with rules under section 10(b) of this title to facilitate a distribution of a security in which the member effecting such transaction is participating;

"(E) any bona fide arbitrage transaction, including hedging between an equity security and a security entitling the holder to acquire such equity security, or any risk arbitrage transaction in connection with a merger, acquisition, tender offer, or similar transaction involving a recapitalization;

"(F) any transaction made with the prior approval of a floor official to permit the member effecting such transaction to contribute to the maintenance of a fair and orderly market, or any purchase or sale to reverse any such transaction;

"(G) any transaction to offset a transaction made in error; or

"(H) any transaction for a member's own account or the account of an affiliated person who is a natural person effected in compliance with rules and regulations prescribed by the Commission under section 11(a) of this title.

"(3) The provisions of paragraph (1) of this subsection shall not apply to transactions by any member of any national securities exchange with or for its own account or for the account of any person who is an affiliated person or a managed institutional account of such member, during the following periods:

"(A) prior to the last date on which any national securities exchange maintains or enforces any rule fixing rates of commission, or prior to April 30, 1976, whichever is later;

"(B) for a period of twelve months following the date specified in subparagraph (A), if the total value of all such transactions effected by such member during such period on all national securities exchanges of which it is a member (other than transactions described in subparagraphs (A) through (G) of paragraph (2)) does not exceed 20 per centum of the total value of all transactions

effected by such member during such period on all such exchanges; and

"(C) for a period of twelve months following the period specified in subparagraph (B), if the total value of all such transactions effected by such member during such period on all national securities exchanges of which it is a member (other than transactions described in subparagraphs (A) through (G) of paragraph (2)) does not exceed 10 per centum of the total value of all transactions effected by such member during such period on all such exchanges.

"(4) It shall be unlawful for a member of a national securities exchange to utilize any scheme, device, arrangement, agreement, or understanding designed to circumvent or avoid, by reciprocal means or in any other manner, the policy and purposes of this subsection or any rule or regulation the Commission may prescribe as necessary or appropriate to effect such policy and purposes."

SEC. 3. Section 36 of the Investment Company Act of 1940 (15 U.S.C. 80a-35) is amended by inserting after subsection (b) the following new subdivision:

"(c) It shall not be deemed unlawful or a breach of fiduciary duty for an investment adviser or other person referred to in subsection (a)(1) of this section to cause or induce a registered investment company to pay a commission to a broker for effecting a transaction, which is in excess of commissions then being charged by other brokers for effecting similar transactions, if—

"(1) such investment adviser or other person determines in good faith that research services provided by such broker for the benefit of such investment company justify such payment;

"(2) such registered investment company makes appropriate disclosures to its security holders of its policies and practices in this regard, at such times and in such manner as the Commission shall prescribe by rules or regulations; and

"(3) such broker is not a person referred to in subsection (a)(1) or (a)(2) of this section or an affiliated person of any such person."

SEC. 4. Section 206 of the Investment Advisers Act of 1940 (15 U.S.C. 80b-6) is amended—

(1) by inserting the designation "(a)" immediately after "SEC. 206."; and

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

"(b) It shall not be deemed unlawful or a breach of fiduciary duty for an investment adviser to cause or induce a client to pay a commission to a broker for effecting a transaction, which is in excess of commissions then being charged by other brokers for effecting similar transactions, if—

"(1) such investment adviser determines in good faith that research services provided by such broker for the benefit of such client, justify such payment;

"(2) such investment adviser makes appropriate disclosures to such client of its policies and practices in this regard, at such times and in such manner as the Commission shall prescribe by rules or regulations; and

"(3) such broker is not the investment adviser or an affiliated person of such investment adviser."

SEC. 5 Section 15 of the Investment Company Act of 1940 (15 U.S.C. 80a-15) is amended by adding at the end thereof a new subsection as follows:

"(f)(1) An investment adviser or a corporate trustee performing the functions of an investment adviser of a registered investment company, or an affiliated person of such investment adviser or corporate trustee may receive any amount of benefit in connection with a sale of securities of, or a sale of any other interest in, an investment adviser or a corporate trustee performing the functions of an investment adviser which results in an assignment of an investment advisory contract with such company or the change in control of or identity of a corporate trustee who performs the functions of an investment adviser, if—

"(A) for a period of three years after the time of such assignment, at least 75 per centum of the members of the board of directors of such registered company or such corporate trustee (or successor thereto, by reorganization or otherwise) are not (i) interested persons of the investment adviser of such company, or (ii) interested persons of the predecessor investment adviser; and

"(B) there is not imposed an unfair burden on such company as a result of such transaction or any express or implied terms, conditions, or understandings applicable thereto.

For the purpose of subsection (f)(1)(B), an unfair burden on a registered investment company includes any arrangement, during the two-year period after the date on which any such transaction occurs, whereby the investment adviser or corporate trustee or predecessor or successor investment adviser or corporate trustee or any interested person of any such adviser or any such corporate trustee receives or is entitled to receive any compensation directly or indirectly (i) from any person in connection with the purchase or sale of securities or other property to, from, or on behalf of such company, other than bona fide ordinary compensation as principal underwriter for such company, or (ii) from such company or its security holders for other than bona fide investment advisory or other services.

"(2) If (i) an assignment of an investment advisory contract with a registered investment company results in a successor investment adviser or a corporate trustee performing the functions of an investment adviser to such company and if such successor is then an investment adviser or performs such functions with respect to other assets substantially greater in amount than the amount of assets of such company, or

"(ii) as a result of a merger of, or a sale of substantially all the assets by, a registered investment company with or to another registered investment company with asset substantially greater in amount a transaction occurs which would be subject to subsection (f)(1)(A), such discrepancy in size of assets shall be considered by the Commission in determining whether or to what extent an application under section 6(c) for exemption from the provisions of subsection (f)(1)(A) should be granted.

"(3) Subsection (f)(1)(A) shall not apply to a transaction in which a controlling block of outstanding voting securities of an investment adviser to a registered investment company or of a corporate trustee performing the functions of an investment adviser to a registered investment company—

"(A) distributed to the public and in which there is, in fact, no change in the identity of the persons who control such investment adviser or corporate trustee, or

"(B) transferred to the investment adviser or the corporate trustee, or an affiliated person or persons of such investment adviser or corporate trustee, or is transferred from the investment adviser or corporate trustee to an affiliated person or persons of the investment adviser: *Provided*, that (i) each transferee (other than such adviser or trustee) is a natural person and (ii) the transferees (other than such adviser or trustee) owned in the aggregate more than 25 per centum of such voting securities for a period of at least six months prior to such transfer."

SEC. 6. Section 15(c) of the Investment Company Act of 1940 (15 U.S.C. 80a-15(c)) is amended by adding at the end thereof a new sentence as follows: "It shall be unlawful for the directors of a registered investment company, in connection with their evaluation of the terms of any contract whereby a person undertakes regularly to serve or act as investment adviser of such company, to take into account the purchase price or other consideration any person may have paid in connection with a transaction of the type referred to in subsection (f) or specifically exempt therefrom by paragraph (2) or (3) of subsection (f)."

SEC. 7. Section 16 of the Investment Company Act of 1940 (15 U.S.C. 80a-16) is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by adding after subsection (a) a new subsection as follows:

"(b) Any vacancy on the board of directors of a registered investment company which occurs in connection with compliance with section 15(f)(1)(A) and which must be filled by a person who is not an interested person of either party to a transaction subject to section 15(f)(1)(A) shall be filled only by a person (i) who has been selected and proposed for election by the directors of such company who are not such interested persons, and (ii) who has been elected by the holders of the outstanding voting securities of such company, except that in the case of the death, disqualification, or bona fide resignation of a director selected and elected pursuant to clauses (i) and (ii) of this subsection (b), the vacancy created thereby may be filled as provided in subsection (a)."

SEC. 8. Section 10(e) of the Investment Company Act of 1940 (15 U.S.C. 80a-10(e)) is amended to read as follows:

"(e) If by reason of the death, disqualification, or bona fide resignation of any director or directors, the requirements of the foregoing provisions of this section or of section 15(f)(1) in respect of directors shall not be met by a registered investment company, the operation of such provisions shall be suspended as to such registered company—

"(1) for a period of thirty days if the vacancy or vacancies may be filled by action of the board of directors;

"(2) for a period of sixty days if a vote of stockholders is required to fill the vacancy or vacancies; or

"(3) for such longer period as the Commission may prescribe, by rules and regulations upon its own motion or by order upon application, as not inconsistent with the protection of investors."

SEC. 9. Section 9 of the Investment Company Act of 1940 (15 U.S.C. 80a-9) is amended by adding at the end thereof a new subsection as follows:

"(d) For the purposes of subsections (a) through (c) of this section, the term 'investment adviser' includes a corporate or other trustee performing the functions of an investment adviser."

SEC. 10. Section 36 of the Investment Company Act of 1940 (15 U.S.C. 80a-35) is amended by adding at the end thereof a new subsection as follows:

"(d) For the purposes of subsections (a) through (c) of this section, the term 'investment adviser' includes a corporate or other trustee performing the functions of an investment adviser."

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Berry, one of its reading clerks, announced that the House had disagreed to the amendment of the Senate to the bill (H.R. 7645) to authorize appropriations for the Department of State, and for other purposes; agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and that Mr. HAYS, Mr. MORGAN, Mr. ZABLOCKI, Mr. MAILLIARD, and Mr. THOMSON of Wisconsin were appointed managers on the part of the House at the conference.

The message also announced that the House had passed a bill (H.R. 8619)

making appropriations for Agriculture-Environmental and Consumer Protection programs for the fiscal year ending June 30, 1974, and for other purposes, in which it requested the concurrence of the Senate.

HOUSE BILL REFERRED

The bill (H.R. 8619) making appropriations for Agriculture-Environmental and Consumer Protection programs for the fiscal year ending June 30, 1974, and for other purposes, was read twice by its title and referred to the Committee on Appropriations.

LAND USE POLICY AND PLANNING ASSISTANCE ACT

The PRESIDING OFFICER. Under the previous order, the Chair lays before the Senate S. 268, which will be stated.

The assistant legislative clerk read as follows:

A bill (S. 268) 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.

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

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk called 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.

RECESS TO 1:30 P.M. TODAY

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate stand in recess until the hour of 1:30 p.m. today.

The motion was agreed to; and at 12:38 p.m., the Senate took a recess until 1:30 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. HASKELL).

REGULATION OF TRANSACTIONS OF MEMBERS OF NATIONAL SECURITIES EXCHANGES

The Senate continued with the consideration of the bill (S. 470) to amend the Securities Exchange Act of 1934 to regulate the transactions of members of national securities exchanges, to amend the Investment Company Act of 1940 and the Investment Advisers Act of 1940 to define certain duties of persons subject to such acts, and for other purposes.

Mr. BROOKE. Mr. President, the legislation before us today is the first in a series of bills emanating from the far-reaching recommendations of the securities industry study conducted by the Committee on Banking, Housing and Urban Affairs. This study has taken almost 2 years to complete and represents a very thorough analysis of the most vexatious economic and regulatory problems facing our securities markets. Over the duration of this Congress, the Securities Subcommittee will consider many of its other recommendations in the hope of providing those regulatory changes essential to effecting a smooth transition to a central market system and improve the functioning of the industry's unique self-regulatory process.

The primary focus of this legislation is perhaps one of the most controversial questions presently confronting the industry—institutional membership. S. 470 deals directly with the problem of under what conditions a firm should be allowed to become or remain a member of a registered stock exchange. This has been widely and vigorously debated within every sector of the industry, before the SEC and the courts, and on at least three separate occasions over the last 2 years before the Securities Subcommittee. Today, we have an opportunity to make further progress toward a solution to it.

For the past several years, the major stock exchanges of this country have had membership rules that have varied greatly from one exchange to another. These rules have differed basically in their treatment of the combinations of investment advisory and brokerage services within the same firm. As a result, brokers affiliated with such financial institutions as insurance companies and mutual funds have been barred from membership on the New York and American Stock Exchanges while being admitted to membership on some of the regional stock exchanges. Differing treatment of this combination of functions has aggravated such basic industry problems as the unfair competition that presently exists between stock exchange members and nonmembers for institutional advisory accounts, including the fastest-growing area of all—pension fund management. It has distorted the evolution of a central market system for all listed securities by providing artificial incentives for firms to undertake both money management and brokerage. And it poses a number of serious conflicts of interest between broker money managers and their various clients.

The Securities and Exchange Commission has attempted to resolve these and other problems involving institutional membership by ordering the implementation of Securities Exchange Act rule 19b–2. This rule provides, in short, that every member must conduct a public securities business as its primary function, and it therefore stipulates that no member of any registered stock exchange may execute more than 20 percent of the total value of its exchange transactions for "affiliated persons," as defined in the rule.

This rule is under serious challenge on several fronts. Significant questions have been raised concerning the SEC's authority to act in this area and that authority is now subject to litigation proceedings initiated by the PBW Stock Exchange, Inc. In addition, an increasing number of persons, both inside and outside the securities industry, have stated their opposition to this rule as a matter of public policy.

It has been pointed out that rule 19b–2 only continues and even sanctions the fundamental unfairness of permitting brokers to combine money management with their brokerage business while preventing money managers from becoming brokers. For example, in its definition of "affiliated person," rule 19b–2 includes the accounts of institutional parents, investment companies, or other institutional funds which are managed under contract. NYSE member firms typically manage pension fund accounts under arrangements that give them only investment discretion, where insurance companies most often manage pension fund accounts pursuant to a contractual agreement. Thus, under such a definition, pension funds would be considered "unaffiliated" business, and, therefore, not subject to the 20 percent limitation, if managed under the arrangement most commonly used by exchange member money managers. However, the ultimate consequence of the two modes is the same: The money manager has de facto authority to make the day-to-day investment decisions for the managed account. Therefore, rule 19b–2 would apparently treat these two situations completely differently disregarding the realities of the situation and continuing the substantial competitive advantage enjoyed by NYSE money managers in the competition for managed institutional account business.

Several witnesses appearing before the Securities Subcommittee during its hearing on S. 470 testified that the Commission's approach to the combination of money management and brokerage would only encourage institutions to structure their relationships with their managed accounts in such a way as to insure circumvention of the rule. Both the Securities Industry Association and the American Stock Exchange advised the committee of their apprehension over rule 19b–2. They pointed out that even under this rule insurance companies and other institutional investment advisors will be able to become members of national exchanges for the sole or primary purpose of handling brokerage business for their managed institutional accounts, in fact, chiefly pension funds. These institutions believe that this rule may permit them to form member broker-dealer affiliates to handle transactions for most categories of their business within the rule's definition of what constitutes an "unaffiliated" account. Moreover, both witnesses pointed out that many institutions who have no wish whatever to join an exchange feel that under this rule they may be forced to do so either by competition or to avoid legal risks. As a result, it appears that rule 19b–2 may in practice achieve precisely the opposite of what it was intended to accomplish.

I also want to point out that rule 19b–2 does little, if anything, to abate or remove the conflicts of interest present in the combination of money management and brokerage. In fact, one witness stated that the approach taken in 19b–2 might even exacerbate some of the conflicts involved. Michael Taylor, vice president of Paine, Webber, Jackson, and Curtis, a NYSE member firm, pointed out that to meet the 20 percent affiliated business re-

quirement, a broker may well be tempted to churn his unaffiliated accounts, or conversely, limit transactions by affiliated accounts in order to remain in compliance.

Mr. Taylor illustrated his point with the scenario:

> What does the chief officer of a securities firm do as the end of a reporting period approaches and he is told that his firm's ratio of non-affiliated to affiliated business for the period is 79–21?
>
> Does he order a set-up in the business being done for non-affiliated accounts? Or does he order limitations on the business being done for affiliated accounts?

In either case, the broker may be induced to act in other than the best interests of a particular account simply to comply with the 80–20 formula.

Accordingly, it would appear that the question of the combination of money management and brokerage can be most equitably resolved by prohibiting stock exchange members and their affiliates from effecting any transactions on national securities exchanges for those institutional accounts which they manage. The fairest means of separating a firm's "affiliate" from its "unaffiliate" business is the adoption of a standard applicable to everyone which defines an "affiliated" or managed institutional account as specifically including any account of banks, insurance companies, investment companies, separate account, profit sharing and retirement plans, foundations, and educational endowment funds. The test of "management" for the purpose of this prohibition focuses on the de facto authority to make the day-to-day investment decisions for the fund without reference to ultimate legal responsibility for the investment of the account's assets. This legislation separates "affiliate" from "non-affiliate" business on a basis that will apply even-handedly to institutional accounts managed by NYSE members and non-NYSE member investment advisors, and pension fund accounts will be counted as affiliated business for both types of managers. As a result it substantially equalizes the competition between NYSE members and nonmembers for managed institutional account business.

Moreover, the total separation of the two functions will eliminate many of the conflicts of interest involved when a money manager acts as a broker for his controlled accounts. There no longer will be an effort to artificially contort the management of advisory account brokerage transactions in such a way as to conform to an arbitrary percentage of business test.

Finally, I want to take particular note of one criticism of this legislation. Some have stated that the permitting of institutions to continue unlimited trading for their own accounts until commission rates become fully competitive will simply perpetuate institutional market domination and further encourage many of the trading activities which have driven the individual investor out of the market.

First, it should be pointed out that many of the most alarming and ominous aspects of institutional domination of our securities markets, such as trading of large blocks of stock in a manner which avoids the auction market, short swing speculation, primary access to advantageous research, concentration of investments in a relatively few securities, and the near-instantaneous liquidation of large positions with little regard for market impact all have little to do with whether or not an institution is able to trade through its own exchange member affiliate. In my judgment, the abolition of institutional membership will not, in and of itself, remove most of the detrimental effects on our securities markets of unrestrained institutional trading. It should also be clearly indicated that to the extent that institutions remain as or continue to become members of exchanges, section 1 of this bill gives the Commission additional authority to regulate their trading activity. This authority provides that the SEC must require that such institutional member trading contribute to the orderliness and liquidity of the market. Last, I am advised that in addition to the authority conferred upon it by section 1, the Commission will soon be forthcoming with new legislation to require frequent and complete disclosure of institutional holdings and trading activities, irrespective of whether or not an institution is an exchange member. I urge the Commission to speed the drafting of this legislation, and I hope that our committee can give it prompt and expeditious consideration when it is submitted.

In conclusion, Mr. President, it is becoming increasingly apparent that the debate over who should be allowed to be a member of a stock exchange has gone on long enough. There is little that has not already been offered by any side in this dispute. Without affirmative congressional action the arguments will drag on indefinitely, impeding all attempts to improve the condition of our securities markets. If that happens, the entire securities industry will be hurt, but I can assure you that the investing public will be the biggest loser of all. Therefore, I fully support this legislation, and urge its swift adoption by the Senate.

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

The PRESIDING OFFICER (Mr. HASKELL). The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

Mr. SPARKMAN. Mr. President, I ask unanimous consent that the following staff members of the committee may be permitted on the floor during consideration of the pending bill: Tony Wood, Alton Harris, Terry Cluff, Steven Paradise, Mike Burns, Howard Minell, and Reginald Barnes.

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

Mr. WILLIAMS. Mr. President, on June 21, 1971, and on March 6, 1972, the Senate authorized the Committee on Banking, Housing and Urban Affairs to examine, investigate and make a complete study of any and all matters relating to the securities industry.

Pursuant to this authority the Subcommittee on Securities, of which I am chairman, has made the most comprehensive review of the regulation of our country's securities markets undertaken by the Senate since the 1930's.

Two of the most important issues discussed in the subcommittee's securities industry study report are the commission rate structure applicable to transactions on national securities exchanges and the availability of membership on those exchanges to financial institutions such as mutual funds, insurance companies, and banks.

In accordance with our subcommittee's recommendations on these matters, Senators BENNETT and TOWER and I introduced S. 470 on January 18 of this year.

Following extensive hearings on this bill, the full Committee on Banking, Housing and Urban Affairs has recommended its enactment with only minor changes.

This legislative approach from the outset has been completely bipartisan. Senators TOWER, BENNETT, and BROOKE, the bill's cosponsors, have acted in the most constructive manner.

The efficient movement of the legislation through committee could not have been achieved without their hard work and complete cooperation.

This bill reflects the conclusions of the subcommittee's study and in my opinion its adoption will provide a sound regulatory and economic framework within which the securities industry can operate and improve its services to all investors.

In addition to the bill's provisions concerning institutional membership and the commission-rate structure, this legislation makes three other major changes in our country's securities laws.

First, the bill amends the Securities Exchange Act of 1934 to give the Securities and Exchange Commission the authority to regulate the manner in which members of national securities exchanges may trade from on or off the floor of an exchange for their own account and for the account of their affiliates.

At present, the SEC's rulemaking authority respecting off-floor trading is limited to the prevention of members engaging in "excessive" trading.

The bill removes this limitation in accordance with recommendations of the SEC and gives that agency authority to regulate all trading by exchange members and their affiliated persons.

The bill also requires the Commission to adopt rules under this expanded authority providing that all trading by all members of national securities exchanges "contribute to the maintenance of a fair and orderly market."

I believe that with this expanded power the SEC will be able to control the trading activities of exchange members—including those affiliated with institutions—so that our securities markets operate fairly with regard to all investors.

The second thing the bill does is to amend the Investment Company Act of 1940 and the Investment Advisers Act of 1940 to permit a mutual fund manager or investment adviser to cause a fund or client to pay commissions to a broker in excess of commissions then being charged

by other brokers for effecting similar transactions.

This may be done only if the broker provides research services of value to the fund or client and the adviser makes appropriate disclosures concerning such payments, as the SEC may require.

Currently there is inconsiderable uncertainty in the securities industry as to the propriety of a fiduciary paying commissions higher than those charged by other brokers for effecting similar transactions.

Representatives of research brokerage firms testified that many investment advisers are uncertain about the legality of paying such commissions, even though the mutual funds' prospectuses describe the practices.

S. 470 would remove this uncertainty and would establish legislative standards in accordance with which fiduciary money managers may use commissions to obtain research services.

The third important change which this bill makes in our securities laws is to amend the Investment Company Act to remove another existing-uncertainty—the legality of the transfer for profit of a controlling interest in a mutual fund management company.

This uncertainty was created by the 1971 decision of the Court of Appeals for the Second Circuit in Rosenfeld against Black.

In this case, the court of appeals held that the general equitable principle that a fiduciary cannot sell his office is impliedly incorporated into section 15(a) of the Investment Company Act of 1940.

The court, therefore, decided that a retiring investment adviser breaches its fiduciary duty by receiving compensation which reflects either, first payment contingent upon the use of influence to secure the approval of the new adviser or two, an assurance of profit the successor adviser will receive under the new advisory contract and renewals thereof.

This legislation resolves the potential unfairness and uncertainty credited by the Rosenfeld decision.

It provides that a controlling interest in a mutual fund management company may be sold at a profit.

However, for 3 years after such a transaction, at least 75 percent of the directors of the fund are to be independent of the new and old investment advisers.

In addition, the transaction must not impose an "unfair burden," as defined, on the fund.

These requirements will provide needed protections for mutual fund investors and at the same time allow the sale of management companies for profit.

Although these three changes are extremely important, the heart of S. 470 and its primary purpose is to deal with the complex questions surrounding institutional membership on stock exchanges.

The current pressure by institutional investors to join stock exchanges, as well as the growing concern of traditional securities firms with such membership, is inextricably tied to the continued existence of the fixed minimum commission rate structure.

The issue of institutional membership—performance of the functions of brokerage and money management by the same exchange member for the same affiliated or institutional account—and the issue of fixed commission rates, may be analytically distinct, but as a practical matter, they are inseparable.

In our committee's deliberations on this bill, we considered a proposal to set a definite date for the elimination of all fixed rates.

Although the committee generally agreed that fully competitive rates are necessary and appropriate for the long term health of the securities industry, the development of a true central market system, and the protection and fair treatment of investors, we saw serious difficulties with Congress setting the precise date on which fixed rates were to be eliminated.

Therefore, the bill, as reported, leaves the date and the manner in which fixed rates are to be phased out to the stock exchanges, the SEC and the courts.

Thus, S. 470 in no way affects pending litigation involving the legality of fixed commission rates under the antitrust laws.

In eliminating any reference to a specific date for the elimination of fixed rates, the committee was mindful of the fact that it would be unfair to investors and deleterious to the efficient operation of the securities markets to prohibit institutions or any other investors from joining exchanges for the purpose of reducing their commission costs while commission rates remain fixed.

Therefore, the bill's prohibition against an exchange member performing brokerage services for an affiliated person or managed institutional account does not become effective until commission rates become fully competitive.

Until completely competitive rates have been implemented, exchange members, money managers enjoy important competitive advantages over nonmember money managers.

Therefore, any attempt to freeze the existing membership situation or to prohibit institutions from joining exchanges would be grossly unfair to our Nation's pension funds, mutual funds, and insurance companies, and the millions of individuals whose savings they manage.

Furthermore, so long as commission rates remain fixed and investors are unable to obtain brokerage services at prices which the forces of competition have determined to be reasonable, there will inevitably be efforts to circumvent the effect of fixed rates.

Exchange membership is a direct way to avoid fixed rates and, therefore, its availability to institutions will provide an escape valve for their legitimate economic interests.

Allowing institutions to join exchanges is far preferable in my view to the proliferation of the dangerous and disruptive reciprocal practices which have in the past resulted from the denial of membership.

Once fixed rates are eliminated, the bill will resolve the problems caused by institutional membership—conflicts of interest, competitive unfairness, and potential market distortions—fairly and with due consideration for the protection of all public investors.

It will prohibit all stock exchange members and their affiliates, subject to enumerated exceptions, from effecting any transactions on any national securities exchange for their own account, for the account of their affiliated persons or for institutional accounts which they manage.

The bill's approach of totally separating an exchange member's brokerage activities from its institutional money management activities eliminates self-dealing with respect to the brokerage or managed institutional accounts and resolves the conflicts of interest created by this combination of functions.

The absolute and uniform prohibition on self-dealing in the bill will also eliminate the problem of market distortion which arises from the different relationships between money management and brokerage allowed by the various exchanges.

The incentive to take transactions to the market which affords the best opportunity to earn or recapture the most commission income without regard to "best execution" will also be removed.

The bill's provisions apply even-handedly to all money managers and will, therefore, provide a fair basis upon which all can compete for this type of business in the future.

The unjustifiable discrimination suffered by nonbroker money managers under the existing exchange arrangements will be eliminated.

The bill will also eliminate the artificial inducement to money managers to enter the brokerage business and permit a flexible movement toward the creation of a new central market system.

In summary, Mr. President, S. 470 is the end product of nearly 2 years of intensive study, hearings and deliberations by our committee, the SEC, the securities industry and representatives of the investing public.

Our legislation is designed to deal with the problems which the money management/brokerage combination pose for a truly competitive market.

I, for one, believe that this bill will accomplish this objective in a direct and constructive manner.

In my opinion, it will go a long way toward establishing a rational and fair economic base for the securities industry and, at the same time, it will provide the SEC with the authority to adequately protect all investors.

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

Mr. WILLIAMS. I am happy to yield to the chairman of the Committee on Banking, Housing and Urban Affairs.

The PRESIDING OFFICER (Mr. McCLURE). The Senator from Alabama is recognized.

Mr. SPARKMAN. Mr. President, first I commend and congratulate the Senator from New Jersey who is chairman of the Subcommittee on Securities of the Committee on Banking, Housing and Urban Affairs. I commend him and the members of his committee for the long and hard work they have put into this legislation.

The Senator knows, of course, that there are some things about which I expressed some dissatisfaction. However, I was assured by the Senator from New

Jersey that the things about which I am concerned will be the subject of further study. Very briefly, the thing that disturbs me about the legislation so far and about the condition of security dealings throughout the country and the stock exchanges is the fact that the small investors are being driven out of the market. I think there is no question about that.

At the present time we are supposed to have, I believe, about 32 million shareholders in the United States. I have often said we should have 50 million and we should be working toward 100 million. If we are going to have a healthy economy in the security business I think we must pay more attention to the small investor.

When this bill was being marked up in committee the Senator from New Jersey assured me at that time, and I want to ask if my understanding is correct, that this subcommittee will be giving attention to other matters, other legislation that might provide some incentive for the small investor.

Mr. WILLIAMS. Well, I am happy to respond to the chairman of the full committee that after we have concluded this question and this legislation I think we will deal with those situations. First come rates and the membership question. Then it is our objective to deal comprehensively with the regulation of the securities industry and the marketplace.

We know there are so many factors that are discouraging to the smaller investor. It will require a continuation of our studies to bring up to date all we have started upon in order to find ways to deliver the authority to the SEC to rationalize the whole transaction process—from the initial order through the exchange to the clearing depository, and including the stock certificate.

There are so many obstructions in the way of a clear and simple transaction.

Mr. SPARKMAN. And safe.

Mr. WILLIAMS. And safe. I will say we did a great deal when we responded with alertness under the leadership of the Senator from Alabama, now nearly 3 years ago, to a crisis in the marketplace. We brought a new insurance factor to the investor should there be a failure of a brokerage house. With respect to unsafe practices, answers are continuing to be found so that the small investor will have a better place for his investment.

Mr. SPARKMAN. I appreciate that statement. I know the Senator will carry it out.

Mr. WILLIAMS. I thank the chairman very much for his kind reference to the work of our subcommittee and his personal references.

Mr. BROOKE. Mr. President, I am very pleased to have heard the colloquy between of the distinguished chairman of the committee (Mr. SPARKMAN) and the distinguished chairman of the subcommittee (Mr. WILLIAMS) concerning the protection of small investors.

The chairman will recall that some years ago, after the failure of some brokerage houses, I proposed the segregation of cash and securities, so that brokerage houses would not use or intermingle their cash with the cash of investors or pledge the fully paid securities of the investor for obligations of the firm. At that time, some brokerage houses were in bankruptcy, and in liquidation of the assets of those firms we were unable to distinguish what belonged to the customers and what belonged to the brokerage firms. Consequently, some persons were injured very badly.

As the subcommittee chairman (Mr. WILLIAMS) has said, we went further at that time and came to an agreement with the New York Stock Exchange and the Commission that the SEC would promulgate rules under the Securities Exchange Act to prevent future intermingling of customer cash and securities with those of the firm.

We asked the Securities and Exchange Commission to draft regulations, because we were aware that if we were to stop instantaneously the intermingling of cash and securities, the result would have been disastrous to the stock market at that time. However, we agreed that we would gradually work toward such a separation.

These SEC regulations have only been in effect since January of this year. It is still too early to know what effect they are having on brokerage house operations. However, we hope that very shortly we shall have that information together with the kind of cooperation the Commission is receiving from the various brokerage houses throughout the country in enforcing this rule, so that the maximum protection might be afforded the consumer.

I want to note this progress on free credit balances because it is proposed in the bills upon which the committee has been working—and in particular this bill—that we make certain that not only is the consumer protected, but that more of the American public will be encouraged to become investors in the stock market. I think it is good to point out that we have made some very serious progress in this area already.

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

Mr. BROOKE. I yield.

Mr. SPARKMAN. I well recall when we had the insurance bill before the Senate. There was a great crisis in the securities industry at the time. I know the Senator from Massachusetts brought out the fact, and there was some discussion of it, that in a great many instances the investor has his stock certificates used to finance other business activities of his broker. Moreover, the cash of many customers was also being held and being used by the broker for his own use. Both the use of customer certificates and money by brokers was virtually unrestricted by our securities laws. It was the Senator from Massachusetts who brought up that point when I was arguing for that bill. At the time, I suggested that we would go on and pass the bill, because there was an emergency; then we could consider the other things.

The Senator asked if I would say that we definitely would make the studies, and make them in depth. It was largely because of the suggestion made by the Senator from Massachusetts that we asked the Committee on Rules and Administration to allow us to establish the special ad hoc committee. The bill before us today is the first big bill to be reported by that committee. However, I take it that we may expect other bills to follow it.

I commend the Senator from Massachusetts for initiating the argument, and also for the very fine work he has done with the chairman and other members of the subcommittee.

Mr. BROOKE. I thank the distinguished chairman. I may add that the Senator from New Jersey (Mr. WILLIAMS), the chairman of the subcommittee, as a result of that debate which took place on the floor of the Senate, when we were near the end of the session, and there was a question whether we would be able to pass the bill at all, stated that he would see to it that we would have a study and go into it in depth; that we would consider the intermingling of cash and securities and with the aid of the Securities and Exchange Commission would look into all aspects of the financial operations and securities processing of the brokerage industry.

The chairman of the Securities Subcommittee (Mr. WILLIAMS), of course, then put together a staff. I think they have done an exceptionally fine job. It is an exceptionally fine staff which has done a lot of extremely fine work, including four case studies, many, many hours of complex hearing, and two hallmark analytical reports on the industry's most pressing economic and regulatory problems.

As I pointed out, this is the first piece of legislation to come out of the study's recommendations, but other pieces of legislation will follow, and in due course I think we can restore a full measure of public confidence to this industry. When that happens I am sure we will see a marked improvement in present market conditions.

Mr. WILLIAMS. Mr. President, may I say that it was at the time of the passage of the SIPC legislation that the Senator from Massachusetts brought to the Senate debate his background of knowledge, and his wisdom, in suggesting the need not only to have an insurance program for investors but to deal comprehensively and in depth with the securities industry and its methods and procedures of operation. That suggestion of the Senator from Massachusetts was readily accepted by the chairman of the full committee, the Senator from Alabama (Mr. SPARKMAN), and I was in position, of course, on the subcommittee, to work with the idea.

It has been a joint venture of the best kind, I would say. I mentioned this in my earlier remarks. For nearly 2 years now, we have been blessed with a very able staff, and the selection of a staff was also a joint enterprise. Together, we interviewed those suggested by the majority and those suggested by the minority. It has been a constructive and cooperative effort from the beginning.

As I mentioned earlier in response to the observation of the Senator from Alabama, our work is far from over with the passage of this present legislation. Certainly the back office legislation which last year unanimously passed in the Senate, but failed of enactment because of the lack of time to have a conference, will be reintroduced. This legislation will go a long way toward rationalizing the depository and clearing house procedures

to assure that the SEC has full power over the trade completion process.

It is with great pleasure that I thank the Senator from Massachusetts for his comments, but also reply in kind that his contribution has been indispensable to the progress we have made and to where we are going on the road ahead.

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

The PRESIDING OFFICER. The clerk will call the roll.

The second legislative clerk proceeded to call the roll.

Mr. TAFT. Mr. President, I ask unanimous consent that the order for the quroum call be rescinded.

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

AMENDMENT NO. 223

Mr. TAFT. Mr. President, I call up my amendment No. 223 to S. 470, a bill to amend the Securities and Exchange Act of 1934, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 15, strike lines 4 through 7.

On page 15, line 8, strike out "(B)" and insert in lieu thereof "(A)".

On page 15, line 9, strike out "specified in subparagraph (A)" and insert in lieu thereof "of enactment of this subsection".

On page 15, line 17, strike out "(C)" and insert in lieu thereof "(B)".

On page 15, line 18, strike out "(B)" and insert in lieu thereof "(A)".

At the end of the bill add the following new section:

"SEC. 11. Section 6(c) of the Securities Exchange Act of 1934, as amended (15 U.S.C. 78f(c), is amended to read as follows:

"'(c) Nothing in this title shall be construed to prevent any exchange from adopting and enforcing any rule not inconsistent with this title and the rules and regulations thereunder and the applicable laws of the State in which it is located, except that, after April 30, 1974, no exchange shall maintain or enforce any rule fixing minimum rates of commissions with respect to that portion of any transaction which exceeds $100,000: *Provided, however,* That the Commisison may, by rule, permit an exchange to fix reasonable minimum rates of commission until April 30, 1975, with respect to that portion of any transaction which exceeds $100,000 if the Commission finds that the public interest requires the continuation, establishment, or reestablishment of reasonable fixed minimum rates for such portions of transactions.'"

Mr. TAFT. Mr. President, I have called up my amendment on this bill before speaking on the bill, which I may wish to do later after the amendment is disposed of. I think that the bill, while perhaps not earth-shaking, does present some serious questions for decision of the Senate as to the state of the economy and the state of the stock market today.

Fortunately, perhaps, it appears, at least by the morning newspapers, that the House of Representatives is not too likely to act on this particular measure for some time, so perhaps the alarm I have expressed is unfounded. But I do think there are some serious dangers in this bill today, and I am attempting to correct them by the amendment, and also to call to the attention of the people generally and the Members of the Senate the possible results that are likely, in my opinion, to occur if this bill is passed.

I am sympathetic with many of the principles and goals the sponsors and advocates of the bill say that they have, but I must say that from the experience I have had—which has not been considerable, but is at least based on some contact with those involved in the securities industry—that this bill is very likely to have a very adverse impact, and at this particular time I think one that could be quite dangerous.

The amendment that I have offered deals separately and I hope straightforwardly and definitively with the fundamental questions of the requirements for membership on stock exchanges and the method of determining commission rates on stock exchanges.

Section 2 of S. 470 presently links the two questions by forbidding any SEC-imposed "public business requirement" to limit dealing for one's own account by present or future members of stock exchanges until commission rates on transactions of all sizes are negotiated rather than fixed. No action along the lines of the present Exchange Act rule 19b–2 could be taken until that time—in other words, until the commission had been wholly negotiated. Particularly in view of the lack of a definite date for the advent of fully negotiated commission rates, the result of section 2 seems likely to be an increase in self-dealing on exchanges, brought about largely through more institutional membership.

In my judgment, the rationale for section 2 is faulty because it is based upon an artificial linkage of the institutional membership-public business question to the commission rate question. I cannot accept the argument that the primary element in any discussion of institutional membership or a public business requirement is the desirability, or lack thereof, of the present commission rate structure. I am privileged to say that the Securities and Exchange Commission is in agreement with me on that point. I quote in that regard from a letter dated April 16, addressed to the Hon. JOHN SPARKMAN, chairman of the Committee on Banking, Housing, and Urban Affairs, signed by D. Bradford Cook, the Chairman of the Commission, which reads in part as follows:

We are, however, opposed to the bill's provisions linking the question of the appropriate utilization of exchange membership with the elimination or reduction of fixed commission rates. Although we have recognized the interrelationship of these problems, we steadfastly maintain that the issues are separate, and that the problem inherent in institutional access to exchange membership would exist whether or not commission rates were negotiated.

The adoption of the approach of section 2, which reopens exchanges to the type of institutional members whose primary mission is trading for the accounts of the institutional parent, will indeed provide undeniable pressure to move toward fully negotiated rates. Most institutions have already stated that lowering the size of a transaction subject to negotiation will in large part assuage their desire to become stock exchange members. However, the consideration of tactics in the battle over commission rate structure is not a sound basis on which to decide whether, and to what extent, dealing by exchange members for their own account should be allowed or encouraged, and I do not think either should be the case.

I believe that there should be an overriding concern with the character of the business required of every exchange member. The public interest can be served only if the primary function of every exchange member is to serve the public, rather than to do business for itself or its parent owner. If exchange membership does not carry with it the continuing obligation to conduct at least a predominantly public business, there is the strong possibility that the exchange system will move in the direction of a private club where large institutions and other members can gain unfair advantage over the public. The possibility of such unfairness was pointed out by former SEC Chairman Casey, in his testimony before the Securities Subcommittee:

If the gates are thrown open to institutions, this great bulk of (exchange) trading—60 percent of all trading today—could be done not at negotiated rates but at cost, while individual investors and small institutions, unable to justify a seat, would have to pay still higher rates.

Members dealing for their own accounts would have other possible trading advantages besides cost. These include proximity to trading information and greater inducement or ability to engage in short swing speculation, which may cause public orders to be executed at a different price than otherwise. Actions by such members could delay the execution of public orders or even wipe out attractive trading situations before the public can act. Even if the additional regulation of exchange member trading, provided by section 1 of the bill, is reasonably effective, some abuses will occur and it will probably appear to the investing public that private advantage is being encouraged.

Most observers agree that the individual investor is truly an essential element in the market's composition. Continued participation by individual investors is vital to the market's depth and liquidity.

Incidentally, as I shall comment later, and quote from one of the brightest members of the New York Stock Exchange today, Mr. Ross Perot, I think that the continued presence of the institutional investor is also vital to the continued presence of institutional investors in the market at all. Unfortunately, however, the latest New York Stock Exchange estimate of the total number of individual shareholders shows a decline of 800,000 in the past year, the first such reversal in 20 years of record-keeping. Something is very wrong indeed when, in a period in which profits are going up and America's gross national product is continuing to grow, we see results of this kind without any adequate explanation. The statement that the fixed rates are the cause of this is wholly without basis and wholly without any real historical background, considering that the number of investors has continued to go up through the history of

the exchanges in spite of the fact that there have been fixed rates involved.

The individual investor is leaving largely because he has lost faith and confidence in our securities market. The adoption of this bill, with its suspension of any SEC-imposed public business requirement pending the elimination of fixed commissions, will only erode investor confidence still further. It will reduce the probability of sustained participation in the market by both small brokers and small investors.

Also, incidentally, institutional domination has already had an effect, perhaps, on the small investor. I like to think of the market as being made up on three bases; namely, the institutional investor, who has the overweening power today; the small investor; and then another group, the traders, the in-and-out people who really keep much of the liquidity of the market going in the market today.

What has happened is that the small investor has become scared by the fact that the institutional investor dominates the market; that their decisions, to which he is not privy, and which may be made for reasons wholly related to the institution rather than to the general market situation, are used to arrive at decisions and cause the market to fluctuate up and down without any relationship to the realities of the earnings of the particular company involved. The trader is not able to afford, on such a short time basis, anything like the amount of money or the amount of investment that can be put in initially and then in followup operations, if necessary, by the institutional investor to protect his own interests and looking out for himself.

At this crucial time, the market needs more small brokers and investors rather than fewer. They will not be attracted or even retained at current levels in a market which appears to be becoming more dominated by institutional investors operating through their own outlets. Perhaps the exchanges can control this problem by their own rules, but it would be better to do so through specific statutory or administrative guidelines not related to the negotiated-rate issue.

Accordingly, my amendment would require that, after a 2-year phase-in period all stock exchange members do a 100-percent public business rather than effecting any transactions for their own accounts, the accounts of affiliates, or institutional accounts which they manage. This is exactly the same "public business" requirement as S. 470 already contains, except that the phase-in period would start upon the date of the bill's enactment rather than upon the date on which no commission rates remain fixed.

Senators WILLIAMS, BROOKE, BENNETT, and TOWER have correctly emphasized, however, that the commission-rate question should be dealt with at the same time as the institutional membership-public business question, because of the relationship between uneconomically high fixed commission rates for large transactions and the desire of institutions who effect these transactions to join stock exchanges. My amendment, therefore, would require commission rates on portions of transactions over $100,000 to be on a negotiated basis by April 30, 1974, or by April 30, 1975, if the SEC determines that the public interest calls for a longer time period to reach this goal.

On this point I am flexible, but I think there is good reason at this time to put in a deadline date of this sort in the legislation. It is a compromise, in an attempt to work out some support for the amendments approach. In principle, I question whether it is sound even to go down to the 100,000 transaction at this time.

The amendment would vest in the SEC, by virtue of its present statutory authority, the discretionary power to permit retention of fixed minimum commission rates for transactions or portions of transactions involving less than $100,000. Of course, the rate, if fixed, would not necessarily be at the present fixed rate level.

A reduction in the cutoff size for fixed commission rates from the present $300,000 level to $100,000 would, to a large extent eliminate: First, the present advantage held by exchange members over nonmembers with respect to competition for money management business; second, payment by institutions of excessive fixed commission rates; and third, efforts by the institutions to circumvent the effect of these rates through complex and anticompetitive reciprocal practices. At the same time, fixed rates for smaller transactions could be retained, to the extent found by the SEC to be necessary, to protect small broker-dealers against predatory pricing and provide some control over the price of brokerage services offered to unsophisticated small investors with little negotiating power. Fixed rates for these transactions also should tend to reduce the likelihood of public disadvantage from a "rate war," resulting in aggravation of the demise of smaller brokers and small individual investors.

My amendment would provide more rational and specific resolutions of the public business-institutional membership and commission rate questions than S. 470. I urge the Senate to adopt it without delay.

Mr. President, I have noted in the public press a number of recent developments with regard to this entire interest rate, commission rate, and institutional membership problem. It is important that we call some of these developments to the attention of the Senate today before we act on this bill, and I would like to do so.

First of all, in this morning's Wall Street Journal is published an article entitled "Brokerage Industry Intensifies Opposition to Two Key Provisions of Securities Bill," from which I should like to read in part and to comment on, which goes into the recent developments and raises some new questions which I think are worth considering carefully. I think that the Senate might well be advised to put aside the bill until it does, perhaps, study these new developments.

The article reads in part as follows:

Key securities-industry groups are intensifying pressure against major facets of a wide-ranging securities bill being considered in the House.

The industry's future would be bleak if the legislation is passed in its present form, they claim.

The objections are aimed at two of the bill's chief provisions: membership on the nation's stock exchanges for financial institutions, such as banks, insurance companies and mutual funds, . . .

I might say at that point that, coming from Ohio, I am well aware that Ohio is seriously considering getting into that business itself, on its State retirement fund account.

Continuing to read:

. . . and elimination of fixed brokerage fees for stock transactions in favor of a competitive rate system.

Some industry spokesmen have testified, in hearing under way by a finance subcommittee of the House Commerce Committee, that the current experiment of negotiating commission rates on large orders is a failure and that what's needed isn't only fixed rates, but higher fixed rates. They also argue that the proposed legislation would increase institutional dominance of the securities markets at the expense of brokerage firms and individual investors.

I must say that I share in that concern. Continuing to read:

Pointing to the current poor financial status of the brokerage industry and a rash of mergers among firms in the past year, John C. Whitehead, chairman of a securities industry trade group, told the subcommittee Friday: "Our industry is dissolving month by month. We face a very serious situation." He advocated a return to across-the-board fixed minimum brokerage rates.

EXPERIMENT CALLED A "FARCE"

Mr. Whitehead represents the Securities Industry Association, to which about 800 brokerage firms belong. Earlier last week, Paul Kolton, chairman of the American Stock Exchange, told the subcommittee it shouldn't enact a timetable for the elimination of fixed brokerage rates because the industry currently is losing money. He said the current experiment with negotiated rates is a "farce" and that the commission level actually is dictated by big institutions.

That has been commented on. The American Exchange and the New York Stock Exchange are not in agreement at all now, apparently, as to what direction the commission and rate question should go and what the proper solution to it might be.

So in rushing here to require a rapid shift to the matter of negotiated rates, or an acceleration of the institutional membership, which is really what this bill is likely to do, I am worried about the alternatives this bill presents. It seems to me, just from the point of view of the market and the self-interest of the people involved, you are going to have a lot of pressure from both the major exchanges in this country upon the SEC, upon themselves, and on the part of their members not to buy the package that is contemplated by this bill—not to go to the negotiated rate route. What is going to happen, then, is that you are going to aggravate the present serious situation with regard to the complete dominance of institutions, and that dominance, in my opinion, is one of the principal factors underlying the lack of investor confidence in the markets today. You are going to force an increase in institutional membership.

I continue with the remarks about the key provisions in the House bill presently being considered, which are pertinent to this bill as well:

The New York Stock Exchange, which is to testify when the hearings resume June 26,

also has spoken out against negotiated rates, saying recently that fixed rates should be reimposed. The exchange is expected to restate those views strongly at the hearings.

We are going to go ahead without the benefit of the knowledge of what might be said at that time.

However, indications are that the subcommittee members so far haven't been convinced by the industry.

The House bill would eliminate fixed commission rates completely by Feb. 1, 1975, after first lowering the cutoff level for fixed rates to portions of trades in excess of $100,000 by Feb. 1, 1974. The bill would allow the Securities and Exchange Commission to extend the 1975 deadline by one year. Currently, rates are competitively determined on the portion of transactions above $300,000.

The Senate Banking Committee recently cleared a similar bill but abandoned a proposal to set a fixed date for elimination of fixed rates.

As I have indicated, while I am not for setting a fixed date for the elimination of fixed rates, I really would almost rather see us leave that situation as it was and set a date for the elimination of fixed rates if we treat the matter of institutional membership immediately along with it. I think that at least it would avoid the danger I see in the Senate bill that I have already mentioned.

The House hearings will run intermittently until September.

As I have said, that is rather reassuring, but it means that the Senate, when it goes to conference, will be negotiating from a very disadvantageous position, because the House will have had the benefit of considering everything that has happened in the meantime.

At the Friday hearing, Mr. Whitehead said the negotiated rate experiment on that portion of orders above $300,000 so far has been a "failure." Formerly a proponent of fully negotiated rates, he said he recently changed his mind "most reluctantly" and believes a "competitive rate structure simply won't work in this industry." He said indications are that the brokerage industry, which had been divided on the question, is "swinging back" to favor fixed rates as "the only way for our industry to survive in a viable way."

He said the commissions on institutional-size transactions are actually "dictated" by the institutions and have resulted in lower fees for them and higher ones for the individual investor.

This problem, I think, is very likely to be aggravated if we go the proposed route.

He said the negotiations don't come until after trades actually have been completed, and brokers are handicapped because if they turn down the fee demanded by an institution they would lose the business.

Incidentally, I have heard the argument made, too, that the institutions would turn to smaller brokerage houses; and the argument has been put that they actually place a percentage of their trades with smaller brokerage houses, in an attempt to keep them in business. It may happen in a small way in the New York area and other areas, but the inquiries I have made on this point throughout the country would indicate the contrary, that there is no placing of orders by the large institutional investors with small brokerage houses, even though they have organized their own firm or have become a member of the regional exchange themselves.

I do not think this is going to be any long-range answer; and at best it will be a sop thrown to the few, rather than a basic development that is going to help the small houses and keep a viable exchange.

I continue reading:

He said a poll showed 65% of his association's members are opposed to negotiated rates. Mr. Whitehead said it would be a "serious error" for Congress to eliminate fixed rates or to legislate a further reduction in the level of negotiated rates.

Rather, he proposed a "flexible" system of minimum rates that would be carefully regulated by the SEC and would automatically change as the volume and cost of stock trading fluctuated.

Mr. Whitehead referred to the current situation as "destructive completion." He also asked Congress to prohibit institutions from being stock exchange members, saying he feared the increase of their "economic power" and also that they would take "much of our income away from us." Institutions, which account for 70% of the volume on the Big Board compared to 35% 10 years ago, want to become stock exchange members to save on commissions they now pay to brokers.

I do not know the exact basis for the claim, and I have not studied it yet. It is interesting to note that the Wall Street Journal article—I was not quoting Mr. Whitehead at that point; I was quoting from the article—has taken the often used 60 percent figure up to 70 percent of the market transactions:

The Amex wants the committee to deal with the institutional membership question separately from the other matters in the securities bill. Mr. Kolton said if "banks and insurance companies" are allowed to become members they will get "another advantage" over individual investors and further alienate them from the markets. He said institutional investors, because of their "size and economic power" have been able to "negotiate the commissions they pay on portions of orders above $300,000 to practically nothing."

Besides seeking to abandon the current negotiated rate system on large orders, the Big Board wants the SEC to give it permission to boost all fixed rates to increase the revenues of its cash-starved member firms. The Amex said it's considering alterations to the Big Board proposal that would minimize any increase for all small investors.

I know it will be said, when I leave the floor, that the language in this testimony relating to the imminence of an increase in fixed commission rates indicates that we do not have competition here, that the customers are being hurt by this, and that therefore we ought to go ahead and pass this bill to phase out fixed commission rates. But the bill does not do that. It will probably result in the other alternative, which to me seems even worse for the board and for the small investor, because it will drive him out totally, perhaps.

In any event, I feel that stock exchange members, if they argue that some type of increase in commission rates is needed in particular circumstances, are certainly taking into account what the effect on their own market is going to be. I do not feel they are going to advocate something that is going to hurt them. I do not think they are going to keep rates at a level which is going to discourage participation by investors.

I also noted an interesting article in Business Week of May 26 about Mr. Ross Perot, who is with the retail brokerage firm du Pont Glore Forgan. He is one of the brighter young minds and certainly one of the more vocal new figures in the picture on Wall Street today. Some of the things he says are particularly pointed, I think, with regard to the questions I am raising, and he says them, perhaps, far more dramatically than I have been able to say them. I will read a few. First, as to what the mission of Wall Street is, he says:

Why does Wall Street exist? To protect million of jobs and to create new jobs. In Washington, everybody talks about the tax base, but the tax base depends on the job base, and under that is the capital base. That's a helluva mission, if Wall Street could just see that its mission is to protect jobs. The Street does not exist for the Street. It needs a much broader view of itself.

I agree with that. I am not here today to defend Wall Street or brokerage houses or investment firms or stock exchanges. I think we have to take a look at the national interests and what is happening to the exchanges; because if it continues to happen, it can indeed have very widespread effects upon the entire capital market in this country.

As Mr. Perot points out the capital market is very directly related to how many jobs we may be able to have in our economy. Then, he comments on the problem of the individual investor, which I have discussed. He said this to his friends on the Exchange:

Why should we want the little investor back? In the past we have treated him as a nuisance, and we have finally gotten rid of him. Yet, collectively, individuals dwarf all the financial institutions. The little investor is like the 120-lb. guard on the high school football team who wanted to play in college. But when he got out on the field he found 280-lb. institutions out there playing with the finest equipment there is. In 1967–1968 that little fellow was still out on the field, but he took his licks. Today he's walking up and down the sidelines saying, "Anyone for tennis?"

Mr. President, Mr. Perot goes on to talk about commission rates and he states:

ON COMMISSION RATES

If you and I owned department stores and we were swapping stories about how lousy business is, what would you think of me if I said "Hey, I have a great idea. Let's raise our prices?" You'd think I was crazy, wouldn't you? So far as the Street is concerned, the potential for white sales is there, but the salesmen aren't there, and the industry is waiting for the Second Coming.

On big institutions he said:

ON THE BIG INSTITUTIONS

The institutions remind me of a trip through the Suez Canal. Ever been there? Every morning, as the sun rises across the desert, the banks of the canal are swarming with natives dipping sand out of the canal and hauling it in buckets out into the desert. That night, the wind blows it back into the canal and the next morning they are back repeating their task. If it weren't for you and me . . . [the institutions] would be full of sand.

Further, on institutional sales he said:

ON INSTITUTIONAL SALES

The institutions are saving pennies by getting their rates cut but losing dollars in what the shares they hold are worth. It's a

question of liquidity. If little investors stay out of the market, who is going to buy the shares the institutions own? Sooner or later they are going to come up against the "to whom" question. To whom are they going to sell their stock? We have got to figure out a way to scatter it to the four winds when the institutions sell. As it is now, they are all watching each others' eyelids, and I have seen big blocks move on the basis of the way an eyelid quivered over bacon and eggs at Chock Full O'Nuts. Everybody wants to be first out.

Mr. President, to go on and comment on that statement, this is the problem we face. There is no market. The reason the market has become so poor is that by the mere quiver of an eyelid on the part of an individual investor advisor who is hired by some large mutual fund, there is a decision to sell a security that may have been held for a long time. The earnings of that security may have increased vastly and they may be excellent so far as the future is concerned, but his advice on reviewing the total portfolio, for some reason that is prevalent at the time, is to sell that bloc of stock. Having made that decision, and trying to justify it with his colleagues or with any board that might be reviewing it, he is not likely to back away and he then finds the buyers are not there.

I remember some sage advice I once received, that I made reference to in another issue of the RECORD. I received that sage advice from Charles Sawyer, former Secretary of Commerce under President Truman, and a former law partner of mine. He said that in the early days he had gone into the market and had gotten a little stake starting from nothing. He thought he was going along pretty well and suddenly he found he was not doing well at all. He went to an older adviser that he thought knew about the market and he asked that adviser about the situation. The older man said, "Let me tell you, Charles. I think you do not understand the basic principle of the stock market." He said, "What do you think makes stocks go up or down?" Charles Sawyer told this older adviser that it related to the earnings ratio, the general prospects for the company or industry; matters he thought he had studied carefully and thought he understood.

The reply of the adviser was, "No, Charles, you do not understand the rudiments. The reason it goes up is because more people want to buy than sell and the reason it goes down is because more people want to sell than buy."

Mr. President, the latter is the position of the stock market today so far as individual investors are concerned when they want to unload a block of stock. There are not those people in the market who want to buy. It is a price that does not represent the normal flow in the marketplace. So there is not an adequate market. One sees this also on stocks that are not on exchanges that lack a medium in which to deal. This is a key factor that must be understood.

Mr. Perot goes on to say:

ON SELLING STOCKS

We are looking for a registered bird-dog puppy we can teach to hunt. Too many brokers look at a customer as a person to make a commission from, rather than a person to make money for. There's where the rubber meets the road. There's a basic problem. This is the classic time to go after customers who are unhappy with their brokers. Pity the customer's man with too few customers. He has to have everybody trading and wears out the soil. He doesn't have the resources to let a field lie fallow. Teach him to sell to new customers, and do it aggressively, and he can farm intelligently.

Mr. President, there has to be created in the market a climate in which they can do that and today, because of the factors I have mentioned, I do not think that climate exists in the market.

Mr. President, that completes my initial remarks on the amendment. When we have a sufficient number of Senators in the Chamber I expect to ask for the yeas and nays because I think it is a matter of great importance.

I yield the floor.

Mr. WILLIAMS. Mr. President, I oppose the amendment of the Senator from Ohio.

The fundamental principle underlying S. 470 is that the question of stock exchange membership for financial institutions cannot be resolved fairly and effectively until fixed brokerage commission rates are abolished. The Senator from Ohio takes a very ambivalent position on that principle.

On the one hand he states that the rationale for S. 470 is faulty because it is "based upon an artificial linkage of the institutional membership—question to the commission rate question."

But on the other hand he acknowledges that the sponsors of the bill are correct in emphasizing "that the commission rate question should be dealt with at the same time as the institutional membership question."

Obviously, there is a contradiction between these statements, which may reflect a confusion into the purpose of S. 470. Let us first examine Senator TAFT's assertion that the fundamental issues of commission rates and institutional membership can be dealt with separately.

All of our studies and investigations have clearly shown that there is simply no way to settle the questions of membership and commission rates independently of one another without creating competitive unfairness and exposing our trading markets to serious distortions. Indeed, the Director of the SEC's Institutional Investor Study, Dr. Donald Farrar, stated before our committee:

Institutional membership [is] an issue that derives primarily from its link to noncompetitively determined, fixed minimum brokerage commission rates on orders of institutional size. * * * Only if one contemplates a market system in which commission rates are competitively determined * * * can one disengage arguments in favor of or opposed to institutional membership *per se* from arguments relating primarily to its impact on a fixed rate structure.

The SEC itself has explicitly recognized the close relationship between fixed commission rates and the pressure on institutions to exchange membership—Chairman Casey told us that the issues were "completely, but not utterly" entwined. In its Statement on the Future Structure of the Securities Markets the Commission stated:

The fixed minimum commission * * * either creates or exacerbates the problem of institutional membership.

The Commission's conclusion is shared by almost all of the institutional money managers who testified before the committee. As a representative of the American Banker's Association put the point:

We submit that if commissions are allowed to find a level determined by free market forces, fiduciary membership on the exchanges would be unnecessary.

Donald Regan of Merrill Lynch draws the same conclusion:

I really cannot see that the institutional membership question is such a difficult one—I think of it more as a question ancillary to the main issue of competitive rates.

Even Robert Haack, former president of the NYSE agrees. He has stated:

I personally believe that the introduction of negotiated commissions would speak significantly to the matter of institutional membership, for their main incentive in seeking exchange membership is to save or recapture commission dollars. I believe, too, that reciprocity would largely be eliminated, for if an institution negotiated a commission which still allowed the executing broker to rebate, it might create a legal liability for having failed to negotiate a lower rate.

Two special congressional studies, released within the past year, also found these issues to be inseparable. the 18-month study of the securities industry conducted by my Subcommittee on Securities concluded:

The pressures for stock exchange membership by financial institutions and their affiliates have developed largely as a response to fixed commission rates on the Nation's stock exchanges which have failed to take adequate account of the economies of scale involved in executing large transactions. So long as commissions continue to be fixed . . . it does not seem appropriate to eliminate current efforts by financial institutions to recapture excessive commission costs exacted from their beneficiaries.

The House Subcommittee on Commerce and Finance, in its recent securities industry study, reached essentially the same conclusion:

Reduced to its essentials . . . the problem of institutional membership is not complex. The central issue has been the tensions which have resulted from the substantial institutionalization of the markets in recent years and the impact which that institutionalization has had on the fixed minimum commission rate system.

I think these sources make it clear that Senator TAFT is incorrect when he talks of an "artificial linkage" between the issue of membership and rates. The link is very real and to break it would be unfair to institutions and nonmember money managers and dangerous for the efficient operation of our equity markets.

But let me now turn to Senator TAFT's second point; namely, that he agrees with the sponsors of S. 476 that the Commission rate question and the institutional membership question should be dealt with at the same time. Passing the obvious contradictions between this assertion and his first point, I believe the Senator from Ohio has failed to grasp the significance of our reasons for dealing with the two questions at the same time.

Senator TAFT's amendment would lower the breakpoint for competitive rates from $300,000 to $100,000—it would do nothing about achieving fully com-

petitive rates. The net result of the amendment would be to preclude institutions and other investors from joining exchanges to save commission costs while allowing rates on orders below $100,000 to continue to remain fixed indefinitely at whatever level the SEC could be cajoled into accepting.

There are two things wrong with Senator TAFT's amendment. The first is that contrary to his assertion, it would neither eliminate the economic pressures for institutions to obtain membership, nor would it eliminate the competitive advantage held by members over nonmembers with respect to money management business.

For example, we had testimony from the Treasurer of the State of Connecticut that over 40 percent of that State's pension fund business was in transactions under $100,000. Other institutions do a comparable percentage of their trading in these relatively smaller transactions. Accordingly what Senator TAFT's amendment would do is to allow institutions to negotiate on 60 percent of their transactions while being forced to pay fixed rates on the other 40 percent. I cannot believe that a conscientious fiduciary would not continue to seek to lower his brokerage costs when 40 percent of his business is involved.

We had other institutions testify that so long as rates remain fixed at any level they will be at a competitive disadvantage to exchange members in attempting to attract money management business.

In order to deal with the pressures for institutional membership and the problem of competitive fairness. I believe that all fixed rates must be eliminated. There is no evidence which supports holding fixed rates at the $100,000 level.

There are arguments for a total system of fixed rates. I think we all reject those arguments including Senator TAFT. But what the Senator from Ohio apparently fails to recognize is that there are no intellectually respectful arguments lines between totally fixed rates and totally competitive rates. If the Senator is serious in his espousal of the desirability of achieving competitive prices in the securities industry, he must go all the way.

There is another reason why Senator TAFT's proposal to stop at the $100,000 level is misguided. The president of a major regional brokerage house put it very well in testimony before the committee. He stated:

> We believe in competition and we think the sooner we get to that, the better we will be. . . . We strongly disagree with the conclusion (that the transition process should stop at $100,000) and frankly, have failed to find anything in the record of this Committee's hearings or in the record of the SEC hearings to indicate that something less than completely competitive rates will satisfactorily solve the problems that have been created by fixed commission rates. . . . We see no reason why the benefits or results of competitive commission rates should be cut off at a point that is determined to be suitable for institutional investors.

The Midwest Stock Exchange had very recently made much the same point. According to their statement:

> There should be no reduction from the present level of $300,000 for fixed rates until that level is reduced all the way to zero. After a great deal of consideration of the reasons for and against a more gradual reduction to zero, or moving down from $300,000 but stopping short of zero, the Board has concluded that either such approach would tend to produce prolonged uncertainty and might end up by combining the worst instead of the best features of fixed and negotiated rates.

Many others, in the industry, including the New York Stock Exchange, have expressed their agreement with this proposal.

There is no magic in the $100,000 level, quite the reverse. If we accept Senator TAFT's amendment we would, I believe, be doing great harm to the securities industry, a result which is no doubt directly contrary to his purposes.

As I said before, if we are to solve the twin issues of commission rates and institution membership we must go all the way to competitive commission rates. Senator TAFT's amendment does not only not get us there; indeed, it would offer encouragement to those who wish to prevent the completion of the journey.

The Senator from Ohio has expressed concern about the disappearing small investor and suggests that things will get worse for the small investor if we eliminate the fixed commission rates. The facts are that the marketplace has changed remarkably within the last 15 or 20 years, the years of the impact of the institutional investor. They have changed under this fixed-commission-rate system which we have had for 200 years.

Despite, or perhaps because of the fixed commission rate, we see the disappearing small investor. He is a discouraged man for many, many reasons. One of them, however, is the fact that he feels put upon because he is paying a fixed commission rate with poor service—and he now sees those in a quasi-official position attempting to increase that fixed commission rate.

I think the small investor will have a breath of fresh air if he sees that we are eliminating some of these old anachronisms from the marketplace and providing a more efficient system. Before the small investor is going to come back to the market he must be sure that the old standby, rigged rules of practice that have been with us for 200 years are eliminated.

This bill is one step in the direction of an efficient, dynamic securities marketplace, not run by a few for a few, but a marketplace that is run in the interest of all. A market run not only for the brokers so that they may make legitimate profits, not only for the companies who look to a viable exchange for a secondary market for their issues, but for investors as well, whether institutions or the broad public.

I want to say a final word about the Securities Industry Association, and the way that organization has presented this matter officially to us. Quite frankly, their position is, "Let us have what we have had for 200 years; only make it better for us." Of course, holding to that same old 200-year system and making it better for them, it makes it worse for everybody else, and that includes the small investor.

The SIA officials came in with their chevrons, as duly appointed industry leaders, with this story, but many other members of the SIA and the industry who do not come with chevrons tell us an entirely different story. Some of the real leaders of the industry told me publicly and informally that they know the old order has to give way. The SIA appear to have one function and that is to stand in the way of the inevitable happening.

This bill is part of a new and better order. I say it is only part, because, as we indicated in discussions with the Senator from Massachusetts (Mr. BROOKE) and the Senator from Alabama (Mr. SPARKMAN), there is a lot more underbrush that has to be cleared away so that the good and necessary activity of the marketplace can be pruned and strengthened.

Mr. President, I have nothing further to say, and I have no requests for time.

Mr. SPARKMAN. Mr. President, will the Senator yield to me very briefly?

Mr. WILLIAMS. I am happy to yield.

Mr. SPARKMAN. Mr. President, among other things that the amendment would do would be to change the date upon which institutions would be required to divest themselves of other exchange memberships, which in the bill is set at no earlier than April 30, 1976. It would strike that out. The only purpose of having that in there is to have a date certain, and it has been stated that very likely fully competitive commission rates would not be reached prior to that time. This just assures that institutions will have at least until that time in which to get their houses in order.

Mr. President, there is nothing new about this. When we passed the Banking Holding Company Act in 1969 we made special provision for many small bank holding companies and gave them 10 years to divest themselves. Some of them have not divested themselves yet. Also, when we passed the Savings and Loan Association Holding Company Act, we had a similar situation. This measure gives them 2½ years to divest themselves.

As a matter of fact, it may be remembered that some 3 or 4 years ago the Senator from Utah (Mr. BENNETT) and I introduced jointly a bill that would prevent institutional investors from joining exchanges, and other legislation has been introduced seeking to get the institutional investors off the exchanges. I believe that is a good thing to aim for, but I believe instiutions should have a reasonable time to make this transition. This was the purpose of my amendment.

Mr. President, I have a letter from the president of the Philadelphia-Baltimore-Washington Stock Exchange in which he calls attention to the fact that without this amendment 50 members of that stock exchange will be affected, and then the letter states:

> This proposed legislation will also affect over 200 sole member firms of the PBW.

He submits a list of firms that would be affected by the legislation without the amendment which I introduced to the bill, and which the amendment offered by the Senator from Ohio would eliminate.

Mr. President, I ask unanimous consent that I may place in the RECORD at this place as a part of my remarks the

letter from Mr. George S. Hender, vice president of the Philadelphia-Baltimore-Washington Stock Exchange, and a list of the firms that would be affected.

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

PBW STOCK EXCHANGE, INC.,
Philadelphia, Pa., June 4, 1973.

Hon. JOHN J. SPARKMAN,
U.S. Senator,
Dirksen Building, Washington, D.C.

DEAR SENATOR SPARKMAN: I would like to comment on the Senate Banking Committee Bill concerning institutional membership on national securities exchanges.

This proposed legislation will directly affect fifty members of the PBW Stock Exchange. These members joined the PBW because of a desire to reduce the costs of investing, and thereby to effect savings for millions of policyholders and mutual fund shareholders. Their decision to join the PBW was made only after considerable time and money had been spent in determining the feasibility of exchange membership, how to utilize the membership, and the extent to which such membership would result in savings to their beneficiaries. In addition, these members expended considerable money in setting up their brokerage operations and have trained and employed highly qualified individuals. Loss of membership by these members will result in considerable monetary loss to millions of public investors.

This proposed legislation will also affect over 200 sole member firms of the PBW which deal primarily with small individual retail customers, that segment of the investing public which has had particular difficulty in finding broker-dealers willing to handle their accounts. The ability of our sole members to execute these small customer orders is dependent on the contribution the institutional members have made to the depth and liquidity of our marketplace.

If institutional membership on exchanges is to be prohibited or restricted, institutions which own seats on exchanges should be permitted to retain such seats until at least 1976. It would be inequitable to force these institutions to abandon their memberships with the consequent expense and disruption occasioned by such a change in trading practices.

Please call me if I can answer any questions, or assist you in any other appropriate way.

Sincerely,

GEORGE S. HENDER.

PBWSE INSTITUTIONAL MEMBER LIST

(Institutional affiliate, date of admission, and parent organization)

Aetna Financial Services, Inc., 151 Farmington Avenue, Hartford, Conn. 06115, Phone: (203) 273-0123, Member: D. Russell Armentrout, Jr.; June 28, 1971; Aetna Life and Casualty.

Allstate Trading Company, Allstate Plaza, Northbrook, Ill. 60062, Phone: (312) 291–5781, Member: Ronald E. Peterson; November 15, 1971; Allstate Insurance Co.

American Money Management Corporation, 200 Josephine Street, Suite 505, Denver, Colo. 80206, Phone: (303) 771–8030, Member: James H. Galbreath; December 16, 1970; Western Empire Financial Inc.

Baer Securities Corporation, 67 Wall Street, New York, N.Y. 10005, Phone: (212) 422–7282, Member: Ralph M. Carruthers; February 17, 1966; Julius Baer (Banking).

C. G. Securities Corporation, Hartford, Connecticut 06115, Phone: (203) 243–8811, Member: Harold E. Bigler, Jr.; September 29, 1962; Connecticut General Life Insurance Co.

CNA Securities Corp., 310 South Michigan Avenue, Chicago, Ill. 60604, Phone (312) 822–7908, Member: Richard T. Fox; May 22, 1970; CNA Financial Corp.

CU Securities Corporation, 110 Milk Street, Boston, Mass. 02107, Phone: (617) 426–2600, Member: Donald H. Whitney; September 18, 1972; Commercial Union Companies.

Commonwealth Chemical Securities, Inc., 116 John Street, New York, N.Y. 10038, Phone: (212) 349–5460, Member: Julius Kleinman; December 29, 1972; Federated Equity Corp.

Connecticut Nutmeg Securities, 30 Trinity Street, Hartford, Conn. 06115, Phone: (203) 566–5050, Member: Robert I. Berdon; December 14, 1972; State of Connecticut.

Dahlman & Company, Inc., 555 California Street, Suite 2810, San Francisco, Calif. 94104, Phone: (415) 986–0246, Member: Thomas Finch; January 26, 1970; Capital Funding Corp. (Life Insurance).

The Dreyfus Sales Corp., 767 Fifth Avenue, New York, N.Y. 10022, Phone: (212) 935–8484, Member: Robert S. Clancy; December 24, 1968; Dreyfus Funds.

Endowment Securities Corp., 77 Franklin Street, Boston, Mass. 02110, Phone: (617) 357–8480, Member: Paul F. Duffy; August 17, 1970; Endowment Management & Research Corporation (Managers Mutual Fund Major Endowment Fund).

Equico Securities, Inc., P. O. Box 581, 100 West 52nd Street, New York, N.Y. 10001, Phone: (212) 857–3337, Member: Walter R. Knortz; January 4, 1972; Equitable Life Assurance Society of the United States.

Equity Services, Inc., National Life Drive, Montpelier, Vt. 05602. Phone: (802) 223–3431, Member: Harold Engleman; February 10, 1972; National Life Insurance Co. of Vermont.

Europartners Securitiss Corporation, 1 World Trade Center, Suite 3411, New York N.Y. 10022, Phone: (212) 466–6100, Member: Thomas R. Koerick; April 2, 1968; Credit Lyonnaise, Paris Commerzbank, Germany, Banco di Roma, Italy.

Financial Service Corporation of America, Financial Service Bldg., Piedmont and Cain Streets, Atlanta Ga. 30303, Phone: (404) 659–1234, Member: William F Carter; February 13, 1968; Financial Service Corp., International (Insurance and Diversified Investments).

Founders Securities Corp., 2400 First National Bank Building, Denver, Colo. 80202, Phone: (303) 292–1820, Member Bjorn K. Borgen; May 19, 1971; Founders Mutual Depositor Corporation.

Percy Friedlander & Co., Inc., 140 Broadway, New York, N.Y. 10005, Phone: (212) 425–7740, Member: Joel D. Aronson; February 5, 1971; City Investing Co. (Financial Conglomerate).

Galic Securities, Inc., 5100 Gamble Drive, Minneapolis, Minn. 55416; Phone: (612) 374–6434; Member: E. Charles Williamson, Jr.; June 15, 1972; Gamble Skogmo, Inc.

General Investment Sales Corporation, 1845 North Farwell Avenue, Milwaukee, Wisc. 53202; Phone: (414) 272–2421; Member: Wallace C. Berg; September 4, 1969; GL Enterprises, Inc. (Insur.).

Glenwood Securities, Inc., 44 Glenwood Avenue, East Orange, New Jersey 07017, Phone: (201) 674–7575; Member: Paul Kreindler; September 9, 1968; Pennsylvania Life Co.

Guardian Advisors, Inc., 201 Park Avenue South, New York, N.Y. 10003, Phone: (212) 473–10003, Member: James B. Pirtle; August 7, 1970; Guardian Life Insurance Co. of America.

Halsey, Stuart & Co., Inc., 123 LaSalle Street, Chicago, Ill. 60690, Phone: (312) 782–3900, Member: Ernest B. Kelley, Jr.; April 2, 1970; Lincoln National Corp. (Bank Holding Company).

Hartford Securities Company, Inc., Hartford Plaza, Hartford, Conn. 06115, Phone: (203) 547–5000, Member: Gerard T. Lynch; December 17, 1971; Hartford Fire Insurance Co.

Home Capital Services, Inc., 59 Maiden Lane, New York, N.Y. 10038, Phone: (212) 530–6163, Member: Rogers Bayles; December 31, 1971; The Home Insurance Company.

Imperial Securities, Inc., P.O. Box 1386, 10709 Wayzata Boulevard, Minneapolis, Minn. 55440, Phone: (612) 544–1531, Member: Thomas P. Kozlak; March 19, 1969; The Saint Paul Companies, Inc.

INA Trading Corporation, Room 1648, Suburban Station Bldg., 1600 Arch Street, Philadelphia, Pa. 19101, Phone: (215) 241–4000, Member: Donald G. Heth; June 24, 1968; INA Corporation.

Intercapital Distributors, Inc., 1775 Broadway, New York, N.Y. 10019, Phone: (212) 581-3360, Member: Dennis H. Greenwald; McGraw-Hill, Inc./Standard & Poor's Corp.

Intercapital Investors, Inc., 2121 San Joaquin Hills Road, Newport Beach, Calif. 92660, Phone: (714) 644–8673, Member: Jack E. Glassford; August 13, 1969; Interfinancial Inc. (Life Insurance).

Jefferies & Company, Inc., 445 South Figueroa Street, Los Angeles, Calif. 90017, Phone: (213) 624–3333, Member: Boyd L. Jefferies; August 5, 1971; Investors Diversified Services, Inc.

Kansas City Securities Corp., One Crown Center, P.O. Box 19237, Kansas City, Mo. 64141, Phone: (816) 283–4210, Member: Wesley J. Teasdale, PBW Trading Floor; March 19, 1969; United Funds, Inc.

Keystone Securities Company, Inc., 99 High Street, Boston, Mass. 02104, Phone: (617) 726–1200, Member: Robert M. Smith; April 25, 1972; Keystone Custodian Funds, Inc.

Loew's Securities Corp., 666 Fifth Avenue, New York, N.Y. 10019, Phone: Jacob Stillman; January 3, 1972; Loew's Corporation.

Craigie, Mason-Hagan, Inc., 830 East Main Street, Richmond, Va. 23219, Phone: (703) 649–0331, Member: John C. Hagan, III, Walter W. Craigie; June 8, 1972; Fidelity Corporation (Insur.)

(Former Member Firm, Mason-Hagan, Inc. was admitted to membership on May 8, 1952. Their membership was ceased in June, 1972, at which time Craigie, Mason-Hagan, Inc., became the PBW member.)

North American Equity Corporation, 1900 Avenue of the Stars, Suite 330, Los Angeles, California 9007, Phone: (213) 553–3581, Member: Robert A. King; December 30, 1970; Equity Funding Corp. of America (Life Insurance and Mutual Funds).

Penn Mutual Securities Corp., 530 Walnut Street, Philadelphia, Pa. 19105, Phone: (215) WA5–7300, Member: Edwin W. Chrysler, Jr; June 15, 1972; The Penn Mutual Life Insurance Co.

Phoenix Equity Planning Corp., One American Row, Hartford, Conn. 06115, Phone: (203) 278–1212, Member: Edward P. Ward; July 17, 972; Phoenix Mutual Life Insurance Co.

Place d'Armes Securities Inc., 152 Notre Dame East, Montreal 126, Canada, Phone: (514) 861–4721, Member: Tancrede Sicard; October 1, 1971; Quebec Federation des Caisses Populaires des Jardins.

Porteous and Company, Inc., 3 Penn Center Plaza, Philadelphia, Pa. 19102, Phone: (215) 564–3533, Member: Douglas K. Porteous; August 15, 1966; Provident Fund for Income, Inc.

Pruco Securities Corporation, Prudential Plaza, Newark, New Jersey 07101, Phone: (201) 336–4246, Member: John F. Winch; April 15, 1971; The Prudential Insurance Company of America.

Republic Securities Corporation, 1730 K Street NW, Washington, D.C. 20006, Phone: (202) 223–1000, Member: Charles W. Steadman; June 14, 1967; Stearman Security Corporation (Mutual Funds).

St. Johns Securities, Inc., 5050 Edgewood Court, P.O. Drawer B, Jacksonville, Fla. 32203, Phone: (904) 387–1588, Member: Charles M. Thompson; July 9, 1968; D. D. I. Inc. (Family Holding Company Diversified Investments).

Surety Equities Corporation, P.O. Box 2520,

Surety Financial Center, Salt Lake City, Utah 84111, Phone: (801) 487-7411, Member: L. James Ellsworth; March 8, 1971; Surety Life Insurance Co. of Salt Lake City.

TMR Securities, Inc., 245 Park Avenue, New York, N.Y. 10017, Phone: (212) 661-4400, Member; Gerard Leimkuhler; April 20, 1972; Tsai Management & Research Corporation.

Toronto Securities Company, One Crown Center, P.O. Box 19237, Kansas City, Mo. 64141, Phone: (816) 283-4207, Member: Richard T. Taylor, Jr.; October 13, 1969; United Funds of Canada.

Travelers Securities Corporation, 1 Tower Square, Hartford, Conn. 06115, Phone· (203) 277-0111, Member: Peter F. McKay; December 30, 1971; Travelers Insurance Co.

UBS-DB Corporation, 40 Wall Street, New York, N.Y. 10005, Phone: (212) 943-5900, Member: Donald E. Williams; November 9, 1970; Union Bank of Switzerland/Deutsche Bank of Frankfurt, Germany.

Walnut Securities, Inc., 120 Wall Street, New York, N.Y. 10005, Phone: (212) 422-6915, Member: Joseph M. O'Brien; November 12, 1968, NFIC, Inc.

Westpark, Inc., Westminister at Parker, Elizabeth, N.J. 07207, Phone: (201) 354-1770, Member: Roger T. Wickers; December 29, 1972; Anchor Fund.

PBW STOCK EXCHANGE, INC.—GEOGRAPHICAL LOCATION OF MEMBER ORGANIZATIONS

R—Regular Member.
A—Associate Member.
*—NYSE Member.
!—ASE Member.

ALABAMA

R, Shropshire, Fraser & Company, Mobile.

ARIZONA

R, Continental American Securities, Inc., Phoenix.
R, Security Planning Service, Inc., Tempe.

CALIFORNIA

A, American Investors Company, Hayward.
A, Bay Securities Corporation, San Francisco.
R, DAC Securities, Inc., Long Beach.
R, Dahlman & Company, Inc., San Francisco.
R, Diversified Securities, Incorporated, Long Beach.
R, Financial Equities, Ltd., Los Angeles.
R, Financial Opportunities, Inc., Los Angeles.
R, Finerman & Company, Los Angeles.
R, First California Company, Inc., San Francisco.
R, Gorey (Walter C.) Co., Inc., San Francisco.
A, Guerin (J.P.) & Co., Los Angeles.
A, Gust, Merhap & Co., Inc., Santa Ana.
A, Harrison Financial Corporation, Sacramento.
R, Intercapital Investors, Inc., Newport Beach.
A, Investors Financial Services, Inc., Los Angeles.
*R, Jefferies & Company, Inc., Los Angeles.
A, MKF Securities Incorporated, San Francisco.
A, Marchese (Gregory) & Company Investment Securities, Monterey.
*!R, Mitchum, Jones & Templeton, Incorporated, Los Angeles.
R, North American Equity Corporation, Los Angeles.
R, Reid (Belmont) & Co., Inc., San Jose.
R, Schwab (Charles) & Co., Inc., San Francisco.
R, Sebag (Joseph) Incorporated, Los Angeles.
R, Skaife & Company, Berkeley.
A, Universal Heritage Investments Corporation, Torrance.
R, Wilford Securities, Inc., La Mesa.

COLORADO

R, American Money Management Corporation, Denver.
R, Founders Securities Corp., Denver.
R, Institutional Securities of Colorado, Inc., Denver.
A, Kelly & Morey, Inc., Denver.
R, Turley Investments, Inc., Denver.

CONNECTICUT

R, Aetna Financial Services, Inc., Hartford.
R, C. G. Securities Corporation, Hartford.
R, Connecticut Nutmeg Securities, Inc., Hartford.
R, Hartford Securities Company, Inc., Hartford.
R, Phoenix Equity Planning Corporation, Hartford.
A, Rybeck (Wm. H.) & Co., Inc., Meriden.
R, Stetson Securities Corporation, Fairfield.
R, Travelers Securities Corporation, Hartford.
*!A, Conning & Company, Hartford.

DELAWARE

*!R, Laird Incorporated, Wilmington.

FLORIDA

*!R, Baroody & Co., Fort Lauderdale.
R, Barzilay (Aaron), Inc., Fort Lauderdale.
R, Bieder & Co., St. Petersburg.
R, Consolidated Securities Corp., Pompano Beach.
R, First Equity Corporation of Florida, Tampa.
R, Freeman (H. W.) & Co., Fort Myers.
R, Hardy, Hardy & Associates, Inc., Sarasota.
*R, Raymond, James and Associates, Inc., St. Petersburg.
R, St. Johns Securities, Inc., Jacksonville.
R, Spencer (R. S.) & Associates, Inc., Sarasota.

GEORGIA

R, Financial Service Corporation of America, Atlanta.
R, First Southeastern Company, Columbus.
*!R, Robinson-Humphrey Company, Inc. (The), Atlanta.

ILLINOIS

R, Allstate Trading Company, Northbrook.
R, CNA Securities Corp., Chicago.
*!R, Davis (Ralph W.) & Co. Incorporated, Chicago.
R, Halsey, Stuart & Co., Inc., Chicago.
*!R, Mesirow & Company, Chicago.
A, Mississippi Valley Securities Company, Inc., Effingham.

KANSAS

A, Columbian Securities Corporation (The), Topeka.
A, Professional Investment Services, Inc., Prairie Village.

LOUISIANA

R, Clarke (Geo.) W. & Associates, Inc., Lake Charles.

MAINE

A, Payson (H. M.)& Co., Portland.
A, Smith & Company, Waterville.

MARYLAND

*!R, Baker, Watts & Co., Baltimore.
*!R, Brown (Alex.) & Sons, Baltimore.
R, Chapin, Davis & Co., Inc., Baltimore.
R, Equivest Corporation, Baltimore.
*!R, Garrett (Robert) & Sons, Inc., Baltimore.
R, Lassise and Company, Inc., Bethesda.
*!R, Legg, Mason & Co., Inc., Baltimore.
R, Letters, Peremel & Rashbaum, Inc., Baltimore.
R, Salkin, Welch & Co., Inc., Lutherville.
R, Williams (C. T.) & Co., Inc., Baltimore.

MASSACHUSETTS

A, A.B.D. Securities Corporation, Boston.
A, Adams & Peck, Boston.
A, Barger & Co., Boston.
A, Blodgett, Iselin & Co., Inc., Boston.
*!A, Breck, McNeish, Nagle and DeLorey, Inc., Boston.
A, Brokers Diversified, Inc., Worcester.
A. Burbank & Co., Inc., Boston.
*!A, Burgess & Leith, Boston.
R, CU Securities Corporation, Boston.
*!R, Cantella & Co., Boston.
A, Cerberus, Inc., Boston.
A, Culverwell & Co., Inc., Springfield.
A, Day (Chas. A.) & Co., Inc., Boston.
R, Endowment Securities Corporation, Boston.
A, First Cambridge Corporation, Cambridge.
A, Gage-Wiley & Co., Inc., Springfield.
A, Hawthorne Management Corporation, Boston.
Haigney (Dayton) & Co., Inc., Boston.
A, Hanlon (Gordon B.) & Co., Boston.
A, Kehoe (Thomas) & Co., Boston.
R, Keystone Securities Co., Inc., Boston.
A, Killebrew, Montle & Co., Inc., Boston.
A, Marsh (William G.), Inc., Boston.
A, Massachusetts Group, Inc. (The), Boston.
A, Merrimac Valley Investment, Inc., Haverhill.
*!A, Moors & Cabot, Boston.
*!A, Moseley (F. S.) & Co., Boston.
A, P.I.E.R. Associates, Inc., Boston.
A, Prescott (William S.) & Co., Boston.
A, Preston Moss & Company, Inc., Boston.
A, Putnam (F. L.) & Co., Inc., Boston.
A, Security Investment Services Corporation, Boston.
A, Shah (V. J.) & Co., Inc., Boston.
A, Southeastern Securities Corporation, Hanover.
A, Spencer, Swain & Co., Inc., Boston.
A, Stein (David S.) Company, Boston.
A, Sterman & Gowell Incorporated, Boston.
*!A, Tucker, Anthony & R. L. Day, Boston.
*!A, Wainwright (H. C.) & Co., Boston.
A, Warner Securities Company, Boston.
*!A, White, Weld & Co. Incorporated, Boston.

MICHIGAN

R, Ashton & Co., Inc., Detroit.
R, Butterfield (James C.) Incorporated, Jackson.
R, Olde & Co., Incorporated, Detroit.

MINNESOTA

R, Galic Securities, Inc., Minneapolis.
R, Imperial Securities, Inc., Minneapolis.
R. LaHue Investment Company, Inc., Bloomington.

MISSISSIPPI

R, Kroeze, McLarty & Duddleston, Jackson.

MISSOURI

*! R. Christopher (B.C.) & Company, Kansas City.
*!, Edwards (A. G.) & Sons, Inc., St. Louis.
*!A, Fisher Corportaion (The), St. Louis.
R, Kansas City Securities Corporation, Kansas City.
R, Toronto Securities Company, Kansas City.

NEVADA

R, Harvey Associates, Inc., Las Vegas.

NEW HAMPSHIRE

A, Carr (Robert C.) & Co., Inc., Manchester.

NEW JERSEY

R, Cashan Securities, Inc., Hammonton.
R, Financial Securities Co., Inc., Hightstown.
R, Fox (W. A.) & Co., Pompton Lakes.
R, Glenwood Securities, Inc., East Orange.
R, Hewlett (William H.) Associates, Maple Shade.
R, Holly Securities, Inc., Wildwood.
R, Mathis & Co., Atlantic City.
R, Pruco Securities Corporation, Newark.
R, Richardt-Alyn & Co., Jersey City.
R, Thomas (L. O.) & Co., Atlantic City.
R, Todd & Company, Inc., Carlstadt.
R, Vaisman & Company, Inc., Millburn.
R, Wegard (L. C.) & Co., Inc., Willingboro.
R, Weller (J. W.) & Co., Inc., Bloomfield.
R, Westpark., Inc., Elizabeth.

NEW MEXICO

R, First New Mexico Securities, Inc., Albuquerque.

NEW YORK

*!R, Abraham & Co., Inc., New York City.
*A, Alliance One Institutional Services, Inc., New York City.

R, Amiv-est Corporation, New York City.
* !R, Andresen & Co., New York City.
A, Associated Investors., New York City.
* !R, Bache & Co. Incorporated, New York City.
R, Baer Securities Corporation, New York City.
* !R, Baker, Weeks & Co., Inc., New York City.
*!, Bear, Stearns & Co., New York City.
*!R, Becker (A. G.) & Co. Incorporated, New York City.
R, Blauner (Milton D.) & Co., Inc., New York City.
A, Bodell, Overcash, Anderson & Co., Inc., Jamestown.
A, Brighton Securities Corp., Rochester.
*!R, Bruns, Nordeman & Co., New York City.
*!R, Burns Bros. and Timmins, Inc., New York City.
*!R, Coenen & Co., Inc., New York City.
* !Coleman and Company, New York City.
R, Commonwealth Chemical Securities, Inc., New York City.
*!R, Cowen & Co., New York City.
R, Cushing Capital Corporation, Buffalo.
A, Daiwa Securities Co., America, Inc., (The), New York City.
*!R, Delafield Childs, Inc., New York City.
*!R, Dominick & Dominick, Incorporated, New York City.
*!R, Donaldson, Lufkin & Jenrette Securities Corporation, New York City.
R, Dreyfus Sales Corp. (The), New York City.
*!R, duPont Glore Forgan Incorporated, New York City.
*!R, Edwards & Hanly, New York City.
R, Equico Securities, Inc., New York City.
R, EuroPartners Securities Corporation, New York City.
A, Fallon, Towse, Farrand and Vierengel, Inc., Albany.
*!R, Faulkner, Dawkins & Sullivan, Inc., New York City.
R, First Buffalo Corporation (The), Buffalo.
R, First Northeast Securities, Inc., New York City.
R, Frank & Drake, Incorporated, New York City.
*!R, Friedlander (Percy) & Co., Inc., New York City.
*!R, Goldman, Sachs & Co., New York City.
*!R, Goodbody & Co., Incorporated, New York City.
R, Guardian Advisors, Inc., New York City.
*!R, Halden & Co., New York City.
*!A, Halle & Stieglitz, Filor Bullard, Inc., New York City.
*!A, Hamershlag, Borg & Co., New York City.
R, Hand (M. E.) Securities, Inc., New Hartford.
*!R, Harris, Upham & Co., Incorporated, New York City.
*!R, Hayden Stone Inc., New York City.
*!R, Hentz (H.) & Co., Inc., New York City.
!R, Herman & Co., New York City.
*!R, Herold, Kastor & Gerald, Incorporated, New York City.
A, Hillman Securities Corp., New York City.
*!R, Hoenig & Strock, Inc., New York City.
R, Home Capital Services, Inc., New York City.
R, Huntoon Paige Securities Corporation, New York City.
*!R, Hutton (E. F.) & Company Inc., New York City.
R, InterCapital Distributors, Inc., New York City.
*!A, Jesup & Lamont, New York City.
*!R, Josepthal & Co., New York City.
R, Keefe, Bruyette & Woods, Inc., New York City.
A, King (C. L.) & Associates, Inc., New York City.
*!R, Kohlmeyer & Co., New York City.
*!R, Laidlaw-Coggeshall Inc., New York City.
*!R, Lawrence (Cyrus J.) & Sons, New York City.
*!R, Lehman Brothers Incorporated, New York City.
A, Lipper, (Arthur) Corporation, New York City.
*!R, Loeb, Rhoades & Co., New York City.
R, Loew's Securities Corp., New York City.
*R, Lombard, Nelson & McKenna, Inc., New York City.
*!R, Lynch, Jones & Ryan, New York City.
*!R, Mack, Bushnell & Edelman, Inc., New York City.
A, March/Monarch Securities Corporation, New York City.
R, Miller Securities, Inc., Sycracuse.
*!R, Mitchell, Hutchins Inc., New York City.
*!R, Model, Roland & Co., Inc., New York City.
*!R, Monness, Williams & Sidel, New York City.
*!R, Moore & Schley, Cameron & Co., New York City.
R, Morgan, Kennedy & Co., Inc., New York City.
!R, Morgenstern, Carapico & Co., New York City.
R, Newburger, Loeb Securities, Inc., New York City.
A, Nomura Securities International, Inc., New York City.
*!R, Oppenheimer & Co., New York City.
A, Paribas Corporation, New York City.
!R, Pasternack Securities Corps., New York City.
*R, Pressprich (R. W.) & Co. Incorporated, New York City.
*!R, Purcell, Graham & Co., New York City.
*!R, Reich & Co., Inc., New York City.
*!R, Richard (C. B.) Ellis & Co., New York City.
*!A, Rosenthal (L. M.) & Company, Inc., New York City.
*!R, Saloman Brothers, New York City.
*!R, Saxton (G. A.) & Co., Inc., New York City.
*!R, Seiden & deCuevas, Incorporated, New York City.
*!R, Shaskan & Co., Inc., New York City.
*!R, Shearson, Hammill & Co., Incorporated, New York City.
*!R, Shearson, Hammill & Co., Incorporated, New York City.
R. Smith, Jackson & Company Incorporated, New York City.
*R. Smithers (F.S.) & Co., Inc., New York City.
A, TC Investors, Inc., New York City.
R, TMR Securities, Inc., New York City.
R, UBS-DB Corporation, New York City.
A, Ultrafin International Corporation, New York City.
R, Walnut Securities, Inc., New York City.
R, Weeden & Co., New York City.
*!R, Weis Securities Inc., New York City.
*!R, Wertheim & Co., Inc., New York City.
*!A, Whitney (H. N.), Goadby & Co., New York City.
*!R, Witter (William D.), Inc., New York City.
*R, Wood Cundy Incorporated, New York City.
*!R, Wood, Struthers & Winthrop Inc., New York City.
A, Wurzburger, Morrow & Keough, Inc., Mt. Kisco.
A, Van Bergen & Co., Incorporated, New York City.

OHIO

A, Aub (A. E.) & Company, Cincinnati.
A, Barth (J. L.) Co. (The), Cincinnati.
*!A, Bartlett (Benj. D.) & Co., Cincinnati.
A, Conners & Co., Inc., Cincinnati.
*!A, First Columbus Corporation (The), Columbus.
*!A, Harrison & Company, Cincinnati.
*!A, Hill & Co., Cincinnati.
A, Hinsch (Charles A.) & Company, Inc., Cincinnati.
A, Hogan Securities Corporation, Hamilton.
R, I-M-A Capital, Inc., Dayton.
A, Ohio Company (The), Columbus.
A, Reiter (C. H.) & Co., Cincinnati.
R, Smith (Pierre R.) & Co., Elyria.
A, Thayer, Woodward & Co., Cincinnati.
A, Weil, Roth & Irving Company (The), Cincinnati.
*!R, Vercoe & Company Inc., Columbus.

PENNSYLVANIA

*!R, Arthurs, Lestrange & Short, Pittsburgh.
*!R, Babbitt, Meyers & Waddell, Pittsburgh.
R, Booker Brothers, Inc., Wilkes-Barre.
R, Burgwin & Company, Pittsburgh.
R, Burke, Lawton & Company, Flourtown.
R, Capital Clearing Corporation, Media.
*!R, Chaplin, McGuiness & Co., Incorporated, Pittsburgh.
R, Conrad (Theron D.) & Co., Inc., Sunbury.
R, Cunningham, Schmertz & Co., Inc., Pittsburgh.
R, First Pittsburgh Securities Corporation, North Versailles.
R, Hefren (Arthur R.) & Co., Inc., Pittsburgh.
R, Hope (J. S.) & Co., Inc., Scranton.
R, Hulme, Applegate & Humphrey, Inc., Pittsburgh.
R, Investors Security Corporation, Monroeville.
*!R, Masten (A.E.) & Company, Pittsburgh.
*!R, McKee (C. S.) & Co. Incorporated, Pittsburgh.
R, Miller Holmes Company, Inc., Pittsburgh.
R, Misciagna (Anthony) & Company, Inc., Altoona.
*!R, Moore, Leonard & Lynch, Inc., Pittsburgh.
R, Nassar & Comany, Inc., Pittsburgh.
*!R, Parker/Hunter, Incorporated, Pittsburgh.
R, Peelor (Charles G.) & Co., Inc., Pittsburgh.
R, Pennock & Co., Villanova.
*!R, Pennsylvania Group, Incorporated (The), Bala Cynwyd.
R, Powell (Elmer E.) & Co., Pittsburgh.
R, Preston, Watt & Schoyer, Pittsburgh.
R, Renneisen, Renneisen and Redfield, Inc., Doylestown.
R, Simpson, Emery & Co., Inc., Pittsburgh.
*!R, Singer, Deane & Scribner, Pittsburgh.
R, York (Warren W.) & Co., Inc., Allentown.
*!R, Advest Co., Philadelphia.
R, Albert & Maguire Securties Co., Inc., Philadelphia.
R, Bailey (George A.) & Co., Philadelphia.
R, Blaine and Company, Inc., Philadelphia.
*!R, Blyth Eastman Dillon & Co., Incorporated, Philadelphia.
!R, Boenning & Scattergood Inc., Philadelphia.
*!R, Brown Brothers Harriman & Co., Philadelphia.
*!R, Butcher & Sherrerd, Philadelphia.
R, Collings (C. C.) & Company, Inc., Philadelphia.
*!R. deHaven & Townsend, Crouter & Bodine, Philadelphia.
R, Delphi Capital Corporation, Philadelphia.
!R, Diamond, Schwartz & Co., Philadelphia.
R, Dick (Lewis C.) Co., Philadelphia.
*!R, Drexel Burnham & Co., Incorporated, Philadelphia.
*!R, Elkins, Morris, Stroud & Co., Philadelphia.
*!R, Estabrook & Co., Inc., Philadelphia.
*!R, First Boston Corporation (The), Philadelphia.
R, Greenwood (H. T. & Co.), Philadelphia.
R, Guarniery (R. Y.), Inc., Philadelphia.
*!R, Hallowell, Sulzberger, Jenks & Co., Philadelphia.
R, Heppe (J.E.) & Co., Inc., Philadelphia.
*!R, Hess, Grant & Frazier, Inc., Philadelphia.

R, Hopper, Soliday, Brooke, Sheridan, Inc., Philadelphia.
*!R, Hornblower & Weeks-Hemphill, Noyes Incorporated, Philadelphia.
*!R, Hutton (W. E.) & Co., Philadelphia.
R, INA Trading Corporation, Philadelphia.
*!R, Janney Montgomery Scott Inc., Philadelphia.
R, Kaufmann Trading Company, Philadelphia.
*!R, Kidder, Peabody & C., Inc., Philadelphia.
R, Kuch (H. G.) & Co., Philadelphia.
*!R, Merrill Lynch, Pierce, Fenner & Smith Inc., Philadelphia.
*!R, Newbold's (W. H.) Sons & Co., Philadelphia.
*!R, Paine, Webber, Jackson & Curtis Inc., Philadelphia.
*!R, Parish Securities Inc., Philadelphia.
R, Penn Mutual Securities Corporation, Philadelphia.
R, Porteous and Company, Inc., Philadelphia.
R, Pugach (S. M.) & Co., Inc., Philadelphia.
*!R, Reyonds Securities Inc., Philadelphia.
*!R, Sade & Co., Philadelphia.
R, Schmidt, Roberts & Parke, Inc., Philadelphia.
*!R, Smith, Barney & Co., Incorporated, Philadelphia.
R, Smith (E. W.) Co., Philadelphia.
R, Snyder (Geo. E.) & Co., Philadelphia.
R, Sullivan (D.F.) & Co., Philadelphia.
R, Suplee-Mosley Inc., Philadelphia.
R, Teller (Albert) & Co., Inc., Philadelphia.
R, Thomas and Marsh Company, Philadelphia.
*!R, Thomson & McKinnon Auchincloss Inc., Philadelphia.
R, Tyson (R. R.) & Co., Philadelphia.
*!R, Walker (G. H.) & Co. Incorporated, Philadelphia.
*!R, Walston & Co., Inc., Philadelphia.
R, Wynncroft Co., Philadelphia.
*!R, Yarnall, Biddle & Co., Philadelphia.
R, Zern, Saltzman & Co., Inc., Philadelphia.
*!R, Witter (Dean) & Co. Incorporated, Philadelphia.
!R, New York Hanseatic Corporation, Philadelphia.

RHODE ISLAND

A, Brown, Lisle & Marshall, Incorporated, Providence.
!A, Diamond Douglas & Co., Inc., Providence.
R, White (A. J.) & Co., East Providence.

SOUTH CAROLINA

R, Manning (V. M.) & Co., Inc., Greenville.
R, Norris (Edgar M.) & Co., Greenville.
R, Sims (Henry) Securities, Inc., Orangeburg.

TENNESSEE

R, Bullington-Schas & Co., Memphis.
R, Millard & Investment Securities Corporation.
*!R, Morgan, Keegan & Company, Inc., Memphis.
R, Reddoch (James N.) & Co., Inc., Memphis.
R, Saunders (M. A.) & Co., Inc., Memphis.

TEXAS

R, Beebe, Lavalle & Rude, Inc., Houston.
R, Brown, Allen, Rose & Co., Dallas.
R, Dullnig (George E.) & Co., San Antonio.
R, Newton (Paul F.) & Company, Houston.
A, United Services Planning Association, Inc., Fort Worth.

UTAH

R, Surety Equities Corporation, Salt Lake City.

VERMONT

R, Equity Services, Inc., Montpelier.

VIRGINIA

R, Bolding & Co., Portsmouth.
R, Cortese, McGuire & Co., Inc., Arlington.
R, Craigie, Mason-Hagan, Inc., Richmond.
*!R, Investment Corporation of Virginia, Norfolk.
A, Manna Financial Planning Corporation, Falls Church.
R, Mason & Lee, Inc., Lynchburg.
R, Strader & Company, Inc., Lynchburg.

WASHINGTON

R, Horton, Geib & O'Rourke, Inc., Spokane.
A, Smith-Randall, Inc., Tacoma.
*R, Russell (Frank) Co., Inc., Tacoma.

WASHINGTON, D.C.

R, Aarsand & Company.
R, Baxter, Blyden, Selheimer & Co., Inc.
R, Bellamah, Neuhauser & Barrett, Inc.
R, Bronwen Corporation.
R, Donatelli, Rudolph & Schoen, Inc.
*!R, Ferris & Company, Incorporated.
*!R, Folger Nolan Fleming Douglas Incorporated.
R, Johnston, Lemon & Co. Incorporated.
*!R, Mackall & Coe Incorporated.
*!R, Pressman, Frohlich & Frost Incorporated.
R, Republic Securities Corporation.
R, Robinson and Lukens.
R, Rohrbaugh and Co.

WISCONSIN

R, FPC Securities Corporation, Madison.
R, General Investment Sales Corporation, Milwaukee.
*!R, Loewi & Co. Incorporated, Milwaukee.

ONTARIO, CANADA

R, Canavest House Limited, Toronto.
A, Graham (John) & Company Limited, Ottawa.
A, Midland-Osler Securities, Limited, Toronto.
A, Pope & Company, Toronto.
A, Research Securities of Canada, Ltd., Toronto.
A, Richardson (T. A.) & Co. Limited, Toronto.
A, Rosmar Corporation Limited, Toronto.

QUEBEC

A, Bankers Securities of Canada Limited, Montreal.
A, Barry & McManamy, Quebec City.
A, Bouchard & Co., Ltd., Montreal.
R, Brault, Guy, Chaput & Co., Montreal.
A, Castle Securities Limited, Montreal.
A, Collier, Norris & Quinlan Limited, Montreal.
R, Crang & Ostiguy Inc., Montreal.
A, Doherty McCuaig Limited, Montreal.
A, Forget (L. J.) & Co., Ltd., Montreal.
A, Gairdner & Co., Ltd., Montreal.
A, Geoffrion, Robert & Gelinas Ltd., Montreal.
A, Gordon Securities Limited, Montreal.
A, Greenshields Ltd., Montreal.
A, Grenier, Ruel & Cie Inc., Quebec City.
A, Hickey, Dow & Muir, Montreal.
A, Hodgson (C. J.) Securities Ltd., Montreal.
A, Jones, Heward & Company, Ltd., Montreal.
A, Kippen & Company Inc., Montreal.
R, Lafferty, Harwood & Partners Ltd., Montreal.
A, Latimer (W. D.) Co., Ltd., Montreal.
A, Leclerc (Rene T.) Incorporee, Montreal.
R, Levesque, Beaubien, Inc., Montreal.
A, Loewen, Ondaatje, McCutcheon & Company Limited, Montreal.
A, MacDougall, MacDougall & MacTier, Ltd., Montreal.
A. Maison Placements Canada, Inc., Montreal.
R, Mead & Co. Limited, Montreal.
A. Michelin, Forey, Inc., Montreal.
A. Molson, Rousseau & Co. Limited, Montreal.
*!A, Nesbitt, Thomson and Company, Limited, Montreal.
!A, O'Brien & Williams, Montreal.
R, Oswald Drinkwater & Graham Ltd., Montreal.
A, Pitfield, Mackay, Ross & Company, Limited, Montreal.
R, Place d'Armes Securities, Inc., Montreal.
A, Tasse & Associates, Ltee, Montreal.
A, Transatlantic Securities Company, Montreal.
A, Wisener and Partners Company Limited, Montreal.

APRIL 30, 1973.

Mr. CURTIS. Mr. President, I ask unanimous consent that Forest Reece, of the Committee on Agriculture and Forestry, be granted the privilege of the floor during debate on S. 470.

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

The question is on agreeing to the amendment of the Senator from Ohio.

Mr. TAFT. Mr. President, I do not want to prolong the argument at great length today. I do not think, however, that the Senator understood what I was saying at an earlier time with regard to the manner of dealing with these issues.

I am quite willing to agree that we all ought to get the institutions dealing for their own accounts off the exchanges as quickly as possible. I do not see, however, why we have to pay the price that I am afraid we will have to pay if we go the route of this bill. The price we would pay, I am afraid, will be the demise of a good many of the small brokerage firms. It would drive from the market a large number of small investors and build up big brokerage houses.

From the observations that I have been able to make, the small investor is not likely to be better served by this arrangement. The individual small investor feels more comfortable when dealing with his hometown brokerage firm. He has known them all his life. They have advised him in making many other decisions over a period of years. He would prefer doing this rather than relying on a firm, who, while they are well known men nationally and may be good men in the field, have an interest which is national in scope.

I am not criticizing such concerns, but I think this argument points out why individual members are going to stay away from the market if we take the steps that are proposed.

I think that under the bill's provisions, institutions are quite likely to come in and further aggravate the situation we have in the market with people dealing for their own accounts. This results in further undermining of confidence in the market.

Mr. President, I also note and would like to call to the attention of the Senate some of the testimony and some of the material which is in the RECORD on pages 152 and thereafter.

In January of 1973, the SEC when adopting rule 19b2, in part stated as follows:

> The feeling of some draftsmen in 1934 was that members should be completely prohibited from engaging in any proprietary transactions on an exchange: "There is no public interest to be served by giving an inside seat to a small group of men who are trading for their own account." Congress declined, however, to prohibit completely the member from trading for his own account and granted the Commission broad power under Section 11 of the Exchange Act to regulate such trading. It is clear, nonetheless, that "the only interest the public has in a stock exchange is that it should be a place where the outside public can buy and sell its stocks."

When acting as a broker, a member is

under a duty to represent his customer's interest in the exchange markets and to secure for that customer the best available transaction price. The broker is an agent, and his loyalty to his customer must be undivided. He also may serve the customer by providing bookkeeping records, safe custody of the securities or cash involved, research on the securities of interest to the customer, and assurance that particular transactions are "suitable" for the particular customer. He must also make every effort to prevent his customer from violating exchange rules or the securities laws, to the extent he has reason to believe such may occur. As a result of brokers' efforts to serve the needs of individual investors, confidence in our securities markets is stimulated, redounding to the public good and the economic strength of the country by ensuring the continuing ability of our securities markets to attract capital investment.

That is what the fight today is really all about. I appreciate the sincerity and conviction of those who take an opposite position and feel that the two items should be tied together; that we ought to have a commitment to do away with fixed charges tied to our commitment to make stock exchanges completely "public".

Nevertheless, I agree with the comment made by SEC Chairman Hamer H. Budge on October 22, 1970. At that time he said:

After exhaustive studies of market structure and commission rates we concluded that questions concerning exchange membership transcend questions of fixed rates, and would exist regardless of changes made in the commission rate schedule. We believe these issues of rates and membership are severable.

Mr. President, I think that if rates and membership were severable then, they are severable now.

Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. WILLIAMS. Mr. President, while we are not operating under a time limitation, I have no further requests to speak.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Ohio (Mr. TAFT). 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 North Dakota (Mr. BURDICK), the Senator from Alaska (Mr. GRAVEL), the Senator from Michigan (Mr. HART), the Senator from Iowa (Mr. HUGHES), the Senator from South Dakota (Mr. MCGOVERN), the Senator from California (Mr. TUNNEY), the Senator from Nevada (Mr. CANNON), and the Senator from Kentucky (Mr. HUDDLESTON), are necessarily absent.

I also announce that the Senator from Mississippi (Mr. STENNIS) is absent because of illness.

I further announce that, if present and voting, the Senator from Iowa (Mr. HUGHES) would vote "nay."

Mr. SCOTT of Pennsylvania. I announce that the Senator from Oklahoma (Mr. BELLMON), the Senator from Arizona (Mr. GOLDWATER), the Senator from Michigan (Mr. GRIFFIN) and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

The result was announced—yeas 4, nays 83, as follows:

[No. 200 Leg.]

YEAS—4

Cook	Saxbe	Taft
Roth		

NAYS—83

Abourezk	Eastland	Metcalf
Aiken	Ervin	Mondale
Allen	Fannin	Montoya
Baker	Fong	Moss
Bartlett	Fulbright	Muskie
Bayh	Gurney	Nelson
Beall	Hansen	Nunn
Bennett	Hartke	Packwood
Bentsen	Haskell	Pastore
Bible	Hatfield	Pearson
Biden	Hathaway	Pell
Brock	Helms	Percy
Brooke	Hollings	Proxmire
Buckley	Hruska	Randolph
Byrd, Harry F., Jr.	Humphrey	Ribicoff
	Inouye	Schweiker
Byrd, Robert C.	Jackson	Scott, Pa.
Case	Javits	Scott, Va.
Chiles	Johnston	Sparkman
Church	Kennedy	Stafford
Clark	Long	Stevens
Cotton	Magnuson	Stevenson
Cranston	Mansfield	Symington
Curtis	Mathias	Talmadge
Dole	McClellan	Thurmond
Domenici	McClure	Tower
Dominick	McGee	Weicker
Eagleton	McIntyre	Williams

NOT VOTING—13

Bellmon	Griffin	Stennis
Burdick	Hart	Tunney
Cannon	Huddleston	Young
Goldwater	Hughes	
Gravel	McGovern	

So Mr. TAFT's amendment was rejected.

Mr. SPARKMAN. Mr. President, I move that the vote by which the amendment was rejected be reconsidered.

Mr. WILLIAMS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. TOWER. Mr. President, I support the bill S. 470, a long-overdue statement of congressional policy regarding the structure and nature of the securities markets, particularly regarding that of the quasi-public exchanges. We have been operating since the 1930's on the same basic legislation, legislation which was developed before the advent of today's giant institutional investors and their bulk trading patterns, and before the advent of computer and communications technology that makes the accomplishment of a central market system possible. The earlier legislation does not speak clearly on the point of what the criteria should be for membership on the stock exchanges, a point that is now very important in an ara when institutional investors are becoming members of exchanges and threatening to eliminate the very function of public brokerage on the exchanges. The earlier legislation does not speak clearly on the point of whether the traditional fixed commission rate system is appropriate in the face of unassailable evidence that efficiency is sacrificed for sales volume promotion under such a system. This bill clarifies congressional policy in this vital area, and will permit the new central market system to develop around a rational pricing system and a publicly oriented network of exchanges, instead of around the present distorted pricing system and increasingly privately oriented exchange network.

Mr. CURTIS. Mr. President, I send to the desk an amendment and ask that it be stated.

The PRESIDING OFFICER (Mr. HELMS). The amendment will be stated.

The assistant legislative clerk read as follows:

Add a new section at the end of the bill:

"SEC. —— Amend the Securities Act of 1933 by inserting the following before the first semi-colon in 15 U.S.C. 77c(a)(2): ', or any security which represents an interest in a pool of loans guaranteed as to principal and interest by an agency of the Federal government or any State government under such circumstances as the Commission may authorize'."

Mr. CURTIS. Mr. President, I shall be very brief. The last Congress passed the Rural Development Act, heralded as one of the most important pieces of legislation of our current times. Its purpose was to bring jobs to rural America and thus relieve some of the problems of the great cities as well as provide opportunities for many people. One of the important features of that bill was that it provided for the building of industry in the rural areas by private capital as contrasted with financing the entire program by Government loans.

Mr. President, several weeks ago, at my request, the chairman of the Committee on Agriculture and Forestry appointed a secondary market study group composed of rural bankers and representatives of institutional investors to study methods of providing additional capital to rural banks for industrial development purposes.

The initial responses from members of the study group indicate that the best way to raise this additional capital would be to pool that portion of loans made by banks which are guaranteed as to principal and interest by Farmers Home Administration or the Small Business Administration and sell participations in such pool. At the present time this would not be economically feasible because of the registration procedures which would be necessary under the Securities Act of 1933. However, by extending the exemption from registration to securities which are backed by Government guaranteed loans under carefully monitored circumstances, a new source of private capital will be open to rural lending institutions in order that the credit needs of rural areas may be better met.

The following comment was made by one institutional member of the study group. I might say that this is one of the largest institutions in the country:

Merely operating a placement or brokerage service for these notes might not accomplish the task of providing enough liquidity to the commercial banking sector. Undoubtedly, there would be many odd-amount, small-to-large loans generated. Placing the smaller loans with the major money center institutions might generate expenses of amounts that would greatly reduce effective rate of interest on the smaller loans. There are likely to be few loans of the size from $250,000 to $500,000 that would interest major investors. It would seem that an approach should be taken that would permit the pooling of these loans into a collateral reservoir against which securities could be issued that would in turn be sold to investors. This would assume that the structure of the rural credit association be expanded to include an issuing agent rather than being solely a placement service.

My amendment says in essence: "Any security which represents an interest in a pool of loans guaranteed as to principal and interest by an agency of the Federal Government, or any State government, shall be exempt from registration. Under such circumstances as the Securities and Exchange Commission may authorize."

The last words would give the Securities and Exchange Commission wide authority to monitor and to regulate.

I want to be very candid with the chairman and other members of this distinguished committee. This problem was not presented to us in sufficient time to appear before the committee and make a presentation. On the other hand, it is important that the matter be considered as early as possible, because it is a key factor in arranging for this private financing of rural development, and many other plans are hinged on it.

Therefore, if the distinguished chairman and the manager of this bill would see fit to accept this amendment and take it to conference, the author of the amendment would fully understand that the committee would then have an opportunity to explore it further, to question any statement I have made here, to get a further report from the Securities and Exchange Commission, and to see what the reaction of the House might be. It would be my hope that on those conditions the committee would see fit to accept this amendment and take it to conference.

Mr. TAFT. Mr. President, will the Senator yield for a unanimous consent request?

Mr. CURTIS. I yield.

Mr. TAFT. Mr. President, I ask for the yeas and nays on the bill.

The yeas and nays were ordered.

Mr. WILLIAMS. Mr. President, the subject matter of the amendment offered by the Senator from Nebraska was new to me today. I can see, as presented, that it is a situation that should be explored and understood. There will be time between the passage of this measure in the Senate and the action in the House.

I should like to accept this amendment and take it to conference, but I must assure the Senator from Nebraska that further study will be necessary between now and the date we hope we can be in conference with the House.

Mr. CURTIS. I appreciate that attitude, because we want to present the matter fairly. I appreciate the cooperative attitude of the distinguished chairman.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Nebraska.

The amendment was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

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

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

Mr. JAVITS. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. JAVITS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment is as follows:

At the end of the bill, add a new section No. 11, as follows:

"Section 6(f)(1) of Public Law 91-598 of the 91st Congress is hereby amended by inserting after the word 'trustee' in the Preamble thereof the following:

"(or may pay or advance to such customers or any of them directly, in whole or in part, on such terms and conditions as SIPC may specify)"

Mr. JAVITS. Mr. President, this amendment adds a section to the bill to change the wording of section 6 (f) of the bill establishing the guaranteeing agency, known by the acronym SIPC, which insures the claims of customers of brokerage firms up to a limited amount.

The purpose of the amendment is to make it possible for this agency, as does the FDIC—the Federal Deposit Insurance Corporation—to deal directly with the customer, if it is so advised, in paying a claim, in whole or in part. As the law reads now, the claim may only be paid in whole or in part by advancing money to the trustee in bankruptcy. The trustee then, subject to court determinations, and so forth, may make payments, in whole or in part.

I ask unanimous consent to have printed in the RECORD an article published in the New York Times of Sunday, June 10, 1973.

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

PROTECTING INVESTORS—WEIS LIQUIDATION GIVING AGENCY ITS BIGGER TEST

(By John H. Allan)

WASHINGTON.—The Securities Investor Protection Corporation, the 2½-year-old Government-industry agency that's designed to come to the aid of cutsomers of brokerage houses that go bust, has just taken on its biggest case: Weis Securities, Inc.

Early last week, the agency sent out claim forms to some 55,000 customers of the New York City brokerage house that was put into liquidation a week and a half ago. Edward S. Redington, the trustee who is liquidating Weis, was preparing to mail out securities, Byron D. Woodside, chairman of S.I.P.C., said in an interview last Tuesday.

No one knows how quickly claims will be settled, however. Some S.I.P.C. liquidations have dragged on for more than a year, exasperating investors who have had their assets tied up.

Marvin I. Lepaw, a Long Island dermatologist, may be a typical investor displeased with the protection he got from S.I.P.C.

Dr. Lepaw saw 15 months creep by from the time he placed an order to sell stock and the time his broker—Parker, England & Co., Inc., was put into liquidation and he finally got his stock back. During that interval, the shares plummeted to a fraction of the market value at the time of his original sell order.

"It takes too long—there's too much red tape," Dr. Lepaw declared. "It taught me one thing, though. I haven't bought any stocks since."

S.I.P.C. clearly is aware of criticism that it has moved slowly in the past. Its efforts to settle Weis Securities claims more quickly show how seriously it wants to eliminate this sore spot.

In defense of S.I.P.C., several things must be said. For one, the Federal law that established the agency prevents it from moving faster. For another, it sometimes deals with people who lie and cheat and steal, and so it cannot process claims carelessly.

Since it was established on Dec. 30, 1970, S.I.P.C. has put 86 securities firms into liquidation because they were in financial difficulty.

Of these 86 cases, 48 have been substantially completed and the customers have got their money and securities back. Between $10-million and $12-million has been paid out to an estimated 15,000 customers of now-defunct brokerage houses—protection that would have been lacking if S.I.P.C. had not been formed, Mr. Woodside is quick to note.

Of the 48 cases that have been almost completely settled—there always seem to be tag-ends of liquidation proceedings that drag on and on—13 were completed in three to six months, 12 took seven to nine months, 13 took 10 to 12 months, eight took 13 to 15 months and two took 16 to 18 months.

The speed record was set in the Robert E. Wick Company case. Twenty-two customers were paid $147,123 in only 77 days. Mr. Wick was sent to jail for absconding with his clients' money.

There's a big difference, however, between a tiny Chicago bucket shop and a good-sized New York Stock Exchange firm with 400 salesmen, 27 branch offices and 55,000 customer accounts. Weis Securities will take more work to settle.

In its conception, S.I.P.C. was compared to the Federal Deposit Insurance Corporation, set up in 1933 to help protect the bank accounts of individuals who deposit their money in national banks.

From Mr. Woodside's standpoint, the comparison is unfortunate for two reasons:

First, the F.D.I.C. deals only with cash, a simple matter. S.I.P.C. deals not only with cash but also with stocks and bonds and options. Establishing their value is much more difficult.

Second, the two agencies have been given different powers. The F.D.I.C., which had only one bank failure to handle last year, can merge banks or reorganize them. S.I.P.C. can only put failing brokerage firms out of business and pay off the customers.

"People ought not to compare the two," a spokesman for the F.D.I.C. said last week. The securities agency, which often is called "Sipic" in conversation, has a staff of 35, including half a dozen lawyers and about the same number of accountants. F.D.I.C. has a staff of 2,619, including 1,595 bank examiners. S.I.P.C. is 2½ years old and has a fund of $105-million. F.D.I.C. is 40 years old and has a fund of $5.16-billion.

When Weis Securities was put into liquidation on May 30, there was substantial criticism of the New York Stock Exchange because it did not salvage the customers' accounts and thereby eliminate the time-consuming process of an S.I.P.C. case.

With the stock market in a dispirited state the critics complained, failing to rescue Weis customers could only make the restoration of investor confidence in Wall Street all the more difficult.

No longer could brokers boast, as Robert W. Haack, then the Big Board's president, said on April 1, 1970: "In more than 30 years, no customer of a New York Stock Exchange member firm has suffered a loss of securities or funds as the result of a failure of an exchange member firm. This is a record of which the exchange is proud and one which we expect to continue unblemished."

Between the spring of 1968 and the end of 1970, the New York Stock Exchange had poured some $68,731,000 into financial assistance to member firms to salvage more than half a million customer accounts and was unwilling to do more. Besides, customers of over-the-counter firms were left unprotected no matter what the stock exchange did.

As a result, Congress grew impatient. So the Securities Investor Protection Corporation was voted into law in December, 1970. President Nixon called it "a vitally important advance in the consumer protection field."

The basic protection that S.I.P.C. provides investors is the right to go to Federal District Court and get a trustee appointed to liquidate any brokerage house that is in real financial difficulty.

The trustee first undertakes to return to customers, out of available assets, any securities that can be "specifically identified" as theirs. In general, these would be fully paid securities in cash accounts and excess-margin securities in margin accounts that have been set aside as the property of customers.

In addition, if necessary, S.I.P.C. will advance funds to the trustee to enable him to pay the remaining claims of each customer up to $50,000—except that in the case of claims for cash (as distinct from securities) not more than $20,000 may be paid with S.I.P.C. funds.

If a customer has a big margin account at a firm being liquidated by S.I.P.C. almost certainly he won't get his affairs settled quickly. When a customer's claims exceed the $50,000/$20,000 maximum allowable limits of S.I.P.C. coverage, he becomes a general creditor of the firm. Any recovery would depend upon the remaining assets of the firm and the amount of the claims of other creditors.

To get the money to pay customer claims, S.I.P.C. levies assessments on its members, currently at the rate of one-half of one per cent of each firm's gross revenues from the securities business. Every securities firm registered with the Securities and Exchange Commission (with the exception of those active only in mutual fund sales, variable annuities, insurance and investment advice) automatically is an S.I.P.C. firm.

Between the time S.I.P.C. got started and the end of 1972, it raised approximately $62.1 million. And it had an estimated $18 million to $23 million that might ultimately be required to meet claims on the 64 cases filed up to the begining of this year.

Eventually, S.I.P.C.'s fund is expected to reach $150 million. If things go really sour, the agency has the power to borrow up to $1 billion from the S.E.C., which gets the money from the Treasury.

When S.I.P.C. goes to court to get a trustee appointed to liquidate a securities house, the critical question that must be answered is whether there is a danger that the firm will fail to meet its obligations to customers.

To answer this question, S.I.P.C. works with the S.E.C., stock exchange and the National Association of Securities Dealers, all of which oversee parts of the securities industry. If a firm gets overextended and violates its net capital rule, S.I.P.C. is notified.

As the Weis Securities case showed, the self-regulators work to transfer customer accounts to healthy firms and to try to avoid the use of S.I.P.C.

When securities firms get in enough trouble to wind up in S.I.P.C.-induced liquidation, it's usually the result of poorly kept books and records. Of the first 64 cases, 41 involved this shortcoming. Twenty-six firms (some have more than one fault) failed because of misconduct or fraud.

S.I.P.C.'s headquarters are at 485 L'Enfant Plaza, a big Washington office building complex southwest of the Capitol, but it will have to move when the Postal Service takes over the space.

Mr. Woodside, who is paid $38,000 a year, heads a seven-man board, five of whom are appointed by the President. Of the five, two represent the general public (Mr. Woodside and George J. Stigler, economics professor at the University of Chicago) and three come from the securities industry (Donald T. Regan, chairman of Merrill Lynch, Pierce, Fenner & Smith; Henry W. Meers, vice chairman of White, Weld & Co., and Glenn E. Anderson, president of the Carolina Securities Corporation).

In addition, one director represents the Treasury (Samuel R. Pierce Jr., its general counsel) and one represents the Federal Reserve (J. Charles Partee, its director of research).

Mr. Woodside, a former S.E.C. commissioner, is concerned about the risks in covering an industry that, for all its talk about financial responsibility, is really quite easy for anyone to enter.

"Is it really in the public interest that everybody in the business be protected by S.I.P.C.?" he asked.

In the agency's annual report for 1972, the board of directors approvingly noted the adoption of new rules in the field of broker-dealer financial responsibility. Clearly, S.I.P.C. is thinking in terms of how best to arrange for some selectivity of risk. It would like to avoid paying claims for inept firms that might have been barred by a little more effective self-regulation in the first place.

Will Congress move to make S.I.P.C. more like the F.D.I.C.?

"We have not yet reached the point where we're prepared to recommend changes in the act," Mr. Woodside said. "We are not prepared to come to grips on whether the procedures ought to be changed."

To some extent, any basic change will depend on how satisfied everyone is with the settlement of Weis Securities—S.I.P.S.'s biggest job so far.

AGENCY'S 10 LARGEST LIQUIDATIONS

Filing date	Firm and city	Number of customer claims mailed	Number of customer claims received	Value of distributions to customers
May 24, 1973	Weis Securities, Inc., New York.	55,000		
Apr. 13, 1973	J. Shapiro Co., Minneapolis	32,730	10,250	
May 25, 1972	Kenneth Bove & Co., New York.	12,500	6,300	$1,266,000
June 3, 1971	International Funding Securities Co, Long Beach, Calif.	12,000	[1] 950	243,766
Feb. 20, 1973	Teig Ross Inc., Bloomington, Ind.	6,700	4,000	175,529
Oct. 19, 1972	Albert & Maguire Securities Co., Philadelphia.	5,181	1,316	$690,025
Feb. 7, 1972	S. J. Salmon & Co., New York	4,945	[2] 1,873	2,648,664
Jan. 6, 1972	F. O. Baroff Co., New York	4,225	[2] 1,591	2,358,418
Mar. 9, 1973	Morgan Kennedy, New York	3,774	1,200	
Sept. 8 1971	Buttonwood Securities, La Jolla, Calif.	3,780	[2] 1,502	1,077,954

[1] Case under special investigation.

[2] Case substantially completed.

Mr. JAVITS. The objection has been made that because the customer receives whatever he is to receive through the trustee, there is added an extra level of delay, and so forth. I have tried to research this. It is rare that we have a securities bill; we have one here. The article to which I have referred makes reference to the liquidation of a company called Weis Securities, Inc., which is in liquidation now. It is not possible to ascertain whether the complaints made are or are not fully justified.

Under the circumstances and in view of the fact that there are a good many liquidations pending now in which this agency SIPIC is involved, I got the figures from the agency and they indicate 87 liquidations are going on now; that payments have been made to trustees of about $12 million in 57 of them. Weis Securities is a big one.

I have discussed this matter with the chairman of the committee, whether under these circumstances it might be justifiable so that the matter should be in conference, and with a full understanding by me and the Senate that it might be dealt with in conference by perhaps being thrown out or included, he might include this amendment which gives the agency the authority, which is not mandatory, under whatever terms it feels appropriate, to get expedition directly with customers in whole or in part.

The chairman advised me, and I accept this with great respect, that this very morning in a speech to an audience he alluded to precisely the same problem. So very much like the amendment of the Senator from Nebraska a few moments ago, I asked the Senator if he could see his way clear to take the amendment to conference, with a full understanding that at least it would be then qualified to be dealt with if the work of the conference indicates there is a possibility in connection with that problem that requires some kind of remedy.

Mr. WILLIAMS. Mr. President, the situation presented by the Senator is very similar to that presented by the Senator from Nebraska. I am willing to take it to conference. The Senator from New York presents an important and critical situation. We appreciated this and I am sure this is going to be part of our study and hearing record within the next few weeks. Therefore, it will be studied further and included in the bill for the purpose of having it ready for conference. I accept it on that basis.

Mr. JAVITS. I thank the Senator very much.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New York.

The amendment was agreed to.

Mr. JAVITS. Mr. President, I will vote for the committee bill and have already voted against the Taft amendment, realizing that the best of intentions and a considerable amount of research have gone into each. At the same time, I would like to offer some views, which I feel go

to the heart of the problems affecting the securities industry in a way which is not accomplished as yet by the legislation at hand.

All the proposals are being made in an ominous setting. During the first quarter of this year, member firms of the New York Stock Exchange lost $75 million, compared with profits of $394 million for the corresponding period in 1972. The summer months—the period we are entering right now—is traditionally a lean period for the industry, and thus a first quarter loss figure is not a good indicator for the following months.

One of the reasons given for the current spate of red ink is the fact that negotiated rates for transactions above $300,000 have bitten into member firms' gross receipts. And the SEC estimates that pushing negotiated rates down to $100,000 would cost the industry an additional $15 to $27 million annually. Now I am all in favor of cutting fat out of member firm operations, but there is such a thing as pushing matters too soon; and that is exactly what any forced switch to fully negotiated rates—or even negotiated rates for $100,000 and above transactions—would do.

An argument for negotiated rates is that the present rate system costs the consumer so much. This is deceptively appealing. The consumer would be paying a lot more than $27 million if he were dealing with an illiquid industry or a less open auction market for securities. A forced switch to negotiated rates could force this state of affairs.

For this reason I cannot vote for final legislation which I feel does not take these market realities into account.

The primary flaw in both the committee bill and Senator TAFT's amendment is the way they treat the subject of negotiated commission rates. The committee bill, as my colleagues know, links this issue with the issue of institutional membership. In effect, it forces the securities industry to decide which they like least, negotiated rates or institutional membership, and says that they need only suffer one of these until April 1976; thereafter they must switch to negotiated rates.

The Taft amendment, in effect, barred institutional membership right now, but imposed negotiated rates on transactions of $100,000 and above by April 1975 at the latest, and at the earliest, April 1974.

A third important proposal is the SEC's; their position is to favor negotiated rates for transactions of $100,000 and above. The SEC hopes to institute such rates by April 1974 unless market studies show that such a move is clearly unwise.

In acting on any such proposal, our concern must be to avoid irreparable harm to a vital institution which makes ours the leading money market in the world. The New York Stock Exchange and our other major exchanges are unparalleled anywhere else in the world for their inner efficiency and for the ease with which they permit American firms—and others all over the world, including governments and international banking operations—to raise capital. They offer to every American even with modest means the prospect of equity ownership in virtually any publicly held American, and many worldwide, corporations. They have made our financial markets the envy of foreigners, who themselves invest large resources in the securities of American firms. Coming from New York, I have a particular interest in the viability of the New York and American Stock Exchanges, and in the over-the-counter and those commodity markets in New York. But as an American, I must also be concerned with the health of our capital markets in general.

I believe the key to the health of these markets lies not in the institutional membership or negotiated rate issues per se, but in the whole range of conditions which have kept many investors—particularly small investors—out of the market in the past few years.

For today's individual investor is beset by genuine doubts and uncertainty. Many investors are still holding substantial paper losses for 1969–70 period, and our tax laws do not encourage liquidating these losses quickly, in order to get into more promising investments. Other provisions of the tax code, to which I shall refer shortly could also be changed to encourage investors to make greater use of our securities markets when deciding how to utilize their savings.

The events of 1969–1970 have, in fact, given the securities industry a bad name, and many individual investors undoubtedly still treat with great skepticism the "buy" recommendations of brokerage firms. In addition, the inner workings and insolvencies of some brokerage firms have cast what I believe to be a shadow upon the workings upon the industry as a whole. The forced liquidation of a number of firms in recent years culminating in the recent Weis Securities incident cannot help but encourage people to find other avenues for their personal investments.

In the first place, it is clear that our tax code could do more to encourage individual investors to participate actively in buying and selling stocks. Three rather simple changes would be necessary to develop a much more suitable climate for such activity. The first would be to raise the dividend exclusion from $100 to $200 per person, making the exclusion fully applicable only to those persons with incomes of $15,000 or less; $15,000 is the approximate median income of people investing on the New York Exchange. The second measure would allow investors to deduct brokerage fees from ordinary income. Present law allows brokerage fees to be taken into account when computing capital gains or losses, which usually defers the impact of the tax advantage and in most cases gives it only a 50 percent effectiveness compared with a straight deductible provision.

The third measure would increase the capital loss write-off $1,000 to $2,000 per year, again with a sliding scale which would make this provision fully applicable only to persons with incomes of $15,000 or less. The effect of this latter measure would be to encourage investors who hold paper losses to rearrange their portfolios so as to take advantage of today's changed market conditions.

These measures together could help provide a direct dollars and cents incentive for increased investment by individuals. However, as I have implied above, even monetary incentives would not be enough in a setting where many investors are deeply skeptical of the brokerage industry and where isolated incidents of brokerage house failures or wrong-doings grab large headlines. Therefore, I believe that the Congress must ask what needs to be done to create a new climate of confidence for individual investors.

First and foremost, the industry must modernize itself. This is the sine qua non for any significant reduction in commission rates, and for a climate of confidence in the institution as a whole. And the key to modernization is automaticity with regard to recordkeeping, that is, abandoning the stock certificate for a computerized bookkeeping entry.

I realize the problems involved here—such a development would have to be done in such a way as not to run afoul of the distinction in law between shares held by the customer and shares held for the customer by a securities firm—a distinction which is, I believe, without merit. I am also aware of efforts being made by the New York Exchange and the American Exchange to computerize and modernize their operations.

Another change we should look into concerns the Securities Investor Protection Agency. That agency, as my colleagues know, is charged with indemnifying customers of bankrupt securities firms against losses of as high as $50,000. It is often compared with the FDIC; customers of FDIC—insured banks can do business with the knowledge that their claims against an illiquid bank will be relatively quickly resolved. But certain legal and situational provisions make this comparison suspect, and some customers of bankrupt securities firms have had to wait for more than a year to recoup their losses caused by the bankruptcy. My amendment, which was just accepted, is addressed to this problem.

Obviously, considering the overwhelming support this legislation has in the Senate, based on the vote on the Taft amendment, it is essential to get something underway and be able to have a creative impact on the final legislation. Without, therefore, committing myself as to the form and nature of the final legislation, I intend to join with the majority, to bring this legislation to the next stage of legislative consideration.

The PRESIDING OFFICER. If there be no further amendments to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment, as amended, was agreed to.

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

The PRESIDING OFFICER. The bill having been read the third time, the question is, Should it pass? 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 North Dakota (Mr. BURDICK), the Senator from Alaska, (Mr.

GRAVEL), the Senator from Michigan (Mr. HART), the Senator from Iowa (Mr. HUGHES), the Senator from South Dakota (Mr. McGOVERN) the Senator from California (Mr. TUNNEY), and the Senator from Nevada (Mr. CANNON), are necessarily absent.

I also announce that the Senator from Mississippi (Mr. STENNIS) is absent because of illness.

I further announce that, if present and voting, the Senator from Alaska (Mr. GRAVEL), and the Senator from Iowa (Mr. HUGHES), would each vote "yea."

Mr. SCOTT of Pennsylvania. I announce that the Senator from Oklahoma (Mr. BELLMON), the Senator from Arizona (Mr. GOLDWATER), the Senator from Michigan (Mr. GRIFFIN), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

The result was announced—yeas 85, nays 3, as follows:

[No. 201 Leg.]

YEAS—85

Abourezk	Biden	Clark
Aiken	Brock	Cook
Allen	Brooke	Cotton
Baker	Buckley	Cranston
Bartlett	Byrd,	Curtis
Bayh	Harry F., Jr.	Dole
Beall	Byrd, Robert C.	Domenici
Bennett	Case	Dominick
Bentsen	Chiles	Eagleton
Bible	Church	Eastland
Ervin	Kennedy	Pell
Fannin	Long	Percy
Fong	Magnuson	Proxmire
Fulbright	Mansfield	Randolph
Gurney	Mathias	Ribicoff
Hansen	McClellan	Saxbe
Hartke	McClure	Schweiker
Haskell	McGee	Scott, Pa.
Hatfield	McIntyre	Scott, Va.
Hathaway	Metcalf	Sparkman
Helms	Mondale	Stafford
Hollings	Montoya	Stevens
Hruska	Moss	Stevenson
Huddleston	Muskie	Symington
Humphrey	Nelson	Talmadge
Inouye	Nunn	Thurmond
Jackson	Packwood	Tower
Javits	Pastore	Williams
Johnston	Pearson	

NAYS—3

Roth	Taft	Weicker

NOT VOTING—12

Bellmon	Gravel	McGovern
Burdick	Griffin	Stennis
Cannon	Hart	Tunney
Goldwater	Hughes	Young

So the bill (S. 470) was passed, as follows:

S. 470

An act to amend the Securities Exchange Act of 1934 to regulate the transactions of members of national securities exchanges, to amend the Investment Company Act of 1940 and the Investment Advisers Act of 1940 to define certain duties of persons subject to such Acts, and for other purposes.

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

SECTION 1. Section 11(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78k(a)) is amended to read as follows:

"(a)(1) The Commission shall prescribe such rules and regulations as it deems necessary or appropriate in the public interest or for the protection of investors, to regulate or prevent trading on national securities exchanges by members thereof from on or off the floor of the exchange, directly or indirectly for their own account or for the account of any affiliated person or, in the case of floor trading, for any discretionary account. Such rules shall, as a minimum, require that such trading contribute to the maintenance of a fair and orderly market.

"(2) It shall be unlawful for a member to effect any transaction in a security in contravention of rules and regulations under paragraph (1), but such rules and regulations may contain such exemptions for arbitrage, block positioning, or market maker transactions, for transactions in exempted securities, for transactions by odd-lot dealers and specialists (within the limitations of subsection (b) of this section), for transactions by affiliated persons who are natural persons, and for such other transactions as the Commission may deem necessary or appropriate in the public interest or for the protection of investors."

SEC. 2. Section 11 of the Securities Exchange Act of 1934 (15 U.S.C. 78k) is amended by inserting after subsection (e) the following new subsection:

"(f)(1) It shall be unlawful for a member of a national securities exchange to effect, whether as broker or dealer, any transaction on such exchange with or for its own account, the account of any affiliated person of such member, or any managed institutional account. As used herein the term 'managed institutional account' means an account of a bank, insurance company, trust company, investment company, separate account, pension-benefit or profit-sharing trust or plan, foundation or charitable endowment fund, or other similar type of institutional account for which such member or any affiliated person thereof (A) is empowered to determine what securities shall be purchased or sold, or (B) makes day-to-day decisions as to the purchase or sale of securities even though some other person may have ultimate responsibility for the investment decisions for such account.

"(2) The provisions of paragraph (1) of this subsection shall not apply to—

"(A) any transaction by a registered specialist acting as such in a security in which he is so registered;

"(B) any transaction for the account of an odd-lot dealer in a security in which he is so registered;

"(C) any transaction by a block positioner or market maker acting as such, except where an affiliated person or managed institutional account is a party to the transaction;

"(D) any stabilizing transaction effected in compliance with rules under section 10(b) of this title to facilitate a distribution of a security in which the member effecting such transaction is participating;

"(E) any bona fide arbitrage transaction, including hedging between an equity security and a security entitling the holder to acquire such equity security, or any risk arbitrage transaction in connection with a merger, acquisition, tender offer, or similar transaction involving a recapitalization;

"(F) any transaction made with the prior approval of a floor official to permit the member effecting such transaction to contribute to the maintenance of a fair and orderly market, or any purchase or sale to reverse any such transaction;

"(G) any transaction to offset a transaction made in error; or

"(H) any transaction for a member's own account or the account of an affiliated person who is a natural person effected in compliance with rules and regulations prescribed by the Commission under section 11(a) of this title.

"(3) The provisions of paragraph (1) of this subsection shall not apply to transactions by any member of any national securities exchange with or for its own account or for the account of any person who is an affiliated person or a managed institutional account of such member, during the following periods:

"(A) prior to the last date on which any national securities exchange maintains or enforces any rule fixing rates of commission, or prior to April 30, 1976, whichever is later;

"(B) for a period of twelve months following the date specified in subparagraph (A), if the total value of all such transactions effected by such member during such period on all national securities exchanges of which it is a member (other than transactions described in subparagraphs (A) through (G) of paragraph (2)) does not exceed 20 per centum of the total value of all transactions effected by such member during such period on all such exchanges; and

"(C) for a period of tweleve months following the period specified in subparagraph (B), if the total value of all such transactions effected by such member during such period on all national securities exchanges of which it is a member (other than transactions described in subparagraphs (A) through (G) of paragraph (2)) does not exceed 10 per centum of the total value of all transactions effected by such member during such period on all such exchanges.

"(4) It shall be unlawful for a member of a national securities exchange to utilize any scheme, device, arrangement, agreement, or understanding designed to circumvent or avoid, by reciprocal means or in any other manner, the policy and purposes of this subsection or any rule or regulation the Commission may prescribe as necessary or appropriate to effect such policy and purposes."

SEC. 3. Section 36 of the Investment Company Act of 1940 (15 U.S.C. 80a-35) is amended by inserting after subsection (b) the following new subsection:

"(c) It shall not be deemed unlawful or a breach of fiduciary duty for an investment adviser or other person referred to in subsection (a)(1) of this section to cause or induce a registered investment company to pay a commission to a broker for effecting a transaction, which is in excess of commissions then being charged by other brokers for effecting similar transactions, if—

"(1) such investment adviser or other person determines in good faith that research services provided by such broker for the benefit of such investment company justify such payment;

"(2) such registered investment company makes appropriate disclosures to its security holders of its policies and practices in this regard, at such times and in such manner as the Commission shall prescribe by rules or regulations; and

"(3) such broker is not a person referred to in subsection (a)(1) or (a)(2) of this section or an affiliated person of any such person."

SEC. 4. Section 206 of the Investment Advisers Act of 1940 (15 U.S.C. 80b-6) is amended—

(1) by inserting the designation "(a)" immediately after "SEC. 206."; and

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

"(b) It shall not be deemed unlawful or a breach of fiduciary duty for an investment adviser to cause or induce a client to pay a commission to a broker for effecting a transaction, which is in excess of commissions then being charged by other brokers for effecting similar transactions, if—

"(1) such investment adviser determines in good faith that research services provided by such broker for the benefit of such client justify such payment;

"(2) such investment adviser makes appropriate disclosures to such client of its policies and practices in this regard, at such times and in such manner as the Commission shall prescribe by rules or regulations; and

"(3) such broker is not the investment adviser or an affiliated person of such investment adviser."

SEC. 5. Section 15 of the Investment Company Act of 1940 (15 U.S.C. 80a-15) is

amended by adding at the end thereof a new subsection as follows:

"(f)(1) An investment adviser or a corporate trustee performing the functions of an investment adviser of a registered investment company, or an affiliated person of such investment adviser or corporate trustee may receive any amount or benefit in connection with a sale of securities of, or a sale of any other interest in, an investment adviser or a corporate trustee performing the functions of an investment adviser which results in an assignment of an investment advisory contract with such company or the change in control of or identity of a corporate trustee who performs the functions of an investment adviser, if—

"(A) for a period of three years after the time of such assignment, at least 75 per centum of the members of the board of directors of such registered company or such corporate trustee (or successor thereto, by reorganization or otherwise) are not (i) interested persons of the investment adviser of such company, or (ii) interested persons of the predecessor investment adviser; and

"(B) there is not imposed an unfair burden on such company as a result of such transaction or any express or implied terms, conditions, or understandings applicable thereto. For the purpose of subsection (f)(1)(B), an unfair burden on a registered investment company includes any arrangement, during the two-year period after the date on which any such transaction occurs, whereby the investment adviser or corporate trustee or predecessor or successor investment adviser or corporate trustee or any interested person of any such adviser or any such corporate trustee receives or is entitled to receive any compensation directly or indirectly (i) from any person in connection with the purchase or sale of securities or other property to, from, or on behalf of such company, other than bona fide ordinary compensation as principal underwriter for such company, or (ii) from such company or its security holders for other than bona fide investment advisory or other services.

"(2) If (i) an assignment of an investment advisory contract with a registered investment company results in a successor investment adviser or a corporate trustee performing the functions of an investment adviser to such company and if such successor is then an investment adviser or performs such functions with respect to other assets substantially greater in amount than the amount of assets of such company, or

"(ii) as a result of a merger of, or a sale of substantially all the assets by, a registered investment company with or to another registered investment company with assets substantially greater in amount a transaction occurs which would be subject to subsection (f)(1)(A), such discrepancy in size of assets shall be considered by the Commission in determining whether or to what extent an application under section 6(c) for exemption from the provisions of subsection (f)(1)(A) should be granted.

"(3) Subsection (f)(1)(A) shall not apply to a transaction in which a controlling block of outstanding voting securities of an investment adviser to a registered investment company or of a corporate trustee performing the functions of an investment adviser to a registered investment company is—

"(A) distributed to the public and in which there is, in fact, no change in the identity of the persons who control such investment adviser or corporate trustee, or

"(B) transferred to the investment adviser or the corporate trustee, or an affiliated person or persons of such investment adviser or corporate trustee, or is transferred from the investment adviser or corporate trustee to an affiliated person or persons of the investment adviser: *Provided,* that (i) each transferee (other than such adviser or trustee) is a natural person and (ii) the transferees (other than such adviser or trustee) owned in the aggregate more than 25 per centum of such voting securities for a period of at least six months prior to such transfer."

SEC. 6. Section 15(c) of the Investment Company Act of 1940 (15 U.S.C. 80a–15(c)) is amended by adding at the end thereof a new sentence as follows: "It shall be unlawful for the directors of a registered investment company, in connection with their evaluation of the terms of any contract whereby a person undertakes regularly to serve or act as investment adviser of such company, to take into account the purchase price or other consideration any person may have paid in connection with a transaction of the type referred to in subsection (f) or specifically exempt therefrom by paragraph (2) or (3) of subsection (f)."

SEC. 7. Section 16 of the Investment Company Act of 1940 (15 U.S.C. 80a–16) is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by adding after subsection (a) a new subsection as follows:

"(b) Any vacancy on the board of directors of a registered investment company which occurs in connection with compliance with section 15(f)(1)(A) and which must be filled by a person who is not an interested person of either party to a transaction subject to section 15(f)(1)(A) shall be filled only by a person (i) who has been selected and proposed for election by the directors of such company who are not such interested persons, and (ii) who has been elected by the holders of the outstanding voting securities of such company, except that in the case of the death, disqualification, or bona fide resignation of a director selected and elected pursuant to clauses (i) and (ii) of this subsection (b), the vacancy created thereby may be filled as provided in subsection (a)."

SEC. 8. Section 10(e) of the Investment Company Act of 1940 (15 U.S.C. 80a–10(e)) is amended to read as follows:

"(e) If by reason of the death, disqualification, or bona fide resignation of any director or directors, the requirements of the foregoing provisions of this section or of section 15(f)(1) in respect of directors shall not be met by a registered investment company, the operation of such provisions shall be suspended as to such registered company—

"(1) for a period of thirty days if the vacancy or vacancies may be filled by action of the board of directors;

"(2) for a period of sixty days if a vote of stockholders is required to fill the vacancy or vacancies; or

"(3) for such longer period as the Commission may prescribe, by rules and regulations upon its own motion or by order upon application, as not inconsistent with the protection of investors."

SEC. 9. Section 9 of the Investment Company Act of 1940 (15 U.S.C. 80a–9) is amended by adding at the end thereof a new subsection as follows:

"(d) For the purposes of subsections (a) through (c) of this section, the term 'investment adviser' includes a corporate or other trustee performing the functions of an investment adviser."

SEC. 10. Section 36 of the Investment Company Act of 1940 (15 U.S.C. 80a–35) is amended by adding at the end thereof a new subsection as follows:

"(d) For the purposes of subsections (a) through (c) of this section, the term 'investment adviser' includes a corporate or other trustee performing the functions of an investment adviser."

SEC. 11. Amend the Securities Act of 1933 by inserting the following before the first semicolon in 15 U.S.C. 77c(a)(2): ", or any security which represents an interest in a pool of loans guaranteed as to principal and interest by an agency of the Federal Government or any State government under such circumstances as the Commission may authorize".

SEC. 12. Section 6(f)(1) of Public Law 91–598 of the Ninety-first Congress is hereby amended by inserting after the word "trustee" in the preamble thereof the following: "(or may pay or advance to such customers or any of them directly, in whole or in part, on such terms and conditions as SIPC may specify)".

Mr. SPARKMAN. Mr. President, I move to reconsider the vote by which the bill passed.

Mr. WILLIAMS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

LAND USE POLICY AND PLANNING ASSISTANCE ACT

The PRESIDING OFFICER (Mr. MCCLURE). The Chair lays before the Senate the unfinished business (S. 268) which the clerk will report.

The assistant legislative clerk read as follows:

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.

Mr. HOLLINGS. Mr. President, it is a pleasure for me to thank the distinguished chairman of the Committee on Interior and Insular Affairs for his outstanding spirit of cooperation in drafting the bill under consideration. The Senator from Washington and his staff worked diligently in accommodating the terms of the proposed National Coastal Zone Management Act, Public Law 92–583, which passed Congress and was signed into law by the President last October.

Debate on this legislation provides an excellent opportunity to discuss the history of this legislation and why certain provisions of the land use bill are important in the context of coastal zone management.

Back in 1970, as chairman of the Subcommittee on Oceans and Atmosphere of the Senate Commerce Committee, I reconvened a hearing on S. 2802, at that time the pending coastal zone management bill. I pointed out that credit for stimulation of this and other marine science legislation originated with the National Academy of Sciences, initially through its informal Coordinating Committee on Oceanography during the 1950's and then in 1959 when the successor to the committee published its report, "Oceanography 1960–1970." Many of the original proposals seeking to strengthen a national ocean program, restructure Federal oceans activities and establish coastal zone management were proposed by Senator WARREN G. MAGNUSON, chairman of the Senate Committee on Commerce. The nearly 5 years of legislative activity including the landmark hearings in 1965 on Federal marine programs culminated in enactment of the Marine Resources and Engineering Development Act of 1966, a tribute to the skill, persistence, and interest of the senior Senator from Washington State.

A chronology of events leading to the

development of the legislation which became the Coastal Zone Management Act of 1972 must begin in 1956 when the National Academy of Sciences appointed a special committee to provide national policy guidance on needs in oceanic programs. The committee first met in 1957. It was named the Committee on Oceanography—NASCO. From those early days, throughout the 1960's, the need for special programs to help protect, preserve and enhance our coastal areas became ever more obvious. Finally, in the 91st Congress, the Commission on Marine Science, Engineering, and Resources—commonly known as the Stratton Commission—issued its landmark report—entitled "Our Nation and the Sea." The report said a plan for national action was needed to assure the orderly development of our uses of the sea in a manner which will advance the Nation's security, contribute to its economic growth, assure that it can meet the increasing demands for food and raw materials, protect its position and influence in the world community, and preserve and improve the quality of the environment in which our people live. That report said the coastal zone presents both some of the Nation's most urgent environmental problems and most immediate and tangible opportunities for improvement. The Commission said it considers the problem to be most acute because it is the area in which industry, trade, recreation, and conservation interests, waste disposal, and potenial aquaculture all press most sharply on the limited resources of our environment.

The commission proposed enactment of a Coastal Zone Management Act. It pointed out that the key need in the coastal zone is a management system which will allow conscious and informed choices among development alternatives and which will provide for proper planning. The commission said the States, not the Federal Government, must have primary responsibility.

The legislation enacted by Congress last year was true to the recommendations of the Stratton Commission. It places the main emphasis on States, and gives them added incentive to begin planning and managing within their coastal zones. The passage of that legislation was a genuine tribute to Senator MAGNUSON of Washingon and the leadership he has provided this Congress.

The Coastal Zone Management Act was passed by Congress on October 12, 1972, and was signed into law by the President on October 27. In brief, the act declares that the land and water resources of the coastal zone should be preserved and protected. It authorizes the Secretary of Commerce, through the National Oceanic and Atmospheric Administration, to provide planning and administrative grants to coastal States. The legislation was in no way intended to stand in the way of or impinge upon the jurisdiction of the proposed national land use bill. In fact, on April 25, 1972, I reported to the Senate that the Committee on Commerce had recommitted the coastal zone bill to make changes in provisions which had been interpreted as being in conflict with the proposed land use legislation. The redrafted bill was aimed specifically at coastal zone problems. We worked with the Interior Committee to limit the scope of the legislation. And as of today, the Interior Committee and its chairman, Senator JACKSON, have worked closely with us to make certain that the coastal zone management program is not in any way diminished, superseded or allowed to remain without funds because of any provisions within the land use bill. I thank my colleague for his consideration in this matter.

It is significant to me that the Nixon administration had no land use planning bill to offer in the 91st Congress and it was not until the 92d Congress that the administration submitted its bill, S. 992. S. 992, as is well known, was not the result of the administration's development of proposed solution. Instead, S. 992 was only a modification of the results of the initiative taken by Senator JACKSON.

When S. 632 came to the floor of the Senate last September, it was known to the Commerce Committee and its Subcommittee on Oceans and Atmosphere, of which I am chairman, that the land use bill contained language which included portions of the coastal zones of our Nation.

Our committee's coastal zone bill was still pending, but it was my understanding that if it should become law then the land use bill would in no way apply to the coastal zones to which the Magnuson Coastal Zone Management Act of 1972 applies. To deal with the possibility of both bills subsequently becoming law, I personally offered no amendments to the land use bill in September but, instead, Senator JACKSON and I made a "legislative history," during the floor debate, which affirmed the agreement between Senator JACKSON, Senator MAGNUSON, and me. There is no doubt in my mind that the clear language of that colloquy clearly stated our agreement that these two programs would be separate programs working side by side with one responding to the needs of land areas for adequate management and the other responding to the needs of our ocean and the water and land areas which are connected to it and which are mutually interdependent upon each other for their ecological survival.

If the Coastal Zone Management Act of 1972—Public Law 92–583—had been law in September, or if we had been absolutely sure that it would become law, then S. 632, pursuant to the agreement with Senator JACKSON, would have been amended to recognize its existence, responsibility and authority in order to eliminate ambiguity, avoid duplication and prevent an overlap of funding, among other things.

But, of course, Public Law 92–583 was not law at that time, and, since we knew that the administration opposed it, we had no way of knowing whether the President would sign it even if Congress approved it.

This, then, is the reason S. 268 initially contained language pertaining to the coastal zone which is necessarily already included in the Coastal Zone Management Act of 1972.

That language in S. 268, I submit, should have been stricken and language inserted in it recognizing that there is a Coastal Zone Management Act. This is what the Interior Committee did for example, the land use bill has a section entitled "Existing Laws." This is not only entirely logical and rational, but it is also in accordance with the agreement which was stated on the floor of the Senate.

It is my understanding that the administration's recommendation for land use legislation to be enacted by the 93d Congress attempts to ignore the fact that Congress has enacted, and the President signed, a separate and distinct statutory program for our extremely environmentally critical coastal zone.

This action by the administration and its failure to request funds is reprehensible to any person who has any concern for, and knowledge of, the utmost urgency attendant with helping our States properly and comprehensively deal with the separate and distinct problems of our Nation's coastal zones.

Congress recognized this need when it passed the coastal zone bill and we thought the President had recognized it when he signed the Coastal Zone Management Act of 1972 on October 27 of last year. But, of course, that was a few days prior to the November 7 elections.

I would like to briefly call your attention to what the President said when he signed Public Law 92–583 on October 27, 1972. He said, in part:

> S. 3507, the Coastal Zone Management Act of 1972—provide(s) for rationale management of a *unique* national resource—The number of people who use our coastal zones is rapidly increasing and so are the purposes for which those areas are utilized . . . Yet these same areas, it must be remembered, are the irreplaceable breeding grounds for most aquatic life.

He went on to say:

> S. 3507 locates administrative responsibility for this program in the Department of Commerce rather than in the Department of Interior as I would have preferred—and as I called for in my proposed Land Use Policy Act. *This action is not sufficient reason in my judgment for vetoing the bill* but does underscore once again the importance of creating a new Department of Natural Resources, as I have recommended.

Mr. President, it is beyond belief to me, the coastal States, coastal environmentalists, and coastal scientists that only 90 days later the President was trying to veto the bill. He has requested Congress not to appropriate any funds for attending to our desperate coastal problems under the Coastal Zone Act, and he has also failed to recognize the existence of the Coastal Zone Management Act of 1972 in his recommendation for the land use bill. On the other hand, he has requested $20 million for the land use legislation, even though it is not yet law.

It appears that these actions mean only one thing: The administration, notwithstanding the President's signing of Public Law 92–583 and his accompanying statement, continues in its position that the coastal zones do not need the immediate and separate efforts of the Federal Government and that the decision of Congress and the signature of the bill into law have no meaning whatsoever.

This year, I brought to the attention of the Interior Committee a few essential points:

First. Right from the beginning of the 92d Congress, consideration by the House Merchant Marine and Fisheries Committee and the Senate Commerce Committee, it was known that the administration had aborted its previous support of a separate coastal zone management program and as grounds, had stated that its land use bill should also include these coastal areas.

The hearings in both committees dealt extensively with this concept and witness after witness of the highest scientific and environmental, as well as non-Federal Government, stature testified again and again that the coastal zone management program could in no way be considered similar to a program or programs for the planning and management of inland land areas. Instead, it was conclusively shown that coastal waters are, as the President said, "unique," requiring an entirely different management regime. Our hearings are replete with the explanations of how and why these land and water areas interact with each other and require an individual, very technical land and water management program.

Second. Because of the rapid development in the coastal zones and the concurrent deteriorating related marine and land environment systems the States are much more conscious of the need to take action on behalf of the coastal zones and, essentially, all that is required for many States is the immediate effectuation of the Federal program we adopted last year. However, if they must wait for a comprehensive national land use program, many years of delay will result. The testimony, however, was unequivocal that the coastal zone problem simply cannot wait that long or any further at all.

Third. Adding to the delay which would result is the fact that these coastal States obviously cannot obtain a statewide comprehensive land use law and program nearly as easily and as early as they can obtain authority for, and establish, a coastal zone program if they could accomplish a statewide land use program at all. The citizens of the States more easily accept, and desire, a coastal zone program as opposed to a statewide land use program because:

They recognize the dire need for the coastal program.

They are willing to relinquish control of the coastal area to the State government but are not necessarily willing to relinquish it for the entire State.

Many more local governments and people will have to be "sold" in order to achieve a statewide land use program.

A coastal program alone will cost the State and its taxpayers much less than a statewide comprehensive land use program.

Coastal zone management requires a specialized scientific management which will be diluted by combining it with the State land use program forestalling proper attention to the coastal zone even if the State can, and does, achieve a statewide land use program.

Fourth. The committees of both Houses gave full attention to the position of the administration that there should only be one program and, based upon thoughtful consideration, concluded that the administration was wrong.

The committee reports reflect this. For instance:

First. On the House side the report of the Merchant Marine and Fisheries Committee said:

> The coastal zone problems are related to but are significantly different from problems of overall land use. It is for this reason that your Committee did not agree with the position of the various departmental witnesses who . . . proposed that the solution of those problems should be merged under an overall land use policy . . . The problems of the coastal zone . . . are significantly unique and should be treated in a separate program.

Second. The Senate Commerce Committee Report includes the following:

> Why single out the coastal zone for special management attention? The argument has been made that . . . there should only be one policy and one system of management. But experience has shown us that . . . diverse systems are often needed.

On March 14, 1972 at the request of Senator HOLLINGS, S. 582—the predecessor of S. 3507, an original committee bill—was recommitted to the Committee. Changes were made so as to clear up conflicting matters of jurisdiction, and to make the bill compatible with proposed land use legislation as proposed by the administration.

The inner boundary of the coastal zone is somewhat flexible to allow coordination with the proposed National Land Use Policy legislation—S. 992.

Secretary is defined as the Secretary of Commerce who has jurisdiction over—NOAA. Administration of such a coastal zone program by NOAA was originally recommended in the final report of the Commission of Marine Science, Engineering and Resources. After careful review, the committee believes NOAA is the best qualified agency to undertake this complex task.

Third. On the floor of the Senate, in the discussion of the Coastal Zone Management Act, its relationship to the land use bill was recognized. Among other things, I said:

> There were some who felt that certain provisions within S. 582 were in conflict with the proposed land use legislation . . . (w)e have worked over the entire bill . . . The Committee has created a bill which dovetails with the proposed land use legislation.

Fourth. The issue was considered on the House floor and a movement there led to a hotly debated, but, finally, a barely successful, attempt to change "Secretary of Commerce" to "Secretary of Interior" in the House bill. There still would have been an independent program, but administration by NOAA in Commerce would have been deleted.

Fifth. Thus, the bill went to conference with a primary issue being who is the proper administrator of the coastal zone program. The result of that conference was an agreement that a separate coastal zone management program administered by NOAA was required. The conference report contains the following:

> The Conferees adopted the Senate definition of 'Secretary' to mean the Secretary of Commerce. As the bill was passed by the Senate, and as a companion bill was reported by the House, it was provided that the administration of the Coastal Zone Management Act should be the responsibility of the Secretary of Commerce, and it was expected that actual administration would be delegated to the Administrator of . . . (NOAA) . . . The rationale . . . was based on NOAA's capability to assist State and local governments in the technical aspects of coastal problems. . . .
>
> The conferees adopted a final approach which acknowledges the validity of many of the arguments advanced to justify . . . the Department of the Interior . . . The lands (to be) included in the 'coastal zone' have been limited to those which have a direct and significant impact upon coastal water. Secondly, those lands which have been traditionally managed by the Department of the Interior, or the Department of Defense . . . covered by existing legislation have been excluded. Thirdly, it is provided that upon enactment and implementation of national land use legislation . . . the Secretary of Commerce shall coordinate with and obtain the concurrence of the Federal official charged with . . . the national land use program . . . The concurrence procedure will take place . . . when the coastal zone program is submitted for original approval under title 306 or when a modification is proposed. . . . Also where the coastal zone program already exists in a State, when the . . . land use program is proposed, the necessary changes . . . as outlined in section 307(g) would be accomplished. . . .
>
> Therefore what the conferees agreed upon was basically a water related coastal zone program administered by the Secretary of Commerce. . . . *This compromise recognizes the need for making the coastal zone program fully compatible with the national land use program while making use of . . . NOAA . . . in the Department of Commerce in managing the nation's coastal areas.*

Both Houses, therefore, directly and affirmatively decided this issue although the administration seeks to hide its head in the sand and ignore the resulting act—which the President signed—not only by failing to request the necessary funds for the States involved, but by continuing the effort to give the coastal zone program to the Interior Department by supporting a land use bill which would give concurrent authority to the Interior Department over these coastal areas already provided for in Public Law 92-583.

Fifth. When this land use bill was debated on the floor of the Senate, I remember well the expressions of concern of many Senators, a number of whom are members of the Senate Interior and Insular Affairs Committee. These Senators were deeply concerned that this land use legislation might eventually result in a giant bureaucracy with unprecedented centralized control over our States, local governments, and our people.

I say to those senators who are concerned with this possibility that maintaining a separate program for our coastal areas, even if one agency could properly manage both, will certainly act as a balance wheel to the land use program for all of the rest of the Nation. It is well recognized that a certain degree of decentralization is often necessary to counteract the evils of massive bureaucracy.

Sixth. The Coastal Zone Management Act of 1972 so recognizes the close proximity of the death of many of our coastal environments that it has a provision for Federal funding for the State management program in segments so that the States can move post haste to manage the most critical areas first. If the administration is successful in keeping the coastal zone language in this commit-

tee's land use bill and then requires the States to go that route by making no moneys available under the Coastal Zone Act, there not only is no provision in the land use bill for segmental funding, just the opposite will be required because of the necessity of having a statewide program with many components of which coastal zones are only a small part.

Seventh. By supporting the inclusion in the land use bill of what has now recently been designated by Congress as a separate and distinct program, the administration jeopardizes the passage of any land use bill at all.

In addition to the rightful concern of the members of the Commerce Committee here in the Senate, I believe the floor debate last year on the land use bill demonstrated that members of other committees do not wish to see a land use bill move forward with a precedent in it for including laws and programs for which their committees have legislative responsibility. It is obvious that if S. 268 should be reported with this language in it pertaining to coastal areas covered by Public Law 92-583, such a precedent would be established.

Eighth. Again for those who are apprehensive about establishing this national land use planning effort, it should be noted that the Coastal Zone Act certainly provides good test machinery. If the President had recommended supplemental funding for the States under the coastal zone bill in the current fiscal year and in fiscal year 1974, by the time any nationwide land use program is ready for implementation the experience in the coastal zone program, I am sure, could be extremely helpful to the administration and to the Congress.

Dr. William Hargis, director of the Virginia Institute of Marine Science, said in the Senate hearings:

Solutions worked out in the coastal zone can serve as a model for solutions of broader problems of upland land use planning and management.

Ninth. As I said on the floor of the Senate, the Senate Commerce Committee was quite responsive to the concerns of the Interior Committee about our coastal zone bill. We responded to that concern in a responsible and serious manner. I do not believe any Senator could say that we did not do all that was necessary.

In view of this background, I would like to point out for the RECORD that virtually every environmental group in the country has endorsed the Coastal Zone Management Act and the need for funding this separate program. I ask unanimous consent at this point that a list of organizations supporting this act at the time of its debate on the House floor be printed here in the RECORD.

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

ORGANIZATIONS SUPPORTING COASTAL ZONE MANAGEMENT OF FINAL PASSAGE

National Governors' Conference, Council of State Governments, Coastal States Organization.
Southern Governors' Conference.
National Advisory Committee on the Oceans and Atmosphere.
National Wildlife Federation.
Shellfish Institute of North America.
Sierra Club.
American Oceanic Association.
Marine Technology Society.
Council of State Planning Agencies.
Coastal Coordinating Council, Florida.
Resources Advisory Board, Southeast River Basins.
National Congress of American Indians.
American Tunaboat Association.
National Canners Association.
National Fisheries Institute.
Southeastern Fisheries Association.
League of Women Voters of U.S.
International Longshoremen and Warehousemen's Union.
AFL-CIO.
Maritime Trades Union, AFL-CIO.
Citizens Committee on Natural Resources.
International Association of Game Fish and Conservation Commissioners.
California Coastal Alliance.
Association of Pacific Fisheries.
Oceanography Commission of Washington State.
National Federation of Fishermen.
Friends of the Earth.
Atlantic Offshore Fish and Lobster Association.
National Fish Meal and Oil Association.

The record will also show, Mr. President, that numerous coastal States are moving well ahead of the Federal Government in committing funds and manpower to coastal zone management. These States are counting on implementation of the Coastal Zone Act. They need this Federal assistance to make their programs a success. It would be a legislative tragedy for us to allow the subversion of this program by a small group of bureaucratic zealots within the administration who wish to cast aside the actions of Congress and create programs to their own selfish ends.

At this point, Mr. President, I ask unanimous consent to include in the RECORD in its entirety a collection of statements about the need for a separate coastal zone program at NOAA.

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

NEED FOR A SEPARATE COASTAL ZONE PROGRAM AT NOAA

Some arguments for the maintenance of the Coastal Zone Act program separate from the Land Use program and for inclusion of language in S. 268 which prevents it from conflicting with the Coastal Zone Management program under the Coastal Zone Management Act of 1972.

A. *It was clearly the Congressional intent that the programs be separate and that the Coastal Zone Program be administered by NOAA:*

1. At the inception of the Land Use bill's floor consideration in 1972, Senator Jackson and Senator Hollings engaged in a prearranged colloquy (*Congressional Record*, vol. 118, pt. 24, pp. 31071-072) in which an agreement between Senator Jackson, for the Interior Committee, and Senators Magnuson and Hollings, for the Commerce Committee, was reaffirmed.

(a) Senator Hollings said, "My reason for joining the debate today is to discuss with the Senator from Washington (Senator Jackson) . . . our standing agreement on the compatibility of the National Land Use Bill and S. 3507 the Magnuson Coastal Zone Management Act of 1972. . . .

"Members of the Committee on Commerce recognized . . . that the supporters of land use legislation had some genuine concern about the scope of the proposed Coastal Zone Management bill and any conflicts it might pose . . . We worked out a series of changes in S. 3507 proposed by the Interior Committee *in exchange for an understanding that these two programs would work side by side. . . .*

". . . the needs of the coastal zone are sufficiently different to demand *a separate management regime* . . . and the authority of the coastal zone management program created in S. 3507 must be respected by those who eventually administer S. 532." (Emphasis supplied.)

(b) Mr. Jackson responded, saying, ". . . *The Senator's discussion of the agreement . . . concerning these two bills is accurate*, and it is appropriate that this agreement be reflected in the legislative history of S. 632. . . . It is my judgment that the two bills are compatible and, if enacted into law, can be administered without conflict. . . ." (Emphasis supplied.)

(c) In the *Congressional Record*, vol. 118, pt. 24, p. 31215, Senator Hollings, also said, "Mr. President, the Magnuson Coastal Zone Management Act creates *a separate program for the coastal zones of the United States, apart from the national land use program.* The coastal zone program will be administered by the Secretary of Commerce through the National Oceanic and Atmospheric Administration. . . .

". . . it is important to reinforce at this time the will of the Senate that the Secretary of the Interior coordinate and communicate with the States and the Secretary of Commerce in overall land use programs . . . to make certain that their respective programs do not overlap or cause duplication. . . . *There has been much talk that we do not need two separate programs . . . Just the opposite is true. . . . I am pleased my colleagues in the Senate are in agreement on this matter.*" (Emphasis supplied.)

2. The Senate Commerce Committee Report on the Coastal Zone Management Act (Report 92-753) provides further evidence of the intent of Congress.

(a) ". . . Why single out the coastal zone for special management attention? *The argument has been made that . . . there should only be one policy and one system of management. But experience has shown us that . . . diverse systems are often needed.*" (Page 4) (Emphasis supplied.)

(b) On March 14, 1972, at the request of Senator Hollings, S. 582 (the predecessor to S. 3507, an original Committee Bill) was recommitted to the Committee. "Changes were made so as to clear up conflicting matters of jurisdiction . . . (and) . . . to make the bill compatible with proposed land use legislation as proposed by the Administration (see S. 992)." (Page 7.)

(c) ". . . The inner boundary of the coastal zone is somewhat flexible . . . *to allow coordination with the proposed National Land Use Policy legislation* (S. 992)." (Page 7.) (Emphasis supplied.)

(d) ". . . 'Secretary' is defined as the Secretary of Commerce who has jurisdiction over (NOAA). Administration of such a coastal zone program by NOAA was originally recommended in the final report of the Commission of Marine Science, Engineering & Resources. After careful review, the Committee believes NOAA is the best qualified agency to undertake this complex task . . ." (Page 10.)

3. The following evidence of the Congressional intent appears in the considerations by the Senate as a whole on August 25, 1972:

(a) Senator Hollings said, ". . . There were some who felt that certain provisions within S. 582 were in conflict with the proposed land use legislation. . . . (W)e have worked over the entire bill. . . . *The Committee has created a bill which dovetails with the proposed land use legislation.*" (Congressional Record, vol. 118, pt. 11, 14170.) (Emphasis supplied.)

(b) Senator Hollings also said, "We have tried our best to dovetail, should the land use bill be enacted by this Congress, so that *the coastal zone bill would be hand in glove with it.*" (Page 6660.) (Emphasis supplied.)

4. The House Merchant Marine and Fish-

eries Committee Report (Report 92-1049) on the House version of the companion measure, H.R. 14146, includes the following:

(a) "The coastal zone problems are related to but are significantly different from problems of overall land use. It is for this reason that your Committee did not agree with the position of the various departmental witnesses who . . . proposed *that the solution to those problems should be merged under an overall land use policy*. . . . The problems of the coastal zone . . . are significantly unique and should be treated in *a separate program* . . ." (Page 12.) (Emphasis supplied.)

(b) ". . . it was concluded that the logical repository for that (coastal zone) coordination . . . in the national management of . . . coastal waters and adjacent impacting shorelands, *your Committee concluded that NOAA as a water oriented agency could best coordinate the program . . . rather than other possible choices which are predominantly land oriented.*" (Page 15.) (Emphasis supplied.)

(c) "There are numerous existing federal programs conducted in the coastal zone which must be taken into account . . . This is also true of future programs, whether under present consideration or not yet contemplated. Possible duplication . . . can and must be prevented by careful coordination procedures. It is the Committee's intent that 'coastal zone management' be complementary to other federal and state programs and that it serve in the coastal zone as a coordinating rather than a duplicating mechanism."

5. The following is evidence of Congressional intent as it appears in the considerations of the coastal zone legislation by the entire House of Representatives on August 2, 1972:

(a) Congressman Goodling said, ". . . We are now wisely viewing the coastal zone portion of land as deserving *separate consideration* . . ." (Page H7091.) (Emphasis supplied.)

(b) Congressman Kyl offered an amendment to designate the Interior Department rather than Commerce as the administering Department (page H7101). The argument made for the amendment was that there should be a unified administration so that the coastal zone would be included in a national land use program.

The amendment was *not acceptable* to the floor manager of the bill, the Merchant Marine & Fisheries Committee and others who stressed the need for *a separate program*, immediate action and the need for utilization of the oceanic and other related applicable expertise of NOAA in the Commerce Department (See the arguments at page H7101 *et. seq.*)

261 congressmen voted to adopt the amendment; 171 did not support it by voting against it (112) or abstaining (59). Thus, the issue was joined for Congressional decision in order to reconcile the House-passed bill with the Senate-passed bill.

6. The issue of whether or not the Coastal Zone Program should be administered as a separate program as outlined in the foregoing paragraphs came before a House-Senate Conference Committee upon the Senate's refusal to agree to the amendment giving jurisdiction to the Interior Department (*Congressional Record*, vol. 118, pt. 21, p. 27098). The agreed-upon Conference bill vests jurisdiction over the Coastal Zone Program in the Commerce Department, *thereby constituting an affirmative congressional determination of the issue*. As such, it carries more persuasive value, and commitment, than would have been the case if the bills of two bodies had been in accord and the issue had not been specifically addressed. Although there is no ambiguity as to this, in any further consideration of the matter (outside of a judicial proceeding), as in the Executive Branch and in Congress itself, the language of the Conference Committee Report (House Doc. 92-1544, Oct. 5, 1972) is pertinent:

(a) "The Conferees adopted the Senate definition of 'Secretary' to mean the Secretary of Commerce. As the bill was passed by the Senate, and as a companion bill was reported by the House, it was provided that the administration of the Coastal Zone Management Act should be the responsibility of the Secretary of Commerce, and it was expected that actual administration would be delegated to the Administrator of . . . (NOAA) . . . . The rationale . . . was based on NOAA's capability to assist State and local governments in the technical aspects of coastal problems.

"The conferees adopted a final approach which acknowledges the validity of many of the arguments advanced to justify . . . the Department of the Interior . . . The lands (to be) included in the 'coastal zone' have been limited to those which have a direct and significant impact upon coastal water. Secondly, those lands which have been traditionally managed by the Department of the Interior, or the Department of Defense . . . covered by existing legislation, have been excluded. Thirdly, it is provided that upon enactment and implementation of national land use legislation, the Secretary of Commerce shall coordinate with and obtain the concurrence of the Federal official charged with . . . the national land use program . . . the concurrence procedure will take place . . . when the coastal zone program is submitted for original approval under title 306 or when a modification is proposed. . . . Also where the coastal zone program already exists in a State, when the . . . land use program is proposed, the necessary changes . . . as outlined in section 307(g) would be accomplished. . . .

"Therefore what the conferees agreed upon was basically a water-related coastal zone program administered by the Secretary of Commerce. . . . *This compromise recognizes the need for making the coastal zone program fully compatible with the national land use program while making use of . . . NOAA . . . in the Department of Commerce in managing the nation's coastal areas.*" (Pages 12-13.)

(b) In discussion on the House floor concerning acceptance of the Conference Report, supporters of a single program located in the Interior Department indicated their recognition of the fact that the result of the Conference was a bill which, if a national land use legislation is enacted, would involve the Department of Commerce in coastal water and related land uses, and the Department of the Interior in all other land and water uses, i.e., two separate but coordinated programs (*Congressional Record*, vol. 118, pt. 27, p. 35547).

(c) Without discussion, the Senate accepted the Conference Report (*Congressional Record*, vol. 118, pt. 27, p. 3549).

B. *A merger of the National Coastal Zone Program with the comprehensive program for the use of all of the lands of the entire Nation as the Administration seeks to do, will result in a delay of proper attention to the coastal zones where the greatest irreversible damage to a fragile ecology is taking place.*

1. Many times in the Congressional considerations of the legislation it was declared by the members of Congress that the coastal zone crisis should not, and could not, await the enactment and implementation of national land use legislation. Examples are:

(a) The urgency of the coastal zone environmental situation is emphasized by the Chairman of the Senate Interior & Insular Affairs Committee by his numerous references to such areas in his remarks upon introducing his land use bill, S. 268, in the 93rd Congress. (See attachment.)

(b) The extreme need for immediate proper management of the coastal zones is set forth in the Senate Report on the Coastal Zone Act (92-753), under the caption "Need For Legislation" (page 2 *et. seq.*).

(c) Senator Tower, addressing the Senate, emphasized, ". . . the longer we wait, the worse the situation becomes" (*Congressional Record*, vol. 118, pt. 3, p. 2296).

(d) A similar statement appears in the Report of the Stratton Commission, described by Senator Hollings (*Congressional Record*, vol. 118, pt. 11, p. 14180), ". . . The Report makes an urgent plea for management of the coastal zone *now*, before it is too late." (Emphasis supplied.)

(e) Senator Stevens declared, "I do not see that this is going to be possible if we wait for S. 992 (National Land Use legislation), nor do I see that it would be possible . . . . I think we might well be creating another roadblock in working toward the proper protection of estuaries—the coastal zone, if we are not careful, ... We would rather have the smaller bill." (Page 134, Senate hearings.) (Emphasis supplied.)

(f) Congressman Lennon declared, ". . . it is imperative to implement (the) program *now* before this nation witnesses the tragic and wanton destruction of an irreplaceable national resource, our estuaries, our wetlands and our shorelines. . . . *We dare not listen to those . . . who . . . after all these years of procrastination and study—now tell us that we should wait longer*" (Congressional Record, vol. 118, pt. 20, p. 26477-26478). (Emphasis supplied.)

(g) Congressman Griffin: ". . . . We become increasingly in danger . . . *We must act now*" (page H7092) (Emphasis supplied.)

(h) Congressman Kyl (now in charge of Interior Dept. legislation): "The nation can ill afford to 'continue to wait to commence' in solving coastal zone resource utilization problems . . ." (*Congressional Record*, p. 26484).

(i) Senator Buckley, in the Senate considerations of the land use bill (Sept. 19, 1972), stated, ". . . in view of existing and pending Federal legislation designed to protect watersheds and wetlands . . . *the most pressing needs will be met*" (*Congressional Record*, p. 31102).

2. Examples of other statements of the urgent needs of the coastal zone and for providing for them in a separate program are:

(a) Mr. Bernard Hillenbrand testified on behalf of the National Association of Counties as to that Association's primary concern:

"1. *A Separate Coastal Zone Management Program*—We would support a separate coastal zone program that is not directly administered under a national land use policy . . . *this program should be separate.*"

And he further said as to the extent of land to be included, ". . . We suggest the definition remain flexible to reflect both geography and topography . . . 'coastal zone' (should) be determined by each state and its localities with the general approval of the federal government" (House hearings, pg. 291; Senate hearings, pg. 159).

(b) Mr. Johnathan Ela, on behalf of the Sierra Club, testified, *"We believe the administration position . . . to be totally incorrect.* We think priority should be given to the coastal zone and that *the coastal zone could not be given adequate attention simply through S. 992, the Administration's bill, or S. 632, Senator Jackson's bill. . . .* The magnitude and urgency of the coastal zone problem is such that *a separate and specific institutional arrangement is called for*" (pg. 264, Senate hearings). (Emphasis supplied.)

In reply, Senator Stevens said, "I want you to know that I agree with you again." (See also Mr. Ela's prepared statement in accord, pg. 269, Senate hearings.)

(c) Dr. William J. Hargis, Jr., as Director of the Virginia Institute of Marine Science and as Chairman of the Coastal States Organization, stated, "We cannot wait until the nation is ready for full land use planning to

approach the critical coastal zone . . . There is a strong impetus for a meaningful National Coastal Zone Management Program. We must not loose this impetus." (Pg. 92, House hearings, 92nd Congress.)

(d) James T. Goodwin, Coordinator of Natural Resources for the State of Texas, also representing the National Legislative Conference, said in the House hearings, ". . . the coastal zone is a distinct natural treasure . . . deserving *separate consideration* . . . the coastal resources management program must culminate in program for action which can be implemented *quickly*" (pages 124–5). (See a similar statement, pg. 253, *et seq.*, Senate hearings.)

(e) A member of the Executive Committee of the Commission for Advancement Through Science and Technology (COAST), also representing the Governor of Alaska, testified before the House Committee, "We in Alaska recognize that the environmental problems of the earth, encompassing terrestrial, marine and atmospheric problems are a continuum. *However, we feel that some sort of division is necessary* . . . the coastal zone has a unique feature from the adjacent terrestrial and oceanic areas . . . It is like a 'cobweb': if you touch one strand it has a great effect on the total structure . . . wisely planned *comprehensive coastal zone legislation is immediately necessary* . . . *Alaska is deeply concerned that further delay on enactment of this legislation would be detrimental to the interests of wise coastal zone management in our nation* (pages 211–13).

(f) Dr. John Ryther of the Woods Hole Oceanic Institute responded to a question as to his view on waiting for a single land use program to be implemented, "I think it would be very dangerous to wait" (House hearings, pg. 327).

(g) Also *as to urgency:*

(1) The President of the American Oceanic Organization testified, "Obviously, time is of the essence" (House Hearings, pg. 381).

(2) *On the same point,* Mr. Edward Wenk of the University of Washington testified, ". . . time is running out. It has been 5 years since the diagnosis . . . 3 years since a remedy was presented that gained a remarkable concensus. . . ." (House hearings, pg. 397).

(3) While testifying for a single mandatory nationwide land use program including coastal zones, the Chairman of the Council on Environmental Quality, Russell Train, said, "The coastal zone is included and very likely *would prove out to be the single most significant element* . . ." (emphasis supplied) (pg. 128, Hearings of the Senate Commerce Committee, 92nd Congress).

(4) While recognizing merit in having a comprehensive nationwide land use planning legislation, R. Deane Conrad of the Council of State Governments said of Sen. Jackson's land use bill: ". . . it is pointed in the right direction. In some senses it may be premature, however . . . time is too short for further postponement in responding to the needs of the . . . coastal zone areas. . . . The time is now that we begin removing the mystery and clarifying the haze that hangs so heavily over the heads of those who are responsible for making decisions affecting the coastal zones. This is true in the private sector, as well as the public sector" (pg. 183–4, Senate Hearings).

3. Obviously, the national land use program is not yet law and it is projected that it might not become law in the 93rd Congress in view of opposition to it as an alleged "nationwide zoning law" and other problems, such as the disagreement between the Senate and House Interior Committees as to whether the bill should also include planning for federal lands.[1]

4. Even if the proposed land use planning bill(s) should become law, it is likely that requiring a state to have an entire comprehensive statewide land and coastal zone plan for federal funding rather than only a plan, or program, for the fragile coastal zone, will, in itself, produce considerable delay.

(a) The Congress realized that the coastal zone crisis was so urgent that it should not even require the states to have a coastal zone program for its *entire* shoreline before it qualified for federal aid. Section 306(h) of the Coastal Zone Act stipulates that the "*management program may be developed in segments so that immediate attention may be devoted to those areas . . . which most urgently need management programs*" (emphasis supplied).

Combining the coastal zone program with the national land use program so that first there must be a complete statewide plan, as those land use bills propose, runs counter to this interest.

(b) The Sierra Club position is: "We believe that it will be several years before the nation enjoys the fruits of a national land use policy even if it were to be enacted in the current session of Congress (the 92nd Congress, 1st session), and that decision on coastal zone matters cannot be delayed for that length of time" (statement by Mr. Ela, pg. 270, Senate hearings).

(c) Congressman Keith said, "The bill is . . . restricted to the coastal zone (and is not) . . . a comprehensive land use measure. . . . To wait, to me, seems to be a mistake . . . while the same kind of problems face us with respect to land, they are not so immediate. *The coastal zone is a much more manageable undertaking . . .*" (*Congressional Record,* vol. 118, pt. 20, p. 26843).

(d) See also Dr. Hargis' statement set out previously in paragraph 2(d).

(e) The coastal states have approached the problem of coastal zone management separately and have instituted mechanisms for dealing with the coastal zones which will produce state coastal zone programs far in advance of their creation of a land use program for their inland areas. In fact, in some states, the ability to establish *state* authority over coastal zones has been, and will be, predicated upon the argument that coastal zones are distinctly different and that the believed infringement upon local authority and autonomy, as well as private property rights, will not necessarily be extended inland so that, if the states should be entering into a national program which goes beyond the coastal zone, it well may kill the chances for permitting all, or some of, the coastal states to take action with respect to their coastal zone problems.

(f) An Administration witness, Mr. John R. Quarles, General Counsel of the Environmental Protection Agency, supported the apparent Administration position against separate programs with an argument which recognizes that protection of the coastal zone will suffer under the "one program" approach. The aforesaid argument in support of the "one program" position, which indirectly validates the need for a separate coastal zone program, was set forth in a letter submitted by Mr. Quarles to Congressman Lennon, Chairman of the Subcommittee in the House, dated Sept. 28, 1971, as a supplement to his oral testimony. He says, ". . . Much of the momentum is focused on the coastal zone problems. If a coastal zone management bill were to be passed, some of those laboring for achievement of regulation of land use might feel the job was done and relax; *whereas if the effort can be kept up for a while longer, it is quite probable that a broader program can be realized*" (pg. 328, House hearings). (See also pg. 335–338.) (Emphasis supplied.)

Thus, it can be argued, the Administration seeks to risk the destruction of the environment of, and proper planning for, the coastal zones as "leverage" to achieve a national and statewide, land use program, realizing it will be much more difficult to obtain such an implemented comprehensive land use program.

(g) Governor Mandel of Maryland, through his representative, said, "We feel that the passage of a coastal zone bill would result in a very rapid response by Maryland and by many other coastal states *unlike the ability of the states to respond in the general land use area.*"

(h) Very importantly, it must be noted that the sanctions or "stick" to *require* states to participate under the National Land Use bill was deleted on the floor of the Senate in the 92nd Congress with the agreement of Senator Jackson (*Congressional Record,* p. 31200). The States, therefore, will be able to opt against a "statewide land use program" and will not have the argument to use against reluctant local officials that the State has no choice. If the States decline the statewide land use program, the result will be neglect of the coastline. It is submitted that many who supported inclusion of coastal zones in the national land use legislation did so because of the sanctions in that bill and that they would not support inclusion of the coastal zone in voluntary legislation which likely will result in an indefinite delay of attention to the coastal zones by the coastal states.

(i) Even if the sanctions should be put back in by the Committee, it appears that they would be removed before the bill becomes law.

C. *Protection of the environment of the coastal zone has now been recognized by Congress as a separate area of concern and expertise. To include it in the proposed National Land Use legislation would constitute a precedent for the inclusion therein of other separately recognized areas of environmental concern and as such it constitutes a "threat" to Committee jurisdiction and agency responsibility, as presently vested.*

Additionally, if a precedent is set for "swallowing up" such other independently recognized areas of environmental concern, it follows that the land use legislation now, or after becoming law, is open for the addition of other specific areas of environmental concern not yet carrying the stature of such separate legislative identification.

1. Examples of the former group include Water and Air Pollution, Housing, Transportation and Energy programs, even though the proposed legislation now includes a reference to some of these laws. The references either could be deleted before final action on the land use bill or by some future Congress. They also are not so strictly and specifically worded as to preclude bureaucratic "interpretation" which has the effect of constituting the Land Use legislation as "an umbrella" under which such laws and programs will be controlled.

2. Senator Muskie in the debate on the land use bill pointed out, ". . . this legislation touches . . . many federal programs and the jurisdiction of so many Senate Committees." (*Congressional Record,* p. 31200.)

3. Senator Jackson mentioned surface min-

[1] The majority of the membership of the Committees is from western states where, often, the federal lands comprise more than two-thirds of the lands within the state. The feeling is that the law providing for—or requiring—comprehensive state land use plans must provide for—or require—the federal lands to be "included" at least as to compatibility with the plan in effect on the state lands and with respect to such matters as transportation corridors, utility corridors and other such matters where failure of coordination of the federal lands can prohibit rational planning. It is also felt that the federal government should put its own house in order before *requiring,* or supporting, planning for the non-federal lands. See e.g. the Report of the Public Land Law Review Commission. Senator Jackson opposes inclusion of the federal land planning in his bill, but the House reported bill in the 92nd Congress provided for both federal and non-federal lands.

ing regulation as being under the "umbrella" of the land use bill. In the Senate floor considerations of the land use bill, the matter of regulating the cutting and preserving of trees in the National Forests was mentioned. These areas appear to be examples of future environmental legislation and programs which would likely also be absorbed by the national land use program if the costal zone program is placed under the so-called land use "umbrella".

As Senator Muskie indicated, the areas mentioned by Senator Jackson and others which could be taken under the "umbrella," transcends the authority and responsibility of existing Congressional Committees, as well as federal agencies, with particular abilities and expertise. It is suggested that in such a case, the Interior Department and the Interior Committees of both bodies would be the lone hand on the umbrella stick and thus exercise control over programs and jurisdictions over which they now have no authority.

The land use legislation, written and construed as an "umbrella," it appears would, in large measure, give the Administration a basis for accomplishing the intent proposed to Congress in its Executive Reorganization for the creation of a Department of Natural Resources or Dept. of Energy and Natural Resources.

D. *There is considerable concern that the Land Use legislation may result in a great, too powerful, bureaucracy. The Coastal Zone Management Act, as a separate program, however, can act as a balance wheel. It also can serve as a pilot program to demonstrate (or test) the effectiveness of a nationally supported and coordinated land use program.*

1. Dr. William Hargis, Virginia Institute of Marine Science, said, as to the test program idea, "Solutions worked out in the coastal zone can serve as a model for solutions of broader problems of upland land use planning and management" (Senate hearings, pg. 255).

E. The President, after opposing the Coastal Zone Management Act of 1972 on grounds it should not be separate from the land use bill, nevertheless signed it into law on October 27, 1972, just prior to the elections, declaring that the coastal zones are "a unique national resource" and that the Coastal Zone Act would provide "rational management" for it. The President also said:

". . . more than 75 per cent of our population now lives in areas bordering the Atlantic and Pacific Oceans, the Gulf of Mexico and the Great Lakes. The number of people who use our coastal zones is rapidly increasing."

The President went on to emphasize the importance of the coastal zone in a variety of ways including commercial fisheries, ports, beaches and other recreational areas, and so on. In view of all the pressures upon the coastal zone, the President said "these same areas, it must be remembered, are the irreplaceable breeding grounds for most aquatic life."

Notwithstanding the foregoing, the Administration opposes the appropriation of funds for grants to states under the Coastal Zone Management Act of 1972 and will not spend them unless there is a Congressional mandate to the Contrary.

1. See for example testimony of Russell Train, Chairman of the Council on Environmental Quality, before the Senate Commerce Committee on March 6, 1973: "the Administration has withheld full funding of the coastal zone legislation just permitting summary programming around $250,000 this fiscal year to get the program under way." (This means only a skeleton staff and no money for the states.)

He also said "we should wait until passage of the National Land Use Policy Act to consider the funding rather than from the piecemeal standpoint", to which Senator Hollings responded:

"That was not the view of the Administration as of October last year. Both Houses of Congress spoke in unity (and) . . . the President signed the Coastal Zone Management Act into law."

2. The March 21, 1973, News Digest of the American Enterprise Institute, at page 6 and 7, reported an article by the *Baltimore Sun* in which the following appears:

"Challenged by a questioner about the administration's failure to fund the Coastal Zone Management Act, a federal-land use measure enacted last fall, Mr. Train said the President preferred to wait for an overall comprehensive land-use measure instead of approving piecemeal legislation for various types of land."

3. Without language in S. 268, the coastal States will be required to develop and operate a land use program for its entire state before funds would be available for its coastal zone.

Mr. SAXBE. Mr. President, I understand that amendments may be offered to delete from S. 268, the pending Land Use Policy and Planning Assistance Act, certain provisions pertaining to the Coastal Zone Management Act of 1972.

The amendments, I understand, would delete from the S. 268 certain provisions which have been included in it in order to assure that there will be a separate Federal program pursuant to the provisions of the Coastal Zone Management Act of 1972.

My colleague in the House from Ohio, Congressman CHARLES MOSHER, who is the ranking minority member on the Oceanography Subcommittee of the Merchant Marine Fisheries Committee, recently made a statement before the House Appropriations Committee which directly bears on this issue. He points out:

The key point is that the administration is still attempting to prevail on its position that the needs of the coastal zone should be included in a national land use bill—even after Congress, by a large vote on passage of PL 92-583 decided that the complex and fragile problems in the coastal zone deserved special and individual attention, immediate attention without waiting for the overall land use bill . . . OMB and the Executive Branch of Government are now attempting to circumvent the will of Congress through the medium of the Federal budget.

I agree with my colleague that it appears unwise for the administration to attempt to kill an act of Congress with so much environmental and governmental support and that the coastal States should not be required to have a statewide land use program under S. 268 before their coastal zones receive Federal assistance.

I, therefore, support the retention of the language in S. 268 which assures the separate status of the Coastal Zone Management Act of 1972.

I request unanimous consent that the entire statement by Congressman MOSHER be inserted in the RECORD at this point.

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

STATEMENT OF CONGRESSMAN CHARLES MOSHER

Mr. Chairman, Congressman Cederberg, Members of the Subcommittee:

I wholeheartedly endorse the remarks of my distinguished colleague, the Chairman of the Subcommittee on Oceanography of our Committee [Mr. Downing]. As Ranking Minority Member of that Subcommittee, I was shocked to learn that . . . bluntly put, Mr. Chairman . . . the proposed Administration budget for fiscal year 1974 (beginning July 1) contains zero funding, apparently a near death sentence for the Coastal Zone Management Act signed into law last October, unless your Committe insists, by the appropriation mechanism, that this vital Act of Congress be implemented by the Executive Branch.

Amid all of the cuts, impoundments and other budget alterations to the National Oceanic and Atmospheric Administration (NOAA), Department of Commerce and other agencies with important marine programs, the most striking aspects is the deliberate omission of funds with which to implement state coastal zone management plans under P.L. 92-583.

This omission is evidently much more than merely a decision to limit expenditures, because please note that there is in the proposed 1974 budget the sum of $20 million for land use planning in the Department of the Interior budget. Coastal Zone planning is out; land planning is in. But coastal zone planning does have Congressional approval, while that land planning does not. There is no provision in law for that expenditure by the Department of the Interior. There is the possibility that Congress might enact this type of overall land use legislation for the country as a whole, but no assurance of that. Last year, I repeat, we did enact the coastal zone authorization; it is a needed function well underway. It deserves all adequate appropriation. The $20 million in the proposed budget does indicate, insofar as the Office of Management and Budget is concerned, that they are willing to spend money on these program areas of land/water use planning. The key point is that the Administration is still attempting to prevail on its position that the needs of the coastal zone should be included in a national land use bill—even after Congress, by a large vote on passage of P.L. 92-583, decided that the complex and fragile problems in the coastal zone deserved special and individual attention, immediate attention, without waiting for any overall land use bill. Having lost the battle on the Floor of the House and Senate during the 92d Congress, OMB and the Executive Branch of Government are now attempting to circumvent the will of Congress through the medium of the federal budget by not recommending funding for this Act of Congress!

To me this seems to be a very unwise attempt to kill an Act of Congress which has the support of all the environmental organizations concerned, the support of the Governor's Conference, Council of State Governments, and coastal states involved, of organized labor and other groups. Many states are prepared to move; they have established their programs; have passed implementing state laws; have appointed the proper administrative personnel; are developing governmental/scientific/academic/planning groups and, up to this point in time, have waited patiently for the federal appropriation process to fund the Act, so that state applications can be immediately submitted for federal assistance in accordance with the terms of the Act.

The Office of Coastal Zone Management, NOAA, has been established within existing funding levels to provide immediate guidance to the states. The complexities of the competing uses in this fragile coastal zone are growing on a daily basis. Witness the clamor for or against deepwater ports; witness the growing water pollution crisis in Florida from a potable drinking water standpoint; witness the rash of ill-planned, underfinanced, and low quality construction of "recreational" housing on valuable beach areas; witness major shoreline erosion problems on the Great Lakes and our other coastlines from Maine to Florida and Washington to California.

All of these crucial problems exist today. They become even more critical with every

passing day. Everyone is ready to move in solving them, to the benefit of the entire American public—all except the Executive Branch of Government—on the "tunnel vision" basis that one agency instead of another should have that responsibility.

The choice of an administering agency for a legislative program is peculiarly within the constitutional authority of the Congress of the United States. The choice was made by the 92d Congress in voting, and the choice was accepted by the President in signing, the Coastal Zone Management Act of 1972.

Failure to fund the Act at a significant authorization level will represent one of the major steps backward for Congress in satisfying its duties and responsibilities to the American public and in its assertion of its role within the constitutional framework as a *coequal* branch of government.

In light of the already drastically reduced level of proposed funding for NOAA and other marine programs, it would be wholly inappropriate to fund the Act through the mechanism of reprogramming funding levels already allocated for other programs within NOAA.

I suggest that funding of the Coastal Zone Management Act of 1972 be at a 1974 authorization level of $10 million.

If the Committee in its wisdom concurs in this recommendation, appropriate statutory safeguards should be built into the framework of the funding allocation for the Coastal Zone Management Act, so that a future reprogramming of these funds by OMB could not be possible once the monies actually were appropriated.

Mr. Chairman, I sincerely urge that the Committee look with favor upon my request. In order to assist more fully the Committee in analyzing its merits, I am attaching to my Statement additional information as to the status of the implementation of the Coastal Zone Management Act of 1972.

ADDITIONAL SUBMISSIONS FOR THE RECORD BY CONGRESSMAN DOWNING AND CONGRESSMAN MOSHER BEFORE THE HOUSE APPROPRIATIONS SUBCOMMITTEE ON STATE, JUSTICE, AND THE JUDICIARY ON THURSDAY, MAY 10, 1973

Among those states which envision implementing fairly comprehensive coastal zone management programs, the following have indicated a definite willingness to immediately proceed, once funding is provided:

1. California.
2. Delaware.
3. Hawaii.
4 Maine.
5. Mississippi.

At least four states (Florida, Oregon, California, and Michigan) are required by state law to proceed with program development immediately.

Atlantic coast states are proceeding with wetlands mapping. Two Great Lake States (Michigan and Wisconsin) are implementing shorelines zoning under state guidelines.

An advisory plan for coastal zone management in the State of Louisiana is required by the State to be completed by December, 1973.

The State of Texas already has an active coastal zone program.

In summation, at least one quarter have made a major commitment in anticipation of coastal zone management funding. At least one quarter are progressing but are somewhat discouraged due to the lack of a funding commitment. Few of the 34 coastal states are totally inactive. All, in varying degrees, are well ahead of federal government efforts, but are limited in their fiscal and personnel resources and do need the guidance and assistance povided under this existing federal law, the Coastal Zone Management Act of 1972, P.L. 92–583.

CURRENT ACTIVITIES—MARCH 12, 1973

As a result of the passage of the Coastal Zone Management Act of 1962 (PL 92–563) a program is being structured for the purpose of bringing the resources of the Federal government to the aid of states in the development of rational, comprehensive coastal zone management programs. To encourage states to undertake the task, the legislation authorizes three kinds of grants and provides states with a larger role concerning Federal activities within the coastal zone after states have developed management programs. The three grant programs authorized in the legislation are for management program development, management program administration, and for the acquisition of estuarine sanctuaries as "natural field laboratories" for study. Funds for the grants to states have not yet been appropriated.

The Office of Coastal Zone Management (OCZM) is presently engaged in several tasks as it plans the implementation of the new program. The first involves development of guidelines and regulations necessary in connection with the management development grant program. A draft of these guidelines is currently undergoing an informal review within the Federal government* OCZM is about to begin drafting guidelines for the state management program approval process.

A second activity concerns Federal coordination aspects of the program. OCZM is in the process of developing working relationships with other Federal agencies active in the coastal zone. Initial rounds of discussion have been held with agencies such as the Department of Interior, Environmental Protection Agency, Army Corps of Engineers, Department of Housing and Urban Development, and so on. More intensive and substantive discussions are beginning with HUD, the Army Corps of Engineers and EPA, with others to follow. The goal of this effort is to identify areas of program overlap in order to ensure a coordinated effort at the Federal level.

A third area of OCZM effort involves an inventory of state activity with regard to coastal zone management. OCZM is examining and cataloging relevant legislative programs, state government reorganizations, research efforts, etc., in the various coastal states and territories. Also, OCZM is interested in determining the extent to which Federal funds are presently involved in supporting state CZM efforts or related activities. It is expected that a brief summary of state CZM activities will be published in the near future.

Finally, OCZM is beginning to examine the technical aspects of the coastal zone management problem with a view towards better definition of the needs of the coastal zone manager. In particular, NOAA's role as both a research and resource agency is being assessed. In this connection, OCZM is cosponsoring with the Department of Interior, the National Science Foundation, the Council of State Governments and the Coastal States Organization a conference in June for coastal zone managers on the techniques of organizing and managing the coastal zone.

* The guidelines are presently undergoing the "Quality of Life" review where OMB circulates a draft for review and comment to relevant Federal agencies. We anticipate release of the guidelines by OMB shortly, at which time they will be submitted to the Advisory Committee on Intergovernment Relations (ACIR) for the so-called A-85 review by organizations representing state and local governments. In addition, they will be printed in the *Federal Register* for public review and comment.

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 assistant legislative clerk proceeded to call the roll.

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

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

POSTPONEMENT OF HEARINGS BY SELECT COMMITTEE ON PRESIDENTIAL CAMPAIGN ACTIVITIES

Mr. KENNEDY. Mr. President, it has just come to my attention in the past few moments that the Senate Watergate Select Committee has voted to defer hearings on their investigation for the remainder of this week and will begin their hearings again next week.

I understand that the overriding consideration in the committee's decision was the desire to avoid any possible embarrassment to the President during Mr. Brezhnev's visit this week. Mr. Brezhnev is conducting high-level negotiations with the President of the United States on many vital matters: trade, defense policy, the limitation of nuclear weapons, and changing relationships in Europe, to name but a few of the most important issues that are on the agenda for this historic summit conference.

The Watergate Committee's decision is dramatic evidence of the fairness, sensitivity and judiciousness of the chairman and all the members of the committee. Surely, it will be reassuring to the American people to know that this committee has been so wisely fulfilling its responsibility to the American people and to the Senate. Pursuant to an overwhelming vote, the Senate charged the committee with performing the investigative functions it is now performing. By delaying its hearings at a time when foreign policy considerations are so obviously paramount, it is clear that the committee is proceeding in a thoroughly statesmanlike and responsible manner. I hope that all the Members of the Senate and all Americans will recognize this fact and appreciate the fairness and wisdom with which the committee is pursuing its duties and in the Nation's highest interest. As a Member of the Senate, I commend the chairman and the members of the committee for the action they have taken.

To be sure, the negotiations which Mr. Brezhnev is having with the President have come under criticism on occasion. However, now that Mr. Brezhnev is in the United States for the purpose of conducting negotiations with the President on a variety of matters that are of absolutely vital importance not only to our two nations, but also to all the peoples of the world, it is essential for us to join with the President in welcoming Mr. Brezhnev and to let the President know that he has our hopes and prayers for the success of the forthcoming negotiations.

I, as one Member of the Senate, pledge my support for the President in his negotiations. I hope that they will be constructive, positive, and useful, and that they will meet the needs of the United States. They are extraordinarily complex

and difficult, and they demand the full attention of the President and the Nation.

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

Mr. KENNEDY. I yield.

Mr. LONG. Mr. President, the Senator from Massachusetts has made a good point. I do have mixed feelings about the matter. I think that it might be very well for Mr. Brezhnev to observe that this is a country that does permit the party that is currently in power to be investigated while it is in power. It could serve as a suggestion to the Soviet Union that if that great nation as well as others with similar forms of government would permit themselves to be investigated in the midst of their rule, that the world would be a lot better off. Perhaps they would not understand it, but it might be well for them to observe that those in positions of power are not above criticism and investigation here.

Mr. President, I commend the Senator from Massachusetts for his tribute to the committee not wanting to embarrass the President of the United States while negotiations are going on.

I think that the Senator will agree with me that the investigation will thereafter have to be continued, however, until the public knows the facts.

Mr. KENNEDY. Mr. President, I appreciate the statement of the Senator from Louisiana.

On numerous occasions in recent weeks, the Watergate Committee has demonstrated its intention and ability to conduct a fair and thorough investigation, but rarely has this ability been demonstrated so clearly as in the decision to defer the hearings during Mr. Brezhnev's visit.

Many times the institutions of our Government have been challenged in the past, and they are being challenged today. Many foreign observers, especially those in some of the countries in Western Europe wonder about our system and its ability to endure the present crisis. However, I think that all Americans can be reassured that the system is functioning and working well, and that this has been the finest hour of freedom of the press in our history.

I, for one, am sure that, when the investigation being conducted by the Senate committee and by the special prosecutor, is completed, all Americans will be reassured that our system is functioning well and is stronger than before.

I do not feel, as some have suggested, that Watergate is an endemic part of the American system. To make that suggestion would be to cast a libel on the two great political parties of our Nation, on 200 years of American history and on 200 million American citizens.

The evils of Watergate must be rooted out, and I think that the Senate committee is doing that job in an effective, even-handed, and statesmanlike manner. Once the wounds of Watergate are healed the patient will be all the stronger.

And so, I commend the committee for the action they have taken this afternoon. It is very constructive and very positive, and it demonstrates again that Members of the Senate on both sides of the aisle are willing to put their country's interest first.

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

Mr. KENNEDY. Mr. President, I yield to the Senator from Montana.

Mr. MANSFIELD. Mr. President, I thank the distinguished Senator from Massachusetts for the remarks he has just made.

Mr. President, just to put the record straight, I ask unanimous consent that the letter which the distinguished Republican leader, the Senator from Pennsylvania (Mr. SCOTT) and I sent to the Senator from North Carolina (Mr. ERVIN), chairman of the Select Committee on Presidential Campaign Activities, and also to the distinguished Senator from Tennessee (Mr. BAKER), the vice chairman of that select committee, be printed at this point in the RECORD.

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

U.S. SENATE,
June 18, 1973.

Hon. SAMUEL J. ERVIN, Jr.
Chairman, Select Committee on Presidential Campaign Activities.

DEAR MR. CHAIRMAN: We have been discussing the fact that the hearings of the Select Committee on Presidential Campaign Activities and the official visit of Secretary General Leonid I. Brezhnev are both occurring during the same week.

After giving consideration to this duality of events, recognizing the importance of each, we have come to the conclusion that it is a part of our responsibility as the Joint Leaders of the United States Senate to request, most respectfully, that the Select Committee postpone its hearings until the conclusion of the State visit to this country by Secretary General Leonid Brezhnev.

It is not an easy decision for us to make because both the hearings and the visit are being conducted with the best interests of the country in mind, but it is our considered judgment that a delay of one week would not jeopardize the hearings, and that one week might give President Nixon and Mr. Brezhnev the opportunity to reconcile differences, arrive at mutual agreements, and, in the field of Foreign Policy, be able to achieve results which would be beneficial not only to our two countries but, hopefully, to all mankind.

We would appreciate your consideration of this request and as early a response as possible.

Sincerely yours,

MIKE MANSFIELD,
Majority Leader.
HUGH SCOTT,
Republican Leader.

Mr. MANSFIELD. Mr. President, as the distinguished Senator from Massachusetts has suggested, this was not an easy decision to make. But it was my feeling—and I must take personally the responsibility for initiating this request—it was my sincere feeling that the committee give it their most serious consideration. I am personally responsible for asking the Republican leader to come to my office to discuss the convergence of events that led to a situation which had begun to disturb me very much.

This is a momentous week in the history of this Republic. On one hand we have a guest visiting our Nation in response to an invitation extended by the President of the United States 13 months ago. On the other hand we have a most important Senate committee hearing being conducted on the Watergate matter. As I considered these matters together, I came to the conclusion that it would be in the best interests of the Republic to request of the select committee that it consider a brief postponement of 6 days in the Watergate hearings, to the end that this summit meeting could be carried on in the most favorable atmosphere possible under all conditions extant, so that if this was agreed to by the select committee, it would give President Nixon and Mr. Brezhnev, to quote from the joint letter:

> The opportunity to reconcile differences, arrive at mutual agreements, and, in the field of Foreign Policy, be able to achieve results which would be beneficial not only to our two countries but, hopefully, to all mankind.

Frankly, while this judgment may be open to question, I think that it was the best judgment which could be made at this time, and I am not interested in any individual. I am interested in the welfare, the well being, and the future of this Republic.

Therefore, it was my considered judgment, in which the distinguished Republican leader concurred, that this request should be made, to the end that the best possible beneficial effects might be achieved as a result of the meeting now underway between the Secretary-General, Mr. Brezhnev, and the President of the United States, Mr. Nixon.

I hope that history will prove that I was correct, but in the meantime, I just want the RECORD to show that I was the one responsible for initiating this request, and that before doing so I had no contact whatsoever with anyone anywhere, within this city or without.

I thank the Senator for yielding.

Mr. KENNEDY. Mr. President, I was unfamiliar with the fact that this special initiative had been provided by our majority leader, and I warmly commend his action. The leadership he has exercised indicates once again why the majority leader has been recognized by Members on both sides of the aisle for his leadership and statesmanlike approach on so many issues vital to our country.

I extend my congratulations to him for this initiative, and I praise him for it. Once again he has placed the interests of the country first, in the way familiar to all of who have had the opportunity to serve with him.

Again, I commend the majority leader, and I yield the floor.

AUTHORIZATION FOR COMMITTEE ON COMMERCE TO FILE CERTAIN REPORTS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Commerce may have until midnight tonight to file certain reports.

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

ORDER FOR LIMITATION OF DEBATE ON S. 925, THE FEDERAL FINANCING BANK BILL

Mr. ROBERT C. BYRD. Mr. President, I have been authorized by the distinguished majority leader and the distinguished chairman of the Committee on Banking, Housing and Urban Affairs, Mr. SPARKMAN, after consultation with the distinguished Senator from Texas (Mr. TOWER), and with the Senator from

Minnesota (Mr. HUMPHREY), the Senator from Wisconsin (Mr. PROXMIRE), and other Senators, to propose the following unanimous-consent agreement: That at such time as S. 925, a bill to establish a Federal financing bank, is called up and made the pending question before the Senate, there be a limitation of 4 hours on the bill, equally divided between Mr. SPARKMAN and Mr. TOWER; that the time on any amendment be limited to 1 hour, and the time on any amendment to an amendment debatable motion, or appeal to be limited to 30 minutes, the agreement to be in the usual form.

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

Mr. TOWER. Mr. President, as I understand, it is anticipated that the Federal Financing Bank Act will be brought up on Wednesday. Is that correct?

Mr. ROBERT C. BYRD. The Senator is correct. It is hoped that the Senate will complete its action on the land use bill tomorrow. In that event, the Federal financing bank bill would be laid before the Senate.

Mr. TOWER. It would be laid before the Senate, but with no substantive work being done on the bill tomorrow.

Mr. ROBERT C. BYRD. Yes; the Senator is correct.

Mr. TOWER. I thank the Senator from West Virginia.

ORDER FOR RECESS UNTIL 10 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 10 o'clock tomorrow morning.

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

ORDER TO RESUME CONSIDERATION OF LAND USE POLICY BILL TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that immediately following the recognition of the two leaders or their designees tomorrow, under the standing order, the Senate resume its consideration of the unfinished business, the land use policy bill, S. 268.

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

LAND USE POLICY BILL—PRIVILEGE OF THE FLOOR

Mr. ROBERT C. BYRD. Mr. President, on behalf of the distinguished Senator from South Carolina (Mr. HOLLINGS), I ask unanimous consent that Mr. John F. Hussey, of the professional staff of the Committee on Commerce, be accorded the privilege of the floor for the duration of the debate and voting on S. 268, the land use policy and planning bill.

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 convene at 10 a.m., following a recess. After the two leaders or their designees have been recognized under the standing order, the Senate will immediately resume consideration of the unfinished business, S. 268, the land use policy bill. Amendments to that bill will be called up. Yea-and-nay votes will occur thereon throughout the day.

It is hoped that the Senate will complete action on S. 268, the land use policy bill, tomorrow. In the event the Senate does not complete action on S. 268 tomorrow, the bill, of course, will be carried over to the next day and action thereon will be resumed.

The Senate will also likely proceed on Wednesday to the consideration of at least two other measures, one of which is S. 925, the Federal financing bank bill on which there is a time agreement. However, I must say that, in accordance with previous indications by the leadership, it is anticipated that the NASA authorization bill will probably have to have the first track on Wednesday. In talking today with the distinguished manager of the NASA authorization bill, the Senator from Utah (Mr. Moss), I am informed that no amendments are likely to be called up and, consequently, it is not anticipated there will be much controversy with regard to that bill.

Yea-and-nay votes will occur, therefore, tomorrow and on Wednesday and daily thereafter.

RECESS TO 10 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 recess until 10 a.m. tomorrow morning.

The motion was agreed to; and at 5:02 p.m. the Senate recessed until tomorrow, Tuesday, June 19, 1973, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate June 18, 1973:

IN THE ARMY

The following-named officer to be placed on the retired list in grade indicated under the provisions of title 10, United States Code, section 3962:

To be general

Gen. Alexander Meigs Haig, Jr., xxx-xx-xxxx xxx-x... Army of the United States (colonel, U.S. Army).

The following-named officer to be placed on the retired list in grade indicated under the provisions of title 10, United States Code, section 3962:

To be lieutenant general

Lt. Gen. Claire E. Huschin, Jr., xxx-xx-xxxx Army of the United States (major general, U.S. Army).

The following-named officers for temporary appointment in the Army of the United States to the grade indicated under the provisions of title 10, United States Code, sections 3442 and 3447:

To be major general

Brig. Gen. John A. Wickham, Jr., xxx-xx-xxxx xxx-... Army of the United States (lieutenant colonel, U.S. Army).

Brig. Gen. William B. Caldwell III, xxx-... xxx-xx-x... Army of the United States (colonel, U.S. Army).

Brig. Gen. George S. Patton, xxx-xx-xxxx, Army of the United States (colonel, U.S. Army).

Brig. Gen. Rolland V. Heiser, xxx-xx-xxxx, Army of the United States (colonel, U.S. Army).

Brig. Gen. Samuel V. Wilson, xxx-xx-xxxx, Army of the United States (colonel, U.S. Army).

Brig. Gen. Alton G. Post xxx-xx-xxxx, Army of the United States (colonel, U.S. Army).

Brig. Gen. Elmer R. Ochs xxx-xx-xxxx, Army of the United States (colonel, U.S. Army).

Brig. Gen. Hal E. Hallgren, xxx-xx-xxxx, Army of the United States (colonel, U.S. Army).

Brig. Gen. Stan L. McClellan, xxx-xx-xxxx, Army of the United States, (colonel, U.S. Army).

Brig. Gen. John G. Waggener, xxx-xx-xxxx, Army of the United States (colonel, U.S. Army).

Brig. Gen. Charles D. Daniel, Jr., xxx-xx-x... xxx-x... Army of the United States (colonel, U.S. Army).

Brig. Gen. Robert G. Gard, Jr., xxx-xx-xxxx xxx-x... Army of the United States (lieutenant colonel, U.S. Army).

Brig. Gen. Edward C. Meyer, xxx-xx-xxxx, Army of the United States (lieutenant colonel, U.S. Army).

Brig. Gen. Gordon Sumner, Jr., xxx-xx-xx... xxx-x... Army of the United States (colonel, U.S. Army).

Brig. Gen. Richard L. West, xxx-xx-xxxx, Army of the United States (colonel, U.S. Army).

Brig. Gen. Orville L. Tobiason, xxx-xx-xxxx, Army of the United States (colonel, U.S. Army).

Brig. Gen. Eugene J. D'Ambrosio, xxx-xx-x... Army of the United States (colonel, U.S. Army).

Brig. Gen. John R. McGiffert II, xxx-xx-xx... xxx-x... Army of the United States (colonel, U.S. Army).

Brig. Gen. John E. Hoover, xxx-xx-xxxx, Army of the United States (colonel, U.S. Army).

Brig. Gen. Robert J. Baer xxx-xx-xxxx, Army of the United States (colonel, U.S. Army).

Brig. Gen. John R. D. Cleland, Jr., xxx-xx-x... xxx-x... Army of the United States (colonel, U.S. Army).

Brig. Gen. Robert J. Proudfoot, xxx-xx-xx... xxx-x... Army of the United States (colonel, U.S. Army).

Brig. Gen. L. Gordon Hill, Jr., xxx-xx-xxxx, Army of the United States (colonel, U.S. Army).

Brig. Gen. Pat W. Crizer, xxx-xx-xxxx, Army of the United States (colonel, U.S. Army).

Brig. Gen. Oliver D. Street, III, xxx-xx-xxxx, Army of the United States (colonel, U.S. Army).

Brig. Gen. Marion C. Ross, xxx-xx-xxxx, Army of the United States (lieutenant colonel, U.S. Army).

Brig. Gen. Albert B. Crawford, Jr., xxx-xx-x... xxx-xx... Army of the United States (lieutenant colonel, U.S. Army).

Brig. Gen. John W. McEnery, xxx-xx-xxxx, Army of the United States (colonel, U.S. Army).

Brig. Gen. Thomas U. Greer, xxx-xx-xxxx, Army of the United States (lieutenant colonel, U.S. Army).

Brig. Gen. Eivind H. Johansen, xxx-xx-xxxx, Army of the United States (lieutenant colonel, U.S. Army).

2. The following-named officers for appointment in the Regular Army of the United States to the grade indicated, under the provisions of title 10, United States Code, sections 3284, and 3306:

To be brigadier general

Maj. Gen. Ernest Graves, Jr., xxx-xx-xxxx, Army of the United States (colonel, U.S. Army).

Maj. Gen. Thomas M. Tarpley, xxx-xx-xxxx, Army of the United States (colonel, U.S. Army).

Brig. Gen. Samuel V. Wilson, xxx-xx-xxxx, Army of the United States (colonel, U.S. Army).

Maj. Gen. Ira A. Hunt, Jr. xxx-xx-xxxx, Army of the United States (colonel, U.S. Army).

Brig. Gen. Richard L. West, xxx-xx-xxxx, Army of the United States (colonel, U.S. Army).

Maj. Gen. Sylvan E. Salter, xxx-xx-xxxx, Army of the United States (colonel, U.S. Army).

Maj. Gen. William R. Wolfe, Jr., xxx-xx-x... xxx-x... Army of the United States (colonel, U.S. Army).

Maj. Gen. Joseph C. McDonough, xxx-xx-x... xxx-... Army of the United States (colonel, U.S. Army).

Maj. Gen. Wilbur H. Vinson, Jr., xxx-xx-x... xxx-... Army of the United States (colonel, U.S. Army).

Brig. Gen. Gordon Sumner, Jr., xxx-xx-xx... xxx-x... Army of the United States (colonel, U.S. Army).

Maj. Gen. Herbert E. Wolff, xxx-xx-xxxx, Army of the United States (colonel, U.S. Army).

Maj. Gen. Herbert A. Schulke, xxx-xx-xxxx, Army of the United States (colonel, U.S. Army).

Brig. Gen. Oliver D. Street, III, xxx-xx-xx... xxx-x... Army of the United States (colonel, U.S. Army).

Maj. Gen. Charles R. Myer, xxx-xx-xxxx, Army of the United States (colonel, U.S. Army).

Maj. Gen. Robert M. Shoemaker, xxx-xx-x... xxx-x... Army of the United States (colonel, U.S. Army).

Brig. Gen. Hal E. Hallgren xxx-xx-xxxx, Army of the United States (colonel, U.S. Army).

Maj. Gen. Charles J. Simmons, xxx-xx-xxxx, Army of the United States (colonel, U.S. Army).

Maj. Gen. Sam S. Walker xxx-xx-xxxx, Army of the United States (colonel, U.S. Army).

Maj. Gen. Daniel O. Graham xxx-xx-xxxx, Army of the United States (colonel, U.S. Army).

Maj. Gen. John R. Thurman, III, xxx-xx-xx... xxx-x... Army of the United States (colonel, U.S. Army).

Brig. Gen. Charles D. Daniel, Jr., xxx-xx-x... xxx-x... Army of the United States (colonel, U.S. Army).

Maj. Gen. Charles M. Hall, xxx-xx-xxxx, Army of the United States (colonel, U.S. Army).

Brig. Gen. Elmer R. Ochs xxx-xx-xxxx, Army of the United States (colonel, U.S. Army).

Brig. Gen. Pat. W. Crizer xxx-xx-xxxx, Army of the United States (colonel, U.S. Army).

Brig. Gen. George S. Patton, xxx-xx-xxxx, Army of the United States (colonel, U.S. Army).

Maj. Gen. Bert A. David, xxx-xx-xxxx, Army of the United States (colonel, U.S. Army).

Maj. Gen. William J. Maddox, Jr. xxx-xx-x... xxx-x... Army of the United States (colonel, U.S. Army).

Maj. Gen. Henry R. Del Mar, xxx-xx-xxxx, Army of the United States (colonel, U.S. Army).

Brig. Gen. Robert J. Proudfoot, xxx-xx-xx... xxx-x... Army of the United States (colonel, U.S. Army).

Brig. Gen. John R. D. Cleveland, Jr. xxx-xx-x... xxx-... Army of the United States (colonel, U.S. Army).

Brig. Gen. Orville L. Tobiason, xxx-xx-xxxx, Army of the United States (colonel, U.S. Army).

HOUSE OF REPRESENTATIVES—*Monday, June 18, 1973*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

Where there is no vision, the people perish.—Proverbs 29: 18.

Our Father God, whose law is truth and whose life is love, we lift our hearts in gratitude unto Thee. We thank Thee for the gift of freedom which is ours and by Thy grace may we hand it on unstained and untarnished, held higher in the minds of our citizens by our devotion to liberty and justice.

Strengthen Thou our hands and our hearts that as the representatives of our people we may be ever mindful of our high privilege to serve our country in this present age and to mold her future by what we do in this Chamber.

May the goals of enduring justice, abiding peace, and true freedom challenge the best in us as we live and labor during these difficult days.

Hear our prayer, O Lord, and help us. 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 agrees to the amendment of the House to a concurrent resolution of the Senate of the following title:

S. Con. Res. 27. Concurrent resolution to observe a period of 21 days to honor America.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 3867. An act to amend the act terminating Federal supervision over the Klamath Indian Tribe by providing for Federal acquisition of that part of the tribal lands described herein, and for other purposes; and

H.R. 7357. An act to amend section 5(1)(1) of the Railroad Retirement Act of 1937 to simplify administration of the act; and to amend section 226(e) of the Social Security Act to extend kidney disease medicare coverage to railroad employees, their spouses, and their dependent children; and for other purposes.

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. 1413. An act to increase the authorization for fiscal year 1974 for the Committee for Purchase of Products and Services of the Blind and Other Severely Handicapped.

SKYLAB SETS SPACE RECORD

(Mr. FUQUA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FUQUA. Mr. Speaker, Astronauts Charles "Pete" Conrad, Jr., Dr. Joseph P. Kerwin, and Paul J. Weitz of Skylab have established yet another record on this historic flight of the Nation's first space station. At 3:22 a.m. eastern standard time on June 18, 1973, these three outstanding Americans became the world's longest voyagers in space. This exceeds the Soviet record of Soyuz 11 with Cosmonauts Volkov, Dobrovolsky, and Patsayev set on June 30, 1971, of 23 days, 18 hours, and 22 minutes.

Skylab will now complete its first of three missions with a total of 28 days of scientific and practical accomplishments and high adventure This flight of Skylab, troubled as it was from its beginning, has demonstrated to all of the world that man can function and has an important role in space. The repair of Skylab and the recovery of the mission will rank with the other important firsts in our national space program over the past decade.

The astronauts and the National Aeronautics and Space Administration are to be congratulated for their outstanding performance on this mission. I am sure that we can look forward to even greater accomplishments on the remaining two visits to Skylab.

MAJORITY LEADER THOMAS P. O'NEILL, JR., COMMENDS NEW CBS POLICY OF FREE AIR TIME TO REPLY TO PRESIDENT

(Mr. O'NEILL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. O'NEILL. Mr. Speaker, the Columbia Broadcasting System has announced that it will provide free air time for replies to some of President Nixon's broadcasts.

The aims of this new policy are commendable. In many instances, President Nixon has abused his privilege of free air time to introduce partisan political matter into his "state of the Union" and other messages.

He has tried to go over the heads of Congress directly to the people—to pressure Congress into accepting his recommendations even before we have a chance to examine them.

This one-sided approach threatened to make the networks the handmaiden of the administration. It threatened to jeopardize the media's position as an impartial third party responsible for reporting public affairs.

The new policy by CBS is a welcome attempt to redress the balance. But I think CBS is making a mistake in discontinuing its postbroadcast analyses of Presidential messages. These discussions provide the best opportunity for experienced news