SENATE—*Tuesday, July 10, 1973*

The Senate met at 9:30 a.m. and was called to order by Hon. QUENTIN N. BURDICK, a Senator from the State of North Dakota.

PRAYER

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

Almighty God, in whose keeping are the destinies of men and nations, come upon us in this reverent moment and endue our fallible minds with Thy higher wisdom. Grant us greatness of soul to match the magnitude of our concerns. May the crucial decisions first be formed in our inmost being before being made in the public forum.

"America! America! God mend thine every flaw. Confirm thy soul in self-control, thy liberty in law!"

O Lord, redeem our failures, reward our righteous actions, transform our tasks into a ministry, and crown this day of labor with the benediction of Thy peace.

In Thy holy name, we pray. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The second assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., July 10, 1973.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. QUENTIN N. BURDICK, a Senator from the State of North Dakota, to perform the duties of the Chair during my absence.

JAMES O. EASTLAND,
President pro tempore.

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

MESSAGES FROM THE PRESIDENT

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

EXECUTIVE MESSAGES REFERRED

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

(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 Monday, July 9, 1973, be dispensed with.

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

COMMITTEE MEETINGS DURING SENATE SESSION

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

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

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Does the acting minority leader desire to be heard?

Mr. STAFFORD. Not at this time, Mr. President.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Oklahoma is authorized to proceed for not to exceed 15 minutes.

RESPONSE TO FTC STAFF STUDY

Mr. BARTLETT. Mr. President, it is my pleasure this morning to appear, along with colleagues from the States of Kentucky, West Virginia, and others, to talk about the tremendous problems that exist in the area of energy.

I am going to direct my remarks toward the Federal Trade Commission's staff study that was leaked to the press over the weekend.

The only valid conclusion among much faulty reasoning in the recent Federal Trade Commission's staff report that was leaked to the press is that fuel shortages do, in fact, exist. Thus another of many detailed studies has arrived at the conclusion that the shortages are not a mere hoax.

However, the Federal Trade Commission's interpretation of the facts contains certain inconsistencies—inconsistencies that do not help solve the domestic energy deficiencies.

The FTC report states that the oil companies "have behaved in a similar fashion as would a classical monopolist; they have attempted to increase profits by restricting output."

The FTC report further says that "the petroleum refining industry is the pivotal point in the petroleum industry" and that, for tax reasons, in the oil industry "it pays to raise crude prices up to a point where refinery profits have been reduced to zero." This latter statement does not make sense, but first let us examine the price of crude oil to see if crude oil producers are receiving excessive profits and if crude oil prices are at an unreasonable high level.

Over the past 10 years through 1972 the average return on net worth for the petroleum industry has been less than the same figure for all manufacturing industry—11.8 percent compared to 12.2 percent. In 7 of the last 10 years, all manufacturing industry had a better average return on net worth than did the petroleum industry.

Preliminary figures from the First National City Bank of New York indicate that in 1972, petroleum profits averaged only 10.8 percent of net worth, while all manufacturing industry was earning 12.2 percent.

Antagonists of the petroleum industry have been referring to the first quarter profits of 1973 as excessive and unreasonable. They fail to point out that these profits are compared to a depressed first quarter of 1972 which had been 3.1 percent lower than the first quarter of 1971. In fact, based on a sample of 45 petroleum companies the First National City Bank of New York indicates that petroleum company profits were up 27.3 percent from the first quarter of 1972. What the antagonists of the petroleum industry fail to point out is that the average first quarter of 1973 profits for 1,045 other manufacturing corporations were 31 percent higher than for the corresponding first quarter of 1972.

Oil industry profits are not excessive—they are less than other industry.

Now let us look at the price of crude oil over the same 10-year period through 1972. It increased only 17.6 percent compared to a 26-percent increase in the wholesale price of all commodities—as reported by the U.S. Bureau of Labor Statistics. With inflation removed, the wholesale price of crude oil actually declined during the decade.

An even more recent comparison in May 1973, shows that the price of crude oil has increased 25.3 percent since 1963. The wholesale prices for all other commodities rose 41.3 percent during the same period.

This steady price of crude oil continued in the face of rising costs of operations in the petroleum industry, during the same 10-year period, oil well casing prices rose 44.6 percent, oil field machinery went up 36.4 percent and hourly wages claimed 52.7 percent.

In addition, in 1969, Congress lowered the depletion allowance from 27½ to 22 percent—which reduced by $500 million the capital available to the oil industry for exploration, drilling, production, and refining.

If crude oil prices had been rigged to a high artificial level by monopolistic action of the large oil companies, would not the independent producers who rely almost entirely on the price of crude oil for their margin of profit find themselves on "Easy Street."

Their situation was just the opposite. Rising costs without comparable increases in the price of crude oil cut their numbers in half—from 20,000 to 10,000 independents according to the IPAA.

The cost to drill wells is almost twice as much today on the average. All the easy to find cheap oil has given way to harder to find and more expensive operations—many offshore. The price of oil has not kept pace with such increased costs.

So it becomes evident that the FTC's implication that the oil industry has raised crude oil prices up to a point where refinery profits have been reduced to zero

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just do not hold water. Crude oil prices did not even rise enough to keep up with operating costs.

Crude oil prices were kept low by the low artificial level of the price of natural gas controlled by the FPC and ever increasing imports of crude oil when a rise in domestic prices was warranted.

There have been several witnesses before the Committee on Interior and Insular Affairs who have indicated very clearly that the low prices of natural gas at the wellhead have resulted in lower prices in crude oil, coal, and atomic energy. These low prices have also resulted in a lower than otherwise supply of the greatly needed resources.

The low domestic crude oil prices resulted in a 50-percent reduction in the exploration, drilling, and completion of oil and gas wells and forced many companies to explore more overseas where profits were more reasonable. I refer in this comparison to the situation over the last few years.

The necessity of an adequate price of domestic crude oil to an increasing supply of domestic crude oil activity is shown clearly by recent drilling activity in my home State of Oklahoma. A price increase of 70 to 80 cents around the first of 1973 increased the number of active rigs to 113 for the last week of May 1973—the comparable week in 1972 was 72, in 1971 was 74 and in 1970, was 81 rigs. This is the first good news for the energy industry in Oklahoma in a long time.

Refinery profits have been squeezed in the past because the refinery product prices were inadequate. In May 1973 the average wholesale price of regular grade gasoline was only 26.2 percent above the average of 1963. The wholesale prices of all other commodities has risen 41.3 percent. The average annual service station price of regular gasoline—again ex-tax—rose approximately 22 percent from 1963 to 1973. While the price of all consumer goods and services rose 36.6 percent. The prices received by refineries for products have been far from excessive—and profits have been low.

This is the main reason, along with environmental restrictions and unreliable supplies of foreign crude oil resulting from an inadequate import program, that there have been no new refineries built in the United States in recent years by either the large companies or the small ones. There has been no economic incentive. The price of gasoline and other pertoleum products has for too long been such a "good deal" in the United States that we have been paying 40 cents or less for a gallon of gasoline when the nations of Europe have been paying 80 cents or more per gallon.

The big companies have been accepting low profitability in both crude oil production and refining and marketing. It appears that, without vertical integration, the price of gasoline would be much higher and our shortages might have occurred much sooner and would have been much more severe than they are now—and they are severe—even critical. If the FTC seeks to assure the refining as well as the producing segments of the oil industry proper profits, it should recommend increasing the market prices of products and crude oil. Decreasing the price of crude oil would have disastrous effects upon supply.

The present price of domestic crude oil is about $1 per barrel cheaper—I repeat cheaper—than so called "cheap foreign crude oil." Is that a bad record for this industry that is being improperly banded as monopolistic?

Perhaps the Federal Trade Commission would do well to investigate the worldwide shortage of petroleum—and it should check on the monopolistic pricing of foreign crude by the OPEC cartel.

The fuel shortages that have occurred in our Nation are the result of inept controls and regulations imposed by the supposed omniscient Government. There is no branch of Government, administrative department, or agency that is more omniscient than the free enterprise marketplace.

The only hope we have to withstand the monopolistic threat of the OPEC cartel is with a strong free enterprise energy industry.

The Federal Trade Commission should try to strengthen it—not destroy it.

Mr. President, it is my pleasure to yield my remaining time to the Senator from West Virginia (Mr. RANDOLPH) who will also participate in the discussion of this matter.

The ACTING PRESIDENT pro tempore. The Senator from West Virginia is recognized at this time for not to exceed 19 minutes.

SENATOR RANDOLPH WARNS THAT ELECTRIC UTILITIES BURNING REFINED PETROLEUM PRODUCTS ARE WORSENING THE ENERGY CRISIS

Mr. RANDOLPH. Mr. President, the attention being given in the Senate this morning to the important subject matter which focuses on the continued and perhaps the growing fuels and energy crisis in our country underscores the need for study and understanding by Members of this body in an attempt to do all that they possibly can to spell out the problems that are inherent in the current and increasing energy supply shortages.

The remarks of the able Senator from Oklahoma (Mr. BARTLETT), the Senator from Kentucky (Mr. COOK), the Senator from North Carolina (Mr. HELMS), and myself present four approaches, perhaps in varying degrees, but with a strong thrust as to the need for an understanding of the problems that exist today.

In my case I see the overriding need for an already much-too-long-delayed establishment of policies which will govern the proper and productive uses of fuels and energy in this country.

Mr. President, in recognition of the energy supply shortages, I recall that, on June 5 of this year the Senate passed S. 1570, a bill authorizing the President to allocate crude oil and refined petroleum products during periods of extraordinary shortages or dislocations in the distribution of energy and fuels. And this is an important matter that must not be overlooked. The dislocations can occur, and if we anticipate that they may take place, we can be ready to meet them, not after the fact, but before the fact.

So there was the June 5 action in the Senate on the allocation measure in an attempt to cope intelligently with the fuels and energy problem. Its principal sponsor, the Senator from Washington (Mr. JACKSON), was joined by several of us who have been working on this energy problem for many months.

I believe that action was timely, and I know it was necessary. Our principal concern was the anticipated shortages of gasoline and providing a program, which we hope can be activated to develop a means for the allocation of available supplies among the competing users.

However, throughout those discussions—and the Acting President pro tempore is familiar with them because he gave his attention to that debate—little consideration was given to the finding of solutions to the energy crisis so that the allocations, in fact, would not be necessary. We think, of course, that some measure of allocation system is indicated under present conditions.

We should know, Mr. President, that as long as allocations exist, we are simply coping with the symptoms of the problem; we are in no wise solving it. Now we find that the anticipated gasoline shortage may not materialize as fully as some sources had predicted or indicated. In other words, the petroleum industry was able to find the supplies from which to refine more gasoline than had been expected and announced. But the question is, Mr. President, at what cost?

Yes, it was at a cost. One solution was to produce less distillate heating oil and more gasoline.

That was done last year, too, and was roundly criticized by the government when there was insufficient heating oil during the cold of winter. And there probably will be similar criticism again this coming winter.

Yet, Mr. President, this stepping up of gasoline production, seemingly at the expense of heating oil, as I have indicated, was perhaps the only alternative available to the petroleum industry without creating—and I use the word advisedly—a chaotic gasoline condition in our country, a country that relies in substantial degree on the mobility of our economy, the movement of people, of course, to and from work, and the movement of products from the fields, from the farms, and from the factories. We are a nation literally on wheels and wings, moving constantly, 24 hours a day.

In the process of substantially solving a gasoline supply problem, we may have delayed the solving—and I think we have—of the overall energy problem, especially if the crisis reappears within a few months as a heating oil shortage, and I suspect that there might be a heating oil shortage again. But a winter heating oil shortage will not have such solution possibilities before it, from the standpoint of the settlements of those problems, as are inherent in conservation such as slowing auto driving to conserve gasoline, in accordance with the action

taken here in the Senate unanimously on an amendment that I offered to the fuel allocation bill. That accepted amendment expressed the sense of Congress in favor of lowering the speed limits through a hoped-for cooperative effort within the States. The speed reduction was not mandated, actually, even though the bill itself was a mandate for fuel allocation. At that time, I addressed letters to all of the Governors of our 50 States, calling attention to what we had done in the Senate.

We are receiving reports that a substantial number of electric utilities, not finding enough low-sulfur coal or sufficient low-sulfur residual oil, are shifting to refined oil products, even distillate heating oil. In the process, the utilities are placing a demand on the petroleum industry that it did not envision, and these utilities are, frankly—and I make this statement because I believe it is true from the studies I have carried forward—aggravating the energy crisis.

Many energy users—and this includes the utilities that I have mentioned—have several alternatives which are important to consider for coping with both the short- and the long-term problems arising out of our energy-environmental confrontations. These confrontations must not be allowed to continue to the extent that we polarize the thinking of the American citizenry on this subject.

There has to be some give and take. There has to be some realization that we do not need to confront one another in order to solve our energy and environmental problems. But, in a sense, we must move in one direction, hopefully in the direction of conservation and environmental quality, and still supply the energy so vitally and urgently needed in this country.

Mr. President, how much time remains?

The ACTING PRESIDENT pro tempore. The Senator has 7 minutes remaining.

Mr. RANDOLPH. I thank the Chair.

By taking a short-term perspective and switching to refined petroleum, some major utilities are simply transferring their environmental control requirements to someone else, and thus they are complicating to a very considerable degree the energy crisis in our country.

Mr. President, such electric utilities must be held accountable. I repeat, they must be held accountable for their action in transferring this burden to other sectors of the economy.

As publicly chartered and regulated companies, the utilities have a broader obligation to society than simply meeting energy demands for electric current.

It is generally recognized that our country must undertake to meet a national goal of energy self-sufficiency by the 1990's. Mr. President I wish we could do it earlier, but that, I gather, is the time element of the domestic self-sufficiency goal.

Apparently, we will not be able to do that, but the record will be clear that we had the opportunity. I offered a resolution in 1959, to establish a program whereby we could find the policy or policies necessary to conserve and properly have and use an adequate supply of fuels and energy for our people. This was not done. Then, through the years, our efforts continued with many Senators and Members of the House increasingly active in efforts to have a national energy policy. We could see that the problem was moving in on us with a very strong impact.

Then, a little over 2 years ago, we began, pursuant to Senate Resolution 45, which I offered, with Senator JACKSON, to study through the Committee on Interior and Insular Affairs, the Public Works Committee, the Commerce Committee, and the Joint Committee on Atomic Energy, this subject matter. From those hearings and the work of the task force, and the consultations with everyone who had contributions to make, we have moved until two important items of legislation have come from that work. They have received the attention and the favorable action of the Senate.

Senators are aware—in fact they are not only aware but they understand the urgency of these matters, and that is why we call attention to them here today.

As to domestic energy self-sufficiency that I speak of in the 1990's, we regret, of course, that it won't be here much earlier.

What is this self-sufficiency going to mean? It will involve a shifting away from our current posture that is synonymous with a national oil import policy and work more toward a national energy policy based on increased—not decreased—use of coal in clean burning forms, and on nuclear fuels.

Yet, segments of the electric utility industry are actually going the other direction, actively shifting from domestic sources of coal to imported oil and refined petroleum products. This is the opposite direction from the course representing what I believe to be the broad national interest as distinguished from the corporate interest.

Just as the burning of huge quantities of natural gas under powerplant boilers cut back the supplies of scarce natural gas, so will electric utility burning of refined petroleum products hasten the demise of the world's oil reserves.

Environmental controls—and I want to make this a statement that will be an emphatic one—the environmental controls are legitimate costs of doing business that must be incurred in this decade of the 1970's. The electric utilities are in the unique position of being able to pass these costs on to the consumers.

If our growing energy crisis is to be solved, the utilities must face the fact that coal must be relied on to a greater degree as a source—a prime domestic source—of this Nation's energy supplies.

In turn, this must be accomplished consistent with the Nation's environmental policies.

The utilities should be prepared to install pollution control equipment that makes coal a usable and viable energy supply.

In turn, the utilities must also face the fact that long-term contracts are essential if new sources of coal are to be developed.

In other words, the public utilities of America must meet this responsibility and must accept a part of the responsibility for creating the economic climate necessary to stimulate new domestic energy supplies.

It is unrealistic to consider the demand of the utilities for refined petroleum products as being valid priority use if, in the process, we create energy shortages in other sectors of the economy.

The overriding issue, however, is not where these shortages are to be absorbed in our economy. Rather, the main issue is how to increase available supplies in the future just as quickly as possible.

While we seek to create a new era of fuels and energy policy, we know that we must cease to look for an easy out. We must think of the real, long-term solutions and they will not be forthcoming if we try to short circuit the program.

What is clear is that the Congress must adopt the necessary policies to create a climate conducive to the raising of the massive amounts of capital needed for energy and environmental investments.

For, in the final analysis, the private sector will be called on to meet our country's energy demands.

THE ENERGY CRISIS

Mr. HELMS. Mr. President, the best way to understand why the energy crisis is, indeed, a crisis, is to examine the word "energy."

Ours is an energetic nation. Only an energetic people would have left settled communities in the old world and crossed a dangerous ocean to make an "errand into the wilderness," a dangerous and untamed wilderness.

Only energetic people would have joined the waves of immigrants who helped develop the continent.

Only an energetic people could have built the mighty engine of economic might that made ours the freest, most prosperous nation in the world.

Only an energetic people could have made our Nation the arsenal of democracy, the defender of freedom in its gravest trials.

I mention this to dramatize the fact that the energy crisis is nothing less than a crisis of American civilization. The brutal fact is that, in the modern world, our energetic people depend on complex and increasingly scarce energy sources.

That is, we cannot be energetic, as a people, unless we maintain energy supplies sufficient to match our energetic spirits. We cannot have national prosperity, and we cannot have national security, unless we make prudent provisions for our long-term energy needs.

There is no need to recite again the projected energy needs for the years and decades ahead. Suffice it to say that, extrapolating from the recent geometic rise in energy demands, in this country and worldwide, and the relative slowdown in the discovery of conventional sources, the energy crisis is not a short-term thing. It will be with us for years to come.

The most pressing energy scarcity today involves petroleum product. We are a nation that runs on the internal com-

bustion engine. One in five Americans is employed directly or indirectly by the automobile industry and related industries. If our automobiles sputter to a halt for lack of gasoline, our Nation will sputter to a halt. There is no use wishing this were not so. It is so, and it is incumbent upon us to make hardheaded provisions that face up to this stark fact.

The first order of business must be to speed action on construction of the Alaskan pipeline. It is absurd folly for this Nation to stumble into an energy crisis while we have, ready at hand, a huge domestic source of oil like the reserves on Alaska's North Slope. We cannot let an unimportant technicality in an old law impede development of the pipeline right-of-way. We need not be careless about the environment in getting the North Slope oil south. I see no evidence that the Government and the concerned oil companies have acted other than with full good faith in dealing with anticipated environmental dangers. These environmental matters concerning the migration of caribou, protection of the fragile permafrost, and so forth, are only secondary to building a pipeline sturdy enough to resist possible earthquake damage and able to limit the dangers of spills at the end of the pipeline where the oil is loaded onto tankers. These problems can be solved. So now let us get on with building the pipeline.

In addition, we must finance the research and development necessary to facilitate efficient and environmental safe exploration for new offshore sources.

Today in the American West there are two kinds of resources which, when tapped, will offer this Nation huge new reservoirs of energy. I am referring to the oil shale in and coal reserves of the mountain west.

With regard to oil shale, we need a crash program of research and development to achieve two things. First, we must find ways of removing the shale from the mountain deposits without environmental damage. Second, we must perfect the technology of turning shale into oil. This will be costly. The task will be complicated by the fact that oil shale development requires large amounts of a very scarce mountain resource—water. But it must be done, and Government reclamation projects should be coordinated with the needs of shale exploitation.

With regard to the huge coal reserves, four things must be done. First, we need improved and environmentally sound mining techniques that can get the coal out of the ground at a reasonable cost, and with minimal damage to the environment. Second, we need research and development on new techniques for using coal in ways that contain the air pollution problem. Third, we need reasonable and equitable freight rates to enable us to get the coal from deposits in the mountain west to the big markets in the Middle West and on each coast. Fourth, we need to finance a crash program to facilitate coal gasification programs and to find new markets for this coal-based product.

With regard to the production of electricity, two other things must be done.

First, we must have a more orderly way of resolving disputes about the siting of powerplants. As things now stand, a tiny group of determined persons, acting from environmental motives, or other motives, can generate an astonishing amount of litigation and prevent work from going forward on any particular plant site for an incredibly long time.

The sobering history of the controversy about the Storm King powerplant north of New York City deserves serious study by all concerned citizens. In various parts of the Nation, utilities have been prevented from turning a spade of earth by a running legal war with environmentalists.

I am not here taking a stand on the merits of the Storm King case or any other specific case, but I am deeply concerned about the disorderly, cumbersome, vulnerable process by which we decide on powerplant locations. We need better methods of resolving the conflicts that inevitably will result when utilities must expand.

The second thing that must be done regarding the production of electric power is for us to go full speed ahead on developing new ways of generating electricity. These new ways include the breeder reactor, and solar power and geothermal power.

The breeder reactor is close to becoming an American reality. That is good because it is the single most promising development in the energy field. This reactor actually creates fuel as it uses fuel. The Soviet Union has two such reactors in operation today, and the English, French, and Germans soon will have some. Our first breeder reactor is not due to begin operation until early in the next decade. We must do everything possible to speed the development of these reactors, and to anticipate and meet safety concerns and environmental concerns that, inevitably, will arise.

With regard to solar and geothermal power, we are standing on the edge of an uncharted sea. This much we know: the greatest untapped—in a sense, "wasted"—energy source is the Sun. And the least explored energy source on Earth is the heat energy trapped beneath the Earth's crust. High priority must be given to exploring ways to harness these forms of energy.

Environmentalists have served the Nation by reminding us that environmental values are real values. But, on occasion, environmentalists have been wrong. Not long ago environmentalists were ardently opposing various hydropower projects, arguing that it is immoral to dam a river to produce electricity. But now that we see the alternatives—alternatives like the smoke-belching Four Corners powerplants along the Colorado-New Mexico border—we can see that the clean, efficient production of electricity by hydropower is preferable to the production of electricity by means that require burning fossil fuels.

Finally, we need more and better deepwater port facilities for importation of seaborne fuels. This will require the cooperation of several Federal agencies in the construction of the facilities and in meeting environmental protection standards.

The current energy crisis is just one manifestation—albeit a particularly dramatic, painful and consequential manifestation—of a worldwide phenomenon—a general shortage of commodities. This shortage is a natural consequence of a generally desirable development: consumption is rising rapidly among vast populations which hitherto have been mired in economc stagnation. It would be futile—and morally wrong—to begrudge other peoples the opportunity for some of the economic growth that we in America take for granted. Indeed, it would be contradictory for us to begrudge other people their growth: more often than not it has been an aim of American policy to foster such growth.

But having helped light the fuse of economic growth, now we must use our diplomatic skills to prevent dangerous and mutually destructive kinds of competition for scarce energy commodities.

It is now clear that the Middle East, where petroleum resources are crucial, is not a monolithic political force. Neither, it should be noted, is the free world market for Middle East petroleum monolithic. On the contrary, there are three giant customers—the United States, Japan, and the European Economic Community. In addition, the European Economic Community—the Common Market—is riven with existing and potential rivalries for energy sources.

The time is coming when the leaders of the various Middle Eastern suppliers will strive to perfect the methods of playing free world nations off against one another. Indeed, it is happening now. It must be the two-fold purpose of American diplomacy to dissuade the Middle East suppliers from relying on such methods, and to discourage other free world nations from being susceptible to those methods.

The nations of the Middle East—rich in oil, and poor in everything else—have an understandable desire to profit as much as is reasonably possible from the one blessing nature has bestowed upon them. Thus, it should be the mission of American diplomacy to assure the supplier nations of the Middle East that their route to stable and equitable relationships with the consuming nations lies not in blackmail and confrontation, and least of all in fomenting competition among their customers, but rather in reasonable, calm negotiations.

In addition, special concern must be shown for the great neighbor to the north. Canada is a nation rich in resources and understandably weary of being taken for granted by the giant to the south. It is my belief that Canada and the United States are entering a new era of even closer cooperation, economically. We must do our share to see that, politically, the era is one of good feeling.

Mr. President, my remarks today are designed to indicate my conviction that the energy crisis is very much a crisis;

that it will be with us for a long time; that it has many facets and requires many solutions; and that both the Government and private citizens have roles to play.

One thing remains to be said. As we cope with this problem, the Government must be guided by a sense of equity. No region must be made to bear an unequal brunt of any energy shortage. Similarly, the little man—men like the independent gasoline dealers—must not be pushed to the wall by these problems. Too often in American life public policy in time of difficulty has made it possible for the big organization to survive while the little man has been driven out of business. The Government must not let this happen now.

Mr. COOK. Mr. President, it is amazing to realize that this Nation represents only 6 percent of the world's population, yet we use almost 35 percent of the world's fossil fuel resources. If we continue at the rate we are going now—and after all, everyone got here either by way of the automobile, bus, airplane, or train, and they all use some kind of distillate fossil fuel—and if we continue at the rate we are going, between now and 1985 we will have to increase the sources of supply for the people of the United States by 70 percent. As a matter of fact, today we utilize from foreign sources 5 million barrels of crude oil a day; and between now and 1985, we will have to increase the imports of fossil fuels into the United States from 5 million barrels a day to 15 million barrels a day.

Mr. President, one distinct advantage in taking part in this energy colloquy on its second day is having the benefit of the remarks made by my colleagues during the first session. The June 28, 1973, CONGRESSIONAL RECORD contains 29 pages of comment expressing their concern and offering solution for this national problem. I am very proud of being a U.S. Senator and this pride grows when I see the Members of this body close ranks in a bipartisan effort to solve a problem which poses as real a threat to our way of life as has any we have experienced in my lifetime. Whenever this Nation is threatened from within or from an external force, we have been able to set aside parochial and personal differences in order to preserve our heritage. While I do not suggest a real threat to our national boundaries, I believe most sincerely that there is a very real threat to America as we know it and that this threat is not limited to these boundaries.

It is unfortunate that there are those who believe that America is weak and that because of certain internal problems which exist, her Congress and her President cannot cope with a situation which threatens the very monetary standard upon which almost all nations have depended for so long.

To those individuals both at home and abroad I say that America is a winner and a leader of winners and now is the time to "Buy America" not "Sell America" because I believe we have "bottomed out" and we most certainly have come to grips with our problems and we will solve these problems. Let those who question the value of our dollar make no mistake about that. I personally believe that many foreign powers want us to solve our problems. I believe that many nations look to America as the bulwark upon which they themselves have tangibly and intangibly built their hope for the future. We cannot afford to sell ourselves short. That is why I say the time to "Buy America" is now. Buy into our own ability to develop from within. We still have the same abilities we have always had.

Unfortunately I believe that the confidence that the people have in us as politicians and in our President has been shaken to some degree. I believe that to ignore our new status would make us unworthy, and it is up to us to restore even the smallest degree of confidence loss.

I have stated on the floor of this chamber that power, strength, vigor and resolution are all synonymous with energy. I added to that list one word—America. I believe most sincerely that to the free world America has always represented strength, power and above all energy.

Why is this true and how did it come about—if I were to select one basic reason that this republic has developed into a great world power I would have to say that it has been the abundance of natural resources which provide unlimited amounts of inexpensive energy fuel. This distinct advantage coupled with an ideal handed down from our founding fathers, which we have chosen to develop and defend, has given us a nation which enjoys freedom and a standard of living never before present on this globe. The ideal remains with us, but we now face the realization that the energy fuel is not unlimited and with this realization comes the disagreeable fact that it is no longer cheap.

Unfortunately over the past few years we have come to depend on others outside our boundaries to provide us with an ever increasing amount of energy fuels. This practice while providing fuels cleaner and more efficient than some of our own domestic fuels has placed us in their debt to a degree that we have severely weakened our currency. We can no longer pay the price for this easy way out. The decision we face is very simple. We must find ways to produce and use all our domestic natural resources. We must accept these natural resources in the form in which they exist—not in the form in which we wish they existed. It is our problem to effect the desired conversion from so called dirty fuel to clean fuel.

We can gasify coal.

We can liquefy coal.

We can desulfurize coal.

We can control oxide emissions.

We can develop our oil sands and shales.

We can safely generate electrical power from nuclear energy.

We can develop geothermal and solar sources.

However, in so doing we must not sacrifice our goals of establishing and maintaining a healthful environment for all the people of this country. This is not an impossible task and we have taken important, if belated and minimal, steps to see that it is accomplished.

We have seen a marked change in a 72-day period. When one compares the energy statements made by the President on April 18 and June 29 of this year, aside from the establishment of an Energy Policy Office in the Executive Office of the President, he is struck by one other significant change. That change being the President's realization that it is essential that dynamic Federal research and development programs be initiated immediately. As I criticized his decision of April 18 for the lack of research and development programs, I equally applauded his announcement of June 29.

Mr. President, while we must move forward on these essential research and development programs we must be most careful in avoiding what I choose to call self inflicted wounds. I refer to those well meaning actions taken by segments of our Government which are above and beyond realistic goals and which tend to create undue hardship on the energy industry by requiring accelerated and increased environmental standards which exceed our technological capability.

When State implementation plans under the Clean Air Act go into effect between now and 1975, they will specify the new source performance standard of 0.6 pounds of sulfur per million B.t.u. This will require in the absence of other control means the use of "east of the Mississippi" coal containing less than 0.7 percent sulfur. Unfortunately, this coal is scarce. The U.S. Bureau of Mines estimates that only 8 percent of the coal reserves in this area of the country could meet the requirements.

In addition to meeting the above limits on new plants, I am concerned about how we can burn coal and meet the limits being imposed on existing units. Although the limits established by the EPA call for meeting the primary standards by July 1, 1975, as directed by Congress, the States are calling for the secondary standards to be met by the same date. This requirement makes it even more imperative that we devote increased effort to the problems of desulfurization and stack cleaning.

The Federal Register of May 31, 1972, quoted the EPA as follows:

> The State implementation plans to control SO_x (sulfur oxides), generally have been responsive to the mandates of the Clean Air Act. The plans provide for meeting by 1975 primary air quality standards which are designed to protect the public health. In most cases, the States determined 1975 to be the "reasonable time" allowed by the act to meet the secondary air quality standards for SO_x which are designed to protect the public welfare. Fuel combustion regulations were designed to achieve both the primary and secondary standards by the 1975 date. In most States these emission regulations were made to apply statewide, without regard to the differing air quality in regions within the State.

EPA added the comment:

> It is clear that achieving these rigorous State standards in the time prescribed would significantly enhance air quality in many areas of the Nation, as contemplated by the Clean Air Act. However, in addition to reviewing the effectiveness of each State implementation plan, this agency (EPA) and the Federal Government have an obligation

to assess the impact of the various plans in the aggregate. From this standpoint, there is strong evidence that the complete implementation of the plans as submitted may not be attainable in the time prescribed.

By this statement EPA admits the real possibility that, under current conditions in the domestic and world fuel markets, all aspects of the State plans in the aggregate cannot be achieved by 1975 despite the best efforts of both Government and the private sector. If this is true then I say to my colleagues that this "best effort" must be increased. It is just not the American way to accept defeat without an extensive counter effort.

I understand that EPA has been completing its studies of the aggregate situation to enable them to suggest necessary compliance schedule changes to the States. Such changes would include the modification of federally promulgated regulations for achievement of the primary standards—health related—by July 1, 1975. I will study this report very carefully and I suggest it be finalized at the earliest date and submitted to Congress and the Nation so that we may all better understand the problems ahead and the proposals to meet these problems.

According to the EPA, the States most likely to be affected by this shortage of clean fuels include Illinois, Indiana, Kentucky, Michigan, Ohio, Tennessee, Alabama, Pennsylvania, West Virginia, Georgia, and New York, but others will also need to consider the availability of fuels in developing compliance schedules. On June 7, 1973, Dr. Fri, Acting Administrator, EPA, highlighted this problem.

Mr. President, I ask unanimous consent to have printed in the RECORD at the conclusion of my remarks the statement by Dr. Fri.

The PRESIDING OFFICER. Without objection it is so ordered.

(See exhibit 1.)

Mr. COOK. Mr. President, the ball clearly is in the States' court, and the Governors of these States are calling the shots. I ask unanimous consent to have printed in the RECORD a copy of a statement made by Mr. Carl Bagge, National Coal Association, which he delivered to the Southern Governors' Conference on June 22 of this year.

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

(See exhibit 2.)

Mr. COOK. Mr. President, in his appeal to the Governors Mr. Bagge urged them to assist the President's energy program by deferring the implementation of the secondary ambient air quality standards. He also urged them to adopt regulatory policies which would encourage investment in the utilization of coal as a fuel for electric power generation.

Mr. President, I would like to invite attention to still another energy problem which could well fall into the self-inflicted wound category. I refer to the recent decision by the President to institute a 60-day freeze, and the implementing action by the Cost of Living Council which prevents domestic refiners from passing through all increases in the foreign crude oil cost not heretofore recovered. This single action has had a very severe impact on the operations of the crude deficient independent refiners who must bid for and pay the going price for crude they purchase outside the United States. You will note that I limit this comment to the crude deficient refiners, as their problem differs markedly from that faced by the integrated company which produces, transports and refines its own crude.

I believe that there is a shortage of some petroleum products. The magnitude of this shortage is difficult to determine but it exists and must be reckoned with. In order to overcome this shortage we are encouraging all refineries to increase the amount of petroleum products available to the American consumer. This is a noble goal, and I applaud it. What is unbelievable to me are the stumbling blocks that we place in the road of such an important segment of the industry which is attempting to accomplish this goal. What we are saying to these refineries is that while we recognize that they have no control over the increased price they must pay for imported crude oil they must continue to experience restraint in the recovery of these additional costs in the prices they are permitted to charge for the refined product. These restraints discourage domestic supplies. Without this crude the refinery does not produce to capacity. At a time when we need a marked increase in new refining capability to meet our requirements, we cannot afford to lose the production capability of our existing refineries.

Mr. President, I find it very difficult to argue with industry when it curtails its import program. I agree that certain costs can be absorbed by industry, but I also realize that industry cannot afford to "carry" the consumer to an unlimited degree. The policy of the Cost of Living Council to refuse to recognize any distinction between foreign crude oil which is entirely free of U.S. price controls and crude oil of U.S. origin which is subject to such controls, must be corrected.

I submit that it is absurd to suppose that refineries dependent upon ever increasing volumes of foreign supplies of crude oil can continue to absorb such massive increases in costs.

Most off-shore crude oil production is owned by a relatively small number of international oil companies which are fully integrated into transportation, refining, and marketing, both in the United States and abroad. These companies have suffered no cost increase even remotely comparable to the cost increase incurred by the crude deficient refineries who must pay the going rate on the foreign market as well as for increased tanker charter costs. The supply difficulties of the crude deficient independents and their dependency on foreign supply is further compounded by declining domestic production and cancellation of contracts for the purchase of domestic crude oil from major oil companies.

I believe that the Council's policy is unfair in that it does not recognize the difference between the crude deficient independent refineries and the integrated industry. The inevitable consequence of such inequity will be to increase concentration in the oil industry and thus weaken the competitive thrust of the crude deficient independent oil companies which have contributed so much to the maintenance of a reasonable price to the public over many years.

In addition to the crude importation problem is a problem in the pricing of imports of refined products. The prices of these products, particularly gasoline and heating oil are generally higher than the established ceiling prices for similar domestic products. Until just a few days ago, July 3, 1973, it appeared that higher costs of foreign imports could be passed on only to those customers actually receiving such products. This procedure created a severe geographical discrimination against purchasers located in areas supplied by such imports. Consequently suppliers were blocked in their efforts to supplement domestic supplies by the purchase of refined products from foreign markets.

On July 3, 1973, there was some evidence that the COLC had recognized this problem. On that date it circulated CLC–315—questions and answers No. 15.

Mr. President, I ask unanimous consent to have printed in the RECORD a copy of this document. I am encouraged by the Council's action, and I hope that the problem can be solved.

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

(See exhibit 3.)

Mr. COOK. Mr. President, as you will note the answers to questions Nos. 5 and 7 of this document purport to clarify the authority of the oil companies to "roll in" the price of refined foreign petroleum products into their domestic pool price. At first glance it would seem that this interpretation would correct the difficulty faced by these refiners. Unfortunately this may not be the case. A serious question remains as to whether a supplier may average his costs of the imported refined petroleum products over his total sales of like products in the event he has already passed through other increased costs up to the 1.5 percent now permitted. If this cannot be done then the basic problem remains. We are faced with an apparent failure of the COLC to distinguish between those products which are under domestic price control and foreign products over which there are no domestic controls.

Mr. President, I wish to add at this point that some people in the United States wonder why these companies are sending their refined fuels to Europe. It does not take an astute mathematician to figure that out. He can sell it in the United States at 18 or 19 cents, and in Europe at 26 cents, 28 cents, and 30 cents. On the European Continent the lowest price is in Great Britain which is 77 cents a gallon and the highest price is in Greece at $1.14 cents a gallon.

It appears from published reports that there are quantities of gasoline and fuel oil available from offshore sources which could relieve in varying degrees the present production shortages in evidence on the east coast and in mid-continent areas. These shortages are a particular burden to the independent

refineries and marketers who are not presently able to obtain adequate domestic production supplies to satisfy their needs.

As I have indicated, the present COLC regulations regarding importation of offshore petroleum products remain unclear, and unless the right of importers to average the higher costs of foreign products over all their sales of like products without the restraints applicable to sales of domestic products is clearly established, these regulations will continue to operate as a real and economically unsurmountable barrier preventing the importation of these sorely needed products. This appraisal of the situation is confirmed by an article in the London Financial Times of July 4, 1973, in which it is stated that—

> The threatened loss of petrol imports from Europe to the U.S. has so far failed to materialize and there are signs that petrol stocks in Europe are reaching capacity at this time. . . . The situation, however, has been somewhat distorted by price controls by consumer governments . . . controls in the U.S. . . . have made it uneconomic for importers to buy petrol at the high European spot prices and bring it back to the U.S. so that actual exports of products from Europe to America have been seriously small this year.

It is good to remove all uncertainty in this matter so that regulatory barriers alone will not block access to essential off-shore supplies.

To obtain a clarification of this matter I have dispatched a letter to the Director of the COLC.

I request that a copy of this letter be placed in the RECORD at the conclusion of my remarks.

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

(See exhibit 4.)

Mr. COOK. Mr. President, the energy industry today faces a problem of establishing and maintaining credibility with the public and with the Congress. The problem is not unlike our own problems which I addressed at the beginning of my remarks.

The other day in the newspaper I read an account of a service station operator selling gasoline at 90 cents a gallon. This isolated price increase, generated by the whim of an individual proprietor, was his way of determining how much markup the market would stand. I surmise that the customer who purchased the product was the victim of a process which has conditioned him to believe that one way or the other the energy companies are "going to get you." They may do it with a false shortage or they may do it with a squeeze on independents—but they are "going to get you."

I believe that we here in the Congress, along with the President, share the blame with the energy industry for the condition in which we have placed the consumer. I do not deny that individual actions which have created this problem have been well meaning and were designed to improve the economic and environmental welfare of the people of America. I could cite many legislative decisions, ranging from our offshore leasing program through the Clean Air Act and down to the Deep Mine Coal Mine Health and Safety Act, which, while improving the health and safety of the environment in which we work and live, have also had side effects which have reduced the production and consumption of available energy fuels. I do not propose that we abandon these goals, but I do believe that we must consider the total impact that they are having on us all. I do not believe that we can call an immediate halt to our petroleum importation program. I do propose that we expend effort to develop our domestic capability to a degree that we are no longer dependent on a foreign power for our energy fuels. Only then can we be sure of our status as a world power.

I submit that the development of our domestic capability is rooted in a dynamic research, development, and demonstration program. The Federal Government must take the lead in this program and industry must participate. Only through the combined efforts of the Congress, the President, and the energy industry can we solve this problem.

We now have before us the President's message which contains this proposal. We have had for some time legislative proposals of a similar nature. Very soon I intend to propose legislation which will provide the funds in the amounts which both have recognized are necessary to establish these vital programs. The 93d Congress can make this possible—we have already accepted the challenge—in the months remaining let us provide the answers.

Mr. President, that concludes my remarks, and I yield back whatever remainder I may have or whatever remainder of my time was made available by the junior Senator from North Carolina.

EXHIBIT 1

STATEMENT OF THE HONORABLE ROBERT W. FRI, ACTING ADMINISTRATOR, ENVIRONMENTAL PROTECTION AGENCY

Good morning, Mr. Chairman and members of the Committee. I appreciate this opportunity to discuss with you some of the many economic, political, and environmental ramifications that attend the use of coal as an energy source.

The principal dilemma posed by coal is its dual status as our most abundant domestic fuel and as one of our major sources of environmental degradation. Thus, against the benefits that would be chalked up in the areas of national security, balance of trade, and economic well-being from an increased use of coal, we must be prepared to enter on the debit side of the ledger the increased costs to our land, water, skies, and health as additional coal is mined and then burned.

However, in contrast to many, we do not consider the dilemma irreconcilable. There are emerging technologies that we feel will allow for the expanded use of coal to meet our nation's future energy needs. But, before turning to these technologies, it must be admitted that there is, as the Committee's background paper calls it, a short to mid-term "liquidity crisis" in the use of coal.

It is to these short term difficulties that I would like first to turn my attention, for if coal is to be relied on as a long-run answer to our energy needs, it must also survive in the short-run.

The crux of the present problem from an environmental standpoint is the difficulty stationary sources using high sulfur coal, particularly utilities and industrial plants, have in meeting the sulfur oxide standards imposed by the Clean Air Act. Under the Act, the Environmental Protection Agency is directed to set ambient air quality standards that protect the public health and welfare. Standards protecting health are called primary standards while those concerned with welfare—such as the impact of pollutants on crops—are called secondary standards. In addition, there are new source standards that apply to all new power plants regardless of location or ambient air quality.

The Act goes on to require that the States meet the primary standards by 1975 and the stricter secondary standards within a "reasonable time." Under the Act, the Administrator may in certain circumstances and upon application from the Governor grant a two-year extension of the 1975 deadline for meeting primary standards. To achieve these standards, States must submit implementation plans to the Environmental Protection Agency for review and approval. To date, these State plans have evinced two characteristics of extreme importance. First, many have chosen 1975 as a "reasonable time" to meet the more stringent secondary standards in addition to the primary standards. Secondly, numerous States have imposed State-wide emission regulations that ignore differences in air quality between regions within the State. This means that scarce low sulfur fuels may be used indiscriminately throughout a State rather than in areas of greatest need.

In order to meet State sulfur standards, several options are open to existing stationary sources burning high sulfur coal. First, they may burn "clean fuels" such as low sulfur coal. Secondly, they may install stack gas cleaning equipment that is being commercially developed. The same choice is also required of new sources. The crunch comes in that our study of the problem indicates that there simply will not be enough clean fuels or reliably demonstrated stack gas cleaning equipment available to meet both primary and secondary standards by 1975 for coal-burning combustion sources. This finding holds true even if we employ the most favorable assumptions regarding increased production or the opening up of new sources of these "clean fuels."

This gap between the "clean fuels" needed and those available has been branded the "clean fuels deficit." Various estimates are available as to the size of this deficit, but the Environmental Protection Agency's estimate of the deficit, which is the lowest of current estimates, is that we are talking about a 1975 gap equivalent to at least 100 million tons of coal, or about one-sixth of the coal currently used.

Our reason for concern over this deficit is that it jeopardizes the achievement of the all important health-based primary standard. The reason behind this is that meeting the more stringent secondary standards would result in fuel shifts by large coal-burning installations to low sulfur oil or gas or in their use of increased quantities of low sulfur coal. This could effectively deny these scarce low sulfur fuels to those who may require them to meet the primary standards. Thus, high priority areas that may desperately need low sulfur fuels to meet primary standards may find themselves unable to procure these clean fuels since they will be siphoned off to meet secondary standards elsewhere.

Thus we have reached something of an ironic impasse. The States, assisted by the Environmental Protection Agency, by fully responding to the spirit of the Clean Air Act and in their desire to protect the health and welfare of their citizens, have by their aggregate response collectively generated a situation which imperils the attainment of the primary standard. Furthermore, their response threatens the economic health of the high-sulfur coal industry, endangers the jobs of 26,000 men who mine such coal, encourages the wasteful use of scarce sulfur-

free natural gases in industrial boilers, and places pressure on our balance of payments through the importation of oil.

But despite the gravity of the problem, there are some grounds for hope. The Environmental Protection Agency's optimism, which others may not share, is predicated on our belief that there are sufficient supplies of clean fuels to meet the primary standards provided State sulfur regulations are no more stringent than required to meet these standards. In order to help funnel available low sulfur fuels to areas that need such fuel to meet primary standards, we have initiated, and the President's Energy message has endorsed, a policy tabbed as our "Clean Fuels Policy."

Briefly stated, our objective is to discourage the use of scarce supplies of low sulfur coal, natural gas, or low sulfur fuel oil unless such steps are needed to meet *primary* standards. We are urging States to review their standards, plans, specifications, and regulations to avoid requirements that would conflict with this policy.

Although promoting the production of low sulfur fuels and stack gas cleaning equipment is a crucial ingredient of this scheme, the lynchpin of this policy is our request to the States that they focus on achieving the primary standard first and then phase in implementation of the secondary standard. Along with providing for an orderly transition between attainment of the primary and secondary standards, we have also asked the States to discourage large-scale fuel shifts from coal to other fuels. In addition, we have adopted a variance policy to permit use of oil with a higher sulfur content than is specified in implementation plans. To implement this policy, Environmental Protection Agency Regions III, IV, and V which encompass much of the East, South, and mid-West, where 80 percent of the Nation's combustion coal is consumed, are currently working with the States on a case-by-case basis. We have also provided technical information to each Region for its use and transmittal to the States. At this time we are reviewing the need for additional steps.

It should be stressed that our "clean fuels policy" is designed not to provide a final solution, but merely to buy time until new sources of low sulfur fuel and improved stack gas cleaning equipment in quantity are available. In this regard, I would urge that the Senate take quick action on the Administration's proposed Mineral Leasing and Mined Area Protection Acts, both of which are needed to bring new sources of low-sulfur coal into production while assuring that the environment is fully protected.

While our "clean fuels policy" serves to give coal a breathing space during the 1970's, it is to a variety of new technologies that we must turn our attention when we discuss the environmentally sound long-term utilization of coal.

This precise issue was discussed by Dr. Stanley Greenfield, EPA's Assistant Administrator for Research and Development, before this Committee last year, and is extensively treated in our forthcoming longer submittal for the record. Therefore, today I would like to focus on the question of research alternatives, especially those processes that would ease our dependence on oil imports. Three different methods of accomplishing this are being pursued. The first is conversion of the coal to liquid or gaseous fuels prior to combustion, to leave pollution-causing constituents in residues. Processes that are being investigated include mechanical cleaning, low BTU gasification, solvent refining and coal liquefaction. The second is redesign of the combustion process. The technology under consideration by the Environmental Protection Agency includes use of a fluidized bed or a molten iron bath. Finally, the stack gases may be treated before release to the environment. There are a number of stack gas scrubbers being investigated at this time, and some are being installed at power plants.

In terms of research alternatives, utility stack gas scrubbing technology is advancing to the point of commercial application, but there are still problems of reliability, solid waste disposal, and environmental degradation that must be resolved. New combustion technology is primarily at the bench test and pilot plant stage, and will require much more work to bring it to commercial success. In addition, pre-combustion treatment and stack-gas scrubbing both have the advantage that they can be applied to existing facilities.

Therefore, one of the most urgent coal research priorities is in the area of pre-combustion treatment, which is currently at the pilot stage. These treated fuels could be readily utilized in current power plants once the methods have been proved out on a commercial scale. However, work should also continue on combustion technology to provide better designs for plants to be built in the future. Other areas of research that might also reduce the demand for oil imports are the production of pipeline quality gas and of other light distillates from coal.

In summation, Mr. Chairman, it is my belief that the carefully crafted approach I have outlined this morning will allow the primary standards to be achieved on time, the secondary standards to be implemented in a timely fashion, and, with the successful introduction of the technologies discussed here, coal to continue to be available as a major resource in ensuring the Republic an adequate energy base as it enters the twenty-first century.

Mr. Chairman, this concludes my prepared remarks. I will now be happy to answer any questions that you might have.

EXHIBIT 2

MEGAWATTS OR NEGAWATTS: GOVERNORS, THE CHOICE IS NOW YOURS

(An address by Carl E. Bagge, president, National Coal Association, June 22, 1973)

My old friend and law school classmate Governor Bumpers, our host for this Conference, distinguished governors of the Southern governors conference, their staffs, and guests:

The American coal industry for which I have the singular privilege of speaking before this Governors Conference is today in an uncomfortably ambiguous position. It is like a man who has been assured of a handsome legacy—if he can survive long enough to collect it. Most energy experts have estimated an annual coal demand of one to one-and-one-half billion tons by 1985—trebling our current annual production—and at the same time rigid environmentalists seem determined that for the American coal industry there will be no tomorrow.

I congratulate the governors of our Southern states, not only for raising the problems of energy supply to the highest level of public concern, but especially for stressing the immediacy of those problems by focusing on the next five years. Today this is not popular. Limiting your review of domestic energy supply and needs to the next five years may deprive you governors of much interesting speculation and fascinating talk about how research will save us, but it will provide you a practical basis for action. We have had enough speculation. Even coal research today is popular. But it is practical action which is urgently needed today.

There is much to be said for the long-range view of energy—in fact, the lack of comprehensive national energy policy planning in the past is one of the primary causes of our present energy troubles. But unless we make a fair start on restoring the practical national energy balance—not within the next five years, but now—we may not be able to afford the dignity of making sound energy options available to succeeding generations. Unfortunately, most of the discussion of energy today ignores the practical necessities of getting from where we are to where we want to be. And I feel especially privileged therefore to participate in a governors conference which, while it may not contribute to the advancement of solar power, may contribute to keeping the nation hinged together and running for the next five years. And this, in my opinion, is the critical period.

If current public uneasiness about the reliability of energy supply is protracted, the reasonable popular appeal to government to do something could degenerate into the cry, "Do anything!" That is not a favorable climate for equitable action; it can nourish only more of the kind of pressurized reaction that has already disjointed both the logistics and the economics of the fuel market in the past. And we should have learned something from the past.

Now, therefore, is the psychological moment for both government and industry to be absolutely candid with the energy consumer, when he is concerned enough about the symptoms of an energy crisis to pay, for the first time, some attention to basic causes. The first thing the public must honestly be told is that if it is looking for energy affluence, it is living in the past. Immediately ahead lies a struggle for bare national energy sufficiency, and that effort will be compounded of hard choices.

The United States formerly took its fuel supply for granted—now it must take it wherever it can get it, and pay more for it. There is simply no cheap solution to the nation's present enormously complicated energy predicament. We have lived long enough and well enough to have shrunk our fossil fuel basis—oil and natural gas by accelerated attrition, and coal by arbitrary restraint—and a quarter of a century of intense nuclear power development has not been nearly enough to realize the old optimistic promise of enough cheap power to make the deserts bloom.

The Nation has run through most of its easily claimed inheritance of energy resources. As naturally acceptable fuels become more difficult to find and develop, production costs go up; as supplies of those fuels shorten, prices go up. That is the gist of the dismal science of economics.

The only real choice we have today is not between sitting on our energy dollars and spending them, but between investing them for the best and safest return to our domestic energy economy and contributing them to foreign fuel producers on the mere hope of buying time to keep our industrial machinery running. This is not only a money choice—it is a matter of national integrity, an election between independence in energy and subservience in international and monetary affairs.

If the nation is to have any realistic hope of revitalizing its domestic energy supply, however, it must start playing from strength by using coal in more intelligent proportion to its unique national abundance. Coal reserves—proved in place and geographically well located—comprise 88 per cent of our known total fuel deposits, including uranium, yet coal annually supplies less than 20 per cent of total U.S. energy supply.

In short, national preference has settled on the fuels in shortest reserve to do the bulk of the nation's work, to the willful neglect of coal with its plain assurance of hundreds of years of supply. The energy consumer has been too preoccupied with suiting his fuel convenience to be concerned about the weakening of fuel sufficiency—until now.

There is increasing recognition that increased coal production and utilization is necessary to meet rising energy demand—as a major primary fuel as well as a vital means of stretching out our domestic oil and gas remainders and reducing our dependence on

fuel imports. President Nixon has only recently strongly urged increased development and use of coal as a matter of highest national priority. Congressional leaders today are vying with the Administration to increase federal spending on coal research and development, and earlier this month the National Governors Conference heard urgent calls from the chief executives of Southern and other states for immediate and effective nationwide programs to improve coal production and utilization.

In one important sense, these sources of coal support are listed in climactic order. The Federal Government must provide long-range coal help—funding the major part of the huge program needed to advance the technology of coal production and utilization through research. But it is the governors of our states who today hold the decision-making power either to strengthen the American coal industry to meet its tremendous future challenge or to chop away at present major markets that are essential to the industry's economic viability and existency. For we cannot as a nation be mesmerized by the newly discovered need for coal research while ignoring the fact that the American coal industry is today being decimated and virtually wiped out of existence by government flat.

I refer, of course, to the absolutely crucial role of the states in implementing the federal Clean Air Act, principally by its requirements for implementing stringent air quality standards by focusing on the sulfur content of fuels. The obvious effect of the federal Clean Air Act today is a throttling constriction of coal use in electric utility and industrial markets because the bulk of normal coal supplied to those markets in the eastern half of the nation simply cannot naturally meet the sulfur standards through the methodology imposed by the Environmental Protection Agency.

To say that the bulk of current coal supply could be banished by sulfur limits is really understating the case. Data from the U.S. Bureau of Mines show that only 8 per cent of coal reserves east of the Mississippi could be burned under EPA's irrational benchmark limit of 0.7 per cent sulfur content without additional means of controlling sulfur oxide emissions.

The sheer gravity of the Clean Air Act is crushing enough to raise new alarm about the impact of some of its provisions—and their overzealous enforcement—on the nation's already deteriorating fuel supply. But while the Federal Government—from the President on down—is now clearly anxious to temper the potentially disastrous effects of its own law, most of the states have moved toward all-out enforcement far beyond the letter of the law.

The Act requires the states to meet the primary or health-related sulfur standards by 1975, and the even stricter secondary or welfare-related standards within what the law calls a "reasonable time." The states were required to spell out to EPA's satisfaction how they planned to achieve those standards. It is evident now that EPA got more than it bargained for from the states, which were left their sovereignty in the matter once they passed the federal test.

In his recent Energy Message to the Congress, the President took note of the problem posed by the states' overzealous action in requiring compliance with secondary air standards in 1975. He warned that unless this state policy is reversed, it would prevent the utilization of 155 million tons of coal annually, which would force an increase in demand for oil of 1.6 million barrels per day, with an adverse effect on our balance of payments of $1.5 billion annually. He pointed out that, "If we carry out the provisions of the Clean Air Act in a judicious manner, carefully meeting the primary, health-related standards, but not moving in a precipitous way toward meeting the secondary standards, then we should be able to use virtually all of that coal which would otherwise go unused." He strongly supported the policy of states deferring secondary ambient standards.

Although the President in his Energy Message declared that the "highest national priority" must be given to increased coal utilization, he clearly left the implementation of that policy directly in the hands of the governors of the states. He did this in two significant respects: First, he delegated to the governors the responsibility for altering air quality standards so as to meet our now obvious limitation on fuel supply; and second, he left to the governors, through their utility regulatory commissions, the initiative for formulating a regulatory policy which would stimulate utilities to make the pollution control investments essential to encouraging the increased utilization of coal.

Thus, the Administration has placed squarely on the governors the responsibility for putting this priority for increased coal utilization to work; and it is in the context of this Presidential decision that I appear before you today pleading on behalf of the American coal industry for the kind of responsible leadership that is urgently required of each of the governors of the several states in order to achieve this newly defined national goal. The President has indeed now lobbed the resolution of this crucial part of the energy crisis into your court.

But there exists no mechanism other than the courageous and farsighted decision-making of the governors to bring this resolution about. Since the President's Energy Message, there has been little evidence that lawmakers in either the states or the local communities, which have accepted even higher air quality standards than the Federal Government, have taken any action to comply with the President's request for moderation, which would contribute so essentially to solving our existing national energy dilemma.

Action on your part is urgently needed now, pending a realistic reappraisal by Congress of the Clean Air Act.

EPA is also seriously concerned—disconcerted or even agitated might be better terms—because most of the states have selected the 1975 deadline for the primary standards as the reasonable time for also enforcing the secondary standard. I realize that statehouses are not as well insulated from the heat of environmental controversy as the less visible federal bureaucracy, but this kind of precpitate action by the state is as unlikely to serve the highest purpose of the clean air crusade as it is certain to aggravate the nation's energy problems. Even the Congress, which presumably best reflects the push and pull of public sentiment on the federal level, wrote into the Clean Air Act authority for the EPA administrator to grant, where circumstances required, a governor's application for a two-year extension of the 1975 deadline for meeting primary standards.

If Congress had misgivings back in 1970 about locking the plant door against high-sulfur fuel on a day certain, even to meet primary air quality goals, how have the states generated such confidence in their ability to meet the more demanding secondary standards in minimum time? The Clean Air Act was passed before our long-gathering energy crisis went public—since then the nation's low-sulfur fuel supply has deteriorated and compliant consumers are forced more and more to operate from an import beachhead.

EPA soberly advised the states in accepting their implementation plans that in the aggregate the plans required a degree of sulfur control that "may not be attainable in the time prescribed." I believe it was irresponsible for EPA to accept the states' plans in view of this finding. William D. Ruckelshaus, EPA Administrator, said later in 1972 that further, more comprehensive studies following EPA's acceptance of the states' plans "confirmed the fact that nationwide there will not be enough gas or low-sulfur coal available by 1975 to fill all of the needs required by state regulations." He added that, in most cases, enough low-sulfur oil could be obtained over the next few years to replace existing high-sulfur oil, but he warned that "it is not practical to rely on oil to solve the deficit in low-sulfur coal."

Mr. Ruckelshaus, in effect, was then telling the states that many of their implementation plans were unrealistic and stressed EPA's willingness as a matter of policy to accept state variances or plan revisions where necessary and where attainment of the primary sulfur standard was not jeopardized.

It is precisely the fear that state shortcuts to secondary standard imposition will completely derail the drive to achieve the prized, health-based primary standard that has led EPA to ask the governors of coal-using states to reappraise their implementation plans. EPA cannot order the governors to defer secondary standards, but it is saying as frankly as federal language will permit that if they shoot them in instead of phasing them in, they may kill their best chance to achieve the primary standards as well as their hope for normal energy supply. The "go-for-broke" approach taken in this vital area by the states is for gamblers; it is beneath the statesmanship of you governors.

Acting EPA Administrator Robert W. Fri also made the case for caution in recent testimony to the Senate Interior Committee this month. With not nearly enough clean fuels to go around, nor enough "reliably demonstrated stack gas cleaning equipment" available to allow coal-burning plants to meet both standards by 1975, Mr. Fri testified, meeting the more stringent secondary standards would require large coal-fired installations to shift to low-sulfur oil or gas, or use more low-sulfur coal. "This could effectively deny these scarce low-sulfur fuels to those who may require them to meet the primary standards," he said. "Thus, high priority areas that may desperately need low-sulfur fuels to meet primary standards may find themselves unable to procure these clean fuels since they will be siphoned off to meet secondary standards elsewhere."

This danger of bad distribution of clean fuel supplies, he warned, can only be heightened by another problem created by the states—the inclusion in numerous state implementation plans of "statewide emission regulations that ignore differences in air quality between regions within the state." This could lead to use of scarce low-sulfur fuel indiscriminately throughout a state rather than in areas of greatest need, Mr. Fri said.

It would be completely incredible—to sincere environmentalists and even more to the coal industry—to interpret EPA's present stance on state implementation plans as advocacy of coal over clean air. Nevertheless, EPA is today busily assuring the states that it is not simply leaving them to their own devices, but is urging the states to join in a handcrafted policy solution to the individual state's energy-environment dilemma.

Mr. Fri in his Congressional testimony also put the problem into national perspective. The aggregate state response to the Clean Air Act, he said, "threatens the economic health of the high-sulfur coal industry, endangers the jobs of 26,000 men who mine such coal, encourages the wasteful use of scarce sulfur-free natural gases in industrial boilers, and places pressure on our balance of payments through the importation of oil."

This is an indictment that I am certain

none of you governors is willing to share, whether or not your state produces coal, or depends on coal as a source of revenue and employment. But while it would be patently unfair to blame a truly national problem involving every fuel and energy source on state actions, in this critical matter of applying the federal Clean Air law every governor today has a necessary, immediate and decisive role in solving that problem.

I would be the first to admit that any deferral of sulfur regulations will require careful development of complex plans based on the individual state's air quality needs and energy resources—the theory of national standards itself is diminished in practice by the fact that all states are not alike. The coal industry has also had its feet held to the environmental fire often enough to realize that any action reflecting on the immutability of air pollution control goals is likely to create a more-than-equal reaction.

Nevertheless, you as governors must today accept these difficult challenges to planning skill and political courage if you are to serve the most urgent economic and social needs of your people, which is possible in our society only through the assured continuity of energy supply. The next five years will undoubtedly threaten our energy economy far more than the environment, and power sacrifices—as we are learning from the public uproar over the first squeeze on gasoline supplies—are hardly the way to inspire nobility toward nature. They could, in fact, produce a backlash that would set even rational environmentalism back a decade.

If you governors must justify modification of state plans to permit continued use of high-sulfur coal under the best available safeguards, you can make your case on sheer necessity. Facing a clean fuels deficit across the board, you are miserably short on options.

The options I can best speak to are a resort to low-sulfur coal and reliance on stack gas desulfurization equipment for coal-fired plants. But unfortunately, neither of these promises the solution to our immediate sulfur pollution quandary.

The conversion of coal to synthetic gas and oil or to a virtually pollution-free solvent refined product has been subjected to a painfully slow pace that precludes significant help by 1978. That is one of the penalties the nation is paying now for its past neglect of opportunities to redeem high-sulfur coal.

To put the low-sulfur coal option in realistic terms, we must look not only at the nation's reserves—which are admittedly huge—but their practical availability, especially to consumers who need them most.

The U.S. Department of the Interior has published a document—"Sulfur Content of United States Coals"—which points out that 65 per cent of our estimated national coal reserves contain 1 per cent sulfur or less. But before we translate that into a windfall of more than 1 trillion tons of relatively acceptable coal supply, we had better note that the Interior study covers coal of all ranks and its detailed analysis of sources is far less comforting than its off-the-top conclusion.

Bituminous coal is the mainstay of the coal industry's national electric utility and industrial markets, but the percentage of reserves meeting the 1 per cent sulfur content test drops dramatically below the all-coal average—down to only 30 per cent. That is still a lot of low-sulfur coal, but unfortunately it is like parking space—the most availability and the greatest need seldom coincide. The major tonnages of low-sulfur bituminous coal are laid down in Alaska, Colorado, New Mexico, Utah, Washington, and Wyoming. With the exception of reserves in Virginia and West Virginia, which are already dedicated for the most part to metallurgical use in support of the nation's vital steel industry, little of our low-sulfur bituminous coal is near present hungry markets in the Midwest and the East.

Switch Montana for Utah and the major deposits of subbituminous coal follow the geographic pattern of low-sulfur bituminous; so, despite the fact that 99 per cent of subbituminous reserves are figured at 1 per cent sulfur or less, they are far removed from the electric utility plants that need them. That is even truer for our reserves of lignite, nearly all of which are located in Montana and North Dakota. Ninety per cent of lignite reserves meet the 1 per cent sulfur criterion, but so far that has been a local power blessing—one, by the way, that Texas with its much smaller lignite deposits has started to take advantage of.

Certainly anthracite—locked into northeastern Pennsylvania—does not change the low-sulfur coal supply. Besides, its combustion characteristics make it impractical for use in plants designed to burn bituminous coal.

So far the Interior study shows under scrutiny that the practical national supply of low-sulfur coal is not really the sum of its reserve parts. But there is another important limiting factor—subbituminous coal and lignite are not only low in sulfur but also comparatively low in heat value of Btu. Many air pollution control ordinances have fixed their sulfur limits not in percentage by weight but in a fraction of a pound per million Btu of plant input. Thus, the lower Btu coals that predominate in the West face a tighter restriction on sulfur by weight than even eastern or midwestern high-sulfur but also high-Btu coals. In all cases, however, this method of limiting sulfur according to heat input is another turn of the screw tightening the available low-sulfur coal supply.

Heat value is a heavy consideration in the use of abundant western low-sulfur coals at remote points of need, as well as the more obvious transportation problem. Only this month, the Tennessee Valley Authority apparently gave the Btu difference between western coals and those available in its operating region decisive weight in withdrawing from a coal slurry pipeline venture that was proposed as a means of bringing long-distance coal movements within TVA's economic reach.

From all of this it is obvious that if low-sulfur coal is to be a substantial answer to present clean energy needs, we must move the nation's coal-fired electric generating capacity to where the fuel is—in the West—or develop a massive transportation network to bring the fuel to existing power generation centers. Both options involve mind-boggling costs and physical complexities, and a completion time that would make 1975 or 1977 air quality deadlines fade into bad history.

It should also be clearer now to the most dedicated environmentalist why EPA is talking about a low-sulfur coal gap by 1975. Mr. Fri told Congress that EPA estimates an annual deficit of at least 100 million tons of coal. Even conceding that this is the lowest of current estimates, he pointed out that his figure represents about one-sixtieth of the coal currently used.

That low estimate, according to EPA sources, is conditional—it could stand up if additional clean fuel supplies and some stack gas desulfurization systems became available, and if some fuel switching occurred. Otherwise, the annual low-sulfur coal gap could widen to 250 million tons. That is, in itself, a possibly optimistic revision of the 325 million ton deficit (assuming no fuel switching and no use of flue gas desulfurization) estimated by the Mitre Corporation think-tank in its 1972 draft of a study commissioned by EPA on the impact of state implementation plans on fossil fuel availability in the near term.

Implicit in the Mitre report is the conclusion that the real crunch will come in states with regulations limiting coal to 1 per cent sulfur or less. Specifically, the report listed the states that would be most affected by the clean coal shortage—Michigan, Wisconsin, Illinois, Indiana, Ohio, Kentucky, Tennessee, Alabama, Georgia, and New York. That is a major slice of coal's present and future market.

The report suggested only two alternatives to low-sulfur coal demands in hard-hit areas—modify state sulfur limits to allow more use of higher sulfur coal, or send abroad for low-sulfur oil to make up the low-sulfur deficit at a cost to the national balance of payments of several billion dollars.

EPA has not officially embraced the Mitre report, but its current strategy of urging the states to defer secondary air standards and its open-arms policy on variances from sulfur regulations where necessary for energy supply show that the Federal Government has finally got the message. Now it is up to the governors of our states to take the initiative, to make the controlling decision, and to choose between a speculative incremental increase in air quality and a certain, debilitating loss of energy from coal. Neither the coal industry nor the national energy supply can stand rejection of coal that does not measure up to increasingly arbitrary and exacting environmental ideals.

So we come to the second coal-saving option—removing sulfur pollutants from stack gases. The rationale behind this technology—cleaning the air we breathe—is eminently more sensible than the legislated approach of restricting the amount of sulfur in coal before it is even burned. As we have seen, EPA is hoping that flue gas desulfurization will help trim the low-sulfur fuel deficit somewhat by 1975, and the coal industry sees it as a key tool in its short-term survival kit, but the ominous fact is that this technology, while measurably advancing, is not progressing fast enough for a cavalry charge against the energy crisis.

Some 27 full-scale sulfur dioxide removal systems, using an ingenious variety of methods including boiler additives, chemical scrubbing of flue gases, and catalytic conversion of SO_2, are planned or have been installed on electric generating units of 100 megawatts or more in the United States, and most of them are currently operating under test conditions. But the expert consensus is that none of these process units has yet shown commercial acceptability commonly defined as satisfactory, reliable full-scale performance.

Electric utilities, in short, are searching for an around-the-clock flue gas desulfurization system that will suit their own set of plant conditions, and they will not move up to wholesale ordering of control equipment at multimillion-dollar cost until they are convinced that the equipment will work as specified. Even if that day comes sooner than anyone now expects, it will still take years of grinding expense to build, install, and shake down enough control systems to make a significant dent in our low-sulfur fuel problem.

The development of stack gas cleaning systems must be pursued and greatly accelerated as a national priority effort for both cleaner air and adequate energy, but it is unlikely to bolster that balance of interests enough in the next five years. A federal interagency group, the Sulfur Oxide Control Technology Assessment Panel, reported last April on its share of a government evaluation of state air implementation plans. The SOCTAP report pointed out that the potential 1975 low-sulfur coal deficit of 250 million tons chargeable to state plans is equivalent to 100,000 megawatts of steam-electric plant capacity, but less than 15,000 megawatts of sulfur oxide control is expected to be available by 1975.

As tight as electric power supply is and will continue to be, every megawatt is criti-

cal to someone, somewhere—and only the most dedicated environmentalist could grit his teeth and bear megawatt shortfalls when they reach the light switch. I do not believe the American public is ready for the concept of what we might call "negawatts"—the measure of power it must do without as the price of rejecting coal that has even a marginal excess of sulfur.

The heart of the matter, then, is that neither low-sulfur coal nor flue gas desulfurization is ready to preserve a domestic full-energy economy. If we could manage to move big enough tonnages of low-sulfur western coal eastward to existing power load centers, the physical makeup of that coal would impose serious combustion problems on boilers designed for eastern and midwestern high-sulfur coal. Utilities have also found that reducing the sulfur in the coal they burn cuts into the efficiency of the electrostatic precipitators they depend on to remove 99 per cent or more of the fly ash that clean air advocates will not tolerate in plant emissions. TVA, among other power systems, recognizes that low sulfur is a mixed blessing—it now plans to put a little sulfur, in the form of sulfur trioxide, back into stack gases to maintain dust collection performance.

There is also another side to the coin in flue gas desulfurization. These systems will produce large quantities of sulfur products for which a market must be found—and that will not be a simple problem in economics—or they will generate large volumes of so-called "throwaway" chemical sludge materials, and finding a good place to throw them away will become just one more element in our huge environmental waste-disposal nightmare.

So we come back to our normal national coal supply as the only practical prop of rising energy demand for at least the next five years. Redemption of high-sulfur coal is not that close at hand, and we must continue to use the fuel we have or risk the energy consequences. And today the choice of megawatts is yours.

Permitting the continued use of available coal is the crux of the involvement of the nation's governors in this most significant environmental issue that will determine the fare of the American coal industry and the shape of our energy future. As a result of the federal posture on phasing in sulfur standards, the governors have sole responsibility for saving a substantial part of the coal industry's productive and economic strength, thereby providing desperately needed energy within the five-year period we are focusing on today.

The governors can accomplish this by correcting the defects we now all recognize in the states' implementation programs and, in a broader sphere, by affirmatively supporting a congressional reevaluation of the means specified in the legislation to achieve implementation of the Clean Air Act.

Let me emphasize that the American coal industry's argument is with these means, and not with the goals of the Act. We contend that the means of implementation specified in the Act are not irrational but have already proved to be counterproductive in attaining the goals themselves. Practical experience during the past three years should have taught us something—if only that the legislative obsession with the amount of sulfur in the fuel and in the emissions rather than the quality of the air people breathe—which is, after all, the real goal of the Act—has brought our environmental hopes on a collision course with the stark realities of our energy supply.

We must reappraise our implementation of the Clean Air Act today on the basis of those insights acquired during the past three years. Perhaps in the context of a very real energy crisis, a reevaluation of the means of implementation will diminish the present zealous and myopic regard only for fixing absolute and arbitrary limits on sulfur in the fuel.

I want to employ this forum, in which I have the unique opportunity and the high privilege of addressing governors of the United States, to appeal to your courageous vision—to urge you to speak out firmly and boldly for an immediate reappraisal by Congress not of the goals of the Clean Air Act of 1970, but of the means of implementing it.

Your leadership was never needed more. Last week's Supreme Court decision in the nondegradation case makes amendment of the Clean Air Act a matter of urgent national need. I must assume that if we intend to keep this nation hinged together and running, that ruling cannot stand unchanged. But since the Act must necessarily be reopened in any event, I urge you to support the efforts of the American coal industry to achieve more rational and productive means of implementing its goals. Specifically, I urge the Southern Governors Conference to adopt a resolution directed to the Honorable Jennings Randolph, Chairman of the Senate Public Works Committee, requesting that his Committee initiate immediate hearings on the need for essential modification of the Clean Air Act. The National Coal Association is today releasing the contents of my letter dated June 22, 1973, formally requesting Senator Randolph to hold such hearings. The scope of these hearings should include the obvious need to modify the Supreme Court's action on the nondegradation issue. In addition, recognition must be given in such hearings to the fact that abatement standards should relate to ambient air conditions and not simply a universally applied stack emission limit as in the case of the EPA new source standards. That sulfur limit was set without any concern for the ambient air condition in the area in which new power plants were to be located.

In addition, it is illogical to burden every existing plant in a state with one very stringent standard which is based on the single worst condition in the state. Abatement standards for existing plants should also be related to the effect of those plants on local ambient air conditions. In many cases this change would allow power plants to continue to use available coal or return to coal, allowing much needed oil and gas to be restored to farms, trucks, and aircraft.

I also believe that if we are to meet both the energy and environmental needs of the nation, EPA and the Congress must recognize the need to add alternate strategies of control to the present simplistic method of setting fuel sulfur limits. For example, intermittent control strategies involving use of low-sulfur fuels or load switching and load reduction during periods of high pollution would allow use of our available coal supplies for much of the year. High stacks, too, with their resultant dispersion, should be recognized as an additional tool to be used in achieving clean air.

The energy-shortage price the nation is paying today for the clean air ideas of tomorrow is unacceptable, and in the coming peak years of the energy crisis will be intolerable. We still have time to right the balance and avoid creeping disaster, but all of us—you governors, federal lawmakers, fuel suppliers, and energy-dependent citizens—must act now to insure that we can reach the nation's goals of both clean air and adequate energy. But most importantly, the choice of megawatts or negawatts is now in your hands—the governors of these United States.

EXHIBIT 3

[Cost of Living Council News Release, July 3, 1973]

SPECIAL FREEZE GROUP QUESTIONS AND ANSWERS NO. 15

1. Q. A firm imports 98 octane gasoline, the cost of which has increased 2c per barrel since June 12, 1973. The firm commingles this gasoline with naphtha and adds lead. The octane rating remains unchanged. May the firm pass through the increased cost of the 98 octane unleaded gasoline?

A. Increases in the landed costs of imports incurred after June 12, 1973 may be passed through on a dollar-for-dollar basis provided that the import is not physically transformed or used as a component of another product. The addition of lead to imported gasoline does not physically transform the gasoline nor make the gasoline a component of another product. Whether the question of naphtha physically changes the imported gasoline depends upon whether the additives change the octane rating of the gasoline. In this case, the naphtha did not change the 98 octane rating of the imported gasoline. Therefore, the 2c per barrel increase in the cost of the imported 98 octane rating unleaded gasoline may be passed through on a penny-for-penny basis.

2. Q. Seller sold to a particular class of purchasers 98 octane rating gasoline for 43.9c per gallon during the freeze base period. On June 20, 1973, seller substituted 96 octane gasoline and is charging 43.9c to the same class of purchasers. Does the substitution of 96 octane for 98 octane gasoline sold at the same price constitute a price increase in violation of the freeze regulations?

A. Yes. The 96 octane gasoline is of lower quality than 98 octane gasoline and generally less expensive to produce. The substitution of a lower octane for a higher octane gasoline without a proportional price decrease is a price increase and is in violation of the freeze rules. The seller would compute his freeze price for a class of purchasers for the 96 octane gasoline as the price charged that class of purchasers during the period June 1 through 8, 1973. If the seller did not sell 96 octane during that period, he would use the price charged during the most recent 7-day period preceding June 1 through 8, 1973, when he sold 96 octane gasoline. If he has not sold 96 octane during the one year period immediately preceding June 20, 1973, he may use the new commodities rule to compute the freeze price.

3. Q. In Freeze Group Questions and Answers No. 3, Question 1 makes clear that a buyer and seller are obligated to adhere to the freeze prices and may not perform at a contract price above the freeze price. Therefore, a seller may decline to perform completely if he wishes when the contract requires a selling price above the freeze price. How is this ruling applied to the contract sale of petroleum under an allocation system?

A. As set forth in the prior Q & A, the seller may be excused from his contractual obligations. However, a seller of petroleum may have noncontractual obligations to a particular buyer under an allocation program. The price freeze rules may excuse the seller from his contractual obligations, but nothing in the freeze rules releases the seller from his noncontractual obligations under an allocation program.

4. Q. Is the freeze price for crude petroleum determined by the producer or the purchaser?

A. The freeze price for crude petroleum is determined by the producer as the highest price at or above which at least 10% of the transactions from that field and for that grade of crude, and with the class of purchaser concerned were priced during the pe-

riod June 1 through 8, 1973. In many cases this freeze price may be less than the prices posted by purchasers of that particular crude from that particular field.

5. Q. After June 13, 1973, a firm purchases 2,000 gallons of imported gasoline at 21¢, an increase of 1¢ per gallon over the price the firm was paying for the same gasoline on June 10. The firm also purchased 8,000 gallons of domestic gasoline of the same octane which it commingled with the imported gasoline. The freeze price for the domestic and imported gasoline is 19¢ per gallon. At what price can the firm sell the gasoline?

A. Subject to the limitations of Special Rule No. 1 of the Phase III regulations which is still in effect during the freeze, the firm has two choices: (1) It may sell the 10,000 gallons of gasoline at 19.2¢ per gallon. This figure is derived by calculating the increased cost incurred (1¢×2,000=$20.00), averaging the increase over all 10,000 gallons of gasoline purchased ($20.00 divided by 10,000 equals .2¢) and adding the average increase to the freeze price (19¢+2¢=19.2¢). (2) Instead of averaging, the firm may alternatively add the 1¢ per gallon increase to the 19¢ freeze price of the imported gasoline. If the firm chose this method, it would sell 2,000 gallons of imported gasoline at 20¢ per gallon.

6. Q. During the freeze base period, a producer sold to a single class of purchaser 5% of his crude oil with a specific gravity of 40 degrees from a particular field at $4.00 per barrel, 5% at $3.75 and 90% at $3.50. What is the freeze price?

A. The freeze price with respect to this class of purchaser is defined as the highest price at or above which at least 10% of the transactions with that class of purchaser during the period June 1 through 8, 1973, took place. Here, the highest price at or above which 10% of the transactions took place is $3.75.

7. Q. A company which derives revenues in excess of $250 million from the sale of petroleum products and crude petroleum imports petroleum products for resale. The company passes through increased costs of those imports by commingling the imports with the domestic product and averaging the price increase over the imported and domestic product. Is this company subject to prenotification and profit margin constraints if it has reached a weighted annual average price increase level of 1.5%?

A. Yes. If a company which refines and imports gasoline commingles the domestic and imported gasoline and sells it all at one price, it may increase that price to reflect increases in the landed cost of the imported gasoline incurred after June 12, 1973.

However, the freeze regulations are in addition to the Phase III regulations and do not supersede those regulations. The freeze regulations will not operate to permit prices higher than permitted under Phase III regulations. Special Rule No. 1 of the Phase III regulations requires a firm which derives $250 million from the sale of covered products to prenotify price increases which exceed 1.5% on a weighted annual basis. An increase in the selling price of domestically refined gasoline to reflect increases in the cost of imported gasoline which is commingled with the domestic gasoline is a price increase for purposes of Special Rule No. 1. Therefore, a firm which has increased prices on a weighted annual average basis of 1.5% may not pass through the increased cost of imports by averaging unless the firm has prenotified and received approval for the price increase from the Cost of Living Council. For purposes of prenotification under Special Rule No. 1, the firm must show that the price increase above 1.5% will not cause the firm to exceed its base period profit margin.

8. Q. The posting for crude in X field was $3.50 from June 1 through June 10. On June 11, 1973, the posting was increased to $3.60, retroactive to June 1, 1973. What is the freeze price?

A. $3.50. The freeze price is the highest price at or above which crude was priced in 10% of the transactions during the period June 1 through 8, 1973. A transaction in oil occurs when the oil enters the pipeline. In this case the posting, effective for the oil entering the pipeline on June 1 through 8, 1973, was $3.50. The freeze rules prohibit a producer from charging and a purchaser from paying more than $3.50 per barrel for crude entering the pipeline after 9:00 p.m., e.s.t., June 13, 1973.

9. Q. A product was shipped on June 10, 1973 at a price which exceeds the freeze price. The product and the bill were received by the purchaser on June 15, 1973. Must the customer pay the higher price which exceeds the freeze price?

A. Yes. The freeze applies only to transactions occurring on or after 9 p.m., e.s.t., on June 13, 1973. A transaction occurs when a product is shipped or a service is performed. This transaction occurred on June 10, 1973 prior to the freeze. Therefore, the price charged is not subject to the freeze.

10. Q. A wholesaler sells gasoline in City X and City Y. The wholesaler has established freeze prices at each city, but recently has been cut off by its supplier at City X. The wholesaler can offer gasoline to all its customers from terminals at City Y. May the wholesaler charge his customers at City X the freeze price at City Y plus transportation charges to bring the product from City Y to City X?

A. No. The seller has a freeze price with respect to the customers in each city. He has never charged for the transportation cost in transporting the gasoline and may not now charge for transportation.

11. Q. An importer of crude, has incurred a 10¢ increase in the cost of the crude over the June 12 cost. Pursuant to the import cost pass on rule, the importer increased his selling price of crude by 10¢. The importer sells this crude to a refiner. May the refiner increase the product price on a dollar-for-dollar basis for products refined from the higher priced imported crude?

A. No. The import cost pass on rule allows any person who imports or resells an imported commodity to pass on, dollar-for-dollar, increases in the landed cost of an import incurred after June 12, 1973 only so long as the commodity is neither physically transformed by the seller nor becomes a component of another product. The refiner has physically transformed the imported crude by refining it. Therefore, he may not use the dollar-for-dollar pass through rule to increase the price of products refined from the imported crude.

EXHIBIT 4

U.S. SENATE,
Washington, D.C., July 9, 1973.

Dr. JOHN T. DUNLOP,
Director, Cost of Living Council, Washington, D.C.

DEAR DR. DUNLOP: In the *Special Freeze Group Questions and Answers No. 15,* issued by your office on July 3, 1973, Questions and Answers 5 and 7 deal with the issue of the averaging of increased costs on foreign petroleum products purchased for resale with the costs of domestic manufactured products. I understand this release was issued to clarify the uncertainty within the industry. However, after reviewing these questions and answers, it appears the basic issue has not yet been resolved.

My concern involves the situation wherein a firm desires to purchase extremely high-priced foreign petroleum products for import. Under Phase III rules, as issued on May 11, 1973, a firm was allowed to purchase petroleum products and pass on cost increases without charge against the 1.5% authorized increase and without prenotification so long as it did not exceed its permitted reseller margin on sales of these products. Under prior regulations the firm had been chargeable with all price increases against the 1.5% without regard to the product origin.

Now, under the 60-day freeze regulations and your clarifications of July 3, 1973, the reseller provision is limited to a dollar and cents pass through on imported commodities. So long as the cost of these imports is not averaged into the total product pool, such increase can apparently be passed on to customers purchasing the particular product without charge against the 1.5% authorized increase. However, this pass through will continue the apparent discriminatory treatment against those customers who due to geographical location or some other reason must be served by imports.

In order to sell these higher cost imports at an equitable price, the firm needs to average the cost of these imports over all its sales of the same product including those to customers presently purchasing the lower priced domestic products. I understand that even though such averaging is now "permitted," any firm which prices in this manner will be penalized by absorbing the increased costs within the authorized 1.5%.

It is my understanding that so long as a firm does not exceed the 1.5%, it is not subject to profit margin limitation. Yet by averaging these higher cost imports, upon which the firm can earn no additional profit, if the firm is caused to exceed the 1.5%, it will be bound by the profit margin limitation. If it is presently in excess of the profit margin, but not over the 1.5%, I have been informed that the COLC may not grant approval for further price increases exceeding the 1.5%.

I believe that this policy will effectively discourage additional imports since they can only be sold to certain customers willing to absorb the entire cost increase. Moreover, the prenotification and approval requirement would seem to be impractical in handling the pricing of imported petroleum products. Decisions as to purchases of such products and arrangements of related transportation must be made instantaneously whenever and wherever product and shipping are found. The COLC requirement for approval with attendant uncertainties of outcome and timing are not suited to the conditions of the marketplace, particularly in a period of shortage.

I would appreciate your response to my questions and if I can be of assistance to your office, please let me know.

Sincerely,

MARLOW W. COOK,
U.S. Senator.

TRANSACTION OF ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of routine morning business for not to exceed 10 minutes, with statements therein limited 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 second assistant legislative clerk proceeded to call the roll.

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

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

SOUTHERN MARYLAND ELECTRIC COOPERATIVE

Mr. MATHIAS. Mr. President, last night I had the interesting experience of attending the annual meeting of the members of the Southern Maryland Electric Cooperative.

Since the Senate, during recent months, has been engaged in legislation dealing with rural electric cooperatives, I thought it might be interesting to see the work that this cooperative is doing, the reflection of that work on the life and progress of Southern Maryland, and some of the difficulties that face the members of the cooperative as a result of some of the legislative changes that have been made in the REA statutory structure.

Therefore, I ask unanimous consent that a copy of the president's annual report and the treasurer's annual report be inserted in the RECORD at this point.

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

REPORT OF JAMES P. BOWLING, PRESIDENT OF THE SOUTHERN MARYLAND ELECTRIC COOPERATIVE FOR 1972

Good evening, fellow members, guests and friends: On behalf of your board of directors, I once again welcome you to the annual members' meeting of your cooperative. It is indeed a pleasure to see your smiling faces and I hope you will still be smiling after the prize drawing—good luck!

This is the thirty-fifth such occasion on which we have come together. As the old saying goes, a lot of water has gone over the dam since this, your business, was first organized in 1937. It was quite a feat for a few dedicated people. They are to be commended for their foresight and hard work. However, without your assistance, continued cooperation and interest, as evidenced by your attendance here this evening, your business could not have flourished as it has. We started out with a small office in Welcome and 165 miles of lines. From some of the figures I will pass on to you, you will be able to picture the growth of your cooperative and the entire area in the past thirty-six years.

The quality and continuity of the service you receive is foremost and your board of directors is dedicated to this purpose, as are all of your cooperative's employees. All decisions are made with this thought uppermost in our minds. We are here to serve you to the best of our abilities and we strive to do just that.

Nowadays, we all tend to take electricity for granted but some of us still remember the days of the kerosene lamps, carrying buckets of water, no air conditioning, and so forth. When we remember the "good old days" as they are sometimes called, we realize what a priceless possession electricity is. In this day and age, we would be lost without it. To this purpose we dedicate our energies—to bring you the best, most reliable, low cost electric service possible.

You have all heard recently on the radio, television and other media, the notification by other power suppliers of a reduction in power of up to five percent and have wondered "how is this going to affect us?" So far, this has not affected us too much but it could and we may have to ask our member-consumers to turn off unnecessary lights and appliances, reduce the usage of air conditioners, and in general, economize in any way possible. We hope this will not be necessary; however, if it should—we know we can count on our people to pitch in and switch off—as you have done before when things got tight.

Our last loan from the rural electrification administration and the cooperative finance corporation totaling more than five million dollars got in under the wire and was approved just prior to the order abolishing low cost, two percent interest loans to rural electric cooperatives. These loans are desperately needed by the cooperative for capital to provide service to present and future consumers. Legislation has recently been passed that will allow funds to be provided under guaranteed-insured loans at five percent. These funds are limited, however, to the amount appropriated by the Congress and will fall far short of our requirements. The excess must be borrowed from sources other than the Federal Government at interest rates of at least seven percent.

Due to the curtailment of low interest funds, it will be necessary for many cooperatives to look to the outside money market for loans, at a much higher interest rate of course. In order to do so, a change in the Maryland Electric Cooperative Act was necessary. This legislation was passed during the last session of the Maryland Legislature and on behalf of our board of directors, I would like to again say "thanks" to our state Senators and members of the House of Delegates for their assistance in the passage of this amendment.

Now, we have to amend our bylaws to allow us to borrow operating capital from sources other than REA and CFC. This amendment was set forth in the notice mailed to each member and appears on the ballot. This action is urgently needed and we ask you to vote "for" the amendment to the bylaws. If you have any questions, our attorney will be glad to answer them a little later on in the meeting during the "new business" portion. Again, and I cannot stress this too strongly, the bylaws amendment is vital to our operation and our ability to serve our present member-consumers and to take care of the many new people moving into our area every day.

Due to the rate increase effective in May of last year, we are once again in the black. 1972 saw an increase in almost every way. We are still breaking records. In fact, your cooperative is the largest of the one thousand electric cooperatives in the United States. As of the end of 1972, we were serving more than forty-three thousand consumers with over four thousand miles of lines in operation. This is ten and eight tenths consumers served per mile of line. Almost two thousand new member-consumers were added in 1972. Purchases of electricity increased by over 49 million kilowatt hours. Revenue increase by more than a million seven hundred thousand dollars and expenses continued to increase by over 600 thousand dollars. Since I don't want to spoil your evening, I won't dwell on the price rise as we are all feeling the pinch.

Thirty-eight miles of new lines were built and many heavied up to provide for more capacity and greater reliability of service to our present and new member-consumers.

Members' equity in the system is almost ten million dollars or about twenty-eight percent of the total assets of our cooperative, which are more than thirty-five million dollars. This is an increase over 1971 by about five million dollars. Some idea of the growth of our cooperative can be obtained if these figures are set off against the cooperative's first loan, which was in the total amount of one hundred sixty-five thousand dollars ($165,000). This is quite a record isn't it?

Plans for construction during the coming year include almost thirty-four miles of new and rebuilding of present transmission lines in Charles County, which is the fastest growing county in our service area at this time. We also plan to rebuild three substations at Waldorf, St. Charles and La Plata, to increase the capacity of these stations in order to keep up with the increased demand. During the past year a second circuit was constructed between Chalk Point and Hughesville.

In Calvert County, we expect to increase the capacity of our Sunderland and St. Leondards substations by rebuilding so we can keep up with the development of these areas.

During the past year much work was done in St. Mary's County to keep abreast of the growth being experienced in that county. Two new substations were built, one at Ryceville, which is actually on the Charles County line but will serve parts of both Charles and St. Mary's, and one at Piney Point. New 69,000 volt transmission lines were built, from New Market to Ryceville and from Valley Lee to Piney Point. The existing 69,000 volt line from Hughesville to Milestown was also rebuilt to provide greater capacity.

As reported last year, we are still hoping to receive approval to attach a 69,000 volt line to the new bridge from St. Mary's County to Solomons, Calvert County. This would insure greater capacity and reliability of service to Calvert County as it would be a third supply line, which is needed.

In conclusion, I would like to again thank you for your assistance and support. As you can see, your efforts have indeed been rewarded Your business is continuing to grow and to fulfill its purpose—that of bringing low cost electricity to the area and its people. Your board of directors and employees will continue to maintain the highest standards of service possible. It is a pleasure to be associated with this great organization and the people that make it click.

Good night and have a good year.

REPORT OF JOHN W. WILLIAMS, JR., TREASURER OF THE SOUTHERN MARYLAND ELECTRIC COOPERATIVE FOR 1972

Greetings, fellow members and friends: As your treasurer, it is again my pleasure to greet you and report to you briefly on the financial operations of your business for the past year.

In accordance with established custom, a detailed and comprehensive report was forwarded to each of our member-consumers in the March–April issue of our newsletter, the Co-op Review. This report contains a statement of income and expenses, balance sheet and information section for 1972 with a comparison to 1971. This report also includes a graph showing how your co-op dollar was spent, along with other information of interest to all of us. Please examine this report, if you have not already done so, as it tells the story of your cooperative's finances. If you did not receive your copy or would like to have additional copies, please contact our Hughesville office and they will gladly send them to you.

Our account books were maintained in accordance with the public utility uniform system of accounts and the operating statement and balance sheet were prepared in conformance with these regulations. Your cooperative's financial position is fairly and accurately presented in this report.

The annual audit of the cooperative's books was completed and certified by the public accounting firm of Peat, Marwick, Mitchell and Company of Washington, D.C.

At this time, I would like to review briefly some of the more important items contained in the annual report, which reflect the financial position of your cooperative.

Our total approved loans at the end of 1972 were almost thirty million dollars ($30,000,000.), most of which has been drawn. This does not include the most recent loan

of more than five million dollars ($5,000,000,), which Mr. Bowling just reported. Low interest loans, such as that loan, will no longer be available to your cooperative. Some 2% loans will be used by some electric cooperatives, but the guidelines are now so stringent that we could not qualify, and this is where CFC comes into the picture. I want to elaborate on CFC for just a minute, CFC stands for National Rural Utilities Cooperative Finance Corporation. You can understand why we say CFC. CFC is a nationwide organization designed to partially fulfill the credit needs of electric cooperatives. The need arose for CFC due to more capital being necessary for expansion than Congress appropriated for low interest loans. CFC is not a Government agency, but is owned and operated by its members and is similar in some respects to the farm credit system. Your cooperative is a member of CFC and is borrowing money from this source as well as the U.S. Government through R.E.A. Rural Electric Administration.

This leads me into the next subject: The amendment on your ballot. Your cooperative could be in a situation where REA and CFC could not furnish all of our credit needs by voting for the amendment you are allowing the board of directors to borrow from sources other than REA and CFC. This is another step in long range planning for continued improvement of services to all of the consumer members of this cooperative.

Now back to the figures having to do with this report. We repaid more than seven hundred fifty thousand dollars ($750,000.) on principal last year, making the total amount repaid on our loans more than seven million five hundred thousand dollars ($7,500,000) as of the end of 1972. More than four hundred forty thousands dollars ($440,000.) was paid in interest in 1972. As of the end of the year, we owed about twenty-two and a half million dollars $22,500,000.) on our loans from REA and CFC.

All payments of interest and principal were made when due and on time.

As of the end of 1972, the assets of your business were more than thirty-five million four hundred thousand dollars ($35,400,000), with liabilities of more than twenty-five million four hundred thousand dollars ($25,400.00). Your equity in the system is now about ten million ($10,000,000.), almost a million more than 1971.

1972 showed a profit of more than nine hundred thousand dollars ($900,000.) which means that this amount was credited back to your capital credits accounts.

Now, I know you are thinking—when are these capital credits going to be refunded? That's a good question—one to which I would like very much to be able to give you a definite answer. However, there are certain restrictions having to do with our loans to REA and CFC that would not allow us to pay capital credits until our debt ratio is improved. This is sort of an impossible situation. In an area such as these four counties with the demand for additional electric service we are caught in the circle: the more growth, the more money needed for new lines, equipment, the more credit needed to buy these things for the service you need. If this area was not growing, if it was not progressive things would be different. We are glad to be a part of and participate in the growth that is necessary for all of us in today's living. As soon as it is possible to do so, another retirement of capital credits will be made. When this time comes, this announcement will indeed give us great pleasure.

Total revenue for 1972 was more than twelve million dollars ($12,000,000.), an increase of over one million, seven hundred thousand ($1,700,000.). Operating expenses and other costs came to more than eleven million dollars ($11,000,000.), an increase of seven hundred thousand ($700,000.) over 1971.

As evidenced by the number of digits in these figures, your cooperative is big business and your board of directors is constantly aware of its duties and responsibilities to you, its member-consumers. We are doing our utmost to improve the quality of your service and to take care of all of our new member-consumers coming into the area every day.

Real estate and operating taxes in the four counties in our service area increased by more than twenty-five thousand dollars ($25,000.), making a total of more than three hundred thirty thousand dollars ($330,000.). This does not include other state and social security taxes. as you can see—we do pay taxes even though we are a non-profit organization.

I realize that because of the size of the figures and the complexity of our operation, it is rather difficult to present a report which is readily understandable to everyone. That is why we try to simplify the statement as far as possible. In any event, be assured that the figures properly reflect the condition of your business, which I am glad to say, is excellent. As owners of your cooperative, this information is important. Your board of directors wishes you to be informed of these matters and to know that your interests are the governing factor in all decisions. I again ask you to examine the detailed report so you will know what steps are being taken in the administration of your business.

We will continue to grow, develop and improve. I would like to add that the growing and developing and improving of your electric cooperative will depend to a large degree upon our employees who we believe are trained and qualified and well equipped to handle the ever increasing complexities of keeping up with the times.

With this I say good-night. Thank you for coming out. It shows that you are interested and concerned. It is indeed our pleasure to be of service to you.

The PRESIDING OFFICER. Is there further morning business?

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

The PRESIDING OFFICER. The clerk will call the roll.

The 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.

SENATOR MATHIAS—DISTINGUISHED MOUNTAINEER

Mr. ROBERT C. BYRD. Mr. President, with many of my colleagues in this Chamber, I have always admired the high levels of intelligence and legislative skills that are associated with the senior Senator from Maryland. This respect is held by his peers on both sides of the aisle.

To this respect, I must now add my admiration for his perspicacity and impeccable good taste. During the Independence Day recess, I noted in a news story in the Washington Post that Senator MATHIAS is the owner of a sizable farm in West Virginia. We mountaineers are delighted to welcome such a distinguished representative from the Free State.

Though I have been unable to confirm the authenticity of the report, it has been stated that when the distinguished senior Senator from Maryland signed the deed giving him possession of part of the Mountain State, he quoted the famous closing lines from "A Tale of Two Cities"—

It is a far, far better thing that I do, than I have ever done.

Mr. MATHIAS. Mr. President, if the distinguished assistant majority leader would yield, I can only give a qualified confirmation of that report. I had the good fortune to have a grandmother who was born on a farm in Jefferson County, W. Va. That farm is still in our family. We go to it with great pride and pleasure. I wish I could say that it were mine. However, I enjoy it as much as if it were, and I enjoy my association with the property as a part of family life that we have together.

It is always a pleasure on the all-to-rare occasions that we have occasion to visit Jefferson County to feel that we are under the beneficent influence of the distinguished Senators from West Virginia, Mr. ROBERT C. BYRD and Mr. RANDOLPH.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished Senator. I know that he will join me in urging my colleagues to visit the Mountain State at every opportunity that presents itself. There they may enjoy the iridescent hills, the iridescent sunsets, good food, and warm hospitality, and hopefully get some rest "far from the madding crowd."

ORDER FOR TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW

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

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

ORDER FOR SENATE TO CONSIDER S. 1328, THE HIGH SPEED GROUND TRANSPORTATION SYSTEM IN THE STATE OF CALIFORNIA, TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent, in the event action is completed today on S. 1435, a bill to provide an elected Mayor and City Council for the District of Columbia, that on tomorrow, at the conclusion of the routine morning business the Senate proceed to the consideration of S. 1328, a bill to direct the Secretary of Transportation to make an investigation and study of the feasibility of a high speed ground transportation system between the cities of Sacramento, San Francisco, Fresno, Los Angeles, and San Diego in the State of California; and that the unfinished business be temporarily laid aside and remain in a temporarily laid aside status until the disposition on tomorrow of S. 1328 or until the hour of 1:30 p.m., whichever is the earlier.

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

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

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

PROPOSED LEGISLATION FROM DEPARTMENT OF AGRICULTURE

A letter from the Under Secretary of Agriculture, transmitting a draft of proposed legislation to amend Section 602 of the Agricultural Act of 1954 (with an accompanying paper). Referred to the Committee on Agriculture and Forestry.

REPORT ON CONSTRUCTION PROJECT PROPOSED TO BE UNDERTAKEN FOR THE ARMY RESERVE

A letter from the Deputy Assistant Secretary of Defense (Installations and Housing), reporting, pursuant to law, on a construction project proposed to be undertaken at Fort Wayne, Indiana, for the Army Reserve. Referred to the Committee on Armed Services.

PROPOSED LEGISLATION FROM THE DISTRICT OF COLUMBIA GOVERNMENT

A letter from the Mayor-Commissioner, The District of Columbia, Washington, D.C., transmitting a draft of proposed legislation to amend the Act entitled "An Act to regulate the employment of minors within the District of Columbia" (with an accompanying paper). Referred to the Committee on the District of Columbia.

PROPOSED LEGISLATION FROM SECRETARY OF THE TREASURY

A letter from the Secretary of the Treasury transmitting a draft of proposed legislation to provide for increased participation by the United States in the Asian Development Bank (with an accompanying paper). Referred to the Committee on Foreign Relations.

REPORTS OF COMPTROLLER GENERAL

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Contracts With Foreign Firms Should be Priced in Local Currency", Department of Defense, dated July 6, 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 "Russian Wheat Sales and Weaknesses in Agriculture's Management of Wheat Export Subsidy Program", Department of Agriculture, dated July 9, 1973 (with an accompanying report). Referred to the Committee on Government Operations.

REPORT OF BOARD OF DIRECTORS OF FEDERAL PRISON INDUSTRIES, INC.

A letter from the Commissioner, Federal Prison Industries, Inc., Department of Justice, transmitting, pursuant to law, a report of the Board of Directors of Federal Prison Industries, Inc., for the fiscal year 1972 (with an accompanying report). Referred to the Committee on the Judiciary.

TEMPORARY ADMISSION INTO THE UNITED STATES OF CERTAIN ALIENS

A letter from the Acting Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, copies of orders entered in the cases of certain aliens temporarily admitted into the United States (with accompanying papers). Referred to the Committee on the Judiciary.

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 amend the Immigration and Nationality Act, and for other purposes (with an accompanying paper). Referred to the Committee on the Judiciary.

PETITIONS

Petitions were laid before the Senate and referred as indicated:

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

A joint resolution of the Legislature of the State of California. Referred to the Committee on Agriculture and Forestry:

"ASSEMBLY JOINT RESOLUTION NO. 11

"Relative to acquiring land in the Lake Tahoe Basin for public purposes

"Whereas, The Fibreboard Corporation is offering to the United States Forest Service, United States Department of Agriculture, 10,120 acres of land lying mainly within the Lake Tahoe Basin, in exchange for national forest timber in the State of California; and

"Whereas, The County of Placer has approved this transaction by resolution dated January 23, 1973, as being in the interest of Placer County; and

"Whereas, The Tahoe Regional Planning Agency has approved this exchange by resolution dated January 24, 1973, as meeting the objectives of the Interstate Compact which was approved by this Legislature, the State of Nevada, and ratified by the Congress of the United States; and

"Whereas, The Congress of the United States, in approving the Tahoe Regional Planning Compact between the States of California and Nevada directed the Secretary of Agriculture to cooperate with the regional agency in all respects compatible with the duties of his department in attaining the goals for the Lake Tahoe region; and

"Whereas, The acquisition by the United States Forest Service of the lands offered by the Fibreboard Corporation will materially aid the Tahoe Regional Planning Agency in achieving the goals under its adopted general plan for the Lake Tahoe Basin, will bring about more desirable land ownership patterns, provide additional recreational opportunities, protect the environmental qualities of the basin, and yield other public benefits; now, therefore, be it

"Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California, in recognition of the benefits which would arise from public ownership of the lands offered by the Fibreboard Corporation, urges the Secretary of Agriculture and the Chief of the United States Forest Service to give the utmost favorable consideration to the proposal and to expedite consummation of the proposed land exchange; and be it further

"Resolved, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to take appropriate steps to reimburse local governments for any loss of funds they would otherwise receive from the sale of the timber involved in such exchange; 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 Secretary of Agriculture, the Chief of the United States Forest Service, the Regional Forester for the California Region of the United States Forest Service, 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 Interior and Insular Affairs:

"ASSEMBLY JOINT RESOLUTION NO. 36

"Relative to protection of the California desert

"Whereas, The State of California contains substantial desert area under the jurisdiction of the United States Bureau of Land Management; and

"Whereas, These desert areas are presently incurring significantly increased recreational use; and

"Whereas, The United States Bureau of Land Management has determined through its California Desert Study that a comprehensive plan for the development, protection, and use of the desert is urgently needed, and that this effort must be accompanied immediately with a program of critical interim management to protect the valuable and endangered resources of the desert while providing safety for its users; and

"Whereas, The fragile desert environment and its resources continue to be damaged and destroyed and visitors injured or killed because of lack of management and the Bureau of Land Management's program for the current fiscal year is 2.5 million dollars short of the funding level needed to proceed on schedule with the California Desert Program; and

"Whereas, The Bureau of Land Management lacks enforcement authority that is urgently needed to bring management and control to the greatly increasing recreational use of the California desert; 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 requests the Congress of the United States to act swiftly to provide the Bureau of Land Management adequate funding to enforce the necessary laws for the protection of the California desert and to bring proper management for the protection of the resources of the lands involved; 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 memorial of the Legislature of the State of Colorado. Referred to the Committee on Commerce:

"SENATE JOINT MEMORIAL NO. 10

"Memorializing the Congress of the United States to consider the problems of vehicle emission control at high altitudes

"Whereas, the federal motor vehicle control program has been primarily directed to solving emission problems existing at sea level; and

"Whereas, The larger urban centers in the state of Colorado and other Rocky Mountain states exceed federal primary ambient air quality standards largely because of motor vehicle emissions; and

"Whereas, Properly tuned motor vehicles emit approximately twice the carbon monoxide and hydrocarbon emissions at the altitude in Denver as they do when operated at sea level; and

"Whereas, It is of the utmost urgency that automobile manufacturers continue to proceed diligently toward automobile engine designs that can clean up our air and at the same time not unnecessarily use fossil fuels or unduly increase the costs of automobiles beyond a proper cost-benefit ratio in achieving emission controls; and

"Whereas, Solutions must be found to high altitude motor vehicle emission control problems; now, therefore,

"Be It Resolved by the Senate of the Forty-ninth General Assembly of the State of Colorado, the House of Representatives concurring herein:

"1. That Congress amend the federal

'Clean Air Act' to recognize and stimulate solutions to the special problems related to achieving practical automobile emission standards in high altitude areas by:

"(a) Requiring new automobiles to meet federal standards at higher altitudes on a reasonable time schedule designed both to achieve clean air promptly and to assure citizens living at high altitudes of the availability of reliable and practical emission control systems on automobiles;

"(b) Recognizing the need to extend the time limit for achievement of ambient air standards in critical high altitude areas or adopt separate criteria therefor.

"2. That the provision of the federal "Clean Air Act" regarding penalties for dealers and other persons who tamper with air pollution control devices and systems on motor vehicles be amended so that dealers may make necessary modifications or adjustments to motor vehicles to achieve reduced emissions without penalties and provide that state air pollution agencies must specify or approve adjustments or modifications for high altitudes which they determine will result in lower emissions.

"3. That the Environmental Protection Agency actively assist in the solution of high altitude motor vehicle emission problems by furnishing high altitude test data, providing funding and other resources for evaluating high altitude air pollution tuneup specifications, high altitude engine modifications, and retrofit control systems.

"4. That Congress act to stimulate those solutions to the automobile emission problem which will make the least demand on the nation's energy resources.

"Be It Further Resolved, That copies of this Memorial be transmitted to the Administrator of the Environmental Protection Agency, the President of the Senate of the Congress of the United States, the Speaker of the House of Representatives of the Congress of the United States, and to each member of Congress from the State of Colorado."

A joint resolution of the Legislature of the State of Colorado. Referred to the Committee on Commerce:

"SENATE JOINT RESOLUTION No. 24

"Whereas, Locally originated radio news is becoming increasingly rare in the Denver area; and

"Whereas, Political leaders in our state and nation have frequently voiced concern about the increasing centralization of news coverage; and

"Whereas, Constant information of overriding public concern, as in the case of Colorado's most recent flooding, can best be dispensed through a 24-hour news operation; and

"Whereas, The broadcast dissemination of information in sufficient detail to responsibly interest citizens in their government is difficult within the constraints of the normal five-minutes-an-hour news format; and

"Whereas, Ongoing coverage of public policy news is economically unfeasible when programming emphasis is on entertainment; and

"Whereas, The existing station, KBTR, has assembled a staff capable of dealing with the varied demands of the daily news; and

"Whereas, The remarkable profitability of the current KBTR operation has not been entered into evidence; and

"Whereas, Any successor all-news station would undoubtedly be faced with an extended period of economic loss before becoming viable; and

"Whereas, The preferences of the people have not been consulted; and

"Whereas, The news-gathering capabilities of KBTR have proved invaluable to other broadcast entities beyond its range; and

"Whereas, An ownership change need not involve a format change; now, therefore,

"Be It Resolved by the Senate of the Forty-ninth General Assembly of the State of Colorado, the House of Representatives concurring herein:

"That the existence of a 24-hour all-news broadcast service in the Rocky Mountain West has made a valuable and effective contribution to the public interest.

"That the Federal Communication Commission is hereby petitioned to consider the valuable contribution this 24-hour news service has made to the public interest in making any decision involving the nature of the service available to the citizens of Colorado.

"Be It Further Resolved, That copies of this Resolution be transmitted to the Chairman of the Federal Communications Commission, the President of the United States, the President of the Senate of the Congress of the United States, the Speaker of the House of Representatives of the Congress of the United States, and the members of the Congress from the State of Colorado."

A memorial of the Senate of the State of Florida. Referred to the Committee on the Judiciary:

"Senate Memorial No. 615

"A memorial to the Congress of the United States objecting to the granting of amnesty to deserters and draft evaders from the armed services of the United States

"Whereas, over two million young Americans have served in the armed forces of the United States of America in the Republic of Vietnam, and

"Whereas, thousands of these young Americans have given of their careers and lives in the service of the United States, and

"Whereas, only now are we seeing the return of those brave Americans who were held as prisoners of war by the adversary in Southeast Asia, and

"Whereas, hundreds of other Americans, refusing to serve in the armed forces of the United States have either obtained conscientious objector status or paid the necessary criminal penalties for violating the laws of our land, and

"Whereas, civil disobedience calls for disobeying a law because one believes that it is immoral and then accepts the punishment for violating that law, it is quite another matter to expect the society that made the law not to punish one for that disobedience, and

"Whereas, for a democratic government to be viable its citizens cannot pick which laws they will obey and which laws they will ignore, now, therefore,

"Be It Resolved by the Legislature of the State of Florida:

"That we are firmly opposed to the granting of amnesty to those individuals who left the United States of America rather than serve in the armed forces or pay the criminal penalties for violating the laws of the land in regard to military service, and, moreover

"We call upon the members of the United States House of Representatives and United States Senate from the State of Florida to oppose any legislative proposal which would grant amnesty to those draft dodgers and deserters who left the United States of America rather than pay the penalties for their actions, and, moreover

"Be It Further Resolved that copies of this memorial be dispatched to the President of the United States, to the President of the United States Senate and to the Speaker of the House of Representatives of the United States and to each member of the Florida delegation to the United States Congress."

A joint resolution of the Legislature of the State of Maine. Referred to the Committee on Commerce:

"JOINT RESOLUTION

"Memorializing the Congress of the United States to extend the U.S. fisheries management jurisdiction 200 miles seaward from its boundaries

"We, your Memorialists, the House of Representatives and Senate of the State of Maine in the One Hundred and Sixth Legislature, now assembled, most respectfully present and petition your Honorable Body as follows:

"Whereas, Maine fishermen are currently losing the livelihood of generations through federal failure to control excessive foreign fishing off the coast; and

"Whereas, Federal negotiations at the "law of the sea" conference even if successful will take 6 to 10 years to ratify and implement leaving little or no protection during the interim; and

"Whereas, this inaction has prompted the Maine Legislature to declare Maine's fisheries management jurisdiction 200 miles seaward from its boundaries or to the edge of the continental shelf; and

"Whereas, the Congress of the United States must act now to extend United States fisheries management jurisdiction beyond 12 miles to the 200 mile limit before fishing stocks are exhausted; now, therefore, be it

"Resolved: That We, your Memorialists, respectfully recommend and urge the Congress of the United States to use every possible means at its command to extend the fisheries management jurisdiction of the United States without interfering with Canada 200 miles seaward or to the edge of the continental shelf and thus reduce the chances of certain depletion of fishing stocks by overfishing; and be it further

"Resolved: That a duly authenticated copy of this Memorial be immediately submitted by the Secretary of State to the President of the Senate and Speaker of the House of the Congress of the United States and to each Member of the Senate and House of Representatives in the Congress of the United States from this State."

A concurrent resolution of the Legislature of the State of New Hampshire. Referred to the Committee on the Judiciary:

"HOUSE CONCURRENT RESOLUTION No. 6

"Memorial to petition the Congress of the United States of America to call a convention to propose an amendment to the Constitution of the United States permitting voluntary prayer in public schools

"To the Honorable Senate and House of Representatives of the United States Congress Together Assembled,

"We, your memorialists, the Senate and House of Representatives of the State of New Hampshire in General Court Assembled, most respectfully present and petition your Honorable Body as follows:

"Whereas, Article 1 of the Amendments to the Constitution of the United States which povides "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances," has been construed by the United States Supreme Court to not permit organized prayer in public schools; and

"Whereas, the Legislature of the State of New Hampshire believes that voluntary prayer in public schools should be permitted as being consistent with the guarantees the founding fathers of the United States of America intended; and

"Whereas, the Legislature of the State of New Hampshire believes that Article 5, Part First, of the Constitution of New Hampshire has recognized every individual's natural and inalienable right to freedom of worship in accordance to the dictates of their own con-

science, and this the Legislature of the State of New Hampshire believes to encompass the right of individual students in public schools to voluntarily say prayers of their own choosing on appropriate occasions in accordance with the dictates of their own conscience;

"Now therefore be it resolved, by the House of Representatives, the Senate concurring:

"1. That the Legislature of the State of New Hampshire, hereby, and pursuant to Article V of the Constitution of the United States, make application to the Congress of the United States, to call a convention for the purpose of proposing an amendment to the Constitution of the United States to the effect that: "Voluntary Prayers Shall be Permitted in Public Schools at Appropriate Times, Daily."

"11. That attested copies of this concurrent resolution be sent to the presiding officers of each House of the Congress and to each member of the New Hampshire delegation in Congress, and that printed copies thereof, showing that said concurrent resolution was adopted by the Legislature of New Hampshire, be sent to each House of each legislature of each state of the United States;

"111. That this application hereby made by the legislature of the State of New Hampshire shall constitute a continuing application in accordance with Article V of the Constitution of the United States until at least two-thirds of the legislatures of the several states shall have made similar applications pursuant to Article V.

"1V. That since this is an exercise by a state of the United States of a power granted to it under the Constitution, the request is hereby made that the official journals and records of both Houses of Congress shall include the resolution or a notice of its receipt by the Congress, together with similar applications from other states, so that the Congress and the various states shall be apprised of the time when the necessary number of states shall have so exercised their power under Article V of the Constitution;

"V. That since this method of proposing amendments to the Constitution has never been completed to the point of calling a convention and no interpretation of the power of the states in the exercise of this right has ever been made by any court or any qualified tribunal, if there be such, and since the exercise of the power is a matter of basic sovereign rights and the interpretation thereof is primarily in the sovereign government making such exercise and since the power to use such right in full also carries the power to use such right in part, the Legislature of the State of New Hampshire interprets Article V to mean that if two-thirds of the states make application for a convention to propose an identical amendment to the Constitution for ratification with a limitation that such amendment be the only matter before it, that such convention would have power only to propose the specified amendment and would be limited to such proposal and would not have power to vary with the text thereof nor would it have power to propose other amendments on the same or different propositions;

"VI. That the Legislature of the State of New Hampshire does not, by this exercise of its power under Article V, authorize the Congress to call a convention for any purpose other than the proposing of the specific amendment which is a part hereof, nor does it authorize any representative of the State of New Hampshire who may participate in such convention to consider or to agree to the proposing of any amendment other than the one made a part hereof;

"VII. That by its actions in these premises, the Legislature of the State of New Hampshire does not in any way limit in any other proceeding its right to exercise its power to the full extent;

"VIII. That the Congress, in exercising its power of decision as to the method of ratification of the proposed article by the legislatures or by conventions, is hereby requested to require that the ratification be by the legislatures.

"Adopted May 24, 1973."

A joint resolution of the General Assembly of the Commonwealth of Pennsylvania. Referred to the Committee on Finance:

"SENATE OF PENNSYLVANIA RESOLUTION

"Resolved (the House of Representatives concurring), That the General Assembly of the Commonwealth of Pennsylvania memorialize the President and the Congress of the United States that the statutes, policies, programs and rules and regulations of the United States government relating to programs for the assistance of senior citizens be developed, and amended if necessary, so that no senior citizen shall be discriminated against in any program because he is not a welfare recipient; and be it further

"Resolved, That a copy of this resolution be transmitted to the President of the United States and to the presiding officer of each House of Congress of the United States and to each Senator and Representative from Pennsylvania in the Congress of the United States."

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

"CONCURRENT RESOLUTION

"Memorializing Congress to enact such legislation as will eliminate inequities and discrimination in the Social Security Act

"Whereas, the Social Security Act incorporates inequities that have translated the application of the provisions of the act into such discrimination that it has created unnecessary hardship and apathy; and

"Whereas, the disparity in treatment of and the quaint computation for determining disposition of benefits to husband and wife, widow and widower and the children of beneficiaries lessens the altruistic and salubrious purposes of the original concept of the act; and

"Whereas, there is grave concern that should the inequities remain uncorrected benefits will be misdirected leaving those most in need unaided; certainly our citizens deserve better. Now, therefore,

"Be it resolved by the House of Representatives, the Senate concurring: That the Congress be memorialized to enact such legislation as will eliminate inequities and discrimination in the Social Security Act.

"Be it further resolved that copies of this resolution be forwarded to the President of the United States, to the two members of the United States Senate of this State, to each member of the House of Representatives of this State, to the Speaker of the House of Representatives and the President of the Senate of Congress."

A joint resolution of the Legislature of the State of Utah. Referred to the Committee on Interior and Insular Affairs:

"H.J.R. No. 28

"A joint resolution of the 40th Legislature of the State of Utah, memorializing the Secretary of the Interior, the Director of the National Park Service, the Superintendent of Grand Canyon National Park, the Superintendent of Canyonlands National Park, the Superintendent of Dinosaur National Monument, and the Congress of the United States to protect and promote proper tourism and preservation of the natural wonders of our waterways in the national parks and monuments

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

"Whereas, the majority of the river-running companies of Southern Utah are a decided asset to the environment and the economy of the State of Utah; and

"Whereas, the river-running companies headquartered in the Kane County area are aiding the local economy by hiring over 70 people; and

"Whereas, Kane and Garfield Counties are economically depressed areas with over 14% unemployed; and

"Whereas, there is apparent bureaucratic red-tape and discrimination against these river-runners to the extent that they may be forced out of total operation; and

"Whereas, these companies are totally committed to a clean, humanly sterile environment in the wilderness areas they visit, leaving behind them absolutely nothing but their footprints; and

"Whereas, these companies are being forced to submit to severe reductions in patrons; and

"Whereas, some concessioners who have never functioned at all in the past and who do not have any equipment, any supplies, or any intention of river-running, have been given an equal quota of only 320 patrons with other serious businessmen; and

"Whereas, the river-runners had an extremely short notification of the cut-back in the number of patrons allowed to travel with each company; and

"Whereas, many river-runners will not be able financially to correspond with patrons who have already booked trips with them for the coming season to tell them that they cannot find a place for them in their boats; and

"Whereas, the Kane County area merchants have begun to gear their operations to accommodate the influx of patrons for the river-running companies.

"Now, therefore, be it resolved, by the Legislature of the State of Utah that we call upon the National Parks Service, the Secretary of the Interior and the Superintendents of Grand Canyon National Park, Canyonlands National Park and Dinosaur National Monument to rescind the cut-back on such a blanket restriction, and to reconsider the proper means of accommodating our traveling public in such a way that the ultimate enjoyment of the parks can be achieved with the minimum amount of ecological imbalance, if any.

"Be it further resolved, that the legislature of the State of Utah call upon the Congressional delegation from the State of Utah to work avidly for the implementation of this resolution.

"Be it finally resolved, that the Secretary of the State of Utah, be, and is hereby directed, to send copies of this resolution to the Secretary of the Interior, the Director of the National Park Service, the Superintendent of Grand Canyon National Park, the Superintendent of Canyonlands National Park, the Superintendent of Dinosaur National Monument, to the Senate and House of Representatives of the United States and to the Senators and Representatives representing the State of Utah in the United States Congress."

A resolution adopted by the National People's Action on Housing, Chicago, Ill., in support of House Joint Resolution 512. Referred to the Committee on Banking, Housing and Urban Affairs.

A resolution adopted by the city of Baton Rouge and parish of East Baton Rouge, La., reaffirming support for the general revenue sharing program. Referred to the Committee on Finance.

A resolution adopted by the common council of the city of Buffalo, N.Y., relating to retirement and social security. Referred to the Committee on Finance.

A resolution adopted by the Idaho State AFL–CIO, endorsing the Kennedy-Griffiths Health Security bill. Referred to the Committee on Finance.

A resolution adopted by the Arizona Inter

Tribal Council, praying for the enactment of legislation to designate the fourth Friday in September as National Indian Day. Referred to the Committee on the Judiciary.

A resolution adopted by the city council of Anchorage, Alaska, in support of S. 1305, creating a national cemetery at Fort Richardson, Alaska. Referred to the Committee on Veterans' Affairs

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. MONDALE, from the Committee on Labor and Public Welfare, with amendments:

S. 1191. A bill to establish a National Center on Child Abuse and Neglect, to provide financial assistance for a demonstration program for the prevention, identification, and treatment of child abuse and neglect, and for other purposes (Rept. No. 93-308).

EXECUTIVE REPORTS OF COMMITTEES

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

By Mr. PROXMIRE, from the Committee on Banking, Housing and Urban Affairs:

Gary L. Seevers, of Virginia, to be a member of the Council of Economic Advisers.

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

By Mr. JACKSON, from the Committee on Interior and Insular Affairs:

Burton W. Silcock, of Virginia, to be a member of the Joint Federal-State Land Use Planning Commission for Alaska.

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

ORDER FOR STAR PRINT OF H.R. 8619

Mr. MANSFIELD. Mr. President, at the request of the Senate the House has returned to the Senate H.R. 8619, appropriating funds for agriculture, environment, and consumer protection. This request was made in order to make certain corrections in the bill as messaged to the House. Therefore, Mr. President, I ask unanimous consent that star print be made of the engrossed amendments as passed by the Senate so as to make them conform to the action taken by the Senate on the bill, which inadvertently was not contained in the desk copy thereof.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

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

By Mr. HART:

S. 2131. A bill for the relief of Bogdan Bereznicki;

S. 2132. A bill for the relief of Robert J. Ebbert and Design Products Corporation, Troy, Michigan; and

S. 2133. A bill for the relief of Edward Anderson Mabin. Referred to the Committee on the Judiciary.

By Mr. BIDEN:

S. 2134. A bill to provide for annual authorization of appropriations to the United States Postal Service. Referred to the Committee on Post Office and Civil Service.

By Mr. JACKSON (for himself, Mr. PERCY, Mr. RIBICOFF, Mr. ERVIN, Mr. JAVITS, Mr. DOLE, Mr. ROTH, Mr. BROCK, and Mr. DOMENICI) (by request):

S. 2135. A bill to promote more effective management of certain related functions of the executive branch by reorganizing and consolidating those functions in a new Department of Energy and Natural Resources, by reorganizing and consolidating others in a new Energy Research and Development Administration, and for other purposes. Referred to the Committee on Government Operations.

By Mr. SCOTT of Pennsylvania:

S. 2136. A bill to amend section 107 of the River and Harbor Act of 1970. Referred to the Committee on Public Works.

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

S. 2137. A bill to amend the Act of October 15, 1966 (80 Stat. 953, 20 U.S.C. 65a), relating to the National Museum of the Smithsonian Institution, so as to authorize additional appropriations to the Smithsonian Institution for carrying out the purposes of said Act. Referred to the Committee on Rules and Administration.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BIDEN:

S. 2134. A bill to provide for annual authorization of appropriations to the United States Postal Service. Referred to the Committee on Post Office and Civil Service.

Mr. BIDEN. Mr. President, I introduce for appropriate reference a bill to provide for the annual authorization of appropriations to the U.S. Postal Service. A similar measure has been introduced in the House of Representatives by Congressman H. R. GROSS.

The Postal Reorganization Act made a great stride for more efficient mail service when it effectively eliminated the long abused tool of political patronage from postal operations. However, it is obvious that the Postal Service still has a long way to go to call itself efficient. Many tough problems remain to be solved.

At present the authorization for the Postal Service is permanent. This bill would compel postal officials to come before Congress annually to detail and justify their budget requests. It would also afford an excellent opportunity for them to publicly explain the reasons for erratic service, and how it relates to their own methods of management.

For fiscal 1974 this bill would cover over $1.3 billion.

Recently, Postmaster General Elmer T. Klassen stated that he will, in all probability, ask for an increase in first class mail rates to be put into effect next January. Also, the elimination of air mail service has been implied. It is very hard for people to rationalize rate increases at a time when they think that the service they are paying for is deteriorating.

As it stands now, the Postal Service is an independent entity in the executive branch, yet its top management operates independently of the Chief Executive. Only the Governors of the Postal Service can appoint or remove the Postmaster General. Its management is directly accountable to no elected official in the entire Federal Government. This bill, therefore, insures that Congress will have keen oversight over the Postal Service, without hampering its day to day operations. It provides for specific periodic examination rather than the present permanent authorization, thus compelling Congress to exercise its legislative prerogatives with more authority.

Hopefully, this measure will herald another step on the road to something all of us desire—an efficient, high quality mail service.

By Mr. JACKSON (for himself, Mr. PERCY, Mr. RIBICOFF, Mr. ERVIN, Mr. JAVITS, Mr. DOLE, Mr. ROTH, Mr. BROCK, and Mr. DOMENICI) (by request):

S. 2135. A bill to promote more effective management of certain related functions of the executive branch by reorganizing and consolidating those functions in a new Department of Energy and Natural Resources, by reorganizing and consolidating others in a new Energy Research and Development Administration, and for other purposes. Referred to the Committee on Government Operations.

Mr. JACKSON. Mr. President, I join my colleagues the Senators from Illinois (Mr. PERCY), Connecticut (Mr. RIBICOFF), North Carolina (Mr. ERVIN), New York (Mr. JAVITS), Kansas (Mr. DOLE), Delaware (Mr. ROTH), Tennessee (Mr. BROCK), and New Mexico (Mr. DOMENICI) in introducing by request for appropriate reference a bill recommended by the President for the reorganization of a number of executive agencies. The proposed measure would create a new Executive Department of Energy and Natural Resources which would encompass most of the present programs and activities of the Department of the Interior, the Forest Service of the Department of Agriculture, and the National Oceanic and Atmospheric Administration of the Department of Commerce as well as certain activities and programs from the Atomic Energy Commission, the Department of Transportation, the Corps of Engineers, and the Water Resources Council.

The proposed new Energy Research and Development Administration would include the existing research and development programs of the Atomic Energy Commission and most of the fossil fuels research programs of the Department of the Interior. The new agency would be headed by a single Administrator.

The five-member commission form of the present Atomic Energy Commission would be retained as the Nuclear Energy Commission. It would exercise the licensing and regulatory responsibilities of the

present AEC and it would no longer be associated with developmental responsibilities in civilian nuclear energy.

Mr. President, this measure, if enacted, would represent a fundamental reordering of Federal agencies which are involved in the management of the Nation's natural resources. It would be a particularly significant restructuring of the Federal organization for research, development, and management of energy resources.

Not only are the energy programs quite heavily affected by the proposed changes, but this also would be the first time that Federal organization was examined and revised with the specific objective of carrying out comprehensive national energy policies.

The proposed reorganization is broad in scope and complex. I cannot endorse it without detailed study. It would have far-reaching impacts upon many programs, and the expertise of many members of the Senate will be required to fully comprehend the nature and evaluate the advisability of those impacts.

I do urge, however, that the Senate give the proposal prompt and thorough consideration. The Senate Committee on Interior and Insular Affairs, in its study of a national fuels and energy policy, has determined that organizational shortcomings have been factors in many of our present energy problems. Furthermore, it is unlikely the existing organizational structure can successfully implement the explicit and comprehensive energy policies which are required. The President's proposal offers an alternative for improving energy organization in many areas. It should be viewed as an opportunity for Congressional consideration of the changes which are needed.

I intend to request the chairman of the Senate Committee on Government Operations to schedule early hearings on the measure. I urge my colleagues to study the proposal closely, and I will be pleased to receive any comments which they may have to guide the committee in its consideration of the bill.

Mr. President, I ask unanimous consent that excerpts from a Senate Interior Committee Print entitled Federal Energy Organization, excerpts from the Summary Outline of the President's Statement on Energy, and organizational charts describing the proposal be printed in the RECORD at the conclusion of my remarks.

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

[Excerpts from Senate Committee on Interior and Insular Affairs, Committee Print No. 93–6, Federal Energy Organization: A Staff Analysis, Mar. 5, 1973]

THE SIGNIFICANCE OF ENERGY ORGANIZATION

Until recently, surprisingly little attention has been given to the organization of the Federal government to formulate and implement energy policy. The great size of the energy industries in economic and financial terms and their obvious critical significance to the well-being of society, however, have attracted the interest of all levels of government. A complex body of policy has evolved which constitutes a pervasive, if uncoordinated, Federal involvement in many aspects of the energy system. The policy is presently administered by a diffuse and ill-defined assembly of agencies throughout the Executive branch.

A survey made by the Congressional Research Service of the major Federal reorganization proposals of the past 40 years reveals no specific consideration for fuel and energy matters until the relatively modest energy recommendations of the Ash Council. Similarly, a review of over 100 studies of fuel and energy matters found that they included very few remarks on organization and even those few were in general and vague terms.

These studies are evidence of the fact that energy has not been viewed as an organizing concept for government. The existing Federal energy responsibilities are comprised of narrow programs and activities which were individually initiated in response to relatively specific needs, often not primarily viewed as energy needs.

The major policy areas which have contributed to the Federal involvement in the nation's energy system can be classified as follows:

Management of Fuel Resources of the Public Lands.
Federal Water Policy.
Economic Regulation and Development.
Tax Policy.
National Security.
Health, Safety and Environmental Management.
Research and Development.

A brief history of the development of Federal energy policy in each of these areas is presented in a later section of this paper. The history clearly shows an evolutionary development in which individual policy decisions were made in response to the needs of the time and rarely were concerned exclusively or even significantly with energy supply. Federal policy has been influenced by the growth of the energy industries and has, in turn, influenced their development, but there has been no conscious intent on the part of Federal policy makers to manage the nation's energy system in a comprehensive sense. Most Federal policies with energy significance were not formulated as "energy policy." They were primarily intended to serve other objectives of government.

Recent concern over fuels and energy issues has brought forth a flood of criticisms of the performance of existing Federal administrative mechanisms. These range in scope from specific complaints of inordinate delays in the processing of Federal permits for nuclear powerplant construction to more abstract dissatisfaction with the complex economic and security aspects of oil import policy.

Much of the current criticism has included proposals for reorganization of the agencies which presently have responsibilities in particular issue areas. Most of these proposals are based upon intuition or are responsive only to limited problems. No in-depth analysis of Federal energy organization has been available. At the initiation of the Senate's Fuels and Energy Policy Study, the staff was unable to find even a description of the existing Federal energy organization.

The Senate study which is underway pursuant to Senate Resolution 45, 92d Congress, has covered a wide range of energy problems and issues. Throughout the hearings and studies, it has been apparent that there is a significant organizational aspect to energy problems. The existing organization has contributed to current and emerging problems in at least three respects:

(1) it has failed to anticipate emerging energy problems, such as diminishing fuel reserves and environmental confrontations, and to initiate timely corrective action to forstall crises;

(2) it has failed to react adequately to mitigate those crises which have, in fact, occurred, such as increasing fuel shortages and loss of electric power system reliability; and

(3) it does not appear to have the initiative and sufficient reliable and credible information to develop and support the policy decisions which must now be made.

In addition to these existing shortcomings in the organization's ability to deal with current energy problems, it is clear that much greater demands will be placed upon it in the future. If comprehensive national fuels and energy policies are established, the fragmented, uncoordinated organization structure will be unable to implement them. Furthermore, it now appears that an era of plentiful energy is at an end in our society. The immediate future appears to be one of short supply, and it is probable that intensive management of the available resources must be the objective for the foreseeable future. Considering the size and complexity of the energy system and the pervasive role which Federal policies already play, intensive management of energy resources in the public interest almost certainly implies far more sophisticated and explicit policies for the Federal administration of energy matters than ever before.

In terms of legislative action, policy is probably inseparable from organization. Whatever policies are considered appropriate by the Congress to respond to the "energy crisis," will involve grants of executive authority, directives to act, and appropriations of funds. Executive agencies must be chosen to be the implementing agents for such policies. Expansion or revision of existing agency mandates and reorganization where existing agency authorities and capabilities are inadequate will be necessary.

Effective policy, furthermore, cannot be static. As needs and values change in society, as current problems are resolved and unforeseeable problems emerge, the Executive agencies must be capable of responding to evolving conditions. They also should perform an advisory role; anticipating new requirements for Federal action and developing policy proposals for Congressional consideration.

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DEFICIENCIES IN THE EXISTING FEDERAL ENERGY ORGANIZATION

INTRODUCTION

In contrast to the general neglect of organization in earlier energy policy studies, most recent commentaries on the "energy crisis" have identified one or more organizational failings or have recommended some organizational changes at the Federal level. There presently are a number of formal reorganization proposals pending through either Congressional or Executive initiative, and more proposals are anticipated.

The deficiencies which have been identified and the proposals which are being made vary greatly in terms of their significance and the scope of their purview. The variety of governmental functions which have energy implications and the complexity of the energy system refute any notion that a single, reasonably simple organizational concept holds the key to the full range of energy problems which has been identified.

The Senate Interior Committee, in its study of national fuels and energy policy, has compiled a tremendous amount of information on the broadest range of current energy issues. The following analysis is based upon the organizational factors which have been identified in these issues and the description of the existing energy organization which has been compiled.

The deficiencies in existing energy organization can be conveniently classified according to their organizational aspects in the following five major categories:

1. High level surveillance of the energy system and policy advice.

2. Coordination and augmentation of Federal operating programs.

3. Energy data collection, analysis, and dissemination.

4. Coordination and augmentation of Federal regulatory functions.

5. Energy-environment conflict resolution.

* * * * *

2. COORDINATION AND AUGMENTATION OF FEDERAL OPERATING PROGRAMS

The Problem.—There are a number of programs in which Federal agencies exercise considerable direct influence over the operations of the energy system. The major examples are (1) Federal leasing programs for oil, gas, and coal; (2) Federal generation of hydroelectric power and operation of transmission systems; and (3) the civilian reactor and fuels programs of the Atomic Energy Commission (AEC).

The first two groups of programs are located primarily within the Department of the Interior. They are scattered among agencies which have varying missions, however, and they have not been coordinated with an energy-oriented overview. The AEC program which deals with an entirely separate and competitive fuel source is not directly coordinated with any of Interior's programs.

Scattered through the Federal establishment are a variety of other energy-related programs such as the rural electrification program in the Department of Agriculture, the pipeline safety program in the Department of Transportation, and energy research programs in the Environmental Protection Agency. The Federal Power Commission carries out functions such as the National Power Survey which are not necessarily related to its regulatory functions.

In individual cases, cogent arguments can be made for the existing placement of energy functions. The overall picture, however, is one of fragmentation and incoherence. A variety of deficiencies is attributed to the existing structure.

Each of the existing officials is concerned with only a narrow segment of the energy system. Therefore, none is equipped nor motivated to be guided by the impacts of his actions upon the total energy system. For example, because of stringent sulfur regulations imposed by the State with encouragement from the Environmental Protection Agency, utilities which formerly used high-sulfur eastern coal (including the Federal Tennessee Valley Authority) have begun to purchase low-sulfur coal from Montana and Wyoming. This action will result in a tremendous expansion of surface mining in the North Central States. Much of the coal is located on public lands under the authority of the Bureau of Land Management, and the Secretary of the Interior has been reluctant to approve the leases for environmental reasons. None of the Federal agencies involved has the responsibility to examine the full range of impacts which these Federal actions will have on the reliability of present and future electrical service in vast regions of the nation.

Similarly, each Federal energy agency is specialized on a narrow base. There exists no Federal center of technological excellence covering the broad range of the energy system. When policy questions of considerable breadth must be addressed, it is necessary to assemble the expertise on an *ad hoc* basis which involves all of the inefficiencies of unfamiliar communications, divided leadership, and interagency rivalry. In recent months, such efforts have been necessary to consider the impacts of surface mining regulation, the need for a deep water seaport policy, and the Federal responsibility for Southwestern (Four Corners) powerplant development.

While there are advantages to the flexibility of task force approaches to high-level policy advice, there is less of an argument for *ad hoc* technical advisory groups. They tend to overemphasize the interests, expertise, and data which is readily available to the detriment of important factors which none of the participants has been involved with. Greater continuity and life expectancy is necessary to permit comprehensive expertise and data bases to be acquired.

Another attribute of relatively narrow agency functions is that the decisionmakers must deal with equally narrow and specialized client groups. The Bureau of Land Management, for example, in its decisions to lease areas of the outer continental shelf for oil production depends greatly upon the views of the oil companies concerning need, timing, and even the areas to be selected. In a recent environmental court case a significant question was whether the Bureau or even the Secretary of the Interior should properly consider the need for the oil or the alternatives to the lease in terms of non-oil sources of energy. Even if such alternatives are considered in the decision, there clearly is no authority for the Bureau to assist actively in bringing most of them to fruition.

In such instances, the agency tends to adopt the attitudes, priorities, and concerns of the client group. The close similarity of policy statements of Interior Department officials to the statements of the National Petroleum Council and, indeed, the very existence of the Council are evidence of intimately shared viewpoints and close alliances.

A particularly significant current issue which is related to narrow agency interests results from the dual role of the Atomic Energy Commission (AEC) in the nuclear industry. The AEC was specifically directed to nurture a civilian nuclear industry, and it has been uniquely successful in expediting practical applications of a new technology. Initially, the limited scientific knowledge of nuclear energy dictated that its development and regulation should reside in the same Federal technical agency. There is an important correlation, however, between the costs of safety and environmental protection in nuclear powerplants and the competitive economic position of the industry in relation to other fuel sources. The conflict of interest between AEC's regulation and promotion roles has been widely criticized and, regardless of the fact situation, the public credibility of Federal nuclear energy regulation has been impaired.

Priority setting also is particularly difficult when related programs are administered by separate agencies. Success in the competition for scarce resources tends to turn upon the relative popularity, vigor, and political strength of the agencies and their principal administrators, rather than the relative needs of society for the outputs of the programs. If there are gaps between the programs, moreover, it is the business of none of the agencies to discover and fill them.

The best examples of this management problem are in the Federal energy research and development (R & D) effort. The Fiscal Year 1973 funding for all such R & D is about $642 million, distributed among programs in eight organizational entities. Of this amount, nearly $480 million or 75 percent is allocated to nuclear research to be primarily conducted by AEC, a particularly strong agency. Only about $20 million is included for coal gasification by the Office of Coal Research. This is a hardware oriented research effort which could doubtlessly be accelerated by additional financing and which offers potential energy options in the same time frames as much of the AEC effort. The Office of Coal Research is a relatively obscure agency within the Department of the Interior which has not pressed vigorously for increased efforts. Most incentive for recent fund increases for coal gasification has come from the Congress.

Less conventional R & D areas which are not within existing agency interest areas, such as solar energy, advanced power cycles, and magnetohydrodynamics, have belatedly been funded at nominal levels largely as the result of public and Congressional emphasis on the energy crisis.

Alternatives.—The energy system is too complex and too pervasive a part of society to contemplate a grand consolidation of all, or even most, Federal programs which impact upon it. Many programs with important energy significance must continue to be managed primarily for other considerations—though hopefully with a greater degree of sensitivity to the energy implications. As an example, the primary concern of the transportation programs of the Department of Transportation must continue to be the national transportation requirements despite the overwhelming influence which transportation policy has upon energy requirements. Greater consolidation of Federal energy management, however, would reduce the existing problems of coordination and provide a number of benefits.

Most proposals for energy reorganization at the agency or departmental level involve the concept of a Department of Natural Resources. The President's 1971 proposal for a Department of Natural Resources included a minor consolidation of energy operating functions under an Energy Administrator within DNR. The Administrator, however, was not to receive the leasing responsibility for fuel resources nor the power marketing functions of Interior. With regard to AEC, he was given only the uranium materials and enrichment program and a vague coordinative relationship with the reactor programs which would remain under the Commission.

Presently, an internal reorganization of the Department of the Interior is underway which will place a greater emphasis upon energy. The fuels and electric power marketing functions will be grouped under a single Assistant Secretary. Of course, no significant new relationship with the non-Interior programs is possible without legislation.

For a number of years, critics have been suggesting that the regulatory functions of the AEC be separated from the remaining functions. The President's Advisory Council on Executive Organization (Ash Council) recommended that the civilian reactor, nuclear fuels, and plowshare programs of AEC be transferred to the proposed Department of Natural Resources.

There no longer appears to be any compelling reason for the AEC regulatory and developmental functions to be associated in a single agency. The developmental functions are among the largest, most aggressive, and most successful of Federal energy activities. Combining them with Interior's fossil fuel and electric programs could be of mutual benefit. It would add balance to the heavy Federal emphasis on the nuclear alternative, and it would apply the management and technical sophistication of the AEC staff to other energy technologies.

Consolidation of these Federal activities might offer other advantages. A Federal administrator who is concerned with both nuclear and fossil fuel sources would have a broader view of the energy system and might be expected to better appreciate the full impact of his actions. If he were also involved with the planning and operation of electric power systems through the power marketing agencies, he would gain some of the viewpoint of the electric utilities which are major consumers of the basic fuels. The pipeline safety program of the Department of Transportation would add another dimension. There might be some logic in including the administration of the REA programs of Agriculture in this consolidation to further extend its involvement in electric energy system concerns.

The countervailing pressures upon an administrator who has wide responsibilities throughout many sectors of the energy system would mitigate agency biases in favor of

a particular industry and would assist in setting rational priorities among alternative programs. An energy agency also would become a center of expertise which could provide broad technical support for energy policy decisions.

In terms of R & D management, such an agency might be more receptive to new concepts than the existing agencies (such as the Office of Coal Research and AEC) which are primarily charged with the promotion of particular fuel or a particular competitive industry. Furthermore, the agency would have less vested interest in any single research effort; hence, it might be more objective in setting priorities for the Federal R & D effort.

There is, however, an especially urgent need for the development and implementation of a coherent strategy for energy R & D. In view of the inherent delays of achieving major reorganizations and the trauma which generally results from such reorganizations, it might be advisable to establish an interim interagency coordinative mechanism to manage energy R & D pending the resolution of agency reorganizations.

Conclusions.—The potential values of line coordination argue for a more comprehensive consolidation. All of the present Interior Department functions for fuel resource management and electric power marketing should certainly be included in the major line energy agency. The overriding policy considerations of power system planning and fuel leasing strategy are energy considerations, not primary water resource or land management considerations.

The major opportunity for improved coordination, however, lies in combining the AEC development program with the present Interior programs. This could be accomplished in a variety of ways:

(1) Transfer the AEC civilian reactor program (including R & D) and uranium management functions to the Interior Department and combine it with Interior's fuel programs and power marketing programs under an Assistant Secretary. Consideration could be given to including REA, pipeline safety, and other Federal energy programs. (TVA, as a diverse regional development venture, is far less amenable to reorganization.)

The principal objection to this proposal probably would be the resistance of the nuclear interests to losing the advantages they enjoy from the advocacy of a single-purpose, independent agency within the Federal government. (This, of course, would be one objective of the reorganization.) A particular objection might be made because of the traditional fossil fuel orientation of Interior, but the strength of the nuclear program should be adequate to insure its continued vigor.

(2) The same consolidation might be made within a new DNR. This alternative would essentially follow the recommendation of the Ash Council as it related to the "Energy and Mineral Resources Component." This might have a cosmetic value. (People tend to consider proposals concerning existing agencies in light of the personalities of encumbent officials and the past accomplishments and failures of the programs. They seem more willing to believe that "new" agencies will be staffed by ideal, competent, objective people and will perform according to the design.)

Of course, the creation of a DNR would involve a great many aspects besides energy. It would require resolution of the other responsibilities of the new Department in such areas as Indian policy, land management, and water resources.

(3) The same energy consolidation alternatively could be made within a new independent agency similar to EPA. This approach might have appeal for the nuclear interests, because the AEC components would dominate the new organization by sheer weight of funds and people. This agency, however, would not benefit from the objectivity which could be provided by the Secretary of the Interior as a result of his non-energy responsibilities. An independent energy administration must be expected to relate primarily to the energy industries in a manner similar to AEC's existing relation to a sector of the industry. Energy considerations would be balanced against other values only at the White House level and, therefore, only when the issues were of Presidential significance. A corollary problem is that removing the fuel leasing function from Interior would weaken the coordination of energy aspects of leasing with other multiple purpose land management objectives.

Research and Development.—A number of existing Federal energy R. & D. programs are closely associated with, and support, energy management programs. In any reorganization, a great deal of ongoing program effectiveness is sacrificed to the disruption and costs of the change; hence, existing relationships should be preserved to the extent that they are consistent with the objectives of reorganization. In other words, there should be no reorganization for reorganization's sake alone or simply to preserve the elegance of the organization concept.

If a major reorganization of Federal energy management activities, such as those described above, were carried out, many of the energy related R & D functions would ultimately be situated within the new energy agency, and relationships between R & D and management functions could be preserved. In the interim, until an energy agency has been established, an effort could be mounted to coordinate and supplement existing R & D programs and to develop a governmentwide energy R & D strategy.

An interim mechanism having a minimum of disruptive impact on existing efforts could be a statutory interagency body which would consist of one representative from each agency having significant energy R & D functions.

* * * * *

There are at least three distinct phases in a successful research and development effort:

(1) Discovery and definition of opportunities.—This phase calls for creativity and open-mindedness, but usually not large sums of money.

The strategy should be to seek the broadest effort possible and to bring every potential technology to the point where it can be reliably evaluated.

The work is probably best done in the less structured environments of universities, national laboratories and research firms. It involves such matters as solar energy methods which may have long-range payoffs, but it might also produce immediate, ingenious results in such areas as pollution control, mining methods, etc.

(2) Development of technologies.—This phase is the long-term R & D work on identified promising technologies which brings them to the application stage. It may involve relatively inexpensive creative research (as presently in the fusion process), but in the later phases it usually involves expensive hardware (pilot plants, etc.).

The strategy should be to seek optimum funding for a variety of technologies which can be expected to offer a range of policy options in the future. It is important to maintain progress toward long-term payoffs, as well as to expedite short-term results.

Where expensive hardware programs are concerned, hard priority choices must be made. Development of selected technologies (such as the breeder) can be administered through conventional agency programs, but priorities should be set by the management body until reorganization reduces the present agency biases.

(3) Achievement of commercial viability—Many well-advanced and needed technologies have stuck at the point where R & D ends and commercial application begins (the "prototype" stage). Coal gasification and oil shale development are examples. The risks of the new venture exceed those financially acceptable to industry. Federal subsidization of the risk factor is needed.

The strategy should be to identify those needed technologies ready for commercial application and provide the short-term subsidy and the *single-minded* management effort to get past the prototype state.

The Federal-industry corporation of the type which was proposed in S. 1846 and S. 2510 (92d Congress) is a promising device to get this job done. It would eliminate continuing Federal involvement in each venture, permit industry involvement in management, and create a commercial incentive to achieve success in each technology.

EXCERPTS FROM THE SUMMARY OUTLINE—FACT SHEET, PRESIDENT'S ENERGY MESSAGE, JUNE 29, 1973: ORGANIZATION OF FEDERAL ENERGY AND NATURAL RESOURCE ACTIVITIES

ORGANIZATION OF FEDERAL ENERGY AND NATURAL RESOURCE ACTIVITIES

Summary

The President upgraded and strengthened White House arrangements for energy policy by appointing an Assistant to the President for Energy who will head the Energy Policy Office.

The President is proposing legislation which would:

Establish a Department of Energy and Natural Resources consisting of functions transferred from the Department of the Interior and several other agencies.

Establish a new independent agency, the Energy Research and Development Administration (ERDA), to focus all Federal energy R&D.

Retain the five-member commission organization of the AEC to carry on the licensing regulatory and related environmental and safety functions of that agency but under a new name, Nuclear Energy Commission.

The President has directed that a comprehensive study be undertaken of Federal energy regulatory activities, looking to possible reorganization of these activities.

Energy Policy Office (EPO)

The President has created an Energy Policy Office in the Executive Office of the President. The EPO will replace the Special Committee on Energy. It will also expand upon the role of the National Energy Office (created by Executive Order 11712) which helped guide the development of the Administration's energy policies including the new governmentwide organizational arrangements. The Office will be headed by a Director who will also serve as Assistant to the President for Energy. The Director will serve as the President's principal energy advisor and be responsible for identifying major problems, reviewing alternatives, making policy recommendations, assuring that agencies develop short and long range plans, and for monitoring the implementation of approved energy policies.

The Department of Energy and Natural Resources (DENR)

This new Department would be responsible for the balanced utilization and conservation of our Nation's energy and natural resources. The Department would bring together and realign many related Federal programs which are now scattered among several departments and agencies. DENR would have the responsibility for assuring that future demands for water, timber, minerals and energy resources are met without sacri-

ficing our forests, lakes, wilderness, beaches, and the general environment. It would foster a better understanding of the total environment—the oceans, the atmosphere, the lands and their interaction. It would provide a more modern, effective department for managing and carrying out Federal responsibilities with respect to Indian and Territorial peoples.

DENR would have an organization and managerial capability which could most effectively and vigorously develop and implement comprehensive natural resources policies and programs.

In March 1971, the President proposed creation of a Department of Natural Resources (DNR) but the Congress did not enact that legislation. Today's legislation builds on the earlier proposal. The President has again stressed the need to consolidate key natural resources functions in the new Department so that we can meet better than our national objectives.

Function and Resource Transfers to DENR

The principal functions and resources that would be transferred to DENR are listed below. Estimates are, for the most part, for direct program activities and do not include departmental overhead resources which will be identified later.

	Fiscal year 1973 budget outlay estimates (in millions)	Fiscal year 1973 full-time permanent employment
From Department of the Interior: All functions except Office of Coal Research, the Energy Research Centers of Bureau of Mines and Underground Power Transmission R. & D. which would be transferred to ERDA	$2,554	56,130
From Atomic Energy Commission: Uranium and thorium assessment program	2	78
From Department of Transportation: Oil and gas pipeline safety programs	1	26
From Department of Agriculture: Forest Service	788	21,860
River basin surveys and investigations, and planning and funding for large watershed protection and flood prevention projects from the Soil Conservation Service	67	200
From Department of Commerce: National Oceanic and Atmospheric Administration (NOAA)	322	12,450
From Department of the Army: Corps of Engineers, civil functions (planning, evaluation, policy and funding only)	$1,643	360
From Water Resources Council: All functions	8	45
	5,385	91,149

DENR Organization and Management

The Department would be managed by a Secretary, a Deputy Secretary, an Under Secretary for Policy and an Under Secretary for Management, having cross-cutting department-wide responsibilities. The Department's missions would be carried out largely through five Administrations, each containing programs grouped on the basis of common major purposes. The assignment of functions among Administrations would be the responsibility of the Secretary. Currently it is expected that the primary functions of each Administration would be as follows:

Energy and Minerals Administration. This Administration would include those DENR functions primarily concerned with energy and minerals including Interior's Office of Energy Conservation, Office of Energy Data and Analysis, Office of Oil and Gas, Office of Research and Development, Bureau of Mines (except energy research centers), Mining Enforcement and Safety Administration, and Bonneville, Southeastern, Southwestern and Alaska Power Administrations. It would also include the Uranium and Thorium Assessment Program from AEC and Office of Pipeline Safety from DOT.

Land and Recreation Resources Administration. This Administration would be composed of most functions and resources of the Bureau of Outdoor Recreation, the Bureau of Land Management, National Park Service, and the Bureau of Sport Fisheries and Wildlife from the Department of Interior, the Forest Service from the Department of Agriculture.

Water Resources Administration. This Administration would provide a single management framework for the integration and coordination of national water resources policy and planning. The organizational functions and resources to be included in this Administration include the Bureau of Reclamation, Office of Saline Water, and Office of Water Resources Research from Interior; the policy, planning and funding of the civil functions of the Corps of Engineers; the River Basin Surveys and Investigations Program and Planning and Funding for large projects from the Soil Conservation Service, Department of Agriculture; and the Water Resources Council.

Oceanic, Atmospheric, and Earth Sciences Administration. This Administration would include the functions and responsibilities of the Geological Survey of the Interior Department and the National Oceanic and Atmospheric Administration (NOAA) of the Department of Commerce.

Indian and Territorial Affairs. This Administration would combine Interior's Office of Territories and Bureau of Indian Affairs. The Indian and Territorial Affairs Programs are included in DENR because of their historical association with natural resources and the Department of the Interior. Most Indians in the past have rejected proposals for transfer of Indian programs to other departments and, pending further study, are included in DENR.

In addition to the functions located in DENR's Energy and Minerals Administration, the Secretary would be responsible for and have resources to assemble information with respect to energy resources and demands in all sectors, perform analyses and identify energy policy and program options that would provide guidance to other operating agencies and assistance to the Energy Policy Office and other agencies of the Executive Office of the President.

The Energy Research and Development Administration (ERDA)

This new independent agency would bring together and direct research and development programs on all forms of energy. The agency's objective would be the development in cooperation with industry of new energy sources to meet the energy needs of present and future generations in a manner which protects or enhances the quality of our environment. ERDA would conduct or sponsor nearly all the Federal Government's research and development programs involving all forms of energy.

Function and Resource Transfers to ERDA

ERDA would at the outset be composed principally of the following functions:

All of the functions, authorities and resources of the Atomic Energy Commission, except the uranium and thorium assessment program which will be transferred to DENR, and the AEC's licensing, regulatory and related environment and safety functions. Functions transferred to ERDA from AEC would include nuclear materials production, reaction development, military applications, physical research, biomedical and environmental research, controlled thermonuclear research, non-nuclear energy R&D and other non-regulatory functions.

Most of Interior's fossil fuels R&D, namely the Office of Coal Research and the energy research centers of the Bureau of Mines, the synthane pilot plant for high BTU coal conversion which is under construction in Bruceton, Pa., and underground power transmission R&D.

This agency would be the focal point for the new accelerated energy R&D programs. It is also contemplated that the bulk of the $25 million central fund for energy R&D that was requested in the 1974 budget of the Interior Department would be transferred to ERDA. The principal resources identified thus far for transfer to ERDA are estimated to be:

	Fiscal year 1973 budget outlays estimates (in millions)	1973 employment (full-time permanent)
From AEC: All functions except uranium and thorium assessment program, and licensing, regulatory and related environment and safety	$2,250	5,800
From Interior:		
Office of Coal Research	58	37
Bureau of Mines energy research centers and synthane plant	13	728
Underground power transmission, R. & D.	1	5
Total	2,322	6,570

ERDA Organization and Management

The creation of ERDA contemplates building upon the scientific and technical base of the Atomic Energy Commission and making use of the laboratories and technical management capabilities now located in that agency. ERDA would be headed by an Administrator, Deputy Administrator and Assistant Administrators responsible for major programs and supporting functions. Specific proposals for the internal organization of ERDA will be made at a later date, following a study of R&D and production functions that would be transferred from AEC, functions to be transferred from other agencies and new programs. The internal organization would reflect clearly ERDA's role in non-nuclear energy R&D while assuring continued progress on the nuclear energy functions transferred from AEC.

Nuclear Energy Commission (NEC)

The five-member Commission form of organization would be retained to head the licensing, regulatory and related functions of the Atomic Energy Commission. The name of the agency would be changed to the Nuclear Energy Commission.

Resources now directly associated with the AEC's licensing and regulatory functions include approximately $40 million in net 1973 Budget outlays and about 1275 full-time permanent employees. Studies will begin immediately to ascertain which of the functions and resources now under the General Manager of the AEC or directly under the Commission should be transferred to the NEC in support of that agency's licensing and regulatory functions. In addition, it is expected that ERDA would be available to perform work in support of NEC on a reimbursable basis.

Study of energy regulatory activities

The President has directed that a comprehensive study of Federal energy regulatory activities be undertaken to see whether reorganization is desirable. A number of Federal agencies are engaged in such activities, including the Atomic Energy Commission, Federal Power Commission, and others that carry out energy regulatory functions as a part of broader missions such as the Departments of Interior and Transportation, Corps of Engineers, EPA, and Interstate Commerce Commission. A wide variety of interests and objectives are involved, including economic, public health and safety, environment, and adequacy and reliability of energy supply. The study will be undertaken over the next year to determine whether existing organiza-

tional arrangements are most efficient and effective for balancing the interests and objectives involved. The interface with State and local regulatory activities will also be considered and opportunity for Congressional and public participation in the study will be provided. OMB will be responsible for assuring that the study is completed.

Mr. PERCY. Mr. President, I take great pleasure in cosponsoring today legislation to implement the President's plan to restructure the organization of the energy and natural resources functions of the executive branch.

The bill we are introducing today evolves from the bill I introduced on April 1, 1971, with 17 cosponsors as S. 1431. This new bill reflects the fast-paced changes in the energy field that have occurred since S. 1431 was introduced. It is designed to better organize our natural resource programs, to provide for broader and more effective energy research and development efforts, and for more effective organization of the agencies dealing with fuel sources and supplies. I am pleased that Senator HENRY JACKSON, who is chairman of the Senate Committee on the Interior and Insular Affairs and second ranking member of the Government Operations Committee, has agreed to be the principal sponsor of this legislation. His expert knowledge in these fields makes him the most competent man in the Senate to chair hearings on the bill. I am also pleased that my distinguished colleague Senator RIBICOFF, chairman of the Reorganization, Research, and International Organizations Subcommittee of which I am a member, has agreed to cochair the hearings.

This bill is only one phase of a broader reorganization of the executive branch agencies that has been recommended by many groups for years. A succession of Presidential advisory commissions on Government organization, serving at the requests of Presidents Roosevelt, Truman, Eisenhower, Johnson, and Nixon, has recommended major executive branch reorganization. The latest of these, the Ash Council appointed by President Nixon, presented its report early in 1971, and the four implementing bills—to create Departments of Community Development, Natural Resources, Human Resources, and Economic Affairs—were introduced soon after in both the Senate and House.

The bill we are introducing today creates three new organizations. It establishes a new Cabinet Department of Energy and Natural Resources, a new Energy Research and Development Administration, and a revised Atomic Energy Commission to be called the Nuclear Energy Commission.

The new Department of Energy and Natural Resources—DENR—would take over all of the present functions of the Department of the Interior, with the exception of the Office of Coal Research and certain other energy research and development programs, which would be transferred to the Energy Research and Development Administration. To this new Department would be shifted the Forest Service and certain water resource activities of the Soil Conservation Service from the Agriculture Department. In order to include in the new Department all major Government water resource functions, the planning and funding of the civil functions of the Army Corps of Engineers would also be included, as would the functions of the interagency Water Resources Council. In addition, the National Oceanic and Atmospheric Administration of the Commerce Department would be added to the new Department. In order to give the Department broad responsibility for all natural resource functions, the uranium and thorium assessment functions of the Atomic Energy Commission would be included. Finally, the gas pipeline safety functions of the Department of Transportation would be included in the new "DENR."

The new Energy Research and Development Administration is intended to be a strong "all-energy" governmental research arm building on the demonstrated competence and accomplishments of the energy research functions of the present Atomic Energy Commission. It is intended to give importance and impetus to research efforts in coal, gas, solar and other potential energy sources. It is intended to use the well-proved system of national laboratories to aid in this new all-energy research effort.

In the creation of the new Energy Research and Development Administration the functions of the present Atomic Energy Commission would essentially be divided. The energy research responsibilities of the AEC would be included in the new Energy Administration, but the strictly regulatory functions of the AEC would be placed in a five-man commission to be known as the Nuclear Energy Commission. This renamed Commission would carry in the important licensing and regulatory activities now within the AEC. Thus, for the first time the AEC's energy development efforts would be separated from its crucial regulatory and control functions.

To many these quite sweeping new plans for reorganizing some of the key functions of our Government will be very highly controversial, and to some they may seem unnecessary. Many of us have grown accustomed to working with departments and agencies that have seemed to be almost permanent fixtures of American Government. We have come almost automatically to conceive and legislate new programs, both small and large, within the framework of the existing structure of departments and agencies.

In the field of energy, however, there has been a sharply increased awareness, as the magnitude of the energy problems we face has become increasingly acute to all of us, of the need for reorganization. I believe there is a consensus that the current governmental structure is inadequate, and that it must be improved. The President's proposal is based on the work of the Ash Council and previous commissions on the organization of Government, but it is also the product of very intensive deliberations within the administration—between the administration and Congress—during roughly the past 6 months. It is a careful effort to present a workable and reasonable structure for congressional hearings, study, and debate.

There is, however, one element of the President's recent energy proposals that has not been included in the bill and which, I believe, should be. This is the new Energy Policy Council which was established by Executive order with former Colorado Gov. John Love as Director. A good case can be made for an overall White House energy coordinating agency, and surely the demonstrated competence of Governor Love will be very fully required in this challenging new capacity. However, I agree with Senator JACKSON and Senator RIBICOFF that this office should have been created by the bill, and that its Director should have been subject to the confirmation of the Senate, and we intend to introduce an amendment to this effect. There is a very apt precedent for this procedure in the bill which we processed in 1971, establishing the Special Action Office for Drug Abuse Prevention. This office was first created by Executive order and then established in law, and Dr. Jerome Jaffe, its first Director, was confirmed by the Senate.

Mr. President, the more efficient organization of our energy and natural resources functions is badly needed. This is an excellent proposal, which we will refine and, hopefully, perfect in committee. I anticipate thorough hearings, in which the Executive Reorganization Subcommittee will hear from all of the groups that are interested in these changes. But let us keep in mind that the larger purpose to be served by the reorganization is critically important. The future of our economy, the balance of payments, the national defense, and the basic level of comfort of our population depend on a much improved energy resource management and research and development effort. To achieve these purposes, some private interests may have to be surbordinated to higher national objectives.

AMENDMENT NO. 312

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

Mr. RIBICOFF. Mr. President, I am pleased to join with the distinguished chairman of the Committee on Interior and Insular Affairs and the Senator from Illinois (Mr. PERCY) in cosponsoring legislation to create a Department of Energy and Natural Resources. I have long supported the establishment of such a department.

Mr. President, the media daily reports a growing energy crisis. Gasoline is in short supply at thousands of service stations across the country, and the oil companies are already warning of a fuel shortage next winter. At the same time there is an increasing national demand for the preservation of our environment. In response, Congress had enacted strong laws to prevent the further pollution of our air, water, and land.

Some discussions of our energy and natural resource problems treat them as separate issues. But in fact, they are closely linked, as the debate on the Alaska oil pipeline, strip mining, and offshore oil development demonstrate.

For decades, however, the organization and policies of the Federal Government have failed to reflect the close relationship between energy production and conservation of our natural resources. For example, water resource programs are located in three departments—Agriculture, Interior, and Army. The lack of coordination among them was so great that a separate agency, the Water Resources Council, had to be established to reconcile their activities. Nonmilitary Federal lands are administered by five different agencies—the Bureau of Land Management, Forest Service, National Park Service, Bureau of Sport Fisheries and Wildlife, and the Bureau of Reclamation. Energy programs are scattered among at least four separate agencies with no overall coordination or unified policy development. Finally, Federal recreation areas are administered by six different agencies in three departments and one independent agency.

The new Department and complementary Energy Research and Development Agency will consolidate many of these overlapping functions and provide for coordination among our programs for development, utilization, and conservation of natural resources. For the first time the new Department and Agency will bring together all Federal energy and natural resource activities so that they may be effectively managed.

Over the past 50 years many studies have noted the fragmentation in our energy and natural resource policies and recommended reorganization of these programs. In 1949, one of the Hoover Commission Task Forces urged the establishment of a Department of Natural Resources and in 1970 the Public Land Law Review Commission made a similar recommendation. In 1967, the Subcommittee on Executive Reorganization, which I chair, held hearings on such a proposal and developed much valuable information concerning it.

Mr. President, our country contains only 6 percent of the world's population, but consumes 30 percent of its natural resources. It is clear that our advanced individual society will continue to use large quantities of these materials. Accordingly, we need strong Federal leadership to formulate and implement the policies which will promote a wise balance between consumption and conservation. The proposed Department and Energy Agency are an important step in this direction.

In many respects this appears to be an excellent reorganization proposal. The restructuring of our energy and natural resources programs will provide the planning, management, and research needed to achieve coordination among them.

The object of reorganization of course is increased efficiency and economy and the elimination of duplication and overlap. But the reorganization must also enable us to deal more effectively with our problems and so advance us toward our goals as a nation.

Mr. President, while I support many of the provisions in this bill, in one respect it is deficient—it does not provide a statutory base for the Energy Policy Office within the Executive Office of the President, nor does it provide for Senate confirmation of its Director. The President has created this office and position by Executive order. The Office and its Director will have important responsibilities. It should be accountable to the Congress. Accordingly, I am joining with Senator JACKSON and Senator PERCY in submitting an amendment which would establish the Energy Policy Office and require Senate confirmation of its Director.

Mr. President, the chairman of the Government Operations Committee, Senator ERVIN, has informed me that this bill will be referred to my Subcommittee on Reorganization, Research, and International Organizations. Senator JACKSON, who is a member of the subcommittee, and I will cochair the hearing on this vital legislation. I look forward to working with him on it, for he has long been one of the leaders in the fight for sound energy and conservation policies. I am confident that the final product of our efforts will be legislation which will improve the organization and operation of our energy and natural resources program.

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

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

DEPARTMENT OF ENERGY AND NATURAL RESOURCES SECTION-BY-SECTION ANALYSIS

Of a bill to promote more effective management of certain related functions of the executive branch by reorganizing and consolidating those functions in a new Department of Energy and Natural Resources, by reorganizing and consolidating others in a new Energy Research and Development Administration, and for other purposes.

PART A—DEPARTMENT OF ENERGY AND NATURAL RESOURCES

Title I

Declaration of Purpose

Section 101 expresses congressional recognition that our natural resources, including energy sources, although abundant, are not unlimited; that their proper conservation, management, and utilization underlies all of the aspirations of the American people now and in the future; and that the Federal Government has a national responsibility to itself practice, and to foster the practice by others of, appropriate resource conservation, management and utilization policies. To best achieve these objectives, and to improve Government operations, the Congress finds that it is necessary to establish a Department of Energy and Natural Resources, bringing together those Federal activities which bear most directly on resource policy. The administration of the trust responsibility for, and selected programs to assist, the Indians, Alaska natives, and territorial peoples is also placed in the Department.

Title II

Establishment of Department

Section 201 establishes the Department of Energy and Natural Resources under the supervision and direction of a Secretary of Energy and Natural Resources, who shall be appointed by the President by and with the advice and consent of the Senate and shall receive compensation at the rate provided for Level I of the Executive Schedule.

Section 202 establishes the top policy offices in the Department and describes the general structure for the internal organization of the Department. There will be a Deputy Secretary, at Level II of the Executive Schedule, and two Under Secretaries at Level III. In addition, there will be five Level III Administrators heading, respectively, a Land and Recreation Resources Administration, a Water Resources Administration, an Energy and Minerals Administration, an Oceanic, Atmospheric, and Earth Sciences Administration, and an Indian and Territorial Affairs Administration. The bill also provides for an Assistant Secretary and a General Counsel at Level IV. All of the foregoing Level II to IV officers will be appointed by the President by and with the advice and consent of the Senate.

Subsection (e) establishes a pool of twenty-five Level IV and V officers to be appointed by the Secretary to assist in the management of the Department. Subsection (f) provides that all of the Level II to V officers will perform such functions as the Secretary shall specify from time to time.

Section 203 provides for the order of succession in the event of the absence or disability of the Secretary or in the event of a vacancy in the Office of the Secretary.

Title III

Transfers

Title III effectuates the transfer of the functions under existing law which will be carried out by the new Department of Energy and Natural Resources, and section 308 provides for the transfer to the Atomic Energy Commission of certain research and development functions pertaining to fossil fuels. Section 301 identifies the functions that are transferred and provides that they shall be vested in the Secretary. The remaining sections of title III contain technical provisions relating to these transfers. Under the broad definitions in section 401 and the savings provisions of section 601, the operative term "functions" includes all existing relevant powers, rights, duties, etc., whether created, vested, or assigned by statute reorganization plan, executive order, delegation, agreement, or otherwise. Section 506 authorizes the Director of the Office of Management and Budget to make additional incidental dispositions of functions as necessary to accomplish the purposes of the part.

Subsection 301(a) transfers to the Secretary of Energy and Natural Resources all of the functions of the Secretary of the Interior, the Department of the Interior, and all officers and components of that Department except those transferred to the Atomic Energy Commission by section 308 of this Act. The Interior Department operates under the authority of several Department laws, many of which do not appear in the United States Code. Those that are codified are found principally in title 16 of the United States Code, relating to the national park system, outdoor recreation, fish and wildlife, power marketing, and various other resource programs; title 25, Indians; title 30, mineral lands and mining, including mine health and safety; title 42, pertaining to desalination and water resources research; title 43, public lands, reclamation, and Department of the Interior; and title 48, territories.

Virtually all of the authority under these laws is presently vested in the Secretary of the Interior, pursuant to Reorganization Plan No. 3 of 1950, 64 Stat. 1262, 5 U.S.C.A., App., and as provided in statutes enacted thereafter; and subsection (a) transfers this authority to, and vests it in, the Secretary of Energy and Natural Resources. The additional reference in the subsection to all functions of officers and components of that Department similarly transfers to and vests in the Secretary the few remaining miscellaneous authorities that reside expressly or by implication in subordinate officers and components of the Department.

Subsection 301(b) transfers to the Secretary of Energy and Natural Resources such of the functions of the Secretary of Commerce, the Department of Commerce, and officers and components of that Department, as relate to or are utilized by the National (NOAA). NOAA was created by Reorganization Plan No. 4 of 1970 (84 Stat. 2090), which brought together the Environmental Science Services Administration and its major elements, the Weather Bureau, Coast and Geodetic Survey, Environmental Data Service, National Environmental Satellite Center and Research Laboratories (Reorganization Plan No. 2 of 1965, 15 U.S.C. Chapter 9, 49 U.S.C. Chapter 20, 33 U.S.C. Chapter 17); the Bureau of Commercial Fisheries, Marine Fish Research Program and Marine Minerals Technology Center, formerly in the Department of Interior (16 U.S.C. passim); the National Oceanographic Data Center and National Oceanographic Instrumentation Center, formerly administered by the United States Navy; the National Data Buoy Development Project, formerly of the Coast Guard; the National Sea Grant Program, formerly of the National Science Foundation (33 U.S.C. Chapter 22); and elements of the United States Lake Survey, formerly of the Corps of Engineers. This consolidation of activities and functions was designed to improve man's comprehension and uses of the physical environment and its oceanic life.

Subsection 301(c) transfers to the Secretary of Energy and Natural Resources under paragraph (1), such of the functions of the Secretary of Defense, the Secretary of the Army, the Assistant Secretary of the Army for Civil Works, and the Chief of Engineers and the Corps of Engineers of the Department of the Army, as relate to or are utilized for civil works and regulatory functions, with the proviso that the Corps shall continue to prepare feasibility reports and planning of individual projects subject to the guidance of the Secretary, and with the further proviso that all civil works project design, construction, operation and maintenance, flood and coastal emergencies, and related activities so transferred shall be accomplished through and under the direction of the Secretary of the Army and the supervision of the Chief of Engineers. To the extent they are codified, the laws authorizing these programs are found in title 33 of the United States Code.

The civil works functions of the Corps include the investigation, study, planning, construction, and operation and maintenance of measures for navigation, flood control, fish and wildlife enhancement, hydroelectric power, recreation, municipal and industrial water supply, beach erosion control and beach restoration, and water quality. Included are authorities for comprehensive river basin studies, flood plain information studies, emergency flood and coastal protection, a vast number of individual project authorizations, and continuing authorities to construct small projects without the specific authorization of the Congress.

The bill provides that all of the planinng and funding activities associated with the Corps' civil functions will be performed under the authority transferred to DENR by this legislation. The actual conduct of these various planning activities will utilize both Corps and DENR personnel. Specifically, DENR will undertake comprehensive river basin planning, river basin development planning, selection of projects to be proposed for authorization, and coordination of review of proposed projects. An estimated 360 permanent employees of the Corps to be transferred to the Department will assist in the conduct of these activities.

Feasibility studies of projects will continue to be conducted by Corps personnel, under the coordination and direction of DENR. Also, Corps personnel will continue to conduct all postauthorization project planning and the development of plans and specifications relating to the design of projects.

This arrangement will assure the continued training and experience of officers of the Army Corps of Engineers in contract administration, construction, and coordination with civilian authorities; preserve the flexibility, efficiency, and responsiveness of the Corps to meet alternating civil and national defense needs; and maintain the capability of the Corps to provide assistance to civilians in emergencies. At the same time, it will provide the Secretary of Energy and Natural Resources with the degree of authority necessary to coordinate the Corps' projects with other water resource plans programs and activities of DENR.

The civil regulatory functions of the Corps, which would be transferred to the Secretary, pertain generally to the protection of the navigable waters of the United States. No filling, erection of structures, dredging, or diversion of flow in such waters may be done unless permitted by the Secretary, who, in determining whether permission should be granted, considers all matters relating to the general public interest, including navigation, flood control, economic matters, fish and wildlife values, and ecological, esthetic, and environmental values.

Certain study and review functions are vested by law in the Board of Engineers for Rivers and Harbors, the Mississippi River Commission, and the California Debris Commission. These functions are also transferred to the Secretary by paragraph (2) of the subsection.

Subsection 301(d) transfers to the Secretary of Energy and Natural Resources such of the functions of the Secretary of Agriculture, the Department of Agriculture, and offices and components of the Department, as relate to or are utilized by the Forest Service. Forest Service activity covers three major areas of operation concerned with the country's forest and related range, watershed and other wildland natural resources: (1) management, protection, and development of the National Forests and National Grasslands; (2) cooperation with the States in obtaining better forestry on State and private forest lands; and (3) research needed for (1) and (2) and for forest and range lands generally.

There are numerous laws relating to the Forest Service. Of those which have been codified, the principal statutes appear in title 16 of the United States Code, relating to the three major programs of the Forest Service, and in title 7 of the United States Code, relating to the general authorities of the Department of Agriculture. Reorganization Plan No. 2 of 1953 (67 Stat. 633, 7 U.S.C.A. 2201 note) vested in the Secretary of Agriculture all of the functions of the Service, as well as all of the functions of the other components of the Department of Agriculture transferred under this Act.

Subsection 301(e) transfers to the Secretary of Energy and Natural Resources certain functions of the Soil Conservation Service of the Department of Agriculture relating to the conduct of river basin surveys and investigations and the planning and funding of certain watershed protection and flood prevention operations under the Watershed Protection and Flood Prevention Act, as amended (16 U.S.C. 1001–1008). The Soil Conservation Service shall continue investigations and planning on individual projects specified by the Secretary. Any carrying out of plans conducted pursuant to this authority will continue to be accomplished through and under the direction of the Secretary of Agriculture.

Subsection 301(f) transfers to the Secretary of Energy and Natural Resources such of the functions of the Secretary of Transportation, the Department of Transportation, and officers and components of that Department as relate to or are utilized for pipeline safety. The referenced functions consist of all of the authority under the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. 1671 et seq.); and such of the authority under sections 831–835 of title 18 of the United States Code as relates to pipeline safety. The latter, originally administered by the Interstate Commerce Commission, was transferred to the Department of Transportation for administration through the Federal Railroad Administration pursuant to the subsections 6 (e) and (f) of the Department of Transportation Act (80 Stat. 931, 939, 940).

Subsection 301(g) transfers to the Secretary of Energy and Natural Resources all of the functions of the Water Resources Council, its chairman and members. The Council was established by the Water Resources Planning Act (42 U.S.C. 1962 et seq.) and functions under that and related acts. Its responsibilities include the coordination of all Federal water resource programs, assessment of water supplies and requirements, establishment of principles, standards, and procedures for Federal water and related land resources projects, review of comprehensive regional and river basin plans, and the administration of grants to States for comprehensive planning. River basin commissions established pursuant to the Planning Act would not be affected except that they would report through the Secretary rather than the Council.

Subsection 301(h) transfers from the Atomic Energy Commission to the Secretary of Energy and Natural Resources the responsibility for assessment of naturally occurring uranium and thorium reserves and estimates of quantities of potential uranium and thorium deposits that may exist in unexplored or undeveloped areas.

Section 302 provides that functions vested in hearing examiners by subchapter II of chapter 5 of title 5 of the United States Code will continue to be vested in hearing examiners of the Department of Energy and Natural Resources.

Section 303 provides that in any case in which the head of a department or agency is required to consult or obtain the approval of the head of another department or agency as a condition to his performance of a function, and the functions of both with respect to the matter involved have been transferred to the Secretary of Energy and Natural Resources, or the Atomic Energy Commission, the requirement for such consultation or approval is terminated.

Section 304 provides that personnel, personnel positions, assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds relating to functions transferred to the Secretary or the Atomic Energy Commission shall follow those functions and be transferred correspondingly. Appropriations so transferred will be accounted for in accordance with the provisions of section 202 of the Budget and Accounting Procedures Act of 1950 (31 U.S.C. 581c) under which transfers of this type normally are made. To the extent that additional incidental adjustments may be needed to accomplish the intent of the Act, section 506 of the Act authorizes the Director of the Office of Management and Budget to make those adjustments. Personnel positions expressly created by statute or Reorganization Plan, personnel occupying those positions on the effective date of the part, and personnel authorized to receive compensation at one of the rates prescribed by the Executive Schedule (5 U.S.C. 5312–5316) would not be transferred to the new Department under this part. Those personnel positions would lapse, as provided in section 501. Persons under the Executive Schedule may be employed by the Depart-

ment, without loss of pay, under section 306 of the part.

Section 305 provides that non-temporary personnel, other than personnel entitled to compensation under the Executive Schedule (Level I to V), shall not be separated or reduced in grade or compensation, as a result of the enactment of this legislation, for one year after being transferred to the new Department or the Atomic Energy Commission pursuant to the Act. This provision is designed to preclude reduction in force solely as a result of the enactment of this Act for one year after the transfer. However, this provision would not preclude the separation or reduction in grade or compensation of any such personnel under the same circumstances that such adverse action could have been taken if this Act had not been enacted—for example, separation for cause or removal from a Schedule C position. (See Sec. 9(h), DOT Act, 80 Stat. 944.) Personnel transferred from the Atomic Energy Commission to the Department will immediately come under the regular Civil Service System and under the provisions of Chapters 51 and 53 of Title 5 of the United States Code. Personnel transferred from the Department of the Interior to the Atomic Energy Commission will immediately come under the provisions of Section 161(d) of the Atomic Energy Act of 1954, as amended; such personnel will be subject to the provisions of Section 145 of the Atomic Energy Act of 1954, as amended, and the Commission's implementing policies and requirements.

Section 306 provides that persons entitled to compensation under the Executive Schedule (Level I to V) may be employed by the new Department and if that employment is without break in service and if the duties of the new position are comparable to the duties performed immediately preceding the new appointment, such person will be entitled to receive compensation at a rate not less than he received in his previous position for the duration of his service in the new position. (See Sec. 9(h), DOT Act.)

Section 307 provides that the Commissioned Officer Corps of NOAA shall become the Commissioned Officer Corps of the Oceanic, Atmospheric and Earth Sciences Administration of the Department of Energy and Natural Resources. This Corps was established by statute in 1917, as a special personnel system in the Coast and Geodetic Survey, to satisfy the need for the close defense relationship and because of the mobile and short-fuse nature of assignments. It has been continued in the Environmental Science Services Administration and more recently in the National Oceanic and Atmospheric Administration. The Commissioned Officer Corps is one of the seven branches of the uniformed services of the United States. Officers are available and utilized in a broad range of assignments throughout NOAA. Service aboard NOAA's oceanographic fleet is a common and principal factor in the officer's service. Approximately one-third of service career is spent assigned to such vessels.

The provisions relating to the appointment of Corps officers to policy positions in OAESA are the same as those provided in Reorganization Plan No. 4 of 1970 for appointment to policy positions in NOAA except that the requirement for Presidential appointment to such positions has been omitted in keeping with the provisions of subsection 202(c) of the Act.

Section 308 transfers to the Atomic Energy Commission (or to the Energy Research and Development Administration if Part B is enacted prior to Part A) certain research and development programs of the Department of the Interior.

Subsection (1) transfers the functions of the Office of Coal Research which was established pursuant to the Act of July 1, 1960 (30 U.S.C. 661). Through contracts with outside organizations, OCR sponsors research and development involving principally the conversion of coal to other energy forms, such as liquid hydrocarbons, clean fuel gas, substitute pipeline gas, and direct electric power.

Subsection (2) transfers to the AEC those research and development functions conducted by the Bureau of Mines which are directed toward fossil fuel energy research and development, including several energy research centers and a synthane pilot plant now under construction. The Bureau's program includes the conversion of coal into pipeline or low BTU gas, non-polluting oil, and metallurgical coke; the magneto-hydrodynamics generation of power; the production of oil from oil shale in situ; and the improved recovery of oil and natural gas.

The remaining functions of the Bureau of Mines would be transferred to the Department of Energy and Natural Resources under section 301(a). These include research and development of metallurgy and mining systems, the collection and analysis of data relating to mineral resources, and various engineering studies and demonstrations relating to mining.

Subsection (3) transfers to the AEC the program of underground electric power transmission research under the direction of the Office of the Secretary of the Interior. This cooperative government-industry effort which is carried out through the Electric Power Research Institute was initiated in Fiscal Year 1971 to hasten the development of technology and to reduce the cost of undergrounding high power transmission lines.

Definitions and Administrative Provisions

Section 401, Subsection (a) defines "function," "functions," "perform" and "performance" in order to avoid repetitious references to such terms as duties, obligations, powers, authorities, responsibilities, rights, privileges, and activities, and the exercise thereof.

Subsection (b) provides that references in the Act to provisions of law shall be deemed to include, as appropriate, reference thereto as now and hereafter amended or supplemented. This avoids repetitious uses of "as amended" or "as supplemented." It also recognizes that statutory authorities subject to transfer under this legislation may be amended or supplemented by other legislation while this legislation is under consideration or after this legislation is enacted but before it becomes effective. This provision would avoid any issue as to whether statutory authorities transferred by this Act are transferred in their amended forms, and will obviate the need for last minute conforming adjustments in this or any other legislation during final stages of the legislative process.

With respect to the functions transferred from the Atomic Energy Commission to the new department, various provisions of the Atomic Energy Act of 1954, as amended, will continue to be applicable thereto, as well as to the programs remaining with the Commission. However, it would not be feasible for responsibility in several sensitive areas to be diffused. Rather, it is intended that the Atomic Energy Commission shall continue to be responsible for (i) policies, procedures, and requirements relating to the control and declassification of Restricted Data, and to the safeguarding of the common defense and security; (ii) the functions in subsection j. (extraordinary nuclear occurrence) and z. (source material) of Section 11 of the Atomic Energy Act of 1954, as amended; (iii) the functions in Sec. 61 (source material) of the Act, as amended; (iv) the functions in Chapter 7 (source material) of the Act, as amended, with respect to the issuances of licenses and of criteria governing such issuances; (v) the function in Sec. 64 (foreign distribution of source material) of the Act, as amended, with respect to the making of the determination that the activity will not be inimical to the interests of the United States; and (vi) the functions in Sec. 123 (cooperation with other nations) of the Act, as amended. Additionally, none of the Commission's licensing authority and related regulatory responsibilities would be transferred to the Secretary. In regard to Section 152 (patents and inventions) of the Atomic Energy Act, as amended, it is intended that the Secretary, with respect to the program transferred by the Commission, shall have the same rights, powers, and duties as the Commission in the case of contracts, subcontracts, or arrangements entered into for the benefit of the Department, but that the Commission be responsible for the other functions in Chapter 13 (patents and inventions) of the Act, as amended.

Section 402 authorizes the Secretary to prescribe such policies, standards, criteria, procedures, rules, and regulations as he may deem to be necessary or appropriate to perform functions now or hereafter vested in him. (See section 203(b)(1), NASA Act; OEO Act, 42 U.S.C. 2942(n); sec. 9(c), DOT Act, 80 Stat. 944; sec. 7(d), DHUD Act, 79 Stat. 667). The Atomic Energy Commission is granted similar authority with respect to functions transferred to it by section 308.

Section 403. Subsection (a) authorizes the Secretary to delegate any of his functions to such officers and employees of the Department as he may designate and to authorize successive redelegations of those functions. (See sec. 7(d) of DHUD Act, 79 Stat. 667; sec. 9(e) of DOT Act, 80 Stat. 944.) It is intended that the Atomic Energy Commission shall have similar flexibility with respect to functions transferred to it by section 308.

Subsection (b) authorizes the Secretary to organize the department as he deems appropriate. However, the Secretary would not be authorized to abolish the "Administrations" created by section 202(c) of the Act, or any other entity referred to in section 501(b). (This authority is quite similar to that now applicable with respect to the Department of Housing and Urban Development and the Department of Justice.) (See also sec. 203(b)(8), NASA Act, 72 Stat. 430.)

Section 404 authorizes the Secretary to establish, alter, or discontinue and to maintain such State, regional, district, local, or other field offices as he may deem necessary or appropriate to the performance of his functions. This will expressly permit the Secretary to design and establish the best field office system he can devise to assure effective, expeditious, and responsive implementation of the Department's programs. It would also permit him to alter or discontinue that system and establish another system if experience or changed conditions indicate the advisability of such a change. It is intended that the Atomic Energy Commission shall have similar flexibility with respect to functions transferred to it by section 308.

Section 405 is a standard provision authorizing the Secretary, subject to the civil service and classification laws, to select, appoint, employ, and fix the salaries of such officers and employees, including attorneys, as are necessary to the performance of his functions. (See sec. 7(c), DHUD Act, 79 Stat. 667.)

Section 406 authorizes the Secretary to obtain the services of experts and consultants at rates not to exceed those prescribed for GS–18 of the General Schedule. (See sec. 7(e) of the DHUD Act as amended by sec. 906 of the Housing and Urban Development Act of 1970, P.L. 91–609.)

Section 407 is a standard provision authorizing the Secretary to appoint advisory committees to consult with and advise him with respect to the performance of his functions. (See sec. 7(c) of the DHUD Act, as amended

by sec. 905, P.L. 91-609; sec. 9(o) of DOT Act, 80 Stat. 944.)

Section 408 authorizes the appointment, detail, or assignment of members of the Coast Guard, the Commissioned Officer Corps of OAESA, or the Regular or Reserve Commissioned Corps of the Public Health Service to any position in the Department that is not required to be filled by an officer whose appointment is required to be confirmed by the Senate.

Subsection (b) permits members of the Army, Navy, Air Force, and Marine Corps to be detailed for service in the Department under agreements between the Secretary and Secretaries of the Military Departments.

Subsection (c) provides that the status, office, rank, or grade of persons who are appointed, assigned, or detailed to the Department pursuant to this section shall not be adversely affected by service under this section. (See sec. 9(d)(1), DOT Act, 80 Stat. 944.)

Section 409 authorizes payment of transportation expenses and per diem to temporary or seasonal employees from the place of their recruitment to the place of their duty and while at the place of such duty. Such expenses would be paid in accordance with chapter 57 of title 5 of the United States Code which relates to similar payments to other Government employees for official travel. (See 7 U.S.C. 2229.)

Section 410 authorizes the Secretary to enter into contracts and agreements, including grant agreements, with public agencies and private organizations and persons. It authorizes payments in lump sum or by installments or in advance or by way of reimbursement. It also authorizes the Secretary to take such steps as he may deem necessary or appropriate to perform his functions. (See sec. 203(b)(5), NASA Act, 72 Stat. 426.)

Section 411 authorizes the Secretary to acquire facilities required for the maintenance and operation of laboratories, research, and testing sites and facilities, quarters, and related accommodations for employees and their dependents and such other special purpose real property as the Secretary deems necessary. Such special purpose facilities and real property could be acquired by purchase, lease, condemnation, or otherwise. General purpose facilities and real property would continue to be acquired by the General Services Administration. The title to all property acquired pursuant to this section would be in the United States rather than in the Secretary or the Department. (See sec. 203(b)(3), NASA Act, 72 Stat. 426.)

Section 412 authorizes the Secretary to provide, construct, or maintain, as necessary and when otherwise unavailable, certain facilities and sevices for employees and their dependents at remote locations. Included would be emergency medical services and supplies; food and subsistence supplies; messing facilities; audio-visual equipment, accessories, and supplies for recreation and training; living and working quarters and facilities; and transportation for school-age dependents to the nearest appropriate educational facilities. Reimbursement would be required for the medical treatment and for services and supplies so furnished to employees and their dependents. Charges for these services, or any other services under this Act to private persons or organizations, would be determined in accordance with uniform policies, standards, and procedures prescribed by the Office of Management and Budget and with 31 U.S.C. 483a and 5 U.S.C. 5911. (See sec. 9(1), DOT Act, 80 Stat. 946, and 15 U.S.C. 1514.)

Section 413 would authorize the Secretary to permit concessionaires to provide services on property under the custody and control of the Secretary. Concession agreements under this section would have to be in conformity with standards prescribed in regulations issued by the President (See 16 U.S.C. 20-20g, 580d.)

Section 414 authorizes the Secretary to acquire copyrights and patents; interests therein and licenses thereunder, whenever such acquisitions are necessary or appropriate to the performance of his functions. (See 10 U.S.C. 2386).

Section 415 authorizes the Secretary to engage in such basic and applied research and disseminate technology as he may deem necessary to carry out functions entrusted to him. (See title V, Housing and Urban Development Act of 1970, P.L. 91-609; sec. 9(q), DOT Act, 80 Stat. 947.)

Section 416 authorizes the Secretary to undertake joint projects with nonprofit organizations, research organizations, and public agencies and organizations involving matters of mutual interest and to share the costs thereof.

Section 417 authorizes the Secretary, within his own discretion or at the request of any persons, firms, organizations, or others, public or private, to make special studies concerning matters within his jurisdiction; to prepare from the records of the Department special compilations, lists, bulletins, or reports; to furnish transcripts or copies of those studies, compilations, and other records; to furnish copies of charts, maps, or photographs; and to provide services incident to the conduct of the regular work of the Department. For example, the Department may have a specialized piece of equipment, or persons with specialized knowledge, not available elsewhere and, in appropriate cases, the Secretary would be authorized to make those services available to private persons and to public and private agencies and organizations.

Section 418 authorizes the Secretary to accept, hold, administer, and utilize gifts and bequests. (See sec. 905(k) of Housing and Urban Development Act of 1970, P.L. 91-609; sec. 9(m), DOT Act, 80 Stat. 946.)

Section 419 authorizes the Secretary to prescribe a seal for the Department. (See sec. 7(g) of DHUD Act, 79 Stat. 667.)

Section 420 authorizes the establishment of a working capital fund to defray necessary expenses arising out of the maintenance and operation of such common administrative services as the Secretary shall find to be desirable in the interest of economy and efficiency. (See sec. 9(j), DOT Act, 80 Stat. 954; sec. 7(b), DHUD Act, 79 Stat. 667; and 43 U.S.C. 1467, Interior Department.)

Section 421 is a technical provision. In certain cases authorities under a portion of an Act is transferred to the Secretary by this Act while responsibility for other provisions of the same Act will be retained by the transferring agency. This provision is designed to permit the Secretary to exercise powers vested by the general provisions of any such Act without divesting the transferring agency of authority to exercise those powers with respect to the functions retained by that agency.

Section 422 is designed to make it clear that authority expressly provided by this Act is in addition to and not in substitution for any authority that may have existed prior to the effective date of this Act and is transferred by this Act.

Section 423 requires an annual report to the Congress on the activities of the Department concerning activities during the preceding fiscal year, a statement of goals, and an assessment of progress.

Section 424 authorizes the Secretary, when authorized in an appropriation act, to transfer funds from one appropriation to another so long as such transfers do not increase or decrease an appropriation by more than five percent. This does *not* permit such transfers unless they are authorized in an appropriation act.

Section 425 authorizes the establishment of service funds for each Administration. These funds would be used to defray the initial costs of reimbursable services provided to other departments and agencies or to persons, agencies, or organizations outside the government.

Section 426 directs the Secretary from time to time to prepare and publish compilations of laws and treaties applicable to the various program areas of the Department as he deems to be in the public interest.

Section 427 authorizes the Secretary to employ non-citizens when he deems it to be in the public interest.

Title V

Transitional and Conforming Provisions

Section 501 provides that whenever all of the functions of a department, agency, or other body, or of any component thereof have been transferred, whether by this part, or by a combination of Acts, Reorganization shall lapse. This, in effect, discontinues organization structures when they no longer have functions to perform. It applies only when all of the functions of the agency or component have been transferred to the Secretary. Thus, it would not apply, for example, to the Corps of Engineers, whose military functions and construction and other activities continue; nor would it apply to the Soil Conservation Service.

The section also provides that all Executive Schedule offices and positions in a department or agency that lapses under the first sentence of the section shall also lapse.

Section 502 repeals the section of the Flood Control Act of 1970 which established the position of the Assistant Secretary of the Army for Civil Works, as this statutory office is not covered by section 501.

Section 503 substitutes the Department of Energy and Natural Resources for the Department of the Interior in the definition of "Executive Department" in title 5 of the United States Code.

Section 504 substitutes the Secretary of Energy and Natural Resources for the Secretary of the Interior in section 19(d) of title 3 of the United States Code relating to presidential succession.

Section 505 substitutes the Secretary of Energy and Natural Resources for the Secretary of the Interior in Reorganization Plan No. 2 of 1970 relating to membership on the Domestic Council.

Section 506 authorizes the Director of the Office of Management and Budget to make such additional incidental dispositions of functions, positions, personnel positions, assets, liabilities, contracts, property, records, appropriations, etc., as may be necessary to carry out the intent and purpose of the Part. This is a standard provision in Reorganization plans involving interagency transfer of functions.

Title VI

Saving Provisions

Section 601 is a saving clause that continues the effectiveness of all existing orders, determinations, rules, regulations, permits, contracts, certificates, licenses, and privileges affected by the Act, until such time as they are otherwise modified or replaced by appropriate authority or otherwise expire. This avoids any inadvertent lapsing or impairment of essential Executive orders, directives, documents, and obligations, and will afford the President, the Secretary, and other officials sufficient time to deal with these matters in an orderly fashion.

Section 602 is another saving clause that preserves and continues legal proceedings in being on the effective date of the respective parts. Such proceedings would, in effect, be continued, modified, or terminated as if the Act had never been enacted.

Section 603 is a technical provision. It provides that with respect to functions transferred by the Act, references in laws (including Reorganization Plans) to other officials

shall be deemed to be a reference to the Secretary, or other officials as appropriate.

Section 604 is a technical provision. A number of the functions that are transferred by this Act are functions that are vested in the President but were delegated to a transferring agency on the effective date of the respective parts. Under the terms of the Act those functions are transferred to the Secretary. This section is designed to assure that those administrative delegations of functions by the President do not take on a statutory character that would impair the President's authority to modify, terminate, or transfer these delegated functions in the future.

Title VII

Separability

Section 701 is a standard separability clause that avoids the invalidation of the whole part if a single provision is found to be invalid.

Title VIII

Effective Date and Interim Appointments.

Section 801 provides that the part shall become effective 120 days after the Secretary is appointed, or on such earlier date as the President may prescribe and publish in the *Federal Register*. This will give the President time to select, nominate, and appoint the Secretary, and will allow the Secreary sufficient time to arrange and organize the new Department and prepare such rules, regulations, orders, etc., as may be necessary for a smooth transition.

Title IX

Short Title

Section 901 provides that this part may be cited as the "Department of Energy and Natural Resources Act."

PART B—ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

Title XI

Declaration of Purpose

Section 1101 expresses Congressional recognition that the general welfare and the common defense and security require effective action to develop all forms of energy sources. The Congress finds that, to best achieve the objectives of this Part, which is cited as the "Energy Research and Development Administration Act", it is necessary to establish an Energy Research and Development Administration to bring together and direct Federal activities relating to research and development on the various sources of energy. The new Administration will be responsible for assessing the requirements for research and development in regard to various forms of energy sources, both in relation to near term and long range needs, for planning in regard to meeting these requirements, and for undertaking and managing the research and development programs, and military support and production activities.

Subsection (b) of Section 1101 expresses Congressional recognition that it is in the public interest that the licensing and related regulatory functions of the Atomic Energy Commission be separated from the performance of the other functions of the Commission, which other functions are transferred by this Part to the new Administrator except the uranium and thorium assessment functions being placed in the new Department. The Congress finds that it is in the public interest that this separation of functions be effected in an orderly manner assuring adequacy for resources necessary for the performance of the separate functions.

Title XII

Establishment of Administration

Section 1201 establishes the Energy Research and Development Administration as an independent executive agency, to be headed by an Administrator who shall be appointed by the President by and with the advice and consent of the Senate. The Administrator will receive compensation at the rate prescribed for Level II of the Executive Schedule.

Section 1202 establishes top policy offices in the Administration and describes the general internal structure of the Administration. There will be a Deputy Administrator, at Level III of the Executive Schedule, who shall be appointed by the President by and with the advice and consent of the Senate. There will also be a General Counsel, at Level IV, and other officials who will perform such functions as the Administrator specifies. The Deputy Administrator, or in his absence the General Counsel or such other official as the Administrator determines, will act for the Administrator in his absence.

More specific legislative proposals for the internal structuring of ERDA will be made after further consultation with members of Congress and after further study of ERDA's managerial and organizational needs. ERDA must be organized to serve as the focal point for an expanding energy R&D program and to provide appropriate priority and balance among its nuclear and non-nuclear energy R&D responsibilities.

Title XIII

Transfers

Section 1301 transfers to the Administrator of the new Energy Research and Development Administration all functions of the Atomic Energy Commission except the licensing and related regulatory functions, including pertinent health and safety, environmental and other responsibilities, which are to be retained by the Commission, and except the uranium and thorium assessments which are transferred to the new Department. The transferred functions, including the military and production aspects, will continue to be carried out under existing law, including pertinent provisions of the Atomic Energy Act of 1954, as amended.

Section 1302 provides that personnel, personnel positions, assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, or other funds relating to functions transferred to the Administrator shall follow those functions and be transferred to the Administrator.

Section 1303 provides that the transfer of non-temporary personnel pursuant to this part shall not cause any such employee to be separated or reduced in grade or compensation for one year after such transfer. This provision would not preclude the separation or reduction in grade or compensation of any such personnel under the same circumstances that such adverse action would have been taken if this Act had not been enacted.

Title XIV

Definitions and Administrative Provisions

Section 1401 adopts by reference and makes applicable to this part certain specified sections of part A of this Act.

Title XV

Savings Provisions

Section 1501 adopts by reference and makes applicable to this part the savings clause in part A of this Act that continues the effectiveness of all existing orders, determinations, rules, regulations, permits, contracts, certificates, licenses, and privileges affected by this part, and accomplishes certain other savings aspects.

Title XVI

Separability

Section 1601 is a standard separability provision that avoids the invalidation of the whole Act if a single provision is found to be invalid.

Title XVII

Nuclear Energy Commission

Section 1701(a) provides that the licensing and related regulatory functions of the Atomic Energy Commission shall continue to be performed by the Commission and that these functions, as well as the Chairman and members of the Commission, the General Counsel and other officers and components involved in their performance, are excepted from the transfer to the new Administration under Section 1301 of this part. The result is to place in separate agencies the regulatory and non-regulatory functions exercised by the present Commission. These functions are now separated within the Commission by internal agency arrangements, with the regulatory functions, except those which are adjudicatory in nature, being performed under the direction of the Director of Regulation and the non-regulatory functions under the separate direction of the General Manager. Both of these officials now report to the five-member Commission, which has overall responsibility for all agency activities. The organizational separation of these functions effected by this part is in keeping with the progression of internal steps taken by the agency looking to formal organizational separation at a point in time when the regulatory unit will have available to it the independent resources required to perform its functions within the framework of a separate agency.

Section 1701(b) provides that the Atomic Energy Commission shall be renamed the Nuclear Energy Commission. The changed name more accurately describes the technology which is the subject matter of agency regulation—that relating to the processes of nuclear fission or nuclear transformation.

Title XVIII

Effective Date and Interim Appointments

Section 1801 provides that part B shall become effective 120 days after the Administrator is appointed, or on such earlier date as the President may prescribe and publish in the *Federal Register*. This will give the President time to select, nominate, and appoint the Administrator, and will allow the Administrator sufficient time to arrange and organize the new Administration and prepare such rules, regulations, orders, etc., as may be necessary for a smooth transition. Prior to the effective date, the regulatory arm of the present Atomic Energy Commission will be provided with sufficient resources to enable it to perform its functions within the framework of a wholly separate organization. While presently possessing a substantial independent capability, and progressively increasing its capability base to meet a mounting licensing workload, the regulatory staff of the Commission now requires significant support from the technical resources of the operating arm of the agency.

Title XIX

Short Title

Section 1901 states that this part may be cited as the "Energy Research and Development Administration Act."

NOTICE OF FUTURE HEARINGS

Mr. RIBICOFF. Mr. President, the Subcommittee on Reorganization, Research, and International Organizations will soon begin hearings on legislation to establish a Department of Energy and Natural Resources. All those wishing to present statements on this bill should notify the subcommittee office, room 162, Russell Office Building. The telephone number is 225–2308.

Mr. JACKSON. I thank the able Senator from Illinois and the Senator from Connecticut for their excellent comments.

The Senator from Connecticut (Mr. RIBICOFF) is the chairman of the Subcommittee on Reorganization, which subcommittee will be handling the legislation. I will be the cochairman of the hearings on this particular bill with him.

I would like to take up with the chairman of the full committee as well as the Senator from Connecticut the possibility of having members from the standing committees that are directly involved and directly affected by this proposed new department and any Cabinet position within the executive branch. The measure cuts across a number of committees of Congress.

I believe our task and job will be a lot easier in the Committee on Government Operations with that kind of support.

I now yield to the Senator from Arizona, the ranking Republican member of the committee.

Mr. FANNIN. Mr. President, I express appreciation to the distinguished chairman of the Committee on Interior and Insular Affairs and the manager of the bill that we now have under consideration in referring to the matter which he has just announced.

I feel we have a very important assignment in the Committee on Interior and Insular Affairs in accordance with Senate Resolution 45.

I wish to ask the distinguished chairman if it is not his intent to have a full report go from the Committee on Interior and Insular Affairs in accordance with Senate Resolution 45 to the Committee on Government Operations for consideration. I would assume the Committee on Interior and Insular Affairs will be involved in conducting hearings on the DENR legislation with a view to making recommendations to the Senate as a whole and to the Government Operations Committee regarding Federal organization for energy policy and programs.

Mr. JACKSON. Of course, under the rules of the Senate, this bill will be considered by the Committee on Government Operations. I pointed out earlier that the Committee on Interior and Insular Affairs is directly involved. I would say that of all committees the Committee on Interior and Insular Affairs is most heavily involved. The reorganization plan would take virtually the entire jurisdiction now enjoyed by the Department of the Interior and move it into this Department of Energy and Natural Resources, with a few exceptions.

I would say that probably the best way to go into this matter would be to have a subcommittee from each of the committees. The Joint Committee on Atomic Energy is affected; the Committee on Commerce is affected. Senators from those committees could join in the hearings. The recommendations that ou committee may make in connection with energy policy certainly would be a part of the important record that must be made in connection with the Department of Energy and Natural Resources.

Mr. FANNIN. I agree with the Senator. I feel what he stated is an indication that the Committee on Interior and Insular Affairs, as part of its responsibilities under Senate Resolution 45, would be involved and will prepare recommendations regarding this legislation. Let us put it that way. It would be a coordinated program as far as the committee is concerned in connection with the legislation introduced this afternoon.

Mr. JACKSON. I shall look forward to working with all members of the committee, particularly the ranking minority member, the Senator from Arizona.

Mr. FANNIN. I thank the Senator.

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

Mr. JACKSON. I am pleased to yield.

Mr. PASTORE. Mr. President, along the lines being discussed, inasmuch as the Joint Committee on Atomic Energy would be interested, I would hope that the chairman would see fit to send a notice to chairmen of the committees involved so that they can participate in any way that might be arranged.

Mr. JACKSON. Yes. The three committees in addition to the Committee on Government Operations that are directly involved would be notified. Of course, the Joint Committee on Atomic Energy has a large number of current responsibilities in connection with DENR. I will see that all members of the three committees in addition to the Committee on Government Operations—that is, the Committee on Commerce, the Joint Committee on Atomic Energy, and the Committee on Interior and Insular Affairs—are advised of the hearings. I will take up with the full committee and the Subcommittee on Government Operations the interests of the committees.

Mr. PASTORE. I thank the Senator.

By Mr. SCOTT of Pennsylvania:

S. 2136. A bill to amend section 107 of the River and Harbor Act of 1970. Referred to the Committee on Public Works.

ST. LAWRENCE SEAWAY-GREAT LAKES SEASON EXTENSION

Mr. SCOTT of Pennsylvania. Mr. President, I introduce for appropriate reference a bill to extend the St. Lawrence Seaway-Great Lakes navigational season demonstration program for another 2½ years. My bill would also increase the overall authorization for this effort by $3 million; from the $6.5 million originally authorized to a new proposed support level of $9.5 million.

As you know, Mr. President, Congress in 1970 acted for the first time to officially recognize the Great Lakes-St. Lawrence Seaway as "the Nation's Fourth Seacoast." That same year, Congress also authorized, as a part of the 1970 River and Harbor Act, a 3-year navigational season extension demonstration program with the ultimate goal of achieving year round, 365-day shipping through the upper Great Lakes and the St. Lawrence Seaway to the Atlantic Ocean.

Despite higher authorizations, budget restraints have held amounts actually appropriated for this program to only $740,000 in 1972 and $2.4 million in 1973. Even if the total $3.36 million needed to reach the full authorization is appropriated in this final year of the existing program, it is unlikely that the full potential envisioned by Congress will be realized without the extension which the St. Lawrence Seaway Development Corporation, the Army Corps of Engineers, and other participating Federal agencies now deem necessary. It is for the purpose of providing this extension that I am introducing my bill today.

I am advised that the St. Lawrence Seaway Development Corporation, in cooperation with the Corps of Engineers, will complete a systems analysis of the seaway this coming year, leading to alternative solutions for ice control and suppression, frigid weather lock operations, navigational assistance, and other problems which now limit the seaway's shipping season. A 2½-year extension of the program, with appropriate funding, will then enable the Corporation and other cooperating agencies to fully evaluate their findings, and to provide at least the interim navigational systems necessary for any permanent extension of the navigational season.

Mr. President, I think there is every reason to be encouraged by the results obtained from this effort so far. The 1972–73 shipping season went for a total of 309 days, the longest period in the history of the upper Great Lakes. Another record was set by the 268 days of continuous operation which marked the international shipping season last year. The 53.6 million tons of freight which moved through the Great Lakes and through the seaway to Montreal in 1972 was, again, a record "first." Significantly, the navigational season extension demonstration has at last made possible an ever-increasing trend that has, since the program's inception, seen each year surpass the St. Lawrence Seaway's long sought goal of an annual 50 million cargo tons.

Nevertheless, more must be done if the Great Lakes-St. Lawrence Seaway is to become "the Nation's fourth seacoast" in more than name only. Though its cost is modest in terms of other Federal programs, I believe that the Great Lakes-St. Lawrence Seaway navigational season extension demonstration has been, and will continue to be, one of the finest examples of cooperation ever undertaken between Government and industry for the benefit of an entire geographic region.

With this in mind, I urge immediate and favorable action on the bill which I introduce today.

Mr. President, I ask unanimous consent that the text of this bill be printed at this point in the RECORD.

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

S. 2136

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 107(b) of the River and Harbor Act of 1970 (84 Stat. 1818, 1820) is hereby amended by deleting "July 30, 1974" and inserting in lieu thereof "December 31, 1976", and by deleting "$6,500,000" and inserting in lieu thereof "$9,500,000".

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

S. 2137. A bill to amend the Act of October 15, 1966 (80 Stat. 953, 20 U.S.C. 65a), relating to the National Museum of the Smithsonian Institution, so as to authorize additional appropriations to the Smithsonian Institution for carrying

out the purposes of said act. Referred to the Committee on Rules and Administration.

NATIONAL MUSEUM ACT EXTENSION

Mr. SCOTT of Pennsylvania. Mr. President, on behalf of myself and the distinguished Senators from Arkansas (Mr. FULBRIGHT) and Washington (Mr. JACKSON), I introduce legislation to extend the National Museum Act.

Since its founding in 1846, the Smithsonian Institution, as custodian of the national collections, has endeavored, within the limits of its resources, to be responsive to the needs of other museums. In the early days, these efforts consisted of exchanges of information and publications and, in more recent times, have included the short-term training of museum professionals, consultation services on specific problems, and small grants for special studies.

Mr. President, the National Museum Act of 1966 reaffirmed the Smithsonian's traditional role of assisting museums with specific reference to the continuing study of museum problems and opportunities; training in museum practices; the preparation of museum publications; research in museum techniques, and cooperation with agencies of the Government concerned with museums. Although funds were authorized for fiscal years 1968, 1969, and 1970, none were appropriated.

On December 31, 1970, the President approved legislation providing a 3-year extension of National Museum Act funding. The extension authorized appropriations not to exceed $1 million annually through fiscal year 1974, of which $300,000 each year was specifically allocated to be expended—in one-third shares—for training programs by the National Endowment for the Arts, the National Endowment for the Humanities, and the Smithsonian. An additional amendment clarified grant and contract authority for training in museum practices.

In fiscal year 1972, $600,000 was appropriated, of which $200,000 was transferred to the Endowments, and a modest program was initiated. In fiscal year 1973, $798,000 was appropriated; and $899,000 has been requested in the fiscal year 1974 budget.

Funds appropriated to the Smithsonian for the implementation of the National Museum Act are made available, primarily by grants and contracts, to museums, professional associations, and individuals. Such funding is made available after review by the National Museum Act Advisory Council, which is appointed for this purpose by the Smithsonian. The membership of the advisory council encompasses the principal museum disciplines—art, science, and history—and is broadly representative of the various regions of the United States. The council advises and assists the Secretary of the Smithsonian Institution in determining priorities and assessing the quality of individuals and programs seeking support under the Act. In funding proposals, the advisory council has insisted that all proposals clearly demonstrate how the project will improve the museum profession; its techniques, its methods, and its approaches.

Proposals funded thus far in fiscal year 1973 include stipend support for graduate training in conservation and for the training of minority group graduate students in museum studies; the development of a series of audio-cassette tapes for the technical training of personnel of history museums, and support for six regional seminars on the problems of urban museums.

Three additional projects have been planned to address the management problems of museums: one would provide professional assistance and consultation on general management to small museums; another would analyze the financial resources and salary structures of American museums, and the third would involve the use of computers in museums with emphasis on cataloging.

Other pending proposals deal with matters such as paper conservation; the preservation of wooden ethnographic specimens, and the publication of works on craft documents, historical preservation agencies, and museum practices.

The proposed fiscal year 1974 program will support inservice training opportunities, stipends for graduate and professional training; research in conservation techniques and materials; the study and analysis of new methods and approaches to exhibit design and construction; management and administrative systems; methods of handling and storing objects, and archival and library management.

The Smithsonian Institution, the National Endowment for the Arts, and the National Endowment for the Humanities, through their respective offices of museum programs, regularly consult and review programs and proposals in order to prevent duplication and to meet, insofar as possible, the increasing needs of museums and museum professionals from the point of view of their individual programs. The programs of the endowments focus on the public aspects of specific museums such as exhibitions, renovations, and catalogs and purchases, while those programs that the Smithsonian administers under the National Museum Act are designed to serve the needs of the museum profession generally.

In view of the substantial increases in authorization and budget requests for the endowments, the transfer of funds from National Museum Act appropriations is quite possibly no longer necessary.

One index of the present and growing needs of the museum profession is the fact that in fiscal year 1972 proposals potentially eligible for funding under the National Museum Act totaled approximately $2 million. In fiscal year 1973, that figure exceeded $6 million.

Mr. President, we feel that the need for this bill can be fully documented, and we urge careful consideration.

ADDITIONAL COSPONSORS OF BILLS

S. 1328

At the request of Mr. TUNNEY, the Senators from Washington (Mr. MAGNUSON and Mr. JACKSON) and the Senator from Oregon (Mr. HATFIELD) were added as cosponsors of S. 1328, a bill to direct the Secretary of Transportation to make an investigation and study of the feasibility of a high-speed transportation system between the cities of Tijuana in the State of Baja California, Mexico, and Vancouver in the Province of British Columbia, Canada, by way of the cities of Seattle, in the State of Washington, Portland, in the State of Oregon, and Sacramento, San Francisco, Fresno, Los Angeles, and San Diego, in the State of California.

S. 1708

At the request of Mr. CRANSTON, the Senator from Illinois (Mr. PERCY) was added as a cosponsor of S. 1708, a bill to amend title X of the Public Health Service Act to extend appropriations authorizations for 3 fiscal years and to revise and improve authorities in such title for family planning services programs, planning, training and public information activities, and population research.

S. 2068

At the request of Mr. JAVITS, the Senator from Missouri (Mr. EAGLETON) and the Senator from Alaska (Mr. GRAVEL) were added as cosponsors of S. 2068, the "National Tay-Sachs Disease Screening and Counseling Act."

FEDERAL LANDS RIGHT-OF-WAY ACT OF 1973—AMENDMENT

AMENDMENT NO. 310

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

Mr. McINTYRE submitted an amendment, intended to be proposed by him, to the bill (S. 1081) to authorize the Secretary of the Interior to grant rights-of-way across Federal lands where the use of such rights-of-way is in the public interest and the applicant for the right-of-way demonstrates the financial and technical capability to use the right-of-way in a manner which will protect the environment.

AMENDMENT NO. 313

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

Mr. HASKELL submitted an amendment, intended to be proposed by him, to Senate bill 1081, supra.

AMENDMENT NO. 314

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

Mr. JACKSON submitted an amendment, intended to be proposed by him, to Senate bill 1081, supra.

AMENDMENT NO. 315

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

Mr. JACKSON (for himself and Mr. FANNIN) submitted an amendment, intended to be proposed by them, jointly, to Senate bill 1081, supra.

AMENDMENT NO. 317

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

Mr. McGOVERN submitted an amendment, intended to be proposed by him, to Amendment No. 240, intended to be proposed by Mr. MONDALE (for himself and Mr. BAYH), to Senate bill 1081, supra.

AMENDMENT NO. 318

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

Mr. McGOVERN (for himself and Mr. CURTIS) submitted an amendment, in-

tended to be proposed by them, jointly, to Senate bill 1081, supra.

AMENDMENT NO. 319

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

Mr. NELSON (for himself, Mr. HART, Mr. KENNEDY, Mr. HUMPHREY, and Mr. MCGOVERN) submitted an amendment, intended to be proposed by them, jointly, to Senate bill 1081, supra.

AMENDMENT NO. 320

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

Mr. BARTLETT submitted an amendment, intended to be proposed by him, to Senate bill 1081, supra.

AMENDMENT OF FOREIGN ASSISTANCE ACT OF 1961—AMENDMENT

AMENDMENT NO. 311

(Ordered to be printed, and referred to the Committee on Foreign Relations.)

AMENDMENT TO THE MUTUAL DEVELOPMENT AND COOPERATION ACT

Mr. HUMPHREY. Mr. President, 12 years ago the Congress approved the Humphrey amendment which made the development of credit unions and other cooperatives overseas a matter of national policy. Later, the Congress approved the Fraser/Morse amendments which again made the development of such organizations as tools for social and political democratization a matter of national policy.

Today I am submitting an amendment to increase the size of the technical assistance and loan programs for cooperatives. This amendment is completely in tune with the stated objectives of both the House Foreign Affairs Committee amendments known as the Zablocki bill and the Humphrey/Aiken bill which has the sponsorship of many of my colleagues on the Foreign Relations Committee. These objectives are to assist the poorest of the less developed countries, to provide aid for the "little man," to stimulate self-help and independence, and to use private organizations and resources wherever possible to carry forward our national objectives.

Yet, despite these firm commitments to policy made by the Congress, the implementation of this program has lagged. I am reliably informed, for example, that after 12 years of gradual build-up, AID is not yet spending as much as $5,000,000 a year—this is less than one-half of one percent of the AID funds appropriated by the Congress—for technical assistance in the field of cooperative development.

Self-liquidating loans for sound, economical projects developed by these cooperative programs have been a minimal amount. The loans for these cooperative undertakings over a 12-year period, I am told, have amounted to only $140,000,000 or an average of a little over $12,000,000 a year.

This is in the face of the fact that democratic, nonprofit cooperative institutions now constitute an essential part of American life today and their work overseas is perhaps the most desirable of all of our foreign assistance designed to help people to help themselves. To put it another way, the Congress has felt that cooperative development should have a higher priority in its foreign assistance program, but the cooperatives have not yet secured a high enough priority in AID to make the program work with its maximum effectiveness.

There are innumerable illustrations of the effectiveness of technical assistance work with cooperatives in Latin America; but only a limited amount of that experience has been applied in Africa, the Middle East and Southeast Asia. Most of my colleagues are familiar with the beneficial results achieved by the organization of rural electric cooperatives in Nicaragua, Colombia, Ecuador, Chile, and Costa Rica, Peru, and Bolivia. Electricity has been brought to the farms and farm homes of thousands of families in Latin America as a result of these cooperative undertakings.

A dramatic human interest story is involved in the cooperative rural electrification program in Vietnam. Three electric co-ops were built there during the war and under war conditions. They were built in the highlands area, the delta region and just outside of Saigon. After the National Rural Electric Cooperatives Association had assisted in their organization and construction the cooperatives were left on their own. In a recent visit, a representative of NRECA found that all three of the cooperatives are still in operation. The co-ops are serving more rural families than had been planned when the cooperatives were organized and they are in a position to help rebuild war-torn areas in that country.

The credit unions organized in Latin America under the Humphrey amendment are now serving well over a million members with assets in those credit unions of well over $180,000,000.

The drama of these stories can be repeated in cooperative housing projects in rural areas of Panama where farmers were able to build their own homes at a cost as low as $350. Large-scale urban cooperative communities have been built in a number of other countries under the AID program. These are providing decent housing, not only for farm families, but also for the civil servants, teachers, workers, small merchants, and other families who can afford decent housing once they have the capital loans, the terms and technical assistance that make these projects possible.

Cooperative banks have made a small but important impact in Latin America, but have not yet been reproduced in other sections of the world. The most dramatic project of all has been the $125,000,000 cooperative fertilizer complex built in India with the techncal assistance of U.S. farmer cooperatives in the fertilizer field. Only $20,000,000 of the $125,000,000 investment is coming as a loan from AID, but this is a critical factor in the success of the program. This project probably could have been built years earlier if there had been an assured source of AID loans for cooperatives.

Some of my colleagues are sure to ask how the $50,000,000 a year in loan funds for cooperatives will be used. Let me give you a few specific illustrations.

The rural electric cooperatives have now completed or have in the development stage 77 electric cooperatives in 10 countries with a total loan value of $83,660,000. The leaders of the electric cooperatives tell me that there is an application in the development stage for the construction of additional electric cooperatives in the Philippines and that a loan application will be presented for $20,000,000 for that country alone. Additional electric cooperatives are in the planning stage in Ecuador and Nicaragua. These could use an additional $5,000,000 and would move fairly rapidly if there were assurances that the loan funds are available.

One of the small cooperatives recently brought to my attention illustrates the potential impact on people. The Cuna Indians in the San Blas Islands off the shores of Panama need a loan of $120,000 to increase production and stimulate the marketing of handicraft products, among them being the Molas now being sold in quantities to tourists who visit Panama.

The Cooperative League of the U.S.A. tells me that the co-ops who are developing their insurance services through the cooperative insurance companies now in the development stage could use $1,000,000 for reserve capital and that other such organizations could be organized if there were assurances of capital loan funds.

In the credit union field, an application is now pending for $15,000,000 for lending to credit union members in Guatemala, Honduras, and Panama. In addition, the regional organization COLAC has requested $5,000,000 to be used in its supplementary capital program. A study of 14 Latin American countries shows an additional absorptive capacity of $25,000,000 in the next 5 years.

In other words, the credit unions could use about $45,000,000 in the 5-year period immediately before us.

The agricultural cooperatives have only borrowed $3 million. This has been primarily for facilities, inventories, and other institution-building types of loans. Agricultural Cooperative Development International—ACDI—has programs going in Guatemala and Honduras which could use $3,000,000 in credit immediately. The Cooperative League of the U.S.A. has been working with cooperative agricultural organizations in Costa Rica which could increase their effectiveness tremendously with a $2 million loan. In the Philippines the provincewide agricultural demonstration program served by ACDI would easily apply $5 million for the facilities and inventory needed in that provincewide program.

In the housing field, the Foundation for Cooperative Housing has assisted in the development of local institutions in Panama, Honduras, Colombia, and Chile which have used $17,500,000 in loan funds. FCH reports that a minimum of $10 million per year could be used in housing construction for families of very low income starting immediately. FCH has a "minimum shelter" program designed to help people build their own homes in the $500 to $2,500 bracket. These are simple homes, but a great improvement over the slum and squatter

conditions in which the people are now living. Moreover, emerging cooperative housing programs in Africa and Asia also could utilize an equal amount of $10 million.

These projections do not include the funds currently available under the Housing Investment Guaranty which are not appropriated and come entirely from private resources with an AID guaranty.

Such homes are built for families in the lower- and middle-income brackets who have a steady job and can be committed to regular repayment. The $10,000,000 a year proposed for the minimum shelter program is based on earlier pilot programs with a good repayment record. People who will build their homes with sweat equity can be among the best credit risks of all.

Encouraged by the success of the India fertilizer project, the U.S. cooperatives are now examining the possibility of increasing fertilizer production in Latin America to stimulate food production in those countries. These programs may very well be undertaken as joint enterprises with AID funding Latin American participation up to 20 to 25 percent of the total cost of the plants. The program would require $25,000,000 to $30,000,000 in a 5-year period and could be used effectively to the mutual benefit of the United States and its neighbors in Latin America.

In all of these calculations no consideration has been given to the use of AID loan funds for agricultural credit loans to farmers or compesinos in the newly developing countries. Such a program could use almost all of the funds AID now has available, so I am not making a recommendation on that score. As you know, the U.S. Banks for Cooperatives and the Farm Credit System have helped to make American agriculture an example for all the world. These credit systems have been a tremendous success.

The successful development of this program depends, of course, on the continuation and expansion of support for technical assistance provided by the private, nonprofit U.S. cooperative associations.

I have been talking mostly about the nuts and bolts of a cooperative technical assistance and development loan program. I think we should spend a minute to emphasize the private, nongovernmental role that our American cooperatives can play in international development. These people-to-people contacts developed with support of AID have in many countries helped to relieve the strain and pressure of political conflict sometimes generated on a government-to-government basis.

The cooperatives, as private institutions, often give the people in the less developed countries their first experience in democracy, where they can hope to direct and play an immediate and important part in their own economic affairs.

A recent study in the United Kingdom reported that individual experts from the private sector tend to work closely with the personnel in the developing countries and that the contact between the respective institutions in the developed and the developing countries made a firm bond of friendship. The British have recommended core funding for institutions which can then assist their counterpart institutions in the developing countries. Such programs have been less costly and more successful in many cases than parallel government-to-government programs. If such institutions are strengthened, many more of the multinational goals we seek to accomplish can be achieved through private, nongovernmental institutions. The American cooperative movement is a unique American resource and should play an important role in any program of American assistance for economic development.

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

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

AMENDMENT No. 311

On page 7, after line 14, insert the following new section:

"SEC. 110. DEVELOPMENT AND USE OF COOPERATIVES.—(a) In order to strengthen the participation of the urban and rural poor in their country's development, not less than $50,000,000 of the funds made available for the purposes of this chapter for each of the fiscal years 1974 and 1975 shall be available only for assistance in the development of cooperatives in the less developed countries which will enable and encourage greater numbers of the poor to help themselves toward a better life.

"(b) In addition, in order to permit increased use of the unique services which United States private, non-profit cooperative organizations can bring to development overseas, not less that $7,500,000 of the funds made available for the purposes of this chapter for each of the fiscal years of 1974 and 1975 shall be available only for technical assistance activities carried out by such organizations in less developed countries."

NEW COINAGE DESIGN EMBLEMATIC OF THE BICENTENNIAL OF THE AMERICAN REVOLUTION—AMENDMENT

AMENDMENT NO. 316

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

Mr. DOMINICK (for himself, Mr. MCCLURE, and Mr. BUCKLEY) submitted an amendment, intended to be proposed by them, joir.tly, to the bill (S. 1141) to provide a new coinage design and date emblematic of the bicentennial of the American Revolution for dollars and half dollars.

Mr. DOMINICK. Mr. President, I ask unanimous consent that an amendment which I intend to offer to S. 1141, a bill to provide a new coinage design and date emblematic of the bicentennial of the American Revolution for dollars and half dollars, be printed in the RECORD.

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

AMENDMENT No. 316

At the end of bill as reported by the Committee, add the following new section:

Sec. 7. (a) Sections 3 and 4 of the Gold Reserve Act of 1934 (31 U.S.C. 442 and 443) are repealed.

(b) No provision of law in effect on the date of enactment of this Act, and no rule, regulation, or order under authority of any such law, may be construed to prohibit any person from purchasing, holding, selling, or otherwise dealing in gold.

(c) Any sale of gold by the Secretary of the Treasury shall be at a price not lower than the average private market price for gold, for the same quantity in the month immediately preceding the date of such sale.

(d) The provisions of this section, pertaining to gold, shall take effect on January 1, 1975, or on the date prior thereto when the President finds and reports to the Congress that international monetary reform shall have proceeded to the point where elimination of regulations on private ownership of gold will not adversely affect the United States international monetary position.

NOTICE OF SECOND QUARTERLY OVERSIGHT HEARING ON THE IMPLEMENTATION OF THE RURAL DEVELOPMENT ACT OF 1972

Mr. CLARK. Mr. President, I announce the second of the quarterly oversight hearings on the implementation of the Rural Development Act of 1972. The hearing will be held at 9 a.m., Thursday, July 19, in room 324 of the Russell Building.

It will be our purpose during this hearing to hear from administration and public witnesses concerning the proposed regulations for the administration of the act; what effect the demise of the counselor system will have on the implementation of the act; what general progress has been made; what problems have been created as a result of the fact that there has been no permanent Administrator of the Farmers Home Administration since January 2, 1973; what alternatives are proposed for the rural housing authorities which expire in October of this year; what progress is specifically being made toward implementation of section 603 (b) of the act; what effects massive reductions in force within the Department of Agriculture will have on implementation of the act; and evaluation of what the Department of Agriculture proposes to accomplish with its upcoming training school for rural development leaders.

In addition to witnesses from the Department of Agriculture, the subcommittee will hear from a representative of the Department of Health, Education, and Welfare. As far as I know, that agency is the only one outside of the Department of Agriculture which has taken steps toward implementation of the coordination of services features of the Rural Development Act by setting up an Office of Rural Development.

We also expect to hear from a representative of the General Accounting Office on ways to improve the effectiveness of rural business loan programs.

Finally, if an agriculture appropriations bill has been approved by the time of the hearing, we expect to explore what effects the appropriations will have on the first-year implementation of the Rural Development Act.

Public witnesses will be limited to 10 minutes of oral testimony.

NOTICE OF HEARINGS ON THE USE OF DRUGS BY ATHLETES

Mr. BAYH. Mr. President, I wish to announce that the Subcommittee on Juvenile Delinquency of the Committee on the Judiciary is continuing its hearings on the proper and improper use of drugs by athletes, particularly in college, high school, and amateur sports.

The hearings are scheduled for July 12 and 13, 1973, at 10 a.m., in room 2228, Dirksen Senate Office Building. The following witnesses have been scheduled to testify on July 12: Jack Scott, athletic director and chairman of the Physical Education Department, Oberlin College, head of the Institute for the Study of Sports and Society; Phil Shinnock, director of athletics, Livingston College, Rutgers, New Brunswick, N.J.; Daniel F. Hanley, M.D., college physician, Bowdoin College, Brunswick, Maine, member, International Olympic Committee's Medical Commission; and A. O. Duer, executive director and Donald Spencer, M.D., coordinator of the Medical Aspects of Sports Committee, National Association of Intercollegiate Athletics, Kansas City, Mo. Witnesses scheduled for July 13 are: Harold Connolly, former Olympic champion, four-time Olympian, track and field coach and English teacher at Santa Monica High School, California; Eddie Hart, assistant track coach, University of California at Berkeley, Olympic sprinter; Mike Reid, lineman, Cincinnati Bengals, Cincinnati, Ohio; and David G. Rivenes, president, the Amateur Athletic Union; and Roy Goddard, M.D., chairman of the AAU Sport Medicine Committee, Indianapolis, Ind.

Any person wishing to submit a statement for the record should notify Mathea Falco, staff director and chief counsel of the subcommittee, at 225–2951.

NOTICE OF HEARINGS ON S. 1361

Mr. McCLELLAN. Mr. President, as chairman of the Subcommittee on Patents, Trademarks and Copyrights I previously announced that the subcommittee would reopen the hearings on legislation for the general revision of the copyright law, S. 1361, to receive additional testimony on selected issues.

The dates and issues of the hearings are as follows: July 31, morning—library photocopying; July 31, afternoon—general educational exemptions; August 1, morning—cable television royalty schedule; August 1, afternoon—carriage of sporting events by cable television, and August 1, afternoon—religious broadcasting exemption.

The hearings will commence each day at 10 a.m. and 2 p.m. in room 1114 of the Dirksen Senate Office Building.

The subcommittee will allocate time to the principal representatives of the various points of view on each issue. Those who cannot be accommodated during the hearings may submit written statements for inclusion in the record.

Those who desire additional information should contact the staff of the subcommittee at 225–2268.

ADDITIONAL STATEMENTS

A COURSE ALL HIS OWN

Mr. McINTYRE. Mr. President, the July 7 issue of the Christian Science Monitor featured an article about one of our most distinguished and respected colleagues—the Honorable GEORGE AIKEN, of Vermont.

This profile, written by Edwin P. Hoyt for the Monitor in collaboration with Reader's Digest, appears under a headline as unassuming as its subject—"Vermont's Senator AIKEN."

But featured next to the headline is a quote by the distinguished majority leader of this body which in two short sentences measures the worth of Senator AIKEN. Senator MANSFIELD says:

There are some people whose advice is worth hearing. George is one of them.

As a fellow Senator, I read this article on Senator AIKEN with considerable envy. As a fellow New Englander, I read it with a great deal of regional pride. I would hope that those reactions are more self-instructive than they are contradictory.

I say this, Mr. President, because Mr. Hoyt's characterization of Senator AIKEN points up some political truths that have been with us always but are more pertinent today than perhaps ever before.

One of these truths Shakespeare articulated in Hamlet:

To thine own self be true,
And it must follow, as the night the day,
Thou canst not then be false to any man.

Mr. President, is there a man in this body—on either side of the aisle—who better meets that standard than GEORGE AIKEN?

As humble, as unpretentious, as the day he first entered this chamber 32 years ago, GEORGE AIKEN has never let power, prestige, influence, or adulation turn his head and make him forget his origins—or the principles and values he brought with him to Washington.

Two paragraphs from the article illustrate this point:

Mr. Hoyt writes:

Today Senator Aiken thinks of himself not as an important man but as a plain farmer. He tries to answer every letter himself. His second wife, Lola, is his unpaid administrative assistant. He lives frugally in a four-room apartment on Capitol Hill. Each morning he walks to work, feeding the pigeons peanuts as he crosses the Capitol Park. His office in the Old Senate Office Building is as as plain today as it was when he entered the Senate in 1941.

The article continues:

At least once a month, he drives up to Vermont to his house on an unpaved road in Putney or to Mrs. Aiken's house on a mountain overlooking Montpelier. There, when he is not making speeches or traveling around the State, he chops wood, does the chores, and strolls to town to chat.

Mr. President, those who do not know GEORGE AIKEN, those who do not work with him as we do, may understandably wonder how a Senator from the third least populous State, how a Senator who thinks of himself as a man of the soil instead of a leader; how a Senator whose closest friendships criss-cross the political aisle, how that kind of Senator could become such a force in political, national, and international affairs.

Well, the lesson is there for all of us, but all too few of us, alas, have the character it takes to put that lesson to use.

The distinguished senior Senator from Vermont is a Senator to reckon with because he knows who he is, he knows what he is, he knows where his roots are, he knows why he is in the U.S. Senate, and in those certainties lies an integrity no one questions, an independence everyone respects, an ability demonstrated time and again over more than three decades in this institution.

As a fellow Senator and a fellow New Englander, I salute GEORGE AIKEN with great admiration, with much regional pride, and with more than a little personal envy.

Mr. President, I ask unanimous consent that the full text of the Christian Science Monitor article be printed in the RECORD.

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

VERMONT'S SENATOR AIKEN

(By Edwin P. Hoyt)

Sen. Mike Mansfield (D) of Montana, Senate majority leader: "There are some people whose advice is worth hearing. George is one of them."

Early each morning, as the mists swirl up along the Potomac and official Washington begins to stir, two men can be found sitting in companionable consultation beneath a glittering chandelier in the dignified quiet of the U.S. Senate dining room. One of them is 70, thin-lipped, lean and angular, dressed in a neat dark suit and conservative necktie. The other, although face and figure belie his age, is a decade older, a short, spare white-thatched man who wears a single-breasted jacket, colored shirt, and—always—a bright red tie.

The younger man is a Democrat, Sen. Mike Mansfield of Montana, Senate majority leader and one of the two most powerful men in Congress. The older man is a Republican, Sen. George D. Aiken of Vermont, dean of the Senate, whose twinkling eyes and ready smile hide one of the shrewdest minds in the Congress. In these brief morning sessions. Messrs. Mansfield and Aiken assess the issue of the moment. Neither tries to sway the other, but says the majority leader, "There are some people whose advice is worth hearing. George is one of them."

BALANCE OF THE SENATE

Over his 32 years in the Senate, George Aiken has managed to walk a course all his own. He and Senator Mansfield, for example, vote together about half the time, which is as much as Senator Aiken votes with Republican Party leaders. "He is the balance of the Senate," said former Sen. John J. Williams, Mr. Aiken's old friend from Delaware. "He is neither to the right nor to the left."

The impress of the Aiken personality is felt by many around the Capitol. On the birthday of Sen. John C. Stennis (D) of Mississippi, there appears on his breakfast table a little bottle of maple syrup from the Vermont farm of Senator Aiken's son-in-law, with a few lines of dry humorous verse which Mr. Aiken scrawls for his friends. Freshman senators are surprised and grateful when Senator Aiken suspends his own crowded schedule to befriend them and show them the ropes.

When staff members of the Republican Policy Committee were under fire following publication of a controversial "white paper" on Vietnam, Senator Aiken bounced into the committee rooms to announce with a grin that he wanted a thousand copies. He didn't say he agreed with the document, but he let the staff know that he, for one, stood behind them.

Other senators constantly asked Senator Aiken to cosponsor legislation because they know that his name on a bill would be a big boost for passage (last year he cosponsored 19 bills).

THEY LISTEN WHEN HE SPEAKS

The public seldom sees Mr. Aiken's true effectiveness in the Senate; he prefers to operate behind the scenes. But because of his reputation for quiet competence the Senate listens when he does speak out.

After Easter 1972 the nation was badly shaken by North Vietnam's devastating invasion of the South and President's Nixon's counter with renewed bombing and blockade of the North. The Senate echoed with cries to end the war and the House Democratic caucus voted to bring a tabled end-the-war resolution out of committee.

For six years Senator Aiken had opposed the war in Vietnam. "The way to get out of Vietnam is to declare victory and leave," he had said in 1966.

But now, on the morning of April 25, Senator Aiken sat at his desk in carpet slippers and an old rust sweater, writing in longhand on a big yellow pad. At noon he exchanged sweater for suit jacket and put on well-shined black shoes, then headed across Constitution Avenue toward the Senate. There he rose to speak. "We have no other course than the one the President is following," he said. "I am not about to be a party to a no-confidence vote in the President of the United States."

The whole speech took less than 10 minutes. Senator Aiken then went quietly about his other business. He made no calls to other senators, he sought no support from the Republican leadership nor from his many Democratic friends. But in a few hours word had spread from the galleries across official Washington: Senator Aiken had come to the President's support. In the Senate, his speech tilted the balance for the administration. And when report of that speech reached the House, it lent new strength to the Nixon forces and ended a crisis that might have undermined the whole American position in Vietnam.

UNLIKELY MAN OF POWER

As Senator from the third least populous state, Mr. Aiken seems an unlikely man of power. His seniority is overbalanced by Democratic control of the Congress. He has never sought a party position and is not a wealthy man; he was born of a family of teachers, artisans, and farmers that settled in Vermont in colonial days. After high school, Mr. Aiken became a landscape gardener and nurseryman in the town of Putney.

He did not enter politics until he was 39, when he went to the Vermont House of Representatives. Six years later he was a very vigorous governor, and in 1940 was elected senator. Since then, he has quietly become one of the most powerful men in the United States Senate. The explanation may be found in his unique personality.

Today Senator Aiken thinks of himself not as an important man but as a plain farmer. He tries to answer every letter himself. His second wife, Lola, is his unpaid administrative assistant. He lives frugally in a four-room apartment on Capitol Hill. Each morning he walks to work, feeding the pigeons peanuts as he crosses the Capitol Park. His office in the Old Senate Office Building is as plain today as it was when he entered the Senate in 1941.

At least once a month he drives up to Vermont to his house on an unpaved road in Putney, or to Mrs. Aiken's house on a mountain overlooking Montpelier. There, when he is not making speeches or traveling around the state, he chops wood, does the chores, and strolls to town to chat.

On one such trip he stopped to talk to a rural housewife about her washing and learned that she and her neighbors had to scrub by hand or take their laundry to town, the water supply would not permit her to use a washing machine. On study, Senator Aiken discovered that thousands of American villages faced the same problem—their water systems were inadequate for modern demands. The result was the Rural Water Systems Act, which has enabled small communities across America to build new systems.

LAST CAMPAIGN COST $17.09

Mr. Aiken sends out no newsletters, records, or television tapes, and does almost no election campaigning. In 1968 when he ran for his fifth term, he spent $17.09 on his campaign—for postage, transportation, and telephone calls.

When Senator Williams went up to Vermont to make a speech for him in a school gymnasium in Springfield, he found Republican workers tacking up bunting and hanging pictures of President Nixon and Vermont Gov. Deane Davis. The meeting chairman was in a panic. No picture of Senator Aiken could be found.

The chairman called the state party office and asked it to get a picture from Senator Aiken's headquarters. Senator Aiken has no headquarters. It was suggested he turn to Senator Aiken's manager. Senator Aiken had no manager. Finally, an hour before the meeting, Senator Aiken turned up and the chairman asked him for a picture. "Didn't have any taken," said the Senator cheerily. "Hell, what do you want a picture for? You've got me."

Senator Aiken is one of the most effective legislators in Washington and is known among colleagues of both parties for his hard work. He is never content to let a committee staff frame a bill, he does it himself, as with the Nuclear Power Control law of 1969.

When this bill was suggested, staff members wanted to bring in lawyers to draft the measure. "Dammit," said Senator Aiken crustily, "I can read just as well as any lawyer. We want a bill that people can understand."

Senator Aiken himself made five drafts of the legislation, then presented it to the committee apologetically. "It don't stand out like a blackberry in a pan of milk," he said, "but it's a start." The result was a clear law the Department of Justice could enforce.

Senator Aiken's candor and conscience have guided through the treacherous bog of congressional politics some of the most complex legislation of the century, particularly in the agricultural field. Indeed, for 30 years, every agricultural law passed by Congress has borne the Aiken imprint. Anyone you talk to around the Senate gives you the same answer: no man in America has made a larger contribution to the betterment of American rural life than George Aiken.

Senator Aiken's voting—now with the conservatives, now with the liberals—has puzzled many people over the years, including Ralph Nader and his associates, in their recent survey of Congress. Other representatives and senators are perennially concerned with re-election, Mr. Nader noted, but not Senator Aiken.

Finally, the researchers had to admit that Senator Aiken did not fit the round holes or the square holes of their pattern; they concluded that Senator Aiken was successful in walking a path between isolationism and interventionism in foreign affairs and a lonely independent road in national affairs, and that Vermonters seem to be quite satisfied with Senator Aiken's understanding and representation of their interests. In that regard, Senator Aiken is like independent Vermont. He chooses his issues, as he chooses his friends, for the solidity.

NEW PRESIDENT RECEIVES HELP

Harry S. Truman, another small-town boy, was one of Senator Aiken's close friends when both were in Washington. Senator Aiken used to breakfast with Mr. Truman as he does now with Senator Mansfield. The two had a breakfast date on that spring morning in 1945 when the death of Franklin D. Roosevelt catapulted the stunned Vice-President into the leadership of the nation. Mr. Truman could not keep the date, but called Senator Aiken to the White House and poured out his woes.

President Roosevelt, in the American tradition, had kept Vice-President Truman waiting in the wings in virtual ignorance of governmental affairs. Mr. Truman had not attended Cabinet meetings and the President never discussed affairs of state with him. Now he faced decisions that would affect the whole world. What was he to do? he asked.

Senator Aiken told President Truman to call in Col. Ernest Gibson of Army G–2, who had just returned from the South Pacific. Colonel Gibson thought it vital that the new President receive a crash course of briefings. The Pentagon objected, insisting that it would take time to prepare the material.

Senator Aiken, still at the White House, got on the phone to the Pentagon and arranged a meeting between President Truman, Colonel Gibson, and Gen. Carter Clark, then second in command of G–2. The briefing program began that night, and the President never faltered. Nor did the Aiken-Truman friendship, even in the dark days of the 80th Congress which fought the President on nearly every issue.

Since the Truman days Senator Aiken has been a friend and counselor to every president. Dwight D. Eisenhower asked his advice frequently, and so did John F. Kennedy, whose respect for Senator Aiken dated back to the days when they were both members of the Senate's New England bloc. Lyndon B. Johnson sought Aiken support but seldom took his advice.

When Richard M. Nixon came to the presidency, Senator Aiken felt excluded by the tight staff ring around the President. Then, last year came a crisis in foreign affairs. President Nixon had just returned from his successful China trip when the Vietnam war blew sky high.

A summit visit to Moscow in search of peace was already scheduled and publicized, but in May the Soviets began issuing a bitter stream of propaganda against the bombings of North Vietnam, including veiled threats of Soviet counter-measures.

The President called congressional leaders to brief them on his plans for the trip. Some newspapers had suggested the trip would be canceled. After the meeting Mr. Nixon turned sharply to Senator Aiken, eyes searching. "What shall I do, George?" he asked. "Shall I go to Moscow?"

Senator Aiken looked up in his mild way and smiled.

"Aiyup," he said.

The answer, brief and to the point, was typical of Senator Aiken. He had not wasted a word, but as it turned out he was quite right. The independent Senator from Vermont has that habit.

CLARK MOLLENHOFF ON SENATOR ROBERT C. BYRD

Mr. HARRY F. BYRD, JR. Mr. President, experience teaches us that the public memory is short. Contributions to the betterment of our national life are frequently hailed when they are made, but forgotten as the contribution fades in the memory.

One such contribution was made by the distinguished majority whip during the hearings before the Committee on the Judiciary on the confrontation of L. Patrick Gray to be Director of the Federal Bureau of Investigation. Clark Mollenhoff, noted Washington correspondent and former White House aide, recently wrote a column which appeared in the Richmond Times-Dispatch, that shows that he, at least, remembers.

I ask unanimous consent that Mr. Mollenhoff's column, "Senator R. C. BYRD, Unsung Hero" be printed in the RECORD.

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

SENATOR R. C. BYRD, "UNSUNG HERO"

(By Vlark R. Mollenhoff)

WASHINGTON.—The near-success of the Haldeman-Ehrlichman team in imposing their authoritarian policies on the United States should frighten the American people, the Congress and the press.

While the press is congratulating itself on helping to upset the Nixon administration's "game plan," it might ask how it was possible for the dictatorial duo to enjoy success for so long by the use of secrecy and image building.

L. Patrick Gray III, the politically pliable former Navy captain, came very close to winning Senate confirmation as permanent FBI director, with all that could have meant to the Nixon administration in keeping the truth about the Watergate buried.

In February, Gray had such apparent support that even the liberals in the Senate Judiciary Committee were concerned that opposition to him might be politically hazardous.

Somehow, large number of newspaper editors and columnists bought the line that Gray's appointment would mean "a nice guy" would finally be heading the FBI.

Overlooked were his plainly political speeches in the 1972 campaign and his absurd statistical defense of the thoroughness of the FBI probe of Watergate.

It is now apparent that Gray was an essential part of the cover-up of Watergate, with his destroying of records, sending FBI investigative reports to White House counsel John W. Dean III and giving assurances to Watergate conspirators that their cover story was holding.

The unsung hero in unwinding Gray's cleverly concocted deceptions was Sen. Robert C. Byrd, D–W. Va., a hard-working, methodical moderate.

Byrd spent hours at the homework necessary to break through Gray's vague generalizations on his relations with the White House staff in the weeks immediately after the June 17, 1972, burglary-bugging at the Watergate.

Sen. Edward M. Kennedy, D–Mass., Sen. John V. Tunney, D–Calif., Philip A. Hart, D–Mich., and other liberals on the Senate Judiciary Committee used good judgment in permitting the more moderate Byrd to take the lead at a time when strongly partisan criticism of Gray from anti-Nixon liberals might have led to an adverse public reaction.

From the beginning, there was little likelihood that Acting FBI Director Gray could or would conduct an aggressive and objective investigation. His conflict of interest was as plain as his desire to be appointed permanent director upon the re-election of his friend and benefactor, Richard Nixon.

That meant that the old Navy bureaucrat had to keep his fences mended with White Housee chief of staff H. R. Haldeman and special assistant John D. Ehrlichman, the two most influential men in the Nixon White House.

Gray easily moved into the position of using statistics on the number of agents assigned to the Watergate probe, and even reached the preposterous conclusion that anyone who charged a cover-up of Watergate was slandering all of the fine, hard-working and dedicated men and women of the FBI.

In the light of Gray's admission that he burned some Watergate files, it is interesting to review the story he told the Senate Judiciary Committee in February and March.

Only Byrd's detailed questioning broke through the gloss of Gray's general comments.

Without Byrd's questioning, Gray wouldn't have been pushed into the position of admitting that Dean "probably lied" to the FBI officials who asked him whether convicted Watergate conspirator E. Howard Hunt Jr. had a White House office.

Dean had told the FBI agents he would "have to check" when, in fact, he and his assistants had opened Hunt's safe and desk in the White House complex only a few days earlier. Dean knew full well that they had found information and equipment that the FBI would need to pursue its investigation.

Gray's reluctant admission that Dean "probably lied" opened up a whole new range of questioning, which led to the unanimous committee vote that "invited" Dean to appear.

The committee's unanimous vote came after President Nixon had said only a few days earlier, that he would not permit the White House counsel to appear for questioning under any circumstances, because of "executive privilege."

Sen. Sam J. Ervin Jr., D-N.C., dismissed Nixon's statements as "executive poppycock."

Such claims of "executive privilage" have been "executive poppycock" throughout our history, without support in either law or court decision. However, many unthinking editors and reporters accepted the Nixon administration's self-serving declarations of that corruptive secrecy, as they have in the past, as a natural extension of the doctrine of separation of powers.

President Nixon, former Atty. Gen. John N. Mitchell and Ehrlichman and Haldeman had reason to believe that the defense of "executive privilege" would work again to obstruct justice.

A wide range of editors and columnists had defended the right of President Eisenhower, Kennedy and Johnson to arbitrarily pull down the secrecy-curtain and hide corrupt and questionable political deals about which they did not want the public and the Congress to know.

As a starting point on a self-analysis of press performance on the whole Watergate affair, two questions should be asked:

(1) Did you endorse the nomination of Gray as permanent FBI director prior to March 1973?

(2) Did you support the President's claims of an executive privilege to refuse to make an accounting to Congress?

If you answer either of those questions in the affirmative, you were part of the Watergate problem and owe a special debt to Sen. Bob Byrd for saving the nation from "four more years" of Watergate tactics or worse.

ELEVEN BILATERAL AGREEMENTS SIGNED

Mr. FULBRIGHT. Mr. President, during the recent visit to Washington of General Secretary Brezhnev 11 bilateral agreements were signed. Only one of these agreements will be submitted to the Senate for its advice and consent to ratification—an income tax convention, signed by the Secretary of the Treasury and the Soviet Minister of Foreign Trade, which will reduce income tax burdens on the nationals of one country who live and work in the other.

The other 10 agreements were:

First. An agreement on cooperation in the field of agriculture which was signed by the Secretary of State and the Soviet Foreign Minister on June 19, entered into force on that day and will remain in force for 5 years.

Second. An agreement on cooperation in the field of transportation which was signed by the Secretary of State and the Soviet Foreign Minister on June 19, entered into force on that day and will remain in force for 5 years.

Third. An agreement on cooperation in studies of the world ocean which was signed by the Secretary of State and the Soviet Foreign Minister on June 19, entered into force on that day and will remain in force for 5 years.

Fourth. A general agreement on contacts, exchanges, and cooperation which was signed by the Secretary of State and the Soviet Foreign Minister on June 19, entered into force on that day and will remain in force until December 31, 1979.

Fifth. An agreement on scientific and technical cooperation in the field of peaceful uses of atomic energy which was signed by President Nixon and General Secretary Brezhnev on June 21, entered into force on that day and will remain in force for 10 years.

Sixth. An agreement on basic principles of negotiation on the further limitation of strategic offensive arms which was signed by President Nixon and General Secretary Brezhnev on June 21.

Seventh. A protocol relating to the expansion and improvement of commercial facilities in Washington and Moscow which was signed by the Secretary of the Treasury and the Soviet Minister of Foreign Trade on June 22 and entered into force on that day.

Eighth. A protocol relating to the possibility of establishing a United States-U.S.S.R. Chamber of Commerce which was signed by the Secretary of the Treasury and the Soviet Minister of Foreign Trade on June 22 and entered into force on that day.

Ninth. An agreement on the prevention of nuclear war which was signed by President Nixon and General Secretary Brezhnev on June 22, entered into force on that day and is of unlimited duration.

Tenth. An agreement on questions relating to the expansion of air services which was signed by the Secretary of Transportation and the Soviet Minister of Civil Aviation on June 23 and entered into force on that day.

Mr. President, the United States has thus become a party to 10 international

agreements, some relating to the most critical questions of national security and all of considerable importance, which are not being submitted to the Senate for its advice and consent. These agreements are accomplished facts. They entered into force the day they were signed.

One of them will remain in force for 5 years, one will remain in force for 5½ years, one will remain in force for 10 years, and one—the most important agreement of all, the agreement on the prevention of nuclear war—is of unlimited duration. The Senate is asked to gived its advice and consent only to the relatively minor matter of an income tax convention. Has the President arrogated to himself powers that should be shared with the Senate? I believe that the above list answers the question.

THE ECONOMICS OF THE ENERGY CRISIS

Mr. SAXBE. Mr. President, Economist Paul A. Samuelson, writing in the July 2 edition of Newsweek, discussed the economics of the energy crisis that is facing this Nation and the world. His treatise on the subject identifies some of the critical factors which have contributed to our dilemma, and reflects the exceedingly broad dimensions of the problem. I ask unanimous consent to have the article, entitled "Energy Economics," printed in the RECORD.

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

ENERGY ECONOMICS

(By Paul A. Samuelson)

When the gods look down to see how we humans handle our energy problems, they must chuckle with amusement. Or despair of social rationality.

We have neither engaged in perspicacious planning to meet the emerging and foreseeable problems, nor have we relied on the device of competitive pricing. Instead we have left things to oligopolistic industries, which themselves have had to guess about future government policies.

FOLLIES

Here's the sorry tale.

To use up our continental reserves faster, we long put quotas on oil imports. We gave tax advantages to domestic oil and gas producers.

By deliberate regulation, we underpriced valuable natural gas—so that much of our best supplies of it have been dissipated in uses that might have been as well served by coal, oil and nuclear energy.

When the Mideast oil monopoly was still weak, our State Department and oil companies knuckled under to it. Instead of joining with Europe and Japan in a united front against the Persian Gulf cartel while waiting on alternative supplies from Alaska, Canada, the North Sea and Indonesia, we turn the job over to multinational oil companies—which have every incentive to act as a tax collector for the monopolists.

At the same time that the trend of demand for gasoline, diesel and jet fuel and residual oil has been surging steadily, there has been virtually no new refinery capacity built. And for years ahead, no matter what frenetic decisions are now made, there will continue to be a shortfall of capacity.

For years we had no interest in the environment or human safety. Then suddenly out of belated concern over ecology, we've made it difficult (a) to carry through our planned program for nuclear-energy installations; (b) to expand coal mining, strip and otherwise; (c) to build long-overdue power-generating stations (thermal or nuclear).

To meet requirements of the Clean Air Act, American cars will be fitted by 1976 with catalytic converters. (This is probably the *wrong* technology to achieve the act's purpose.) Since lead in gasoline will, after only a few tankfuls, contaminate the catalyst, every station in the land must by then be prepared to offer lead-free gasoline; and this in an industry that cannot find the refining capacity even to meet the normal growth of old-fashioned gasoline-energy demand. We vacillate between malignant neglect and rhetoric about standards which, if not literally unobtainable, are likely to be later reversed by an explosion of public opinion.

After building colonial-style filling stations, often four to an intersection, and competing for high-margin sales by ingenious fibs in advertising and absurd frills of free service, the oil industry suddenly finds that it can shut down stations evenings and weekends. Spot shortages are met by doling out 10 gallons at a time. This merely multiplies trips to service stations and lengthens waiting lines.

THERAPY

The old-fashioned solution would be to let the prices of gasoline, fuels, coal, gas and other energy go sky high. At 70 cents a gallon of gas, poorer people couldn't drive much. All of us might drive less. The trend toward smaller cars would be speeded up.

But also the oil industry, here and abroad, would make huge profits. Public utilities, freed from onerous regulation, would reap rich earnings as they raised our monthly electricity. That frost-free refrigerator, which just about doubles your monthly refrigeration bill, would no longer be worth buying. Instead of air conditioning, some people would stick to rotary fans.

Such a free-market solution would be bitterly resented by the public as inflationary and inequitable. Even if the government kept the oil industry from reaping the monopoly rents of the shortage by means of stiff tax increase on gasoline—and an exceedingly strong case can be made out for precisely such an act—the increase in the cost of living would have macroeconomic repercussions on the inflation spiral.

At the other extreme, we could immediately introduce a comprehensive program of rationing. Each car gets only so much per month. Each household gets fuel supplies just adequate to keep it 5 degrees cooler in winter. Meantime, a crash R&D program could develop resource substitutes and more efficient techniques.

The gods in heaven know we will not adopt either clear-cut alternative. We will muddle through badly.

ANOTHER FIRST FOR THE FIRST STATE

Mr. BIDEN. Mr. President, the Senate has, over the past months, spent much time and energy discussing the various ramifications of the shortage of available power that this country is now facing.

Among the alternatives which have presented themselves for consideration is the prospect of converting solar energy into usable electricity.

Although solar conversion is still in experimental stages, there is great hope that through stepped-up research projects, science can make this pollution free form of energy consumption readily and inexpensively available to consumers within the next few years.

In the forefront of this research, I am proud to say, is the University of Delaware's Institute of Energy Conservation.

A recent issue of the magazine Delaware Today published an article concerning the work of the institute and its energetic Director Dr. Karl Boer.

Among other things, Dr. Boer and his staff have opened to the public what they call an experimental "solar house"—one heated, cooled, and totally operated by stored solar energy.

The article says, in part:

Solar energy conversion is very appealing and very difficult, but it is now becoming more do-able. Tremendous amounts of solar energy come down to us every day, even when the sun is not visible. This light can be converted into electricity and heat.

Because of the nature and timeliness of this article, and the importance of the work being done at the institute, I request unanimous consent that the article entitled "Another First for the First State," from the June 1973, edition of Delaware Today be printed in the RECORD.

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

ANOTHER FIRST FOR THE FIRST STATE—DELAWARE IS IN THE FOREFRONT OF SOLAR ENERGY CONVERSION, WHICH MAY BE AN ANSWER TO AMERICA'S ENERGY CRISIS

(By Vera Duff)

"If the 60's was the decade of the moon, let's make the 70's the decade of the sun," says Dr. Karl Boer of the University of Delaware. As Director of the Institute for Energy Conversion, he heads the most active solar energy research center in the world.

"Solar energy conversion is very appealing and very difficult, but it is now becoming more do-able. Tremendous amounts of solar energy come down to us every day, even when the sun is not visible. This light can be converted into electricity and heat," he continues.

Living with solar energy means never having a power failure or an energy crisis; everything electrical works all the time and without polluting our atmosphere or consuming natural resources.

To demonstrate the feasibility of using solar energy, an experimental "solar house" is being built on the University of Delaware campus and was opened to the public in June. Speaking at the ground-breaking ceremony, University President Dr. Trabant predicted that the successful completion of the project here would put the First State in first place in solar energy conversion. The house will cost about $90,000, a bit much for the general pocketbook, and getting the price down is one of the Institute's first priorities.

Using the sun's energy is not new. Our unmanned space vehicles have been circling the earth using power generated by the light from the sun. The silicon cells produced very costly energy—like $20 per KWH. No wonder that program was expensive. But there is a good chance that the people at the Institute can reduce the cost to 3 cents per KWH, comparable to current electricity costs today. The photo cell on top of the street light that turns it cn and off converts sunlight to electricity, but in small quantities, only enough to operate tiny switches. Converting sunlight to heat, of course, is an old story. Remember when you used a "burning glass" as a youngster?

To make a solar cell, cadmium sulphide powder is pressed into a thin 3'' x 3'' rectan-

gular sheet looking like gold foil, and encapsulated between glass plates. When light hits the cell, electricity is produced. 70 per cent of the roof of a house would be covered with these cells to generate power to run the appliances for a household. Five hours of sunlight can give 18 KWH of electric energy and 900,000 BTU's of heat may be harvested as well in an average day.

Enthusiasm at the Institute runs so high that deadlines are not only met but met ahead of schedule. The staff was working on developing a new cell made with cadmium sulphide (deposits of which have been found in the mid-West). The schedule called for completion of this work in March, 1973. In a spirit of urgency, the Institute's staff turned on their personal energies and completed the work in mid-December.

Making the first cell was a happy achievement. It was framed and presented to Dr. Trabant. The institute is now making the cells that will be used on the campus "solar house."

It will contain all the equipment necessary to supply the house with heat, air conditioning, humidity control, hot water and electric current for lights and other electrical appliances. It differs from a conventional house primarily in that the roof will be covered with solar cells instead of shingles. At first the house will be occupied by a family of light bulbs instead of humans so that problems in the system may be observed and corrected.

Dr. Boer is an enthusiastic physicist and has gathered about him many experts in the field of solar energy. One of them is Dr. Maria Telkes who has already developed a feasible method for storing solar heat. She accomplishes this by collecting and storing the heat during sunlight hours in a salt and water compound which forms crystals like crushed ice. The compound melts during sunlight hours and freezes during the night, giving off heat as it freezes. Different mixtures of salt give different degrees of heat.

Research is being directed toward increasing efficiency and reducing the cost of the cells. Government money is badly needed. It is hoped that legislative enthusiasm will be generated when the campus "solar house" is in working order.

The proposed equipment would have a lifetime of 15 years and need no maintenance. Reducing the cost of the equipment so that it does not exceed 10 percent of the cost of the house is a realistic goal, says Dr. Boer, and the research team is confident this goal can be reached within five years. The team is receiving active help from the Delmarva Power & Light company, who will be a partner in supplying energy when the sun is not shining.

The Institute for Energy Conversion is a part of the College of Engineering, but many other departments are involved with the project. Areas of work will include design, marketing, social acceptance studies, manpower needs and manufacturing. It's multifaceted endeavor. New industries will result. Says Dr. Boer:

"If we could be a little instrumental in this endeavor there would be no greater pleasure and gratification in our lives."

Harnessing the sun's energy and making it work for mankind is no longer an impossible dream. It is happening in Newark.

The public is invited to see a model of the "solar house" and take a tour of the Institute at 70 South Chapel Street on the first Wednesday of every month at 3 p.m.

JOHN INGERSOLL: PARTING TRIBUTE TO A DEDICATED LAW ENFORCEMENT OFFICER

Mr. PERCY. Mr. President, John E. Ingersoll, Director of the Bureau of Narcotics and Dangerous Drugs, last week resigned his post, leaving public service for employment within the private sector.

Over the past several months, since the tragic, mistaken drug raids on two Collinsville, Ill., families by Federal agents, and in view of other incidents that have come to light, I have been especially vocal in my criticism of some aspects of drug abuse law enforcement. And I have been critical of some of the underlying procedures such as forcible entry into private dwellings with and without prior announcement, searches conducted without search warrants, and arrests attempted without arrest warrants particularly under circumstances where probable cause is not sufficiently established.

I want to emphasize, however, that my criticism was directed to certain failings of the system and to overzealousness on the part of some agents. So far as Mr. Ingersoll is concerned, I believe that he has conducted himself in a position of public trust in a most exemplary and outstanding manner. His tenure has been characterized by forceful leadership focused on priority concerns in drug law enforcement, and by a willingness to adopt innovative techniques where called for.

Though but 43 years of age, John Ingersoll has already compiled a most impressive career in law enforcement. He was appointed the Director of the Bureau of Narcotics and Dangerous Drugs on August 1, 1968, shortly after its creation and has, for the last 5 years, molded it into a highly efficient, energetic, and successful agency. This has been a task of creation from meager beginnings.

Upon his appointment in 1968, he inherited the personnel and responsibilities of two former agencies, the Federal Bureau of Narcotics of the Department of Treasury, and the Bureau of Drug Abuse Control of the Department of Health, Education, and Welfare. These two agencies had been engaging in the sharpest kind of bureaucratic in-fighting, and the new Bureau was thus a "house divided" in every sense of the word. Although both of these agencies contained many experienced and dedicated individuals, their numbers were so small, their resources so thin, and their organization in such disarray, that they were far from being up to the task of coping with the drug crisis which had burst forth upon the Nation. Under Mr. Ingersoll's leadership, these internal problems quickly dissipated and each year saw rapid increases in law enforcement efficiency and sophistication.

Of the many accomplishments which this agency achieved under his guidance, I would like to single out the four most important areas for brief comment, emphasizing that they have each been crucial and rank equally in relative importance.

First among these can be counted the careful development of the strategic concept of striking at the highest levels of the international and interstate illicit drug traffic. For so many years, this had been a law enforcement ideal which went unrealized. Those cases in which big-time organized drug traffickers were apprehended were often talked about, but were, in fact, few in number. John Ingersoll determined that actual Bureau enforcement efforts would better approach this ideal.

It took no small amount of administrative courage to forego the temptation of compiling impressive arrest and seizure statistics in favor of placing the emphasis on qualitative drug law enforcement. Mr. Ingersoll perceived that the apprehension of the "big boys" of the drug traffic was the most effective way to assure a significant impact with limited Federal resources.

A second area of paramount importance is the international offensive developed by BNDD with the aid of the State Department. For years, drug enforcement officers had dreamed of fighting the drug traffic by focusing directly on its roots in France, Turkey, and other foreign nations. One of Director Ingersoll's first acts upon taking office was to consult with our Ambassador in France and thereafter to meet with the French Chief of Judicial Police to discuss suppression of the international heroin traffic. These conversations led ultimately to a special Franco/American agreement concluded in February of 1971, which resulted in a near-complete reversal of former French lack of direction concerning the problem. French forces are now active in investigations of the highest importance, have eliminated several laboratories, and have made the largest single heroin seizure in history of almost 1,000 pounds from a trawler in the Marseille harbor. Similar diplomatic efforts involving Ingersoll's personal participation resulted in the Turkish ban on opium production which became effective in 1972.

In December of 1969, BNDD agents were the first to discover the new move toward heroin production in Southeast Asia aimed at American troops stationed there. Again, Mr. Ingersoll realized the potential significance of the tremendous volume of illicit opium production in that part of the world and immediately initiated enforcement programs designed to cope with the problem. These actions have prevented any permanent linkage from forming between American and Asian traffickers.

During his tenure, BNDD foreign operations have expanded from a mere 13 offices employing 26 agents to 47 offices in virtually as many countries with a total complement of more than 120 agents. This kind of expansion and scope of international operations for a Federal law enforcement agency is without any previous precedent.

While suppression of the heroin traffic is an object of great importance, persons active in the drug area have realized for some time that many drugs—at least some of which may be equally detrimental to heroin—find their way into the illicit traffic from sources of legitimate manufacture within our own country.

Under Director Ingersoll, BNDD undertook far-reaching initiatives to counter this flaw in the system. In the spring of 1971, in accordance with new laws passed by the Congress, he prepared the

agency to assume responsibility for annually registering some 500,000 persons and businesses who deal in controlled drugs. A program was created to enforce novel legal controls on the storage and movement of these drugs, and to design measures to prevent and detect diversion. Grasping the full importance of this task, Ingersoll enlarged this function of his agency and appointed a new Assistant Director to head it up.

Perhaps one of the most significant accomplishments in drug control was the Bureau's administrative action in rescheduling amphetamines and reducing legitimate production of these drugs by 90 percent. Year after year, for perhaps two decades, some 50,000 pounds of amphetamines had been manufactured though a far smaller amount would have sufficed for the Nation's medical needs. Much of it was in fact being diverted. BNDD's timely action has finally turned this situation around.

Two related areas of direct concern to me, and about which I have spoken out in strong support of BNDD's initiatives, deserve mention. Last year, Mr. Ingersoll became aware of the magnitude and severity of barbiturate abuse and took prompt action to increase production and distribution controls over that drug as well. And more recently, BNDD proposed similar action with regard to one of the newest drugs of abuse called "methaqualone" or "sopors." Even with so forceful a stance, Director Ingersoll has earned respect and a reputation for fairness with the regulated industry.

The final area of accomplishment which I would like to mention is perhaps more intangible than those enumerated, but certainly of equal importance. Well before coming to the Bureau of Narcotics and Dangerous Drugs, John Ingersoll acquired a reputation for integrity and adherence to the law. One of his first concerns as the new Director was scrupulously to root out corruption, evidence of which was found in one of the Bureau's offices. He promptly expanded the Bureau's Inspection Service, vesting it with responsibility to investigate all allegations coming to its attention and to establish procedures which would safeguard against future breaches of conduct. He insisted upon the selection of qualified and dedicated personnel and their thorough training in all phases of work. Professionalism above all was the hallmark of his administration.

In this context, I think it fair to say that the Collinsville raids and similar horrors are exceptions to the rule. Perhaps no police activity of this sort can be conducted without occasional and tragic mistakes. However, as a society we must always be alert to the danger of police encroachment on our fundamental constitutional rights and civil liberties.

One of the best protections against such abuses is vigorous commitment to the highest degree of professionalism coupled with strict observance of the law and the rights of others by enforcement personnel. I personally believe that John Ingersoll has insisted upon this and has suffered the same indignation as the rest of us—or worse—upon seeing drug law enforcement agents conducting themselves along less than professional lines.

During his tenure, he served the Nation well. Significant advances were made in coping with the illicit drug traffic. The loyalty and esteem which he has consistently won from the agents under him is well known. Perhaps no greater honor can be paid him. I am pleased to take this opportunity to pay tribute to him and to wish him success in his future endeavors.

KENNETH BeLIEU

Mr. ROBERT C. BYRD. Mr. President it was with much regret that I noted the retirement, a few days ago, from public service of Kenneth BeLieu.

Mr. BeLieu's resignation from the post of Under Secretary of the Army deprives the Department of Defense, and the Nation, of the services of a man who has devoted the major part of his life to the service of his country in positions of high trust and responsibility, under three Presidents of the United States.

Mr. BeLieu's professional competence and his unfailing courtesy will be remembered by many of my colleagues in this Chamber, during his service as Assistant Secretary and Under Secretary of the Navy in the Kennedy and Johnson administrations, and as Deputy Assistant Secretary for Congressional Relations to President Nixon, just prior to his assumption of the post of Under Secretary of the Army.

For some of us, Mr. BeLieu will be remembered for his outstanding service to the Senate as a staff member of the Committee on Armed Services, the Committee on Aeronautical and Space Sciences, and the Preparedness Subcommittee during the years from 1955 to 1960.

The Nation can ill afford to lose the advice and counsel of a professional of Ken BeLieu's caliber, but I am sure that my colleagues join me in wishing him well in all his future endeavors.

ALCOHOLISM

Mr. HUGHES. Mr. President, nearly 3 years ago the Senate passed the bill that became the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970. That act marked the beginning of a national attack on alcohol abuse and alcoholism. The Congress mounted this attack because we recognized that the disease of alcoholism is a major disease, not only because it afflicts at least 9 million Americans but because its impact on the individual victim is disastrous. Just how disastrous, however, we are only beginning to discover.

Dr. Myrvin Ellestad, head of the clinical physiology department at the Long Beach, Calif., Memorial Hospital, has recently reported his conclusion that alcohol causes irreparable damage to the heart and in fact that even one drink may be lethal for some people with abnormal hearts. Dr. Ellestad states that a vital enzyme necessary for heart muscle contraction is destroyed by alcohol, so that the strength of the contraction is weakened when alcohol is present in significant quantities. He believes that alcohol also increases the blood triglycerides, which are the fatty substances now implicated along with cholesterol in the degeneration of coronary arteries. He reminds us that these findings are especially significant when we consider that silent coronary disease is believed to exist in 50 percent of all men in the 40 to 60 age group.

Another startling research finding relates to the effects of alcoholism on the unborn child. A team of pediatric specialists at the University of Washington School of Medicine in Seattle has discovered eight children suffering from a variety of serious physical and mental abnormalities. Two of the children are white, three are black, and three are American Indian. The only common factor is that each child was born of an alcoholic mother. All eight children have subnormal growth rates, three had heart murmurs at birth, one had a heart defect requiring open heart surgery, several have facial and limb abnormalities, and five show signs of mental retardation.

The team of pediatricians has reported these cases as part of a preliminary study which they will continue on a wider scale. The facts are impressive enough thus far, however, to suggest that it would be prudent not to drink at all during pregnancy.

Mr. President. I ask unanimous consent to have printed in the RECORD following my remarks two recent articles discussing these research findings: "Your Heart and Alcohol" from Parade of June 24, 1973, and "'Bottle' Babies" from the Washington Post of July 6, 1973.

Further research on all aspects of alcoholism must be encouraged. But even with the facts we now have, we know that our national attack on alcoholism must not be permitted to disintegrate. This will happen unless the Congress enacts the legislation needed to carry forward the programs begun in 1970. I was gratified that the Senate strongly supported my bill for this purpose, S. 1125. It was cosponsored by 35 Members and approved by voice vote of the Senate on June 28. I am very hopeful that equally affirmative House action will soon be taken.

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

YOUR HEART AND ALCOHOL

Dr. Myrvin Ellestad, head of the Clinical Physiology Department at the Long Beach, Calif., Memorial Hospital, has debunked the myth that alcohol is good for the heart.

In a recent column published in the medical center's health information magazine, Ellestad points out that one drink may prove lethal for some people with abnormal hearts; more than three drinks in one hour may adversely affect a healthy heart, and heavy drinking over a period of years may well lead to heart failure.

According to Dr. Ellestad, a leading cardiologist, "If one has an abnormal heart, just two ounces of alcohol markedly reduces function. If we realize that 50 percent of men in the 40–60 age group have silent coronary disease, we can then grasp the implications of the effects of cocktail parties on the hearts of America."

A normal heart can function even under strenuous exercise, if the blood level is low. A healthy heart can tolerate six ounces of

liquor or its equivalent in beer or wine over a one-hour period. "Any more than this, however," the researcher maintains, "rapidly weakens the strength of contraction."

Ellestad explains that "alcohol destroys a vital enzyme necessary for heart muscle contraction and when it [alcohol] is present in significant quantities, the strength of the contraction is markedly decreased."

Ellestad concedes that until recently, many doctors advised their patients to have a few drinks to relax or dilate the coronary arteries. With the advent of more sophisticated techniques for the evaluation of heart function, however, the adverse effect of alcohol on the heart is becoming more recognized.

Alcohol apparently not only weakens the contractions of the heart muscle, it also increases blood triglycerides, "the fatty substances which recently have been incriminated as being at least as important as cholesterol in the degeneration of our coronary arteries."

Heavy drinkers who down five to 10 drinks a day may permanently damage their heart muscles. "After about 20 years of drinking," says Ellestad, "their heart contraction gets so weak that they go into heart failure. This condition, called alcoholic myocarditis, can be improved by giving up all alcohol, but rarely does the heart ever return to normal. Even one belt will have a profound effect on such a person."

Dr. Ellestad reveals that alcoholic myocarditis frequently cannot be diagnosed by routine methods. "So," he continues, "patients may go on damaging their hearts for years, thinking that the progressive breathlessness, fatigue and premature aging are due to being out of condition or slightly overweight."

He advises that another adverse effect of regular alcohol consumption is dilation of the blood vessels in the skin, "which increases the blood-flow so much that the heart has to work overtime, the same as if one of its valves were faulty. When this increased work for the heart is combined with the weaker contraction produced by the poisoning of the enzyme systems, permanent damage is sure to follow."

Dr. Ellestad is convinced that alcohol is affluent America's number one health problem.

"BOTTLE" BABIES

(By Thomas O'Toole)

Five are girls, three are boys; all have small cheekbones, eyes and ears, an insufficient blood supply and a frighteningly low rate of growth.

Two of the eight children were born with dislocated hips. One child needed glasses at age 2. Three of them can't extend their arms all the way, and five suffer the deviations of the retarded. Their hands shake when they try picking marbles or coins up off the floor, they have trouble holding onto pencils and crayons and they often bang their heads against a wall when left alone.

These eight children have something else in common. They all had alcoholic mothers, with a combined history of 75 years of heavy drinking behind them. Two of the children lay in their mothers' womb while their mothers were hospitalized with delirium tremens. A third was born at home while his mother was in an alcoholic stupor.

The children are subjects of a study published in a recent issue of The Lancet, a prestigious British medical journal recognized as one of the most important periodicals of its kind. The study was done at the University of Washington School of Medicine in Seattle by a team of pediatric specialists who believe they have found the first set of birth defects triggered by alcohol.

An admittedly small study, involving as it does only eight children and eight mothers, it is also the first known of its kind, breaking new ground in a field where taboos are still very much a part of everyday business.

"We fell into this study almost by accident," explained Dr. Kenneth L. Jones, the Seattle pediatrician who headed the study, "but we think we have the first reported association between maternal alcoholism and what I would call malformations in their offspring."

When Dr. Jones says he fell into the study, he means it. The study began only six months ago, when he and Dr. David W. Smith came upon four children suffering malformities who had obviously alcoholic mothers.

"That sent us back to the files, where we'd been compiling facts on children's syndromes," Dr Jones said, "and we found four more children who answered to the same kinds of problems and had the same kinds of mothers."

The Seattle pediatricians found a pattern of malformity among all eight children, who came from three different ethnic groups. Two were white, three were black and three American Indian.

All eight are small for their age, no matter what their age. Their average growth rate is 65 per cent of normal. Their average weight gain is 38 per cent of normal, a pattern the pediatricians say is most alarming.

Just as alarming are the malformities the children suffer. Three had heart murmurs at birth, all of which corrected themselves. One was born with a condition that forced her blood to bypass her lungs, a defect that must be corrected with open-heart surgery.

Almost all the children have one cheekbone smaller than the other, giving their faces a lopsided look. A few have small eye openings; one has eyelids that don't open all the way; and one 4-year-old girl is so nearsighted she's worn glasses since she was 2. Several have ears with a "cauliflower" look, giving them the appearance of infant prizefighters.

The most striking defect in the eight children is in their limbs, especially their arms and hands. Three have deformed elbows, which means they can't straighten their arms. One has a hand where the fifth finger overlaps the fourth, another has a foot whose toes do the same thing.

The creases in the palms of their hands all show an abnormal alignment, suggesting their hands were stuck in an aberrant position when they were fetuses.

This also suggests that the children had little mobility in their mothers' wombs, which may or may not have been caused by the alcohol crossing the placental barrier from their mothers' bloodstreams.

"I don't want to say that because I don't know that to be the case," Dr. Jones insists. "We hope to do more work on this aspect to our study."

JOE CORGAN—A DEDICATED PUBLIC SERVANT

Mr. HANSEN. Mr. President, I am honored to pay tribute today to Mr. Joseph A. Corgan, who completed a 36-year career of public service at the end of June when he retired from Federal service. He most recently served as the Chief of the Division of the Environment of the U.S. Bureau of Mines.

I first became acquainted personally with Joe Corgan 5 years ago when, at the request of officials of the State of Wyoming and the town of Rock Springs, I asked the Bureau of Mines for help in dealing with a serious coal mine subsidence problem at Rock Springs. It did not take long for me to realize that one of the Government's most knowledgeable and capable employees was working on the Rock Springs project, and that all progress on the effort to deal with the subsidence would be due in very large part to Joe's expertise and willingness to assist.

During the past 5 years, I have worked closely with this man on the Rock Springs project in particular, and on Bureau of Mines programs and natural resource and mining issues in general. I have a tremendous admiration for this most talented and informed public servant.

Joe Corgan's Federal career spans a period of 36 years—34 of these with the Bureau of Mines. A few years ago, Joe was awarded the Interior Department's gold medal for distinguished public service, and I can think of no one more deserving of such recognition.

Mr. Corgan is particularly knowledgeable with regard to environmental problems associated with past mining practices, such as the mine subsidence problem and mine fires which have plagued coal mining regions.

Joe was appointed in 1937 to the National Bituminous Coal Commission at Altoona, Pa. Shortly after his appointment, he was transferred to Washington and given responsibility for analyzing prevailing rates of commissions and discounts allowed by producers to wholesalers and other distributors of bituminus coal. The work with the Commission involved editing of technical points or data on reports received from coal producers.

Mr. Corgan served the Commission until February 1940, when he transferred to the Bureau of Mines as an Assistant Coal Mineral Economist. His background by this time included a B.S. in mining engineering from Pennsylvania State College with 8 years of experience in the various phases of the anthracite mining industry and his work with the National Bituminous Coal Commission.

Since his appointment with the Bureau of Mines, Joe Corgan has continually taken on and performed with the highest degree of astute leadership many responsible assignments concerning conservation and development of fuel resources and associated mining environmental problems.

Mr. Corgan has, over the years, been responsible for programs to extinguish mine fires which are a waste of energy resources and a danger to the public health and safety; carried out vital mining research in the area of hydraulic mining and transportation; gasification of coal, metallurgical fuels development, and fuels utilization processes; directed multi-million dollar public works projects to improve mine area environment—mine subsidence control, mine fire control, strip and surface mine reclamation, mine waste bank fire control, abandoned oil and gas well sealing, and so forth; and most recently had begun extensive research and development work in the control of subsidence by unique new methods—such as the single borehole injection system demonstrated at Rock Springs, Wyo.

Mr. Corgan also has carried out work

on various Interior Department committees and has been a principal worker in the Department of the Interior for proper rules, regulations, and legislation on mining that will assure the Nation the availability of essential fossil fuel energy resources while, at the same time, guaranteeing environmental quality to those areas where the coal must continue to be mined. Joe Corgan is the kind of public servant every citizen believes should typify Federal employees—dedicated, extremely knowledgeable, and concerned about the welfare of those affected by his work.

It has been a personal and professional privilege to have worked with Joe Corgan. I know all in the Congress, in Government, and in the private sector who have come to know Joe for the outstanding person he is join me in thanking him for his exceptional service, and wishing him the very best for the future.

THE MYTHS OF CONSUMER SAFETY REGULATION

Mr. PERCY. Mr. President, one of the highest priorities facing the Nation is to assure continuing protection to American consumers against potentially hazardous products.

In October of last year, the President signed legislation passed overwhelmingly by both Houses of Congress establishing the Consumer Product Safety Commission, an independent regulatory agency with comprehensive authority to set mandatory safety standards for dangerous consumer products. Last month, with the confirmation of four of five Commissioners, the Commission commenced operations under the very able and forceful leadership of Chairman Richard O. Simpson.

In this connection, on June 4, the distinguished chairman of the House Subcommittee on Commerce and Finance, Mr. JOHN MOSS, addressed the Consumer Product Safety Conference of the Commerce Clearing House in San Francisco. Mr. Moss, who was among those in Congress most instrumental in the passage of this legislation, noted that the Commission made it into this world "because of a new sensitivity in Congress to the needs of consumers." I could not agree more with my colleague.

In his speech, Mr. Moss debunks six "myths" which he believes could impair the new Commission's ability to adequately serve the American consumer and achieve the goals set by Congress, namely:

The myth that there is such a thing as a free lunch. On the contrary, product safety regulation needs to be fully funded to be effective.

The myth of the omnipotent computer. Instead, determinations of "unreasonable risk" requires more than the mechanical application of computerized injury data; often commonsense judgment will prove sufficient.

The unfortunate myth of counting the bodies. Clearly, some hazards are obvious and should be judicially eliminated irrespective of how many injuries are traceable to them.

The myth of the nut behind the lawnmower. Consumer education, however useful, is not an adequate substitute for meaningful product safety standards and other regulatory action where appropriate.

The myth that product safety is expensive. As a matter of fact, there can be no better investment for American consumers and American business.

The honeymoon myth. Under no circumstances can we afford or should we tolerate product safety regulation while the new Commission gets organized.

As Mr. Moss observes, if these "myths" serve as the basis for the Commission's decisions "they could undermine the purposes of Congress in enacting the law and could result in disappointment to the public." Congress must be a watchdog and assure consumers that by discriminating use of the new powers that it has authorized, the Consumer Product Safety Commission will act expeditiously to reduce the abhorrent toll of Americans injured each year from unsafe products around the home.

I commend Mr. Moss on his insightful remarks and ask unanimous consent that the full text of his statement be printed in the RECORD.

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

SPEECH BY CONGRESSMAN JOHN E. MOSS, CHAIRMAN, SUBCOMMITTEE ON COMMERCE AND FINANCE, COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE, BEFORE THE CONSUMER PRODUCT SAFETY CONFERENCE

It is a pleasure to be here in San Francisco to talk with you about the newest consumer protection law passed by Congress—The Consumer Product Safety Act.

In a sense, this is a birthday party. Three years ago, in June 1970, the National Commission on Product Safety forwarded its final report recommending enactment of a consumer product safety act and the creation of an indepedent Consumer Product Safety Commission. During these past three years, there were many times when I thought there would never be any birthday party—or any birth, for that matter. You see, the Consumer Product Safety Act was not easy to deliver. It took over 5 years, a Presidential Commission, the expenditure of several million taxpayer-dollars and the dedication of many people both in and out of Government.

Pressure from certain special interest groups nearly kept the bill from being reported by the House Rules Committee. A "talkathon" by some of the conferees with only days left before the adjournment of the 92nd Congress, seemed to spell disaster in the House-Senate Conference Committee. And the determined opposition of the Nixon Administration to an independent consumer product safety Commission would have killed off the new agency and put its responsibilities into the Department of Health, Education and Welfare if not for a bi-partisan congressional determination that an independent regulatory Commission was necessary.

Notwithstanding all of the perils, the act and the commission made it into this world after all. Made it, I believe, because of a new sensitivity in Congress to the needs of consumers.

It has not always been this way. In 1906 for example, before hearings on the first pure food and drug bill, a man wishing to speak was asked by a committee member:

"Whom do you represent sir?"

"The people," he answered.

"What people?" he was asked.

But before we all start patting each other on the back, let me say I did not come 3,000 miles merely to engage in mutual congratulations. You might say I came to spoil the party. You see, I came to warn you, "Progress" can be a funny thing. It can mean a better life for all of the people of this nation or mostly for a few. It can solve some of the problems of our inflated, consumption-oriented marketplace, or it can create brand new ones. It can restore some faith in our government, or it can lead to more disillusionment.

Many Americans actually long to return to the "Horse and buggy days". The buggy, for example, was usually well constructed and built to last. There was no deliberate "planned obsolescence". Few buggies had to be recalled by the manufacturer, and if something went wrong, it could usually be repaired by the friendly, local blacksmith for a fair price.

The horse also had definite advantages. It would usually start, even on cold mornings, and it could go long miles on "regular" grass. No oil was needed, and the only additives were an occasional apple or a lump of sugar. Each horse offered a different color style and all came with an automatic fly swatter. There were few paved roads in those days, but at the turn of the century, a horse and buggy in downtown New York City could average 5.2 miles per hour, while today an eight cylinder, 300 horsepower automobile averages less than four miles per hour.

I mean the danger of assuming progress because there are some common myths around Washington relating to protect safety and the new Commission, which I believe could impair its ability to properly serve the American people. If these "myths" became the basis for the Commission's operation, they could undermine the purposes of Congress in enacting the law and could result in disappointment for the public. I do not believe that the American people need another disappointment in their government at this time. The last few weeks in Washington, and in Los Angeles, have caused enough of that.

What then are some of these common myths that stand between the Consumer Product Safety Commission and achievement of the goals set by Congress?

First, the myth that there is such a thing as a free lunch. This myth suggests that once a law is passed and a new agency created it can effectively perform its delegated functions with minimal funding. An illustration is found in connection with the Consumer Product Safety Act. The law passed by Congress authorizes 55 million dollars for the first year of operation. That figure was based on estimates of the Administration furnished to Congressional committees. Undoubtedly, the 55 million dollar figure took into account the fact that the Commission would be taking over the administration of four existing laws, the Hazardous Substance Act, the Flammable Fabrics Act, the Toy Safety Act, and the Poison Prevention Packaging Act; that it would be dealing with a sweeping variety of technical problems ranging from the physical sciences to chemistry, biology and mechanical engineering, and that it would be dealing with perhaps 10,000 different products.

Notwithstanding the immense scope of the Commission's challenge, the Administration's 1974 budget did not seek funding for the full authorized amount, but instead sought only 30.9 million dollars, a forty-four per cent cut, some 24 million dollars, before the Commission ever got started.

A corollary of the free lunch myth is that the Commission does not really need a large scientific and technical staff since it can rely heavily on expertise borrowed from industry. It is folly to think that the Commission can borrow expertise without also bor-

rowing pre-conceptions. That may be fine for the organization which happens to have the last word with an understaffed commission. But if you happen to be a competitor who does not have the luxury of such access, the situation could be very unfortunate indeed. The Commission cannot discharge its enormous task unless it has available to it a highly qualified staff in all of the scientific and technical disciplines in which it must operate. Similarly the Congress meant what it said when it authorized the planning of the Commission's own research, development, and test facilities. We will be awaiting the Commission's definitive plans on the nature and scope of such facilities.

Second, there is the myth of the omnipotent computer. This is based on the assumption that the development of the computer has proceeded so far it has made the bureaucrat obsolete. Now there have been times, dealing with such problems as lead-based Christmas tinsel, flammable fabrics and dangerous toys, when for a moment, I almost wished that might be true. But, then when some Federal agency has moved bravely ahead to protect the consumer—such as in the development of regulations for passive restraint systems by the National Highway Traffic Safety Administration—I have reconsidered. No machine yet developed can tell the consumer product safety commission what products present an "unreasonable risk." And it would be unfortunate if the Commission used the National Electronic Injury Surveillance System (NEISS) or any other system as the exclusive basis for its regulatory decisions. The National Electronic Injury Surveillance System (NEISS) which has been developed to compile injury data from hospitals will indeed be an aid in determining some of the elements of the "unreasonable risk". But there may be hazardous products which require action which never show up on a computer printout. The concept of unreasonable risk includes more than estimates of injuries. It includes consideration of the ability of consumers to protect themselves, alternative products available and the potential effectiveness of remedial action. Only five commissioners exercising the responsibility delegated to them by Congress can make such decisions. I have high hopes they will make them well.

Third, is the unfortunate myth of counting the bodies. Some people, who should know better, have suggested that before taking regulatory action the Commission must know almost exactly how many deaths and injuries are caused by a risk in question. This is unfortunate because sometimes by the time such figures are available it is too late. This is one reason why the Commission was given the power to go to court immediately against imminent hazards. I trust that power will be used in appropriate cases.

Statistics can help. But they cannot always furnish an answer. Often new products just coming on to the market do not reflect themselves in injury statistics. Sometimes engineering analysis can spot an obvious products hazard without the need to await statistics. Some hazards simply will not find their way into hospital emergency rooms or doctors' offices. That does not mean they are unworthy of the attention of the Commission.

Three years ago, the National Commission on Product Safety published a list of categories of products within which there existed unreasonable hazards to consumers. The Commission did not have the benefit of a highly refined system of injury-data collection. Nonetheless, the National Commission on Product Safety's enumeration of hazards continues as a particularly valid indication of problems in the marketplace today. I commend it to the Consumer Product Safety Commission, and I ask, which of you would argue that products such as architectural glass, fireworks, floor furnaces, glass bottles, bicycles, vaporizers, household chemicals, infant furniture, toys, ladders, power tools, protective headgear, rotary lawnmowers, or unvented gas heaters could not be made safer with modest effort.

Fourth, there is the myth of the nut behind the lawnmower. Some of you may. perhaps, have heard of this myth before. In 1966 when Congress was considering the pioneering of the National Motor Vehicle and Traffic Safety Act, quite a bit was heard about a related myth. Currently, the myth of the nut behind the lawnmower reflects itself in the belief that the primary cause of consumer product accidents is consumer misuse, and that the most effective way of reducing product injuries is through educational and public relations programs. Now I do not say that education cannot have an important impact on injury reduction. I believe it can. But educational programs designed to alleviate consumer misuse are not a substitute, and can never be a substitute, for adequate and enforced consumer product safety standards,

Please note that I did not say minimum standards, or consensus standards. I referred to "adequate" safety standards; those of sufficient stringency to meet the Act's mandate to reduce or eliminate unreasonable product hazards. Such standards can be the heart of the Consumer Product Safety Act. But not if they are "lowest common denominator" standards.

We have not yet learned to control human psychology to the extent that carelessness and misuse can be prevented. But we do have in this nation the engineering capability to "build-in-safety" and the legal authority to motivate that capability. One study of injury causation with which I am familiar indicates that between thirty and forty percent of reported injuries either involve the product as a primary or contributing cause. In certain product categories, product causation appears to be as high as 70%.

A fifth common myth is that product safety is expensive. On the contrary, in the long run, it is a bargain. The myth that it is expensive is refuted by the fact that many business people actively supported enactment of the Consumer Product Safety Act. They obviously believe that product safety pays off.

The myth that industry cannot afford good product safety standards ignores the fact that most reasonable safety regulations can be cost effective. The National Commission on Product Safety estimated that the cost of product related injuries exceeds 5.5 billion dollars each year. These costs include the medical expenses and loss of income of the injured, as well as loss of production and consuming power which falls primarily on industry.

Those who suggest that small business, or big business, cannot afford safer products also ignore the fact that Americans are now recovering in much greater numbers for injury caused by product design and malfunction. There were 50,000 product liability suits in 1960. There were 500,000 in 1970—the insurance industry estimates there will be 1 million product liability suits by 1975. And recoveries appear to be increasing in amount as well. By preventing accidents, the Consumer Product Safety Act can save dollars for both consumers and industry.

Finally, we have the honeymoon myth. Perhaps because Americans have always been warm, understanding people, there is a myth that holds everyone, including a new Federal agency, is entitled to a honeymoon. Now please don't go saying that I oppose the institution of marriage. And I am not against honeymoons *per se*. But when it comes to consumer safety, there is no honeymoon.

I do not mean that the Commission should act without adequate deliberation. And I most certainly do not mean that any of the procedures designed to insure fairness and due process to consumers and industry should be shortcircuited.

I *do* mean that there was unseeming lack of haste in appointing the first four Commissioners—and there has been a further lack of haste in the appointment of the fifth Commissioner—who, I have already said, should be a recognized consumer leader. I trust this unfortunate attitude will not carry over to the Commission and its staff. This definitely is no time for a "take-it-easy" mentality. It is not merely a desire to see efficiency in government that leads me to suggest this. It is a knowledge that 30,000 Americans die and 20 million are injured each year in accidents associated with consumer products. Every day a safety standard, a recall, an imminent hazard suit, or a public warning is delayed, as many as eighty Americans may be unnecessarily exposed to death and 5,000 to product-related injury.

So it is o.k. if the lights burn late at the Consumer Product Safety Commission. And we'll forgive you if you can't meet us for lunch. But those are our friends and our children you are protecting—and that is an important job.

There must be fairness in the way the Commission goes about its work. There must also be a sense of urgency and of compassion for those who can be spared death and injury through prompt and effective action.

Thank you for inviting me to meet with you today. I hope in years to come we can gather again and review the progress of a Consumer Product Safety Commission that believed in itself and in its consumer protection mission—and also one that did not believe in myths.

IMPACT OF FISCAL YEAR 1974 HEW BUDGET CUTS ON UNIVERSITY OF MINNESOTA

Mr. HUMPHREY. Mr. President, in the near future the Senate will take up legislation providing for fiscal 1974 appropriations for the Departments of Labor and Health, Education, and Welfare. Much has been said about funds added in the House-passed measure to original fiscal 1974 budget requests by the administration for programs administered by these Departments. But what can all too easily be overlooked is the serious impact of the substantial reductions recommended by the administration in funding for the greater part of these vital programs.

It is urgent that Congress take action to reverse the administration's profoundly ill-conceived plans to undermine or halt critically important programs—for example, in biomedical research, aid to health professions schools, ongoing programs of college student aid and graduate research and training, and the development of school and community libraries, as well as job training programs and assistance across the Nation.

However, we cannot begin to visualize the extensive regression in national domestic policies proposed by the administration in its budget for fiscal year 1974, until these cutbacks are translated into lost human resources and a sudden halt in major advances underway in various fields of knowledge.

Federal dollar reductions are sharply expressed in concrete terms in a recent report sent to me by the office of the vice president for State and Federal relations, of the University of Minnesota This report indicates that some $8 million in Federal assistance could be lost

to the university in the current fiscal year, exclusive of student financial aid. The total reduction could amount to about $11 million, as a result of a 4-year phaseout of a research training program previously supported by the National Institutes of Health.

Budget reductions affecting Federal assistance to the university's institute of agriculture translate into the loss of 36 full-time personnel positions in the agricultural experiment station. Further personnel reductions in the Agricultural Extension Service would seriously affect the 4–H program expansion and a food and nutrition program for low-income citizens.

Elimination of NIH training grants would mean that about 40 percent of the graduate students at the college of biological sciences may lose financial support.

Substantial losses in training and research grants to the school of dentistry include financial support for over 13 faculty positions.

Extensive reductions of Federal assistance applied to the college of education would seriously threaten what is probably the strongest graduate program in child development in the Nation. The school psychology training program—put forward as a "showcase" by the National Institute of Mental Health—could lose 70 percent of its budget.

A projected loss of over $1 million in training funds for the college of liberal arts means that the college would lose support for approximately 65 trainees and 15 faculty.

However, the medical school would be the most seriously affected unit of the university under Nixon administration budget reduction recommendations. Termination of NIH training grants and other training projects could mean a loss of $4 million over a 4-year phaseout period.

On top of this, the administration has continued to fail to honor its earlier promise to the university to provide essential support for the construction of educational facilities, on the basis of which the university had earlier responded affirmatively to administration requests to increase medical and dental school enrollments. Last year, the Senate Committee on Appropriations fully concurred with my urgent request that funds be designated for the long-overdue fulfillment of this commitment—under which the Federal Government would assume about 40 percent of a total project cost of $33.1 million, designated as unit B/C of the health sciences capital expansion program, and provide further assistance for additional facilities required at the Mayo Medical School in Rochester, Minn. Subsequent to approval by both Houses of Congress, however, this Labor-HEW appropriations measure was vetoed by the President.

In 1970, the administration asked for an increase in medical students, and the university added 60 students to its entering class. It has sustained that increase in subsequent years, accounting for 14 percent of the total national increase in all the medical schools in the Nation.

Administration proposals to cut back nursing research and capitation grant support would terminate the entire research program at the school of nursing, and would necessitate a curtailment in enrollment only a short time after Federal funds were awarded for the purpose of increasing enrollment. The illogic of this reversal in the administration's policies is simply incredible.

Moreover, it is projected that the school of public health, 1 of only 18 such schools in the Nation, would lose almost $1.5 million under the proposed fiscal 1974 budget. The school would face drastic cutbacks, including the elimination of three-fifths of its faculty positions. In addition, capitation grant reductions faced by the college of veterinary medicine would result in the loss of 22 faculty positions.

Such losses can have a disastrous impact not only upon health sciences professional resources, but also upon health care delivery programs, both of which are of vital importance to the entire upper Midwest. For example, the northlands regional medical program, of vital importance to physician-shortage rural areas in Minnesota, and designed to improve the health care of persons threatened by heart disease, cancer, stroke, and related diseases, will be completely eliminated in the Federal budget for fiscal 1974. And university programs to provide new careers in the health care field—urology assistants, and radiology technology, respiratory therapy, and community health work—are seriously threatened.

These are only some of the highlights of the impact upon people and concrete programs at one major university serving an important region of our Nation, of sweeping cutbacks in education and health care and research assistance funds, which will go into effect unless Congress acts decisively to correct the priorities in the administration's budget for fiscal 1974. I strongly urge the Senate to give sharp attention to such harsh realities when it deliberates legislation on appropriations for the Departments of Labor and Health, Education, and Welfare. The alleged threat of yet another Presidential veto of this vital legislation must not be permitted to be the final determinant of action by the legislative branch. The time has come to firmly and responsibly assert the powers of Congress as a coequal branch of the Federal Government.

THE RESEARCH ON AGING ACT OF 1973

Mr. BEALL. Mr. President, in recent decades, improved nutrition and improved medical services have dramatically extended the average life expectancy of Americans. It is interesting to note that there are, today, over 20 million Americans age 65 and over. This constitutes an almost sevenfold increase since the turn of the century. In addition, the over-65 segment of our population is growing almost twice as fast as is the rest of our society.

In 1962, the Congress responded to this situation by creating a National Institute of Child Health and Human Development containing the Center for Gerontological Research within the framework of the National Institutes of Health. This Institute conducts research into the developmental process as it affects all age groups within our society. Unfortunately, only approximately 11 percent of the budget of NICHD has been devoted to studying the aging process in the upper age ranges. On the contrary, approximately 58 percent of the budget has been devoted to the activities in the field of child health while an additional 31 percent has gone into various aspects of population research.

This unfortunate distribution of resources served to motivate the Subcommittee on Aging's deliberations with regard to the establishment of a separate National Institute on Aging. In addition to granting a greater degree of visibility and momentum to research in the field of the aging process, the establishment of a separate institute should serve to bring together the presently diffused and fragmented research efforts which are presently scattered among a variety of Federal departments and agencies.

It is our desire, in the creation of the Institute on Aging, to produce a coherent and coordinated research program that is capable of systematically unlocking the secrets of the aging process. It is important to note, Mr. President, that the subcommittee did not envision the National Institute on Aging as an agency that would overlap or compete with existing institutes within NIH. We expect that the new institute will primarily concern itself with the biomedical and behavioral aspects of the aging process, rather than undertake the indepth research into various chronic diseases, and so forth, which tend to afflict the aging.

In closing, Mr. President, I would like to say that throughout my career in public service, I have been deeply concerned about the way our governmental system, on all levels, delivers services. A nation that can put men on the moon and explore the far reaches of space, that can conduct medical and scientific research on a scale and in depths unequaled in history, is the same Nation that is often plagued by the unbelievable inability to render coherent and comprehensive services to people in need of them.

Earlier this year I introduced legislation that seeks, on a broader scale, to resolve some of the problems we are alluding to in this bill. My proposal to create an Institute of Health Care Delivery (S. 723) passed the Senate on May 15, 1973, by a 79-to-15 vote. This bill is designed to conduct research on the techniques of delivering health care services so that our citizens can benefit from the truly remarkable work being done at public and private research centers throughout our Nation.

The substantive breakthroughs achieved at NIH and similar research centers cannot begin to benefit the American people until that data "filters down" to the operating level of the health care delivery system. In addition, such benefits are denied to many Americans because our presently inefficient delivery

procedures result in prohibitively high costs for medical services.

Mr. President, I enthusiastically support the provisions contained in S. 775, because I believe that the health and welfare of millions of older Americans will be, over a period of time, substantially improved as a result of the research conducted by the National Institute on Aging. I would urge my colleagues to give prompt and favorable action to this important legislation.

REDUCTION IN NARCOTICS TREATMENT PROGRAMS

Mr. BIDEN. Mr. President, unbeknownst to many, the Nixon administration has made important changes in its approach toward drug abuse. Efforts to enforce existing drug laws have been increased while, regrettably, programs for narcotics prevention and education are now receiving less emphasis and funding. These recent modifications in our drug policies were discussed in a New York Times article of July 5 entitled "United States Cutting Narcotics Treatment Programs." I think this piece informative and worthy of attention.

One key way in which the administration is trying to improve enforcement, the Times points out, involves the recent centralization of all drug enforcement authority in a new Justice Department agency called the Drug Enforcement Administration—

The consolidation was primarily designed to end bureaucratic feuding between the Bureau of Customs and the Bureau of Narcotics and Dangerous Drugs.

An increase of $28.7 million has been budgeted for drug enforcement by the administration for the 1974 fiscal year.

At the same time, the Times article points out, the administration contemplates a reduction of $27.52 million in the overall Federal budget for treatment and rehabilitation programs and the "termination or sharp reduction" in budgets of treatment programs sponsored by Cabinet agencies. It is further reported that—

The White House Special Action Office for Drug Abuse Prevention has begun to trim its manpower rolls in preparation for a complete phase out by the end of 1974 . . . the agency was set up in 1971 to coordinate antidrug programs and especially efforts against heroin, which President Nixon has labelled "public enemy number one."

The administration's decreased interest in these programs is evident.

I appreciate the need for stronger law enforcement efforts; I regret, however, that these new efforts are being provided at the expense of other essential drug programs. This approach represents a return to the backward attitude that sees drug use as a crime rather than a disease. There can be no real solution to the drug problem that does not include strong efforts at education and rehabilitation.

Mr. President, I ask unanimous consent that the article from the July 5 issue of the New York Times entitled "United States Cutting Narcotics Treatment Programs" be printed in the RECORD.

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

UNITED STATES CUTTING NARCOTICS TREATMENT PROGRAMS

WASHINGTON, July 4.—The Nixon Administration has instituted changes in its anti-drug programs, with increased emphasis on domestic and foreign enforcement efforts and less emphasis on prevention and rehabilitation.

One of the changes—consolidation of all drug enforcement authority within a new Justice Department agency called the Drug Enforcement Administration—became effective Sunday.

John Ries Bartels, Jr., former deputy assistant to the director of the Office of National Narcotics Intelligence, who was named Friday as acting administrator of the new agency, said the consolidation was primarily designed to end bureaucratic feuding between the Bureau of Customs and the Bureau of Narcotics and Dangerous Drugs. They are the nation's two largest drug enforcement agencies.

Other Administration changes include the following:

A reduction of $27.52-million in the overall Federal budget for treatment and rehabilitation programs, from $555.3-million for the fiscal year that ended Saturday to $527.8-million for the 1974 fiscal year, which began Sunday.

An increase of $28.7-million in the amount budgeted for enforcement, from $228.3-million in the 1973 fiscal year to $257-million for the 1974 fiscal year.

Termination or sharp reduction in budgets of some rehabilitation and treatment programs sponsored by Cabinet agencies. There also has been a reduction in the number of Federal agencies providing such programs.

Shifting the leadership of the Cabinet Committee on International Drug Control from the White House staff to the Department of State. This signals that diplomatic priority is to be given to efforts to stem the flow of illicit drugs into the United States from abroad. The committee's budget has been substantially increased in recent years.

The devising by the Department of State of specific plans for curbing the flow of drugs into the United States from 60 key foreign sources.

RECOMMENDATIONS IGNORED

The consolidation of Federal enforcement efforts has been recommended on numerous occasions beginning with the Hoover Commission in 1949. Instead, the Government added enforcement agencies.

The problems of jurisdictional disputes and unhealthy competition cited by some reports, such as that of the General Accounting Office, have led to often vocal hostility between the agencies and, critics say, reduced the efficiency of enforcement efforts.

Members of the same agency have conducted simultaneous raids on the same targets with unfortunate consequences.

An eight-week investigation by The New York Times disclosed that raids against innocent people, involving threats and abusive language by Federal narcotics officers, were common.

Part of the problem apparently stemmed from inadequate training.

Justice Department officials in Washington said that many narcotics agents had little law enforcement experience and went to the agencies right out of college. The average age of narcotics bureau agents is about 25.

The bureau operates the National Training Institute, for narcotics agents. It provides eight weeks of training on searches, seizures and constitutional rights, but attendance is not required. Many officers involved in mistaken raids have not taken the training.

Federal officials have said that a review of training procedures and requirements is under way although no immediate changes are planned.

NARCOTICS CHIEF OUT

John F. Ingersoll, director of the narcotics bureau, quit Friday after being passed over as a candidate to head the new agency. He said he had been forced out because he would not bow to White House pressures. Associates later described those pressures as efforts to influence administrative and personnel decisions.

One associate of Mr. Ingersoll said that two key personnel people had been replaced at the behest of the White House. Another associate said that two new enforcement and intelligence agencies set up during the last 18 months had been given duties identical to those of the narcotics bureau. He would not identify the two. Mr. Ingersoll was unavailable for comment.

There has been further consolidation of treatment and rehabilitation programs.

The White House Special Action Office for Drug Abuse Prevention has begun to trim its manpower rolls in preparation for a complete phase-out by the end of 1974. This was mandated by Congress. The agency was set up in 1971 to coordinate antidrug programs and especially efforts against heroin, which President Nixon had labeled "public enemy number one."

There are currently seven cabinet agencies with prevention and rehabilitation programs, compared with 14 two years ago. Current budget plans call for further reductions to four agencies by the end of 1974. Then only the Department of Health, Education and Welfare—which will be at the hub of activities—and the Department of Defense, the Veterans Administration and the Bureau of Prisons will continue to provide those programs.

Office of Management and Budget sources said that H.E.W. would receive about 75 per cent of all treatment and rehabilitation funds and the Bureau of Prisons the smallest amount.

PUBLIC SERVICE ADS SCORED

An O.M.B. source also said that many of the antidrug public service advertisements would be abandoned and no new ones would be produced this year "because we have learned that their effect has been neutral at best." The official said there would also be a reduction in the number of federally sponsored antidrug counselors in public schools.

An O.M.B. official said the Government would shift its focus from the eradication program for drug-producing crops, which was initiated two years ago, to beefing up foreign law enforcement and intelligence capabilities.

The official said the eradication program had been "oversold and did not solve the problem." "All it did was buy time and temporarily disrupt trafficking," he said.

The official said that $61-million would be provided for the stepped-up enforcement efforts abroad and that the State Department had outlined specific plans for 60 countries that are major sources of illicit drugs smuggled into the United States.

RETIREMENT OF KENNETH E. BELIEU

Mr. ROBERT C. BYRD. Mr. President, on behalf of the distinguished Senator from Mississippi (Mr. STENNIS), I ask unanimous consent to have printed in the RECORD a statement by him and relevant documents on the retirement of Under Secretary of the Army Kenneth E. BeLieu.

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

STATEMENT BY SENATOR JOHN C. STENNIS UPON THE OCCASION OF THE RETIREMENT OF UNDER SECRETARY OF THE ARMY KENNETH E. BELIEU

Mr. President, on June 29, Under Secretary of the Army Kenneth E. BeLieu retired.

Those of us who have worked with Ken through the years appreciate his many fine qualities. In public service, as well as in any other field of endeavor all questions finally come down to the character and integrity of the person involved. In this respect the score of Ken BeLieu is of the highest. I do not know of anyone who has served the Army and thus the nation with more honor and loyalty.

I wish to Ken and to his lovely wife, Markie, and to their son, Chris, every success and happiness now and in the years ahead.

I add to my statement the citation of the Medal For Distinguished Public Service (First Bronze Palm), the letter to Ken from the President accepting with regret his resignation, the address of Secretary of the Army, Howard H. Callaway, and the remarks in response by Ken BeLieu, all on the occasion of his retirement on June 29, 1973.

TO KENNETH E. BELIEU

in recognition of his distinguished service to the Department of Defense and to the security of the Nation in positions of great responsibility covering a period of almost 33 years.

His accomplishments are legion. As a professional soldier he served his country on the beaches of Normandy, in the Battle of the Bulge, and in Korea, where he received a disabling wound. After retirement from the Army in 1955, he continued to support a strong National defense as a professional staff member of the Senate Armed Services Committee. From there he was appointed as Assistant Secretary and later Under Secretary of the Navy. In January 1969, Ken became the Deputy Assistant to the President for Congressional Relations. His selection as Under Secretary of the Army in 1971 was the capstone of a unique career of public service. Few Americans have given more to their country. Fewer still have achieved such enviable esteem as a citizen-soldier in the finest tradition of selfless service. I am pleased to present the Department of Defense Medal for Distinguished Public Service (First Bronze Palm) to Ken along with my best wishes for continued success and happiness.

W. P. CLEMENTS, Jr.,
Secretary of Defense (Acting).

June 29, 1973.

THE WESTERN WHITE HOUSE,
San Clemente, June 29, 1973.

Hon. KENNETH E. BELIEU,
Under Secretary of the Army,
Washington, D.C.

DEAR KEN: Your letter of May 31 has come to my attention. I will, of course, abide by your wishes and accept your resignation as Under Secretary of the Army, effective June 29, 1973. I do so, however, with the deepest regret.

President Eisenhower once wrote, "Of all the nations of today the future will say that there were two kinds; those that were intelligent, courageous, decisive and tireless in their support of high principle—and those that disappeared from the earth. The true patriots of today are those who are giving their best to assure that our own country will always be found in the first of these two categories." You are one of those patriots, having served America with the highest distinction both in time of war and during our untiring quest for a lasting peace.

You have served in the three branches of the Federal government, and in each successive position you have justly won the enduring admiration and respect of your colleagues. More importantly, your participation in government has always been founded on the principle that service to our country is, as you yourself have written, the highest calling for every American.

It has been a source of immense satisfaction to me to have you as a key member of the Administration team, both here in the White House and, since September of 1971, as Under Secretary of the Army. I am deeply grateful to you for your many contributions to our Nation, and as you retire from public life, you may be assured you take with you my heartfelt thanks for all you have done and my warmest good wishes for every happiness in the years ahead.

Sincerely,

RICHARD NIXON.

ADDRESS BY HONORABLE HOWARD H. CALLAWAY, SECRETARY OF THE ARMY, AT THE RETIREMENT REVIEW FOR HONORABLE KENNETH E. BELIEU, UNDER SECRETARY OF THE ARMY, FORT MYER, VA., JUNE 29, 1973

We are privileged today to honor a great American. The Army has been privileged on many occasions to honor great men, but today is something very unique. Seldom in our history has a man performed for his nation with distinction as has Ken BeLieu.

As you have heard, Ken served as a combat officer with distinction in World War II. He served again as a combat officer with distinction in the Korean War, during which he lost his left leg below the knee. Undaunted, he continued to serve the military, again with distinction, as Executive Officer to two different Secretaries of the Army. After this assignment, he retired from the Army as a Colonel.

Never being able to really retire, he began a new career. He first served with the Senate Armed Services Committee as a member of that Staff, again with distinction. He then served as Assistant Secretary of the Navy and as Under Secretary of the Navy, again with distinction.

He next served the President of the United States as the Deputy Assistant to the President on Congressional Relations.

And he has served for the last two years as Under Secretary of the Army, again with great distinction.

It is sad, Ken, to say good-bye; but you have a habit of never saying good-bye—we have said good-bye to you so many times, and you keep coming back. We don't know where you will come back this time, but we will welcome you when you do. We know one thing—you will still be serving your country, no matter what you are doing.

I am most grateful to Ken BeLieu for the personal efforts he has made to make my job more pleasant and more helpful to the Army. He has been a great man to work with, and we will all miss him. But I think the Army is most grateful to Ken BeLieu for setting a challenge that we in the Army must fulfill and live up to in the days ahead. The Army has a greater challenge today than perhaps ever before in its history. At least it is a different challenge. We have never before been asked to man a strong Army capable of global missions without any kind of draft—with a volunteer Army. And today we are a major part of the Nixon Doctrine, with strong commitments in Europe and in Asia, and, as you know, with a volunteer force. It is going to be difficult to live up to the challenge that we have, but Ken BeLieu has set the course. Ken has insisted that as we go forward in this new Army, by insisting on quality accessions; by insisting that the young men and women who come in the Army today are the best of America; by insisting that they are truly representative of all America, of all walks of life, of all economic levels, of all ethnic groups; and by insisting that the men and women of the Army today are mature adults and they should be treated as such, without harassment.

The Army has a vital mission to fulfill, a mission that would be accomplished by a disciplined Army and by an Army that is by no means a permissive Army—Ken BeLieu would not allow that. This must be a mission oriented Army where we treat each one alike, each person as a soldier, each soldier judged only by how well he does his job.

That is the legacy that Ken BeLieu has left to us. That is the challenge that he has left to us. And just as Ken BeLieu has gone from one mission to another, each better than the one before, Ken, we are going to use your example to inspire us during the days ahead.

SPEECH BY HONORABLE KENNETH E. BELIEU, UNDER SECRETARY OF THE ARMY, ON THE OCCASION OF HIS RETIREMENT, FORT MYER, VA., JUNE 29, 1973

Secretary Clements, Secretary Callaway, Admiral Moorer, dear friends all, and the officers and men of The Old Guard. I want to commend the troops for their fine appearance. I have been privileged to observe The Old Guard and the band walk these hallowed grounds more years than I care to count. I am deeply grateful for their presence here today. They are always a source of pride to me and to our Army.

Secretary Callaway has talked about a higher calling. I guess there is no discharge from the American Army. There is retirement; but the Army never leaves you and you never leave the Army.

It seems but a short twenty-one months ago that in the old office of the Army Chief of Staff, which in earlier days was at the hub of the area now occupied by the Department of Defense, as had been my privilege before as a Second Lieutenant, I raised my right hand and pledged true faith and allegiance to the Constitution again—this time as Under Secretary of the Army. And I did so with deep pride and humility, because I considered myself to be among the most fortunate of men. I had been given a second opportunity to serve the Army. And on that occasion, so memorable to me, I couldn't help but liken it to return to the old neighborhood of one's childhood and, from a distance, observing the old home. It looked a bit worn. The paint was peeling in spots and a few shingles were awry as the result of some storms; but when you put your hand on the door latch, you knew that the pillars and the foundation were as sound as the original oak. And, once inside, I found that the basic principles which have sustained this great institution—the United States Army—from the beginning remained unchanged. But also there were the unpleasant realities of those days. The Army was having some trouble. It was not threatened with defeat on the battlefield; but it staggered from the more subtle effects of eroding public confidence. I was not so much concerned with the relative few who didn't like our country's uniform; but because the Army's life line is the American people, I was deeply concerned about the number of Americans who, by their silence or seeming detachment, were not forthcoming with the wholehearted support our soldiers deserved.

I recall the late thirties, when I first donned the uniform of an infantryman, that the combination of national priorities and public apathy had resulted in a small and ill-equipped Army, which was then a lesser honored component of our society. In those days, however, the clear and present danger emanating from Hitler's Germany was moving us from isolationism to involvement and the same old historic Army was once again recognized by the public as a necessary national institution. While all Americans did not rally behind our commitment in Korea, the Army emerged generally unscathed and holding its own. For many reasons, some within our control but most beyond the control of the military, Vietnam saw the waning of public support. We are still feeling the re-

sult, and the recovery is likely to be slow and painful. Our resolve as a People was and still is being severely tested.

Challenges emerged regarding the very basis of maintaining an Army. Once more it was clear that we needed to reaffirm that our Army is indispensable to the survival of our country. Through words and thoughts, many unspoken, Americans again, as they have after every conflict, were beginning to ask the question, "Do we need an Army?"

And so, as I became reacquainted with the Army, both in the Pentagon and by visits to far-flung outposts, and saw and knew again the soldier's heart, I became convinced of the need to remind both the doubters and the indifferent of the lessons of history. It is difficult for a free society, preoccupied with a good life, to recognize and properly assess external threats and to remain prepared. Yet the facts are, despite our previous isolationism and our desire for peace, we have been involved in nine major wars and more than one hundred campaigns and expeditions in the 196 years of our existence. Will Durant wrote: "In the last 3,400 years of recorded history, only 268 of them have seen no war."

Now, I am not asserting that wars are inevitable. I pray such is not the case. But no one in America or in the world can be certain that our nation has seen the last of war. Our history teaches another lesson: When wars have occurred, we Americans have invariably been caught unprepared.

The United States Army has carried the main burden in these conflicts, regardless of the state of readiness at the time the wars began. Many people say today that a major conflict is unthinkable due to modern nuclear weapons and it should be. But I submit that what has caused wars is not so much the state of military technology, but rather the state of mind of human beings. The imperfect nature of mortal man is the problem. Rivalry and strife will still cause man to fight even though the fear of nuclear holocaust may cause him to try to limit his objectives. Just look at the world around us. Human weakness, tyranny, anarchy always will pose threats to a free society. If history proves anything, this is clear.

The highest mission of the Army is to deter war. To do so it has to be a combat-ready Army. We can only conclude that the United States needs a combat-ready Army sufficient to meet its tasks. It has to be professionally competent—an Army with the highest state of morale, discipline, and moral fiber. Our commitment to an all-volunteer force places that kind of a premium on quality.

If our Army is to have its rightful place of trust and esteem, we must regain and keep public understanding and support. We cannot attract the high quality soldier America needs without it. The single greatest contribution all of us can make is to act as visible, vocal, and affirmative spokesmen for all ranks. The Army and all of our military forces have enough critics. They need more consistent advocates. They need men and women who are informed; who take obvious pride in what the Army has been, is, and ever will be. They need men and women who seize every opportunity to affirm this to soldiers and especially to the public.

Most of us are not called on to shoulder a rifle, but we can shoulder the responsibility of supporting the man who does. Those of us who have had the opportunity to pass through their ranks, along with every American citizen, must take up the soldier's banner, evangelize his virtues, and support his cause. I emphasize the need for affirming the Army's quality and essentiality in positive rather than defensive terms. Like all segments of American society we have had and will have our share of those who choose the easier wrong rather than the harder right. But judged in perspective, the Army's record of competence and integrity compares most favorably with that of the society from which it is drawn. And it is axiomatic that soldiers must do their jobs under unique handicaps, pressures, and dangers. Our actions and our words should reflect this.

We lose credibility if we are not candid as to our problems and our faults. But I think it is also equally axiomatic that we lose even more credibility, internally and externally, and do a great disservice to our nation if in an effort to be candid, we overstress shortcomings and fail to put them in context. Thus, the only honest and effective platform on which our spokesmen can stand is one which admits the problems and shortcomings but puts them in the context of a large organization which historically has been made up of dedicated Americans.

To those who wear the Army green, I say we cannot wait for everybody to tell us. We must daily renew our own sense of purpose, pride, and confidence. We must always, as those who have gone before us, earn our country's respect. As a minimum, the result will be a retreat from emotional bias and stereotyped cheap shots at the military and inevitably a welling of support from those who want to have faith and pride in our military and are longing for strong, affirmative spokesmen.

In today's world we again see some encouraging signs of peace. We must continue searching for peace while maintaining the armor of strength. We should heed the words of our premier soldier, General Omar Bradley, who said of peace on another day:

"It can be lost by timid world leadership and by the premature abandonment of our armed strength. It can be lost when a nation's self-interest is permitted to smother its world role. It can be lost by surrender to doubt. It can be sold out by suspicion. Above all, the easiest way to lose the peace is to lose it by default, by retreating behind our walls to live in dangerous isolation."

To restore, cherish, and hold our Nation's resolve requires commitment and sacrifice, not only by the military but by all Americans. Each of us must articulate our pride in America and rededicate ourselves to the principles which have bestowed greatness upon this people. Let us heed the admonition of Kenneth Clark, the British historian, who said:

"It is the lack of confidence more than anything else that kills a civilization. We can destroy ourselves by cynicism and delusion just as effectively as with bombs."

Our Army, both Active and Reserve, needs public support more than ever before. I believe the people are fully capable of giving that support.

America is a nation born of patriotism. Our national strength is the product of active and devoted citizenship.

From devoted citizens comes the willingness to emphasize duty—to serve, to work, and to fight, if necessary, for that which is moral and just. I know that the majority of Americans are such citizens.

Let us here redetermine and declare that the generations which come after us will find that we were resolved to give completely of our best efforts—to perfect our Army, to sustain our country, and to preserve our Nation's freedom.

In many ways the Army that I leave today bears little resemblance to the one I embraced in 1937. But I rejoice in the fact that, as with the true citizen, the true soldier's dedication remains unchanged. He puts his God, his family, and his country above all else. And I can think of no higher honor than to have it said of me—"he was a soldier".

Markie and I are saddened by leaving many old and dear friends and comrades in arms. But we go with none but fond and cherished memories and blessings beyond measure.

THE LAST FOUR DECADES—GOVERNMENT AND INDUSTRY

Mr. TAFT. Mr. President, I recently came across an Industry Week interview of Mr. Walter Campbell, the editor-in-chief of that magazine. I believe that the magazine has been an intelligent and enlightened spokesman for the views and concerns of the Nation's industries. Mr. Campbell has consistently articulated views which absolutely must be taken into account by Congress as we try to shape policies affecting industry which will increase the well-being of all our citizens.

I believe that it would be valuable for the Senate to have the benefit of some of Mr. Campbell's views and I ask that the article be printed in the RECORD.

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

FROM APPLES ON THE CORNER TO PIE IN THE SKY

(By Floyd G. Lawrence)

"These four decades began with apples on the corner and ended with pie in the sky. They included our deepest depression and our boomiest boom. They included a devastating war and an uneasy peace.

"But above all, they were a period of unprecedented growth. Sales of our manufacturing industries increased nearly thirteenfold, from $56 billion in 1936 to $740 billion in 1972. Part was inflation, but most was real growth. And our population has nearly doubled over that same span.

"But the most impressive growth by far has been in the size of government. During the time our population was doubling and manufacturing sales were increasing nearly thirteenfold, government's tax take increased almost thirtyfold. That's 3,000%!"

Editor-in-Chief Walt Campbell's voice was vibrant with indignation. The stem of the pipe in his hand swept upward to symbolize exorbitance and darted downward to skewer "that's 3,000%!" Triumphantly extracting a sheet of yellow tablet paper from the ever-present towering "fact file" beside his typewriter, Walt continued:

"The tax grab went from $12 billion in 1936 to $352 billion in 1972. And that's not just the federal government. Every politician at every crossroads has discovered the happy formula for them of tax and spend, tax more and spend more.

"During these few brief decades we have gone from the idea of government to protect us from our enemies to the idea of government to protect us from ourselves. And this may prove to be a cost too great for us to bear and remain healthy as a nation."

As he paused to reflect a moment, our first conversation with Walt nearly 25 years ago came to mind. Across a battle-scarred desk proudly bearing a Spalding hole-in-one trophy, Walt, then managing editor of *Steel* magazine, was interviewing us for possible employment. In an hour and a half, our thought processes, attitudes, and aptitudes were more thoroughly explored than we would have believed possible. Yet the approach was one of conversation rather than inquisition and the experience was delightfully punctuated with flashes of humor, intelligence, and down-to-earth rationality.

We realized we were experiencing a skilled reporter at work. We realized this was a man and a mind from which we could learn much. And as a result of that interview, we were pleased to accept a job, less to work for *Steel* magazine than to work for Walt Campbell. And we were not the first nor the last to do so.

"Around the end of World War II," con-

tinued Walt, bringing us back to the moment, "people all over the world had a deep and profound love affair with big government. Everyone seemed convinced that big government could do anything. People seemed very happy to turn all their problems over to big government, and politicians all over the world were equally happy with this opportunity to seize power. And they did.

"Now, almost three decades later, there is a disenchantment developing very rapidly. After a long and expensive experiment, people are beginning to realize that big government can do just two things well: wage war and inflate the currency.

"When it comes to most other activities, big government makes big promises but fails to deliver what it has promised. Yet, tax collections go on, and we pay and pay and pay—until some of us feel the dollar we invest in taxes might be invested more wisely in a Las Vegas slot machine.

"There has been a great deal of change in the last 40 years, and some of it has been forward. But I think that the great expansion of government and the compounding cost of government and the rising influence and regulation of government has been a phenomenon of this period that presents the greatest menace to the health of our society and our country.

ANTIBUSINESS CONTAGION

"I'm not sure that government growth is related to the growth in antibusiness sentiment. While the private sector people have not done an outstandingly good job in selling themselves to the public and keeping themselves sold to the public, I could excuse that, at least in part. For they have been so busy producing the goods and services that people need and want that they either thought it unnecessary or did not have the time to do a self-selling job to the public.

"So I think the antibusiness sentiment in part arose from default but in part was directed by government in some instances and in others by educators and clergymen who became critical of the industrial sector of our economy. This in turn was picked up in recent years by youth and became contagious, as some of these ideas do.

"But I think it was furthered as much by so-called educators as it was by government. And, of course, the newspapers and the electronic communications media added. I think newspaper reporters and radio and TV reporters and commentators have a lack of understanding of what industry does that contributed to their making it a target for attack.

"But while this antibusiness sentiment has been very much overdone, there has been some basis in fact. Industry and industry people have not always acted wisely, not always acted in the national interest, not always acted as enlightened industry should. These instances have been picked up and held up to ridicule and criticism and have not been adequately refuted. And this has resulted in what I have to consider an unfair and an unfortunate position.

MANAGERS STAND HIGHEST

"Let me pursue that a moment," said Walt, putting his feet on his desk and looking at the ceiling.

"Before I became a magazine editor, I spent many years as a daily newspaper reporter and editor and as a wire service correspondent. And throughout all of those more than four decades in journalism, I have had exposure to and acquaintance with a great many people of all types—politicians, educators, clergymen, professional men—people in every walk of life.

"It is my considered judgment that the managers of industry stand head and shoulders above all others in their ability to contribute those things which our people want and need, and in morality, in ethics, and in general as citizens that I admire.

"There have been disappointments in all types of people—including managers in industry—but all in all I think industry managers stack up best in terms of their complete performance, their dedication, and their ability and intelligence.

"Further, I think the managers of industry have been far more innovative than any other segment. Because of them, industry has contributed more to the quality of our living than any other segment.

"Take mobility, for example. For 50,000 years man was limited to the speed of a horse. Almost within my lifetime we have not only increased that speed immeasurably but also have provided that increased mobility at a very reasonable cost to all. It has made us one world.

"Or take the supply of food. We currently are complaining about the rapidly rising cost of food. Yet I can remember when two-thirds of the workers in this country were devoting their efforts to producing foodstuffs. The problem was supply. It was our main concern.

"But industry, through providing mechanized tools and implements, chemical fertilizers, and insecticides has brought about an agricultural revolution which now permits all the food we need, and more, to be produced by 4% of our workforce. And beyond that, we have more convenient foodstuffs that we take for granted, and so many other things.

"I believe industry ought to tell the people and keep on telling the people over and over what so many industrialists apparently think is obvious: about the contributions industry makes to the quality of living of all the people. This is a really important and meaningful and wonderful story.

NEW CHALLENGES TO MANAGERS

"The challenges that managers in the industrial scene face today are infinitely more complex, as we have more and more regulations and more and more specialization to make *products* that people need and want.

"But I think there ar new challenges coming over the horizon for managers in providing the services that people need and want.

"Heretofore we have thought of these services as being provided by the public sector—services like medical and hospital care, education, and urban development. But the public sector has done an inadequate job.

"So I see in the future a considerable opportunity for the private sector to provide such services that would be better and less expensive, and do it at a profit. For I think that the dynamics of private enterprise when they are unleashed can solve any problem we face, whether of ecology, the energy crisis, the problems of relieving poverty, or whatever.

"We should never underestimate the power of dynamic private enterprise because it will be motivated people who will get things done. Institutions will do very little.

"Perhaps the traditional entrepreneurial challenges have become somewhat blunted by all the regulations and inhibitions imposed by our public sector. But there are certainly new challenges available to the true and real entrepreneur which may be even more exciting than those we had in the past.

AN EXAMPLE: INDUSTRY WEEK

"New challenges, new problems, new opportunities are arising, and they can be recognized if you are watching for them long before most people know they exist. Industry Week itself is an example.

"Of the many privileges and opportunities I have had over these many years, I am confident that my greatest personal satisfaction has been to be a part in the creation of Industry Week.

"The concept of IW was good. We recognized a challenge and an opportunity: to build a magazine uniquely serving the needs of managers of industry. And we must have done something right because the reaction of the readers has been fantastic.

"I have more than 6,000 letters, practically all of which express an enthusiasm for this book. I figure we have 675,000 readers among industrial managers, and they do read and they do think of IW as their magazine. Hardly a day passes but what somebody from Texas or California or Massachusetts doesn't call me just to say, 'Thank you for IW.'

"But one of the satisfactions an editor gets is to recognize a problem before it is generally recognized. For example, many of us knew back in the 1950s that air and water pollution was going to become a problem. And we suggested editorially that this was the type of problem about which all people should be coordinated by a public egency.

"Time proved this to be accurate. But air and water pollution in the 1950s had absolutely no political sex appeal and nothing was done. No one would listen.

"Also in the 1950s, we recognized and brought to light the problem arising in a world market: that the U.S. would no longer be a fat, comfortable island of self-sufficiency. We could see that those countries of Europe and Asia that were devastated during World War II were rebuilding their industrial machines. We could see them preparing to produce quality goods for export which would be increasingly appealing in our markets and often at lower cost.

"We recognized that this fact represented a threat to U.S. industry and to U.S. labor. In 1960, we produced our first impact issue entitled, 'Our fight for survival in the new world market.'

"In 1971 we recognized the combination of circumstances that now threaten the very existence of a strong and healthy U.S. industry. And we called attention to that in another impact issue headed, 'Is there still time to save U.S. industry?'

"That impact report made waves because it focused attention on what has to be a very real problem of great importance to every American, whether he be an industrial manager, an industrial worker, or whatever. For without a strong and healthy U.S. industry this country simply cannot continue to be the kind of country we want it to be.

"And I believe sincerely that we hoisted some warning signals on the weakening of U.S. industry—through excessive public sector demands, continuing increases in labor demands, welfare demands, and sharply declining personal productivity—that have made a great many people think about our problem.

"And the important thing is that when people start really thinking about a problem they are then started on their search for solutions to that problem.

"IS THERE STILL TIME?

"There is still time to save U.S. industry, of course. But the question is a great deal larger than that. The question really is: Can we save the U.S. as the kind of country we want it to be, as a country which is strong and prosperous, as a country that stands for the things that America should stand for?

"There is still time to make the U.S. that type of country, but we will have to work at it as Americans. We will have to realize that there is no such thing as a free lunch. We will have to give up our belief in the devotion to SFN—something for nothing.

"More of us will have to become more productive of the goods and services that our people need and want. And we'll have to quit thinking as minorities. We'll have to stop pitting class against class. We'll have to ease

off on the confrontations between labor and management.

"We'll have to start thinking and acting like Americans. We'll have to go to work. And all this of course is a lot easier to say than to do. But that's what must be done.

"And I think there are several signs for hope. One is the no-strike agreement in the steel industry. There are a number of moves toward more cooperation between management and labor as labor leaders and management recognize that there is more to be gained by cooperation than by hostility.

"Recognition in several quarters of need to put increasing emphasis on improving our total productivity shows perhaps small but important beginnings. And we have gotten at least lip service from influential members of the public sector that suggest the 'partnership of purpose' which we advocated is not a complete impossibility.

"Perhaps these are small beginnings. Certainly it is still too early to appraise their real significance. For unfortunately, shifts of this kind take more time than most of us would like.

"But we must begin, and one way to begin is for industry now to absolutely refuse to become a whipping boy for the politicians. I know that many in industry have in the past hesitated to speak out against the politicians for fear of reprisals or because of a hoped-for government contract or because they did not want to rock the boat.

"Now this is really venal. I don't think industry can any longer afford such lack of courage. I think it's important to understand when we cannot afford to be afraid."

EDITORIALS "BY THE POUND"

Walt paused and broke into a grin. "Hey," he observed, "I like that. I think I just coined something."

That made us wonder. "Have you ever added up how many editorials you have written?" we inquired.

"By the number or by the pound?" came the rejoinder as Walt flipped a fistful of notebooks filled with tearsheets on the desk. "I've written an average of perhaps 50 editorials a year for almost 20 years now, so the total must be about a thousand.

"But it gets a lot easier to write editorials as you go along. In part I think that's because there are more things happening to affront us than there used to be. Or it may be because change isn't going forward as change used to seem to go forward. Now we go sidewise and sometimes backward, and either way the cost always goes up.

"But the more you do a job, and particularly a job that you like to do, the easier it becomes. I think that's true in anything you enjoy and believe is worthwhile doing. As you gain practice and experience you do it more easily, hopefully more effectively, and waste less time doing it. And you also get to recognize the things you shouldn't do or can't do, and you don't waste time trying to achieve the impossible.

"By the time I sit down to my typewriter to attack an editorial it's within 30 minutes of being on its way to the copy desk. But before I sit down to write that editorial, I have been thinking about it—perhaps for several hours, perhaps several days, or even for several weeks. That's not consciously working on it but reflecting upon it.

"And sometimes, of course, there is an incident which sparks an editorial reaction almost instantly, almost automatically; those happen on the good days.

"But in all honesty I would have to admit satisfaction in reader reaction to my editorials in IW. And I attribute whatever effectiveness or success may have occurred there to the fact that I always have tried to seize upon real problems of interest and concern to a lot of people.

"Then I have tried to define that problem and to suggest a solution or whatever corrective action might be indicated in the simplest language I know—and I know a lot of simple language," he grinned impishly.

A NEW ROLE

"I would rather be known as a good reporter than anything else, a discerning reporter," added Walt, "and you as a good and discerning reporter, momentarily overcome with courtesy, no doubt wish to ask me of my future plans.

"Let me begin," he said, extracting a well-thumbed copy of *The Prophet* by Kahlil Gibran from his desk, "with a quote: 'This is not a garment that I cast off this day but a skin that I tear with my own hands.'

"I look forward to my retirement, and that anticipation is of course mixed with regret as Kahlil Gibran's words suggest. But I myself made the decision to retire at this time for several reasons, some of which were not even selfish.

"One is that I believe a magazine like IW deserves the most vigorous editorial management available to it, and as the years pass each of us is subject to an unmistakable lessening of vigor. So I wanted to leave before that lessening of vigor became too apparent to me at least, and certainly before I became a bewildered old man. And I think that the succession in editorial management has been well structured to carry on this magazine to a growing destiny.

"But in my 'retirement' I will continue to write an editorial once a month, will be available for consultation by the editors, and will feel free to toss in any ideas for IW that may occur to me. And I will continue to attend certain industrial meetings to continue fine friendships and to keep in touch with industry.

"But at the same time I am looking forward to living in North Carolina. I am looking forward to the enjoyment of more leisure, to playing a little more golf, to spending a little more time fishing, and to growing and developing azaleas and camelias. And to all of these things, as well as my continuing role as a consultant to IW, I look enthusiastically forward."

GRANDPA MURPHY

It was a logical statement with which to conclude the interview but there remained one more question, a monumental question that after all these years we felt had to be asked.

"Walt," we said, fearful of destroying a legend of many editorials' standing, "did you really have a Grandpa Murphy?"

"Not only was my mother's father named Murphy but there really is an association of nonrelatives called the Honorary Descendants of Grandpa Murphy," said Walt. "This society was formed on an executive Convair between Salt Lake City and Denver when one of the engines froze and we were trying to negotiate the peaks of the Rockies with just one engine. The plane was laboring and shuddering, and even the pilot wondered whether we could make it.

"Back in the cabin a group of us had been playing poker, and I had been calling on a little assistance from Grandpa Murphy. The results had been astonishing. From a loser I had become a sudden and spectacular winner, a circumstance which those around me could only attribute to the assistance given me by Grandpa Murphy.

"So when we thought we were in great danger of smacking against one of those cliffs among the Rockies, everyone on the plane had an urgent desire to become an immediate honorary descendant of Grandpa Murphy. We made it through safely, and as a memento of the occasion, membership cards were later given to all who had been aboard that plane.

"But I did have a Grandpa Murphy, and he really was a character and a legend in his own time in Crawford County, Ohio. And Grandpa Murphy has served me well as a sort of alter ego, so that when I needed someone to say something, Grandpa Murphy in spirit was always there at my elbow. And I trust I have not dimmed his memory one whit."

We reflected for a few moments, wondering what Grandpa Murphy might think of his grandson.

We think he would approve of this farm-boy who set out for Ohio Wesleyan University to become a lawyer and happened into a newspaper office along the way.

We think Grandpa Murphy might well admit Grandson Campbell to the select group of those who have become characters and legends in their own time.

We reflect also with great pleasure not only upon the rich and full future ahead for Walt and Peg Campbell, but also upon Walt's continuing relationship with all of us. For far better than Grandpa Murphy, Walt will be at our elbow not just in spirit but in fact.

And we'd damned well better not dim his "memory" one whit.

CORVAIR STABILITY REPORT

Mr. RIBICOFF. Mr. President, on March 27, 1973, I inserted in the RECORD the staff report from my Subcommittee on Reorganization, Research and International Organizations concerning Mr. Ralph Nader's charges that representatives of General Motors misled the subcommittee on March 22, 1966, regarding the safety of the 1960–63 Corvair automobile.

Mr. President, at the time I released the staff report, I offered to print Mr. Nader's comments with it in the RECORD. Subsequently, he submitted lengthy views which were included in the RECORD. On the date these documents were printed, Nader's staff prepared a rebuttal to the staff response on his comments; however, it was not included with the other material because it was submitted after I had inserted all the documents for the RECORD. Mr. Nader has asked that it be placed in the RECORD and I shall do so. The memorandum repeats certain arguments Mr. Nader had previously made. They were considered by the staff during the investigation and preparation of the report. However, so that all relevant information on this subject will be available to the public, I ask unanimous consent that Mr. Nader's staff memorandum be printed at this point in the RECORD.

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

MEMORANDUM

To: Ralph Nader.
From: Carl Nash, Joan Claybrook, Mark Green.
Re: Ribicoff Staff Rebuttal dated March 27, 1973.

The reply by Robert Wager and John Koskinen simply restates their continuing belief in the virtue of their original paper. The little substantive content it does contain is unimpressive. They argue that, despite the now publicly available PG reports 15699 and 17103, "not one plaintiff's lawyer has moved to reopen any of the five cases on the ground of fraud or deceit." As if it were so easy: Masterson was almost broke at the completion of his Anderson litigation; Harney had to pledge to GM not to reopen his many cases; Davidson in Franklin and Sprouse in Porterfield settled for large sums, effectively eliminating any incentive at this date to reopen.

Wager and Koskinen apparently continue to

rely on the (self-interested) view of GM engineers and officials that the PG reports were unsurprising and unimportant—as if there were nothing unusual in a car flipping over in a 28 mph j-turn. Yet they continue the conspiracy of GM and the DOT to withhold evidence which would reveal whether or not similar contemporary cars (for example, the Falcon and Rambler), could be turned over as easily as could the Corvair. To our knowledge there is no such evidence. It is our belief that GM continues to withhold these still secret GM proving ground tests purporting to show rollovers of the Falcon and other American compact cars because by demonstrating the difficulty of turning these cars over they show the aberrant behavior of the Corvair mutation.

The Ribicoff staff claims to have "included and discussed Nader's lengthy attack on the [NHTSA] study in our report," when it is obvious that the detailed "Nash" critique got very short shrift. They justify non-disclosure of GM reports by comparing it to their non-disclosure of GM's investigative report on you. Yet it is absurd to compare a detective's smearing of a private individual with the technical reports on an unsafe car which is in common use.

Wager and Koskinen reiterate their claim to no technical expertise. But they insist on supporting their findings with incomplete or ill-conceived technical arguments for which they refuse to accept responsibility. For example, they again trot out the GM obfuscation, "in severe test maneuvers at high levels of lateral acceleration, (about .9g), well beyond the limit of control of the Corvair and other contemporary cars, the Corvair would overturn." This claim still ignores the fact that the Corvair's unsafe behavior occurs in sudden transient maneuvers during which the lateral acceleration may vary from .3g to .9g in a time span far too short for most driver reactions. Merely quick avoidance by a driver can induce the oversteer which would cause the Corvair to turn broadside to its direction of travel before the driver could take any corrective action. This loss of control and the resultant potential for overturning is clearly unique to the Corvair among the American compact cars of the early 1960's. The unusual phenomenon, revealed in such early GM tests as PG 11106 in 1959 before the Corvair was first marketed put GM on notice that the Corvair did not even meet the low standards for safety prevalent in the industry at that time.

Our criticism of the "low key" treatment of the Corvair aftermarket tire issue was not simply that the GM aftermarket tire study had not been given sufficient public notice, but that the staff had not considered that there was any responsibility for either the NHTSA or General Motors to further associate the importance of the aftermarket tire factor to the safety of Corvair owners and passengers on the roads. Wager's and Koskinen's solution—to hold a conference while Corvairs continue to maim and kill their occupants—is akin to fiddling while Rome burns.

And they blankly state that our reply "contains no significant new facts or documents" relating to the Corvair safety issue, an assertion which conveniently ignores, among other items:

—the memorandum from GM's legal staff to its Corvair witnesses instructing them to withhold and obscure the truth in testimony during litigation (pp. 58–59 and exhibit 15);

—The "Durkin memo," where GM's legal staff itself, to prepare for future eventualities, drafted the most candid case against the Corvair's handling defects (p. 14);

—the Firestone salesman who challenged the superiority of the original equipment Corvair, U.S. Royal (Uniroyal) Tires, and in demonstrating his point, flipped the Corvair on the proving grounds (p. 41);

—the direct contradiction in a deposition of key GM witness Frank Winchell by a former GM technician (pp. 68–71);

—how GM has forced plaintiff's counsel, as a condition of settling a case, to surrender all of their papers and amend their complaints to render allegations of design defects (p. 95);

—the letter from a GM attorney to his corporate chairman, James Roche, protesting that, among other things, the "employees of General Motors Corporation have been guilty of a continuing suppression of evidence that may have criminal dimensions . . ." (p. 100);

—disclosures by Professor David Lewis, former GM public relations official, about GM meetings where an executive admitted that the Corvair was defective (p. 113); and

—the complaint by Consumers Union that the Wager-Koskinen report's use of its Corvair tests was "false and misleading" (pp. 33–34).

Unless repetition alone can create truth, the Ribicoff reply is a plainly inadequate response to the many points raised in our memorandum. Ignoring the arguments of critics is a technique, not a response.*

VERMONT'S SENATOR AIKEN

Mr. SCOTT of Pennsylvania. Mr. President, in Saturday's Christian Science Monitor, Edwin P. Hoyt has written an exceptional feature about an exceptional man—our colleague, the senior Senator from Vermont, GEORGE AIKEN. I commend this article to each of my colleagues and encourage all who read the CONGRESSIONAL RECORD to review it so they too can gain a greater understanding of GEORGE AIKEN, an outstanding leader, a quiet personality, a delightful humorist, a wonderful friend, and my confidant.

I ask unanimous consent that the attached article from the Monitor be printed in today's RECORD.

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

VERMONT'S SENATOR AIKEN

(By Edwin P. Hoyt)

Early each morning, as the mists swirl up along the Potomac and official Washington begins to stir, two men can be found sitting in companionable consultation beneath a glittering chandelier in the dignified quiet of the U.S. Senate dining room. One of them is 70, thin-lipped, lean and angular, dressed in a neat dark suit and conservative necktie. The other, although face and figure belie his age, is a decade older, a short, spare white-thatched man who wears a single-breasted jacket, colored shirt, and—always—a bright red tie.

The younger man is a Democrat, Sen. Mike Mansfield of Montana, Senate majority leader and one of the two most powerful men in Congress. The older man is a Republican, Sen. George D. Aiken of Vermont, dean of the Senate, whose twinkling eyes and ready smile hide one of the shrewdest minds in the Congress. In these brief morning sessions, Messrs. Mansfield and Aiken assess the issue of the moment. Neither tries to sway the other, but says the majority leader, "There are some people whose advice is worth hearing. George is one of them."

"BALANCE OF THE SENATE"

Over his 32 years in the Senate, George Aiken has managed to walk a course all his own. He and Senator Mansfield, for example, vote together about half the time, which is as much as Senator Aiken votes with Republican Party leaders. "He is the balance of the Senate," said former Sen. John J. Williams, Mr. Aiken's old friend from Delaware. "He is neither to the right nor to the left."

The impress of the Aiken personality is felt by many around the Capitol. On the birthday of Sen. John C. Stennis (D) of Mississippi, there appears on his breakfast table a little bottle of maple syrup from the Vermont farm of Senator Aiken's son-in-law, with a few lines of dry humorous verse which Mr. Aiken scrawls for his friends. Freshman senators are surprised and grateful when Senator Aiken suspends his own crowded schedule to befriend them and show them the ropes.

When staff members of the Republican Policy Committee were under fire following publication of a controversial "white paper" on Vietnam, Senator Aiken bounced into the committee rooms to announce with a grin that he wanted a thousand copies. He didn't say he agreed with the document, but he let the staff know that he, for one, stood behind them.

Other senators constantly asked Senator Aiken to cosponsor legislation because they know that his name on a bill will be a big boost for passage (last year he cosponsored 19 bills).

THEY LISTEN WHEN HE SPEAKS

The public seldom sees Mr. Aiken's true effectiveness in the Senate; he prefers to operate behind the scenes. But because of his reputation for quiet competence the Senate listens when he does speak out.

After Easter 1972 the nation was badly shaken by North Vietnam's devastating invasion of the South and President Nixon's counter with renewed bombing and blockade of the North. The Senate echoed with cries to end the war and the House Democratic caucus voted to bring a tabled end-the-war resolution out of committee.

For six years Senator Aiken had opposed the war in Vietnam. "The way to get out of Vietnam is to declare victory and leave," he had said in 1966.

But now, on the morning of April 25, Senator Aiken sat at his desk in carpet slippers and an old rust sweater, writing in longhand on a big yellow pad. At noon he exchanged sweater for suit jacket and put on well-shined black shoes, then headed across Constitution Avenue toward the Senate. There he rose to speak. "We have no other course than the one the President is following," he said. "I am not about to be a party to a no-confidence vote in the President of the United States."

The whole speech took less than 10 minutes. Senator Aiken then went quietly about his other business. He made no calls to other senators, he sought no support from the Republican leadership nor from his many Democratic friends. But in a few hours word had spread from the galleries across official Washington: Senator Aiken had come to the President's support. In the Senate, his speech tilted the balance for the administration. And when report of that speech reached the House, it lent new strength to the Nixon forces and ended a crisis that might have undermined the whole American position in Vietnam.

UNLIKELY MAN OF POWER

As Senator from the third least populous state, Mr. Aiken seems an unlikely man of power. His seniority is overbalanced by Democratic control of the Congress. He has never sought a party position and is not a wealthy man; he was born of a family of teachers, artisans, and farmers that settled in Vermont in colonial days. After high school, Mr.

* Given the little time made available for this rejoinder, Mr. Nader's staff would be happy to respond to any further inquiries on its memorandum.

Aiken became a landscape gardener and nurseryman in the town of Putney.

He did not enter politics until he was 39, when he went to the Vermont House of Representatives. Six years later he was a very vigorous governor, and in 1940 was elected senator. Since then, he has quietly become one of the most powerful men in the United States Senate. The explanation may be found in his unique personality.

Today Senator Aiken thinks of himself not as an important man but as a plain farmer. He tries to answer every letter himself. His second wife, Lola, is his unpaid administrative assistant. He lives frugally in a four-room apartment on Capitol Hill. Each morning he walks to work, feeding the pigeons peanuts as he crosses the Capitol Park. His office in the Old Senate Office Building is as plain today as it was when he entered the Senate in 1941.

At least once a month he drives up to Vermont to his house on an unpaved road in Putney, or to Mrs. Aiken's house on a mountain overlooking Montpelier. There, when he is not making speeches or traveling around the state, he chops wood, does the chores, and strolls to town to chat.

On one such trip he stopped to talk to a rural housewife about her washing and learned that she and her neighbors had to scrub by hand or take their laundry to town, the water supply would not permit her to use a washing machine. On study, Senator Aiken discovered that thousands of American villages faced the same problem—their water systems were inadequate for modern demands. The result was the Rural Water Systems Act, which has enabled small communities across America to build new systems.

LAST CAMPAIGN COST $17.09

Mr. Aiken sends out no newsletters, records, or television tapes, and does almost no election campaigning. In 1968 when he ran for his fifth term, he spent $17.09 on his campaign—for postage, transportation, and telephone calls.

When Senator Williams went up to Vermont to make a speech for him in a school gymnasium in Springfield. he found Republican workers tacking up bunting and hanging pictures of President Nixon and Vermont Gov. Deane Davis. The meeting chairman was in a panic. No picture of Senator Aiken could be found.

The chairman called the state party office and asked it to get a picture from Senator Aiken's headquarters. Senator Aiken has no headquarters. It was suggested he turn to Senator Aiken's manager. Senator Aiken had no manager. Finally, an hour before the meeting, Senator Aiken turned up and the chairman asked him for a picture. "Didn't have any taken." said the Senator cheerily. "Hell, what do you want a picture for? You've got me."

Senator Aiken is one of the most effective legislators in Washington and is known among colleagues of both parties for his hard work. He is never content to let a committee staff frame a bill, he does it himself, as with the Nuclear Power Control law of 1969.

When this bill was suggested, staff members wanted to bring in lawyers to draft the measure. "Dammit," said Senator Aiken crustily, "I can read just as well as any lawyer. We want a bill that people can understand."

Senator Aiken himself made five drafts of the legislation, then presented it to the committee apologetically. "It don't stand out like a blackberry in a pan of milk," he said, "but it's a start." The result was a clear law the Department of Justice could enforce.

Senator Aiken's candor and conscience have guided through the treacherous bog of congressional politics some of the most complex legislation of the century, particularly in the agricultural field. Indeed, for 30 years, every agricultural law passed by Congress has borne the Aiken imprint. Anyone you talk to around the Senate gives you the same answer: no man in America has made a larger contribution to the betterment of American rural life than George Aiken.

Senator Aiken's voting—now with the conservatives, now with the liberals—has puzzled many people over the years. including Ralph Nader and his associates, in their recent survey of Congress. Other representatives and senators are perennially concerned with reelection, Mr. Nader noted, but not Senator Aiken.

Finally, the researchers had to admit that Senator Aiken did not fit the round holes or the square holes of their pattern; they concluded that Senator Aiken was successful in walking a path between isolationism and interventionism in foreign affairs and a lonely independent road in national affairs, and that Vermonters seem to be quite satisfied with Senator Aiken's understanding and representation of their interests. In that regard, Senator Aiken is like independent Vermont. He chooses his issues, as he chooses his friends, for the solidity.

NEW PRESIDENT RECEIVES HELP

Harry S. Truman, another small-town boy, was one of Senator Aiken's close friends when both were in Washington. Senator Aiken used to breakfast with Mr. Truman as he does now with Senator Mansfield. The two had a breakfast date on that spring in 1945 when the death of Franklin D. Roosevelt catapulted the stunned Vice-President into the leadership of the nation. Mr. Truman could not keep the date, but called Senator Aiken to the White House and poured out his woes.

President Roosevelt, in the American tradition, had kept Vice-President Truman waiting in the wings in virtual ignorance of governmental affairs. Mr. Truman had not attended Cabinet meetings and the President never discussed affairs of state with him. Now he faced decisions that would affect the whole world. What was he to do? he asked.

Senator Aiken told President Truman to call in Col. Ernest Gibson of Army G–2, who had just returned from the South Pacific. Colonel Gibson thought it vital that the new President receive a crash course of briefings. The Pentagon objected insisting that it would take time to prepare the material.

Senator Aiken, still at the White House, got on the phone to the Pentagon and arranged a meeting between President Truman, Colonel Gibson, and Gen. Carter Clark, then second in command of G–2. The briefing program began that night, and the President never faltered. Nor did the Aiken-Truman friendship, even in the dark days of the 80th Congress which fought the President on nearly every issue.

Since the Truman days Senator Aiken had been a friend and counselor to every president. Dwight D. Eisenhower asked his advice frequently, and so did John F. Kennedy, whose respect for Senator Aiken dated back to the days when they were both members of the Senate's New England bloc. Lyndon B. Johnson sought Aiken support but seldom took his advice.

When Richard M. Nixon came to the presidency, Senator Aiken felt excluded by the tight staff ring around the President. Then, last year came a crisis in foreign affairs. President Nixon had just returned from his successful China trip when the Vietnam war blew sky high.

A summit visit to Moscow in search of peace was already scheduled and publicized, but in May the Soviets began issuing a bitter stream of propaganda against the bombings of North Vietnam, including veiled threats of Soviet counter-measures.

The President called congressional leaders to brief them on his plans for the trip. Some newspapers had suggested the trip would be canceled. After the meeting Mr. Nixon turned sharply to Senator Aiken, eyes searching. "What shall I do, George?" he asked. "Shall I go to Moscow?"

Senator Aiken looked up in his mild way and smiled.

"Aiyup," he said.

The answer, brief and to the point, was typical of Senator Aiken. He had not wasted a word, but as it turned out he was quite right. The independent Senator from Vermont has that habit.

GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, I am delighted to announce that the Wisconsin Conference of the United Methodist Church, at its session during June 7–10, 1973, adopted a resolution urging U.S. ratification of the Genocide Convention.

The Wisconsin conference is a legislative body of over 900 lay and clergy members representing more than 500 United Methodist churches in the State.

Mr. President, I ask unanimous consent that this resolution be printed in the RECORD.

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

THE GENOCIDE CONVENTION

Whereas, the 1972 Annual Conference deferred action for one year on a resolution supporting ratification of the Genocide Convention and others based on the Universal Declaration of Human Rights; and

Whereas, mass destruction of a racial or ethnic group is repugnant to the Christian principle of love; and

Whereas, seventy-five countries, including all major nations, except the United States, have ratified the Genocide Convention, which has been recommended for ratification by the President and is awaiting Senate approval; and

Whereas, the other human rights conventions on Freedom of Association, Abolition of Forced Labor, and Political Rights of Women are consistent with the American tradition of civil liberties and have also been recommended by the President; and

Whereas, instead of taking the lead in promoting our cherished freedoms for people everywhere, our failure to ratify the Human Rights conventions tarnishes our reputation as a free society in the eyes of the world; therefore

Be It Resolved, that we urge prompt ratification of the Genocide Convention and others based on the Universal Declaration of Human Rights.

THE GOVERNOR AND THE SYSTEMS APPROACH

Mr. SCOTT of Pennsylvania. Mr. President, as one who for the past several years has been interested in the potential value of the application of systems technology to improved management and performance in government at all levels, I invite the attention of my colleagues to an informative report on the use of the systems approach by State governments authored by an acknowledged authority in this field, Robert L. Chartrand, specialist in information sciences of the Congressional Research Services of the Library of Congress. I ask unanimous consent that Mr. Chartrand's article from the June 1973 issue of Government Executive be printed in the RECORD.

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

THE GOVERNOR AND THE SYSTEMS APPROACH

(By Robert L. Chartrand)

To be responsive to the general public, the States' leadership has worked hard to learn what forms of assistance are available from Federal agencies. With more than 1,000 Federal domestic assistance programs in existence today, a "tracking" capability is required which can result in valuable financial and technical assistance to the State and its local governments. Simply being aware of the national legislation can be an overwhelming task.

And in an age and Nation where much is made of technological achievement, the Governor must see to it that the State's bureaucratic forces are aware and making use of the tools and techniques developed in the aerospace sector, but more recently applied to such critical problems as air and water pollution, solid waste disposal, urban planning, transportation, law enforcement, education and housing.

Often called "systems technology," this array of "new" and old problem-solving approaches includes all facets of using computer and microform equipment and man-machine procedures, sophisticated planning-programming-budgeting (PPB) routines, and the formalized, systematic methodology variously known as "operations research," "systems analysis," or "management science."

The importance of this new approach to gubernatorial functioning is noted by former Minnesota Gov. Orville Freeman: "Integrated forward planning, quantitative methods and man-machine devices for the first time in American history make it possible for a governor to really direct, measure and control what takes place in his administration and thus govern wisely, efficiently and effectively."

As a Governor moves to carry out the responsibilities of his office, he must combine the talents of the long-range planner, the soothsayer as opportunist, and the day-to-day decision-maker. The essence of his quandary—and indeed, his opportunity—is expressed in a recent statement by the National Governors' Conference Committee on State Planning.

"Every Governor understands that we must develop more sophisticated ways of sorting facts, of facing issues, of opening options, to make better decisions if we, as States, are to continue as effective partners in our Federal system. We must have means to survey where we are, what the gaps in our efforts are, what our goals should be, what the alternative means and ways to these goals are, what the costs and benefits are, what the relative priority between the various goals is."

The relative independence enjoyed by State administrators, insofar as the intrusions of Federal policies and programs are concerned, has been eroded increasingly during the past few decades. Tremendous sums have become available from the Federal government through grants-in-aid, matching funds, revenue sharing, or the direct implementation at the State level of Federal programs which impact State operations.

In addition, local governments and regional development commissions often place demands upon the State planners and program managers which cause, either directly or tangentially, changes in priorities, funding, or the actual nature of services provided. This unprecedented and unrelenting pressure to cope with numerous and sensitive social, economic, and sometimes political problems—environmental pollution, transportation, housing, education, urban development—has forced State leadership to seek out all possible solutions.

THE ROLE OF THE GOVERNOR

The integration of innovative technology into the State government structure is a continuing process with perturbations at many levels. However, both State and local governments throughout the Nation are expanding their applications of the systems approach and automatic data processing (ADP) into an increasing number of management and program areas.

Concern for the validity and effectiveness of State governments is evidenced in a variety of major studies, scholarly writings, and Congressional hearings. While some of the older evaluations such as the Brookings report in the early 1930's understandably did not include any mention of new technology, an increasing number of those undertaken in the past decade include at least some reflection of the existence and roles of planning-programming-budgeting (PPB) and computers. Emphasis on the role of the Governor, from two vantage points, is found in the 1965 "A Study of American States" directed by former North Carolina Gov. Terry Sanford, and the study undertaken by Prof. Deil S. Wright in the same time period which utilized questionnaire responses by 933 department and agency heads from all 50 States.

A report, designed to stimulate comprehensive long-range planning by the States was prepared in 1968 by the Institute on State Programming for the 70s for the National Governors' Conference Committee on State Planning. Entitled "Relevance, Reliance, and Realism," the report set forth a number of key considerations related to establishing effective planning mechanisms, and in a "Charge to the Governors" urged, among other things, the establishment of State PPB and management information systems. Meanwhile, the State-Local Finances Project at The George Washington University was studying the adaption of PPB procedures by 15 governments—the so-called "5-5-5 project"—at the State, county, and city levels, and prepared a report, "Implementing PPB in State, City and County," containing a survey of such implementation by States.

One of the most comprehensive studies of State use of computer technology and systems analysis was performed by the Special Subcommittee on the Utilization of Scientific Manpower of the United States Senate Committee on Labor and Public Welfare. Concurrent with the holding of extensive hearings during the 1965-1967 period, questionnaires twice were sent by the Special Subcommittee Chairman, Sen. Gaylord Nelson, formerly the Governor of Wisconsin, to the Governors of all 50 States, the mayors of the 22 largest cities, and officials of selected regional development commissions. A detailed report entitled "Systems Technology Applied to Social and Community Problems" has been published both as a committee print (1968) and a commercial volume (1969), and has been adopted by a number of universities and colleges as a primary reference work.

Narrative and statistical information derived from these and other studies, surveys and analytical reports offers strong proof that many State governments are now irrevocably committed to the use of ADP and systems methodology. This is but one manifestation, it would seem, of the States' determination to "move with the times" and retain—if not enhance—their independence and power within the fabric of contemporary Federalism.

The criticality of having executive leadership and an organization capable of implementing decisions within a State has never been more acute. Interdepartmental disputes, lackadaisical leadership, and inertia at the program level are less tolerable today than in times past, and the strengthened position of the Governor in most States allows a policy of accomplishment. In his classic work on the American Governor, Leslie Lipson offers this dictum:

SENSITIVITY AND TUMOIL

"Often the important thing in administrative matters is not *which* decision should be taken, but the *some* decision should be taken. Nowadays, the Governor is there to render the decision."

Much has been done to strengthen the organizational support vital to the senior executive, as witnessed by the fact that 35 of the 50 States have established departments of administration in recent decades. The range of services has varied widely, including records management and computer operations to the more recently emphasized long-range program planning and program execution control. In many cases, changing stresses have led to reorganization, often of a sweeping nature. Between 1967 and 1969, twenty States reported that their Governors had made recommendations to the legislatures concerning executive reorganization.

As the Governors and their advisers have added professional systems analysts and operations research specialists to their permanent staffs, the question of where to place them, organizationally, has arisen. In the extensive interviewing of State government personnel reported upon by Prof. Thad Beyle in "State Government Use of Management Techniques," the importance of having management counsel "close to the top" emerged as a fact of life.

While many of the "experts" were assigned positions in the budget-administration-finance realm, others were situated in State planning agencies or specific functional areas.

Regardless of where the technical talent is located, the period during which a new "system" is being established and "shaken down" is a time of considerable sensitivity and turmoil. Often the State officials will follow the lead of the Federal government and industry, contracting with outside "think tank" or data-processing service bureaus for assistance at this time. These groups may serve only in an advisory capacity for a few months, or may be hired to maintain a continuing oversight until in-house personnel are recruited and trained. In other instances, certain categories of ADP support will be arranged for by having data services provided either through an on-line, "time-sharing" arrangement using a remote computer, or by a pickup-and-delivery service for such recurring items as payroll.

In the report prepared for Gov. Nelson Rockefeller by the New York State Business Advisory Committee on Management Improvement, the importance of reliance upon industry technicians in the early phases is stressed, but the longer-range need of the State is reflected in a separate proposal for the establishment of a Center for Advanced Studies which could address the problems and changes affecting the State through "scientific management techniques."

An overview of the States' development of systems analysis capability, as reported to the Nelson subcommittee, appears in Figure 1. The 24 functional categories cover both management and operational program activities. Categories 1 through 6—related to management endeavors—warrant careful attention insofar as staffing is concerned: rarely have the States relied solely upon out-of-house capabilities to perform these duties close to the seat of power.

Apart from staffing problems, the States are hard-pressed to obtain funds for test-

ing new methods or providing new ADP-supported services. Gradually State administrators are learning that use of computers does not necessarily mean cost savings. Indeed, the new system may cost more, but in virtually every case quality and variety of service are increased significantly. Of course there are certain high-priority areas of activity where timeliness of response may be so critical that the question of cost becomes almost academic.

For funding, the State may use its tax revenue or qualify for Federal assistance. During the five-year period 1965–69, States reported spending a total of $56,685,394 on ADP and systems analysis. Total expenditures for both State and major cities were approximately $82 million, with over one-third of this reportedly spent for external consulting and ADP services. Since figures provided often were "approximated," "projected," or "estimated," the total only generally indicates State or local willingness to invest in systems analysis and ADP support.

The extent of Federal assistance has been only randomly publicized and sometimes unappreciated by the public, but funds required to initiate, and sustain, systems-oriented or ADP-supported projects have come from the Departments of Housing and Urban Development; Health, Education, and Welfare; Transportation; Justice; Interior; Labor; and Commerce; and from the Office of Economic Opportunity.

To a lesser extent, such support has been provided by the National Science Foundation, Department of Defense, Veterans' Administration, and National Institute of Mental Health.

It often has been difficult to determine the extent to which the various States are utilizing systems technology, so in his initial letter to the Governors, Sen. Nelson pointed out that his subcommittee was "particularly interested in techniques for the analysis of problems facing government and the development of alternative policies toward their solution."

Both the 1966 and 1968 questionnaires asked for information on: planning and programs areas in which the systems approach was being used; the type of systems performer (in-house or consultant); source of funding support, and amounts spent; function and position of the systems capability within the governmental structure; degree of benefit in terms of cost; possible approaches for new Federal legislation.

STATISTICAL DEMANDS GROW

The 1968 survey form, developed after extensive hearings, was expanded to request data on: the Federal agency or program that supported a systems activity; inclusion of new programs or termination of existing programs since 1966; studies, reports, or other publications resulting from State and local government systems activities; advantages and limitations of the use of systems technology.

So diversified has become the State's use of computer technology and the systems approach that an acute need has arisen for efficient use of computer facilities and trained personnel. No longer can a State afford to have, for example, separate computers—each, in all probability, active only during daytime hours—supporting payroll, highway, procurement, personnel, and program oversight activities. Governors, senior administrators, and program personnel alike are learning of necessity how to share these electronic tools.

Computers are no longer looked upon by the State leadership and line personnel as being either exotic or a threat. Quite the contrary, as demands for accurate, increasingly voluminous statistics have grown, those responsible for guiding the affairs of State often have been grateful for services which can produce a budgetary "crosscut" or a report on the status of an agency program or specific project at short notice.

A Governor now can personally query a computerized data base. Versatile terminal devices, combining a videoscreen with special keyboards, have been developed so that the human operators no longer need know elaborate "machine languages." With each passing year, the number of key State personnel—including advisers and staff persons close to the Governor—qualified to utilize these rapid-access systems has grown. What quicker way to check on the progress of a bill in the legislature or determine the lineup of Senators or Representatives on a certain subcommittee? How better to obtain a display of the latest revenue-vs.-expenditures status?

One computer-supported capability, with an origin in the command-and-control environments of the military and space efforts, features a wall-size display allowing the Governor and a few key counselors to view selected graphic representations—for example, depicting essential elements of information on a regional planning problem.

The role of planning-programming-budgeting within a State government has been the subject of much debate, reflecting concern by administrators and economists alike that it may not be directly relevant for nor applicable to State governments. Discussing the potential "gainers" and "losers" at the State government level, should PPB be introduced, William M. Capron, formerly Assistant Director of the Bureau of the Budget, points out that:

BRIDGE OF INFORMATION

"Even though in many States the Governor has limited official power over large numbers of State programs, he does have influence, and PPB can help him exercise that influence more effectively. Certainly it will help in those parts of the State budget over which he does have official cognizance. Those governors who really want to govern can gain in their ability to do so by improving the kind and quality of information which informs the decisions that they must make."

If it be assumed that a PPB system can be useful to the chief executive—and taking with a grain of salt the declaration that this is, indeed, "a very new and revolutionary system" of program budgeting—then its role in State budgeting procedures will merit continuing scrutiny and evaluation.

Significantly, enthusiasm for PPB is cautious, and its limitations are appreciated. Professor Frederick C. Mosher stresses that PPB systems can, through providing key information to advisers, affect decisions in the administrative maelstrom. And then he restates the now-classic maxim in these words:

"In an intellectualizing society and an intellectualizing government, *information* and its *analysis* are more than ever power." [Italics added]

Reportedly the first State to institute a PPB system was Wisconsin, in 1959 during the administration of Gov. Nelson. Following the recommendations of the Hoover Commission in its Task Force Report on Fiscal Budgeting and Accounting Activities, the State began to take steps to establish a program-type budget.

First, a consolidated department of administration was created to enhance the State's management process and policy decision concepts. The Governor, supported by a bipartisan legislative majority, successfully involved a group of business executives which was charged with studying the State's administrative practices. These men formed task forces, each supported by an administrative analyst from the State budget office, which recommended that all agencies convert to program budgets. This position was subsequently backed by a legislative interim committee and a citizens' committee appointed by the legislature. Finally, after five years of hard work and an unusual degree of executive-legislative cooperation, new forms and instructions were prepared, and Nelson prepared a directive outlining a three-part program to improve financial administration.

CLEAR IMPLICATIONS

In the State of New York, a comparable chain of events occurred. In 1961, Gov. Nelson Rockefeller created a New York State Office for Regional Development, charged with preparing a comprehensive development policy. As a result, a document entitled "Change/Challenge/Response" was published in 1964, including among its 15 recommendations two concerning the systems approach at State level:

Systems analysis studies of the major functional action systems for providing essential services and facilities for the population.

A formalized integrated PPB system.

From these beginnings the ranks of States using the same type of PPB approach have swelled to 24, and several others are tentatively planning to take the step.

The bare evidence that the States' acceptance of the systems approach and ADP is of a lasting nature makes it possible to consider the new potential for information formatting, storage, retrieval and transferability. Sweeping changes have already been instituted by banks, transportation elements (e.g. airlines), credit card groups, and stock exchanges, to mention but a few. The emphasis is on *information exchange*, and the pressure is building in many quarters to create what former Gov. Philip H. Hoff of Vermont called "a bridge of information" between the States, and separate mechanisms for State-Federal exchange.

THE ROLE OF PPB

Proposals to improve the flow of information between Federal, State and local governmental units, with an emphasis on use of technology, have originated both in Congress and the private sector. Sen. Edward M. Kennedy of Massachusetts, in Senate Joint Resolution 110 (90th Congress) pointed out that "scientific advances in computer and information retrieval technology represent a major new capability which may have important applications to the development of a modern intergovernmental information system."

The concept of a National Commission on Public Management also has originated within the Federal Congress. Sen. Hugh Scott of Pennsylvania and former Rep. F. Bradford Morse of Massachusetts introduced prototype legislation which would create such a commission "in order to study and recommend the manner in which modern systems analysis and management techniques may be utilized to resolve national and community problems in the nondefense sector." In responding to those who feared the impact of science and technology on society, and the possible threat to the rights and activities of the individual, Morse had this to say.

"We can avoid that world, the world of '1984,' only if we make the new technology our servant, and not allow it to become our master. The best assurance that the progress of science will not mean the insignificance of man is to recognize the revolution in technology, to anticipate its growth, to assure adequate personal safeguards from its excesses, and to employ it for the betterment of man."

The implication of the new systems technology to the Governors has become increasingly clear. Here is an array of weapons to help contain and eventually overcome the pressures and problems which now confront *all* States. Those who have studied the current challenges facing State government believe that there should be no wavering or procrastination in utilizing every useful governing tool and procedure. Thus, the Governor today is called upon to play the visionary,

as well as to fulfill the velvet-and-steel role of the chief executive. And it has been well said that there can be no lasting penalty for creativity and courage.

NEED FOR DAY CARE

Mr. MONDALE. Mr. President, Robert Cassidy recently authored a very sensitive article which appeared in the June, 1973 Parents' Magazine and Better Family Living regarding the overwhelming need for quality day care centers throughout the country.

This article, entitled "The Crisis in Day Care," points out the history of the fight in the Congress to obtain legislation which would alleviate some of the many problems now facing families in which both parents are working. It also describes some of the more successful child development settings, such as the program now being run at the Department of Health, Education, and Welfare; as well as some of the depressing facts uncovered by the report of the National Council of Jewish Women.

Mr. President, because of the need for more public information on this matter and because of the factual material contained in Mr. Cassidy's investigation, I ask unanimous consent that his article be printed in the RECORD.

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

THE CRISIS IN DAY CARE

(By Robert Cassidy)

The roof of the Health, Education, and Welfare building in Washington, D.C., may seem a strange place for a day care center, but the 60 children who play and learn there think it's great. When a visitor observed them one recent morning, the youngsters, aged two to five, were having a wonderful time. In one of the four classrooms, children worked with a teacher on an art project. Others were listening to a story. When lunch time rolled around, everybody got a healthy meal.

Following their afternoon nap, the children, supervised by several staff members, played outside in the fenced-in rooftop recreation area, complete with sturdy play equipment, tools and building materials, and lots of running room. After more indoor activity the youngsters were picked up by their parents at five o'clock.

This center, established in 1971 for the children of HEW workers, is intended to show what good day care is like. Children here are provided well-rounded developmental care—not just babysitting services—at a reasonable price. Parents pay according to their family income on a sliding scale: $5 a week for a family with a $6–7,000 income, for example; $9 for families in the $9,000–10,000 range; and $23 for those in the $15,000–17,000 group.

For this, the children get hot lunches and snacks, play activity, and individualized teaching (there are four professional workers and five assistants, plus support staff). According to the Director, Mrs. Constance Mair, a University of Maryland graduate, teachers set up an informal educational program specifically tailored for each youngster, then concentrate on the child's weak areas. The HEW center is run under contract by the educational development division of the Thiokol Chemical Corporation of Clearfield, Utah.

It would be a pleasure to report that all the country's day care centers (there were 16,600 licensed centers in 1970, according to the Department of Health, Education, and Welfare, plus numerous unlicensed facilities) were providing comparable or better services. But it is a shameful fact that many of the 625,000 children in centers throughout the United States are denied satisfactory educational, nutritional, and medical services—and these are not just poor children. Though the federal government will have spent some $1 billion, 374 million on day care in fiscal 1973—and slightly more money is allocated for 1974—the needs of parents and children are far from being met.

In 1972 the National Council of Jewish Women released a lengthy, comprehensive report on day care in 77 cities, compiled from observations made at the local chapter level. (The report, *Windows on Day Care,* was supervised by Mary Dublin Keyserling, former director of the Labor Department's Women's Bureau. It is available for $2.00 from the Council, 1 West 47th Street, New York, N.Y. 10036.)

The national day care situation depicted in the report is not a pleasant one. There are six million children under the age of six with working mothers; only about ten per cent of these youngsters are in licensed day care centers. Many of the four and a half million employed women with preschool children are single, or are working to help their husbands keep the family off the welfare rolls. Some of the poorest families get day care services for their children through two federally supported programs, Head Start and Titles IV–A and IV–C of the Social Security Amendments of 1967. (Of the more than 60 federal programs which provide direct funds for day care services, these two are the most important.) Some of the funds available under the Social Security Amendments are keyed to the Labor Department's Work Incentive (WIN) program, which is designed to train welfare recipients so that they can go to work. Because the federal government requires matching funds from the states, however, this money has gone begging in some states. Too often, mothers participating in WIN have been forced to make their own child-care arrangements.

Money alone, however, doesn't necessarily buy good daycare. An observer from the National Council of Jewish women found on her visit to one of the most expensive private centers (charging some parents as much as $45 a week) that the two- to five-year-olds were cared for by two school-aged children. The kitchen and bathroom were very dirty; one paper towel was used to wipe the faces and hands of all the children. Windows, doors, and outdoor play equipment were broken. Indoor play equipment was non-existent.

Much of the day care available in this country is not offered in centers at all. According to the Office of Child Development, about 40 per cent of all day care is provided in family day care homes where a mother takes in up to six children who may or may not be related to her. Because the vast majority of these homes are unlicensed, it is impossible to know exactly how many there are.

The National Council of Jewish Women included home arrangements in its "Windows on Day Care" study and reached two basic conclusions: 1) the majority of the mothers providing home care for groups of children were warm, affectionate, and well-meaning; 2) most of these women had no training in early childhood education and thus were handicapped in their efforts to provide the kind of developmental care and stimulation most authorities feel is needed. The solution to this problem seems to lie in an increased emphasis on licensing of day care homes and the provision of a broad-based training program for the women involved. In light of the present severe shortage of funds, such homes may be our best hope for significantly increasing the capacity of the national day care system.

As inadequate as some day care homes and centers may be, they are better than nothing—which is what many children of working mothers are receiving. Experts estimate that as many as 100,000 children are cared for by other children under the age of sixteen. Another 100,000 are so-called latch-key kids, youngsters who carry keys to let themselves into an empty house after school. They must care for themselves until one of their parents gets home from work.

Obviously, after-school centers for school-aged youngsters whose mothers work are desperately needed. We also need more compensatory educational programs—Head Start is one model—and programs for the gifted. We need special programs for infants and for handicapped or retarded children. It seems almost fruitless to talk at present about providing space for the children of women who would like to have some time for themselves during the day, to work or continue their education.

The "Windows on Day Care" report called for federal funds to provide developmental day care services on a full-day basis for an additional 200,000 children, half of the programs to be fully subsidized, half to be partially subsidized; and similar subsidies for another 200,000 children who would receive partial day care. The report recommended a $2 billion authorization for fiscal year 1973, to increase by $2 billion annually through the 1970s.

Unfortunately, this dream will surely not be realized for the next four years, and perhaps never. The money is not there, nor is the commitment—despite the rhetoric from the White House about concern about the first five years of life. To fully comprehend the bleak future of day care in the United States, a lesson in recent history is necessary.

During the fall 1972 session of the Congress, considerable interest in day care was shown by two factions. One group, led by Senators Walter Mondale of Minnesota, Gaylord Nelson of Wisconsin, Abraham Ribicoff of Connecticut and Jacob Javits of New York, hoped to see legislation passed for adequate funding a stepped-up national day care program. The other group, led by Senator Russell Long of Louisiana and supported by the Nixon Administration, sought to keep spending for day care down, with the hope of reducing inflation. Caught between the two groups was the government's Office of Child Development, whose director at the time, Dr. Edward Zigler, a former professor of early childhood development at Yale, tried to find a compromise.

But such a compromise was not to come. Although the Nelson-Mondale Bill was passed by the Senate, it was never acted upon by the House of Representatives. President Nixon had vetoed the comprehensive child care bill passed by Congress in the fall of 1971. Further attempts to get a child development component into the Administration's Family Assistance [welfare] Bill failed. By the end of the 92nd Congress, no comprehensive child care measure had been passed. The prospects for getting one during Mr. Nixon's second term are remote.

Almost a year ago, Dr. Zigler resigned his post as director of the Office of Child Development and returned to Yale. In a recent interview, Dr. Zigler, himself the father of a nine-year-old boy, talked about day care. "We need a ten-year program to figure out what can and cannot be done." An increase of about $300 million a year in day care funds would build up the system in a planned, orderly manner, Dr. Zigler thought. About the veto of the 1971 child development bill and the failure of the Family Assistance Bill, he said, "We don't need any new legislation to make day care better. We need standards, moral commitment, and money."

Day care advocates outside the government also see money as the key. Theodore Taylor, executive director of the Day Care and Child Development Council of America, noted that all federal child care programs are aimed at families with incomes below $4,500—and only one-third of the eligible families are reached. So not only are the majority of poor families being denied federally supported child care services, but all middle-class ones as well, including single-parent families and those in which both parents work.

An equally outspoken critic of the status quo is William Pierce of the Child Welfare League of America. Mr. Pierce is completing a major report on day care in which he says that "universal, high-quality, non-discriminatory day care has about as much chance of becoming a reality for Americans as universal, high-quality, non-discriminatory public education." In a recent interview, Mr. Pierce added, "We don't need cheap solutions: what we need is adequate funding." He noted that the administration was at least $750 million short in its original proposals for day care, since all the government's figures were based on 1967 costs which, of course, have been drastically increased by inflation. According to the administration, developmental day care could be provided for $1,600 a year per child. Mr. Pierce said it would take on the average at least $2,300 a year per child to offer "acceptable" day care (based on federal standards) and more than $2,600 to offer "desirable" services.

Finding competent people to staff day care centers is a serious problem today, primarily because of the low salaries. It is not uncommon for professional staff to be paid $5,000–$6,000 a year, while non-professionals often receive salaries just above the minimum wage. Any increase in the number of day care centers will, of course, make it even more difficult to find qualified personnel.

While at the Office of Child Development, Dr. Zigler proposed the creation of a new job category, the Child Development Associate, a person with competence in child care but not necessarily a college degree.

Mr. Pierce sees still another personnel problem: the lack of qualified directors, trained in early childhood development, who can work successfully with both children and adults, and are also good administrators. Mr. Pierce suggests that a program to retrain some of the nation's 100,000 or so unemployed elementary and secondary school teachers could provide a ready pool of day care directors.

The Office of Child Development, under acting director Saul Rosoff, has far from resigned its responsibilities. It was one of the few branches of HEW that did not suffer fund cuts in President Nixon's budget for fiscal 1974, and the Head Start program will continue. New licensing guidelines have been made available to serve as models for state statutes. The Child Development Associate idea is being tested out, and OCD is studying the use of television, both to train personnel for centers and to act as a teaching tool within the centers.

Given the present situation, parents should make the best possible use of existing facilities. Poor families should seek out public and voluntary day care services. Middle-class families should take advantage of the tax benefits now permitted under federal law. Working couples and families with only one employable adult are permitted to deduct up to $200 a month for the care of one child, $300 for two, and $400 for three or more children in outside care. Up to $200 a month can also be deducted for household help, if it frees the mother to work. Specific information on child care deductions is contained in the Internal Revenue Service's Publication 503, "Child Care and Disabled Dependent Care."

Parents should be extremely careful in choosing a day care facility. Particular caution should be exercised before enrolling a child in any commercially run day care center. Some of these centers start out hoping to make a profit, then find that they cannot do so and consequently cut down on the amount spent for the care, feeding, and supervision of children enrolled. Other such centers are run through franchising, arrangements, under which a central office directs the activities of the local centers. A great many franchised day care centers have failed. (For guidelines on selecting a center see recommendations at end of this article.)

With all the problems attendant on providing good day care services, it is important to realize that developing an extensive national day care system is not an impossible task. During World War II, when large numbers of women were needed to work in factories, an efficient nationwide network of child care centers came into existence virtually overnight—and disappeared just about as quickly after the War. Nevertheless, this wartime experience is proof that day care on a wide scale can work. What is needed is a sense of urgency and the commitment of large numbers of citizens. Only when parents begin to make their feelings known to those in power—local officials, state legislators, members of Congress, the President—will the dream of adequate day care for our nation's children become a reality.

NEGLECT AND EXPLOITATION OF AMERICAN INDIANS

Mr. HUMPHREY. Mr. President, two recent reports by agencies of the Federal Government on profound injustices borne by Indians in the Southwest merit early attention and action by Congress.

In May 1973, the U.S. Commission on Civil Rights issued "The Southwest Indian Report," which is based upon hearings held in Albuquerque, N. Mex., and Phoenix, Ariz., last November. The report covers the discrimination and deprivation confronting Indians in the Southwest States in the fields of employment, education, health care, administration of justice, and water rights.

Over 20 percent of the Indian population of the United States resides in Arizona and New Mexico. Yet this major Indian group confronts a staggering unemployment rate of up to 60 percent, a high rate of high school dropouts, an infant mortality rate substantially above that for the U.S. population, frequent arrests on misdemeanor charges, and an almost total uncertainty about water rights which are vital to reservation life.

That the Federal Government bears heavy and direct responsibilities to redress these grievances is beyond question. And yet, for all practical purposes, the only answer the Indian people have received is silence and continued discrimination.

A recent article in the Evening Star-Daily News, of Washington, D.C., has brought to light a second report—a sharp indictment of exploitation of Navajo Indians under the trading post system. Prepared by the Los Angeles Office of the Federal Trade Commission, after public hearings and an extensive survey, the report describes what must be labeled as cruel and inhuman treatment suffered by Indians who find themselves constantly in debt to the trading post and forced to sign over welfare or social security checks before being allowed to purchase any further goods.

The report cites exhorbitant prices paid by Navajo consumers under this trading post system monopoly—people who are without any realistic recourse, largely as a result of ineffective regulation by the Bureau of Indian Affairs.

The FTC report recommends measures to control outrageous interest rate charges, to provide for judicial settlement of trader and consumer claims in tribal courts, and to promote the establishment of cooperatives and stores under tribal control.

I have recently written to the distinguished chairman of the Senate Subcommittee on Indian Affairs (Mr. ABOUREZK), requesting that the subcommittee undertake a study of the important issues raised by the FTC report at the earliest opportunity. I am deeply concerned that the serious injustice worked upon the Navajo Tribe under this trading post system be corrected without delay.

Mr. President, I ask unanimous consent that the introduction to "The Southwest Indian Report," issued by the U.S. Commission on Civil Rights in May, 1973, and the article, entitled "FTC Cites U.S. Abuse of Navajos," appearing in the June 15, 1973 issue of the Evening Star-Daily News, be printed in the RECORD.

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

THE SOUTHWEST INDIAN REPORT

INTRODUCTION

American Indians suffer much of the economic, social, and cultural damage that afflicts other minority Americans. Their problems, however, are complicated by additional factors. While American Indians encounter pervasive discrimination not unlike that faced by other minority groups, their plight is traceable, in large degree, to the failure of the Federal Government to carry out its treaty obligations and statutory responsibilities.

Traditional history texts of nineteenth century and early twentieth century America celebrate the heroism of white settlers in the development of the continent and the subduing of "hostile" Indian populations. Expressions reflecting this attitude can be found on monuments throughout the Southwest. For example, in the town square of Santa Fe, New Mexico, the oldest settlement in the West, there is a commemorative inscription:

To the heroes who have fallen in the various battles with savage Indians in the territory of New Mexico. . . .

Little is reflected, in texts or monuments, of the cultures and histories of the diverse peoples commonly known as American Indians. Less is mentioned of the suffering that Indians have endured and continue to endure. Only recently has a more accurate account of official brutality, displacement, and neglect become recognized and grudgingly acknowledged.

Most Indian tribes and pueblos are conquered nations. In exchange for their rights and privileges as fully sovereign entities, they have received certain guarantees and assurances from the Federal Government. Reservations were created to house tribes retaining a limited form of sovereignty. These reservations are semi-autonomous preserves upon which a combination of Tribal, State, and Federal law applies. Indian people received the Federal Government's commitment to provide certain services and act as trustee for Indian interests. By treaty, many tribes relinquished all legal claim to vast areas of land in return for health care, education, and other services.

This report does not attempt to detail the complex history of the Indian people and the American Government. Rather, it is an attempt to describe the present-day conditions of American Indians. It is the first in a series of reports to be prepared by the U.S. Commission on Civil Rights on the civil rights of American Indians. As part of this project, the Commission held public hearings in November 1972 in Albuquerque, New Mexico, and Phoenix, Arizona.

At these hearings, Indians and non-Indians from the private and public sectors testified under oath concerning employment, education, health service, administration of justice, and water rights. There are, of course, other problems important to American Indians. Many of these will be dealt with in subsequent Commission hearings. There was substantial Indian participation, including that of numerous Indian consultants, in determining priorities for the two Southwest hearings. This report is based upon those hearings and concurrent field investigations by Commission staff.

While the report does not purport to be exhaustive, it does portray Indian experiences described to the Commission during the hearings. As such, it is a chronicle of physical and psychological deprivation. In each of the five problem areas—employment, education, health services, the administration of justice, and water rights—the testimony of witnesses and the investigations of the staff revealed a neglect that was hardly benign.

Employment

Indians suffer, this report shows, from unemployment and underemployment. Their unemployment rate is staggering, just under 40 percent in New Mexico and between 50 and 60 percent in Arizona. This contrasts with an unemployment rate among the general population of 5.4 percent in New Mexico and 4.1 percent in Arizona. The median income of Indian families is some $3,000 below that of the general population in New Mexico, and $4,500 lower in Arizona.

Federal agencies, with the exception of the Bureau of Indian Affairs and the Indian Health Service, do not hire Indians in any appreciable numbers, and the record of State and local governments is even poorer. Within BIA and IHS, Indians all too often are found in lower grade levels and have little opportunity for training, upgrading, or promotion.

The private sector was, with some exceptions, no better in providing employment opportunities for Indians. Even companies working on reservations often employ few Indians, and some doing work under Federal and tribal contract have had few Indian workers. As in government, Indians in the private sector are too often found in lower-paying, menial, and dead-end jobs.

Unemployment and underemployment among Indians may be attributed to several factors: bias on the part of employers; poor preparation on the part of Indians; geographical isolation of reservation Indians; isolation of reservation Indians; failure of the Federal Government to enforce nondiscrimination laws effectively; and widely held negative stereotypes of Indian workers.

Education

Both the BIA schools and the public school systems are failing Indian children. Their educational attainment is two to three years below the general population's. The dropout rate of Indian children, particularly toward the end of high school, far exceeds that of the general population.

Bilingual and bicultural education are all but nonexistent. Until recently, the entire educational effort was aimed at teaching Indians the English language and "American" behavioral patterns. Even now, whether in BIA schools, Indian children are in a classroom environment controlled and dominated by non-Indians. Many Indian children must learn English as a second language if he or she is to survive.

The Indian Advisory Boards of the BIA schools are just that—advisory. The school administration may or may not take their advice. Powerlessness is a major problem of Indian parents, who do not control the type of education given their children. Indian parents are unable to influence the educational programs of the public schools, for they are seldom elected to school boards. Most administrators and a majority of teachers in both the BIA and public schools, are Anglos. Many Indian children have few Indian success models from which to develop a strong, positive self-image.

Health service

Indians have a high infant birth rate, a high infant mortality rate, and a short life expectancy. The Indian birth rate is 38.5 live births per thousand, but the national average is 17.5. This is coupled with an Indian life expectancy of 64 years, against 70 years for the general population. The infant mortality rate within the area served by the Albuquerque Area Indian Health Service is 37.1 per 1,000, contrasted with 22.4 for the U.S. population.

Tuberculosis still plagues American Indians. Their TB rate is nearly eight times the national average. Trachoma remains a serious problem for Indians in the Southwest. Alcoholism causes 6.5 times as many deaths among the Indian population as among the general population. The suicide rate is twice the national average.

The Indian Health Service—formerly a part of BIA but now a part of the Department of Health, Education and Welfare—is responsible for the health care of the Indian population. The report will show that it is seriously underfunded, understaffed, and lacks the capacity to meet the health needs of the Indian people adequately.

Off-reservation Indians frequently are neglected by county or local public health facilities which treat other indigent persons. The Indian Health Service has indicated that the entitlement of non-reservation Indians is in doubt. But even where entitlement is not an issue, priority goes to reservation Indians for health services.

The administration of justice

This report shows that for Indians justice does not have an even hand. On reservations, Indians are subject to Tribal and Federal law. Off the reservation, Indians are subject to the same coverage as all citizens. Indians complained that in "bordertowns" and rural areas near reservations law enforcement is harsher than in urban areas. The arrest rate on alcohol-related charges is much higher for Indians than non-Indians. In Phoenix, for example, where Indians comprise less than one percent of the city's population, about 25 percent of all males and 50 percent of all females arrested for alcohol-related offenses are Indian. Some witnesses testified that they believed Indians were arrested to provide cheap labor for the city.

Indians are concerned about major crimes on the reservations. BIA and the FBI are responsible for investigating major crimes on reservations, and witnesses claimed that neither has taken the responsibility seriously.

Water rights

Water rights are extremely important in the West, and especially to Indians. Only if their water rights are respected and protected by the Federal Government can Indians maintain their reservation life style. Their grazing lands, their herds, their crops, and the game they hunt are dependent on an adequate supply of water.

As the population of the Southwest grows as new communities are built, the need for water becomes ever greater. Indians fear that their water rights are seriously threatened and that the Federal Government is not meeting its obligation to protect those rights.

This report shows that the Federal Government has been derelect in its duties in its "trust relationship" to preserve and protect Indian water rights.

Why Arizona and New Mexico?

Over 20 percent of the total Indian population of the United States resides in Arizona and New Mexico, 95,812 in Arizona (about 5.4 percent of the population) and 72,788 in New Mexico (about 7 percent of the population). In each State over 50 percent of the Indian population is located in two rural counties near the two largest cities in the region. The Commission felt that these factors made Albuquerque and Phoenix appropriate sites for Commission hearings.

It is recognized that the problems of Indians vary from one tribe to another, and from one area of the country to another, but many problems are experienced in common. The problems faced by Indians in Arizona and New Mexico may not be identical, but it is obvious that they are representative of problems faced by Indians in the Southwest.

Although responsibility for these problems may be open to conflicting interpretations, the role of the Federal Government is major, and its responsibility for alleviating these problems is clear. The United States Government has the obligation, on the basis of treaties and specific statutory mandates to provide a full range of services to American Indians. The services which the Bureau of Indian Affairs provides include education, training, job placement, economic development, and land and water management. The Indian Health Service of the Public Health Service provides most of the medical care available to American Indians.

This report will focus on the provision of these services by the Bureau of Indian Affairs and the Indian Health Service, evaluating the effect of these services upon alleviating the serious problems faced by Indians. The report will also touch upon the relationship of State and local governments and private employers to the Indian peoples.

It is hoped that the report will stimulate increased public interest in the problems of American Indians, that it may help local, State, and Federal agencies improve their programs dealing with Indians, and that it may assist Indians in determining courses of action to make more secure their rights as the first Americans.

FTC Cites U.S. Abuse of Navajos

(By Bailey Morris)

A grim picture of Navajo Indians chronically indebted to white reservation traders, who routinely overcharge them and sometimes steal from them, is outlined in a new government report.

The report, latest in a long trail of reports charting the abuses against poor and often illiterate American Indians, was prepared by the Los Angeles office of the Federal Trade Commission.

It differs from other reports in its sharp criticism of a sister agency, the Bureau of Indian Affairs, and in its recommendations which would take governing power away from the government and give it to the Indians.

The majority of Navajos, the report says, continue to live in poverty and squalor. Most have no contact with the world beyond their farflung and often barren reservation lands and many are totally dependent on the local trading post for food, clothing and other needs.

Yet despite their poverty and because of their dependency on a noncompetitive trading post system, they pay prices that exceed the national average by 27 percent generally and in some isolated posts by as much as 60 percent on some purchases.

A pound of coffee, for example, averaged $1.25 reservation-wide but costs anywhere

from $1 to $2.25 a pound at individual posts, the report said.

Compounding the problem of "exorbitant prices" are overcharges and outright theft of pawned goods, according to the report.

The single most alarming aspect of the trading post system, however, is the "credit saturation" imposed on Indians by traders who make sure the Navajo never has any cash and is compelled to buy on credit at the trading post where he has an account.

The trader extends credit up to a Navajo's known income, placing him in a state "of economic indenture", the report says, by requiring him to sign over his welfare or Social Security checks directly to the post.

In many cases, the trading post owner is also the postmaster and will open government checks directly, then force the Navajo to endorse it over before selling him any goods.

When complaints arise, the Navajo is told he can go buy his necessities at another post which often is more than 100 miles away over a bad road, the report notes.

To correct what it terms "unconscionable practices" which have been allowed to exist largely through ineffective regulation by the Bureau of Indian Affairs, the FTC report offered a series of recommendations.

To correct "feeble enforcement" by the Bureau of Indian Affairs, the FTC staff recommends that primary responsibility for the trading post system be "granted to the Navajo Tribe."

The tribe must be given authority over trader licensing, the report says.

"We feel it would be far better for the tribe to learn by its mistakes than to perpetuate the existing system of non-enforcement," the report explains.

Tribal courts are the proper forum for settlement of private claims against trading posts and should be opened up to traders as well so that they have equal access to "judicial redress."

To eliminate outrageous interest rate charges, the FTC report recommends that maximum rates be established for the reservation and that the Arizona rate of a 24 percent maximum be adopted for trading post transactions.

As an alternative to what in many cases are antiquated trading posts resembling 19th century general stores, the FTC staff proposes establishment of cooperatives to be run by the Navajo community.

At the present time, there are only a few such cooperatives and one particularly has been a great success, according to the report.

Its prices are some 32 percent lower than prices charged at the nearest trading post, the report notes, and the quality of goods and services offered is much better.

Additionally, the report says, a San Diego Calif., discount chain which has already opened one store on a reservation would like to open more and eventually turn them over to the Navajo tribe.

Although this system would not at the present time meet all the needs of the Navajo people, it would well signal the end of the trading post system entirely, the report says.

In reaching its conclusions, the FTC staff said it surveyed 142 trading posts and talked to more than 100 Navajo consumers across the reservation. Additionally, public hearings were held.

AMERICAN ECONOMIC ASSOCIATION'S EXECUTIVE COMMITTEE OPPOSES VINCENT BARABBA TO HEAD THE CENSUS BUREAU

Mr. PROXMIRE. Mr. President, one of the most disquieting aspects of the actions of the Federal Government in recent times has been the treatment meted out to the statistical agencies. First, the Bureau of Labor Statistics canceled its press conferences. Then, its chief nonpartisan experts were organized out of their jobs. Various statistical series were ended altogether. Finally, Dr. Geoffrey Moore, head of the BLS, was fired. All of this challenged the credibility of the statistical agencies which traditionally have been independent, tough minded, and beyond reproach.

TWO UNQUALIFIED MEN APPOINTED

Now the President has appointed two unqualified men to head major statistical agencies. The first is Mr. Edward Failor to head the Social and Economic Statistics Administration—SEBA—at the Department of Commerce. His post does not require confirmation.

In addition the President has appointed Mr. Vincent Barabba to be Director of the Bureau of the Census. Although under SESA, the Director of the Census does require confirmation.

AMERICAN ECONOMIC ASSOCIATION EXECUTIVE COMMITTEE OPPOSES

Mr. Barabba's name is now on the Senate's executive calendar. But in a major action this week, the executive committee of the American Economic Association has approved a statement in opposition to Mr. Barabba's nomination.

The key paragraph reads:

Our immediate concern is that neither Mr. Barabba nor Mr. Failor appears to have the high professional qualifications required for the demanding tasks of overseeing the gathering and reporting of the Federal statistics on which analysis and forecasting for the U.S. economy are necessarily based.

WHO'S WHO OF ECONOMIC WORLD

This statement was signed by the most distinguished economists in the United States, a Who's Who of the economic world. They include Irma Adelman, Kenneth Arrow, George Borts, James Duesenberry, Robert Eisner, Rendigs Fels, John Kenneth Galbraith, Robert Heilbroner, Walter Heller, Lawrence R. Klein, John Meyer, Guy Henderson Orcutt, Joseph Pechman, Mark Perlman, and James Tobin.

The statement was approved unanimously by the executive committee of the American Economic Association.

DOUBTS ABOUT STATISTICS

The statement also says that—

Such appointments will reinforce doubts about the integrity of Federal statistics and threaten the quality of Federal data hitherto viewed as among the best, perhaps the best, in the world.

The name of Mr. Vincent Barabba should either be withdrawn by the President or voted down by the Senate. There are a number of positions in the Government for which Mr. Barabba is qualified, but the post of Director of the Bureau of the Census is not one of them.

I hope the Senate will pay close attention to the views of the American Economic Association. They and the American Statistical Association and the group of Federal statistics users have all raised the most serious objections to what has been happening in the statistical agencies and all have either proposed that Mr. Failor and Mr. Barabba be opposed or have established standards for these jobs which neither man can remotely meet.

Mr. President I commend the letter to me and the statement of the executive committee of the American Economic Association to the Senate. This is a most unusual statement by the AEA and a devastating blow against the nomination of Mr. Barabba.

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

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

AMERICAN ECONOMIC ASSOCIATION,
Nashville, Tenn., July 6, 1973.

Senator WILLIAM PROXMIRE,
U.S. Senate,
Washington, D.C.

DEAR SENATOR PROXMIRE: At the request of Walter Heller, President-elect of the American Economic Association, I am enclosing herewith a copy of a statement on the federal statistical services and the nomination of Vincent Barabba as Director of the Census. The statement has been approved by a mail vote of the Executive Committee of the Association.

Approved: Irma Adelman, Kenneth J. Arrow,* George H. Borts, James S. Duesenberry, Robert Eisner, Rendigs Fels, John Kenneth Galbraith,** Robert Heilbroner, Walter W. Heller, Lawrence R. Klein, John R. Meyer, Guy Henderson Orcutt, Joseph A. Pechman, Mark Perlman, James Tobin.*

Disapproved: None.

Sincerely yours,

RENDIGS FELS,
Secretary-Treasurer.

STATEMENT OF THE EXECUTIVE COMMITTEE OF THE AMERICAN ECONOMIC ASSOCIATION ON INTEGRITY IN THE FEDERAL STATISTICAL SERVICES

We are deeply concerned over the issue of intrusion of political influence into the process of reporting and collecting Federal statistics. Symptoms of such intrusion are the increasing use of political rather than professional staff to release and interpret Federal economic statistics, the forced resignations of highly qualified statistician-economists like Dr. Geoffrey Moore as Commissioner of Labor Statistics and Dr. George Hay Brown as Director of the Bureau of the Census, and the appointments of Mr. Vincent Barabba as Acting Director of Census and Mr. Edward D. Failor as Administrator of the Social and Economic Statistics Administration.

Our immediate concern is that neither Mr. Barabba nor Mr. Failor appears to have the high professional qualifications required for the demanding tasks of overseeing the gathering and reporting of the Federal statistics on which analysis and forecasting for the U.S. economy are necessarily based. Their service to Mr. Nixon in the 1972 political campaign may well qualify them for some appropriate recognition, but we question the wisdom of political appointments to such exacting professional positions. Such appointments will reinforce doubts about the integrity of Federal statistics and threaten the quality of Federal data hitherto viewed as among the best, perhaps the best, in the world.

Since Mr. Barabba's appointment is subject to Senate confirmation, we urge the Senate Post Office and Civil Service Committee to submit his qualifications to the most searching scrutiny and to reject his nomination unless evidence of relevant pro-

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*Suggested minor changes in statement.

**Approved in principle orally before statement was written.

fessional qualifications not apparent to us is found in that process.

Our broader and longer-range concern is over the quality and integrity of the Federal statistical services as a whole. In this connection, we fully endorse the four recommendations of the select committee of the American Statistical Association and the Federal Statistics Users' Conference, as follows:

1. Heads of statistical agencies should be nonpolitical professionals of high stature and reputations and be in the career service.

2. These heads of agencies should have direct control of their own activities particularly with respect to hiring and firing, budget and planning, and publication.

3. Data should be released on a fixed, free stated time schedule by the agency which produced the data.

4. Advisory committees to statistical agencies should be selected without regard for political affiliation with a number of specific appointments from professional statistical organizations.

CONNECTICUT HOSPITAL ASSOCIATION

Mr. RIBICOFF. Mr. President, on Friday, July 6, the Connecticut Hospital Association and 12 randomly selected hospitals from throughout Connecticut filed suit in U.S. District Court for the District of Connecticut to enjoin implementation of recently issued standards of the Cost of Living Council.

Mr. James G. Pettit, president of the association and a trustee of St. Francis Hospital in Hartford, Conn., said that the action was being taken to clarify inconsistent and discriminatory forms and instructions recently issued by that council as revised form S–52 and schedule A to that form.

As Mr. Pettit noted, the suit being brought in Connecticut—like similar litigation being contemplated in other State hospitals and health care organizations—is not an attempt by hospitals to escape the freeze, nor to undermine the Federal cost control effort.

Rather, the suit is an attempt to clarify new Cost of Living Council regulations before they pose serious and possibly damaging problems for health care institutions. Skyrocketing health costs must be curbed. But at the same time, health care providers should be given rules which are understandable.

Among the hospitals bringing this action are the William W. Backus Hospital in Norwich, Bridgeport Hospital, Bristol Hospital, Hartford Hospital, Lawrence and Memorial Hospitals in New London, Manchester Memorial Hospital, Meriden-Wallingford Hospital, St. Francis Hospital in Hartford, the Hospital of St. Raphael in New Haven, Stamford Hospital, Waterbury Hospital, and Yale-New Haven Hospital.

The actions of the Cost of Living Council—and the deliberations of its newly constituted Health Industry Advisory Committee—will have a profound influence on the stability and services of the hospitals and health care institutions of our Nation.

I would hope that the regulations and forms issued by this Council, especially as we begin to formulate plans for phase IV of the economic stabilization program would be shaped with the immense importance of this task in mind.

I know that the hospitals of Connecticut, for example, have made a conscientious attempt over the years to control their own costs, and have also worked within the overall guidelines of the various ESP. As Members of the Senate are no doubt aware, health has been one industry strictly controlled even under phase III.

I hope, therefore, that the Health Industry Advisory Committee and the Cost of Living Council will find ways to negotiate their differences with health care institutions, and that litigation can be avoided where negotiation and compromise will substitute. When necessary, of course, such litigation will resolve those issues which cannot otherwise be negotiated, and I trust that Connecticut's health care leaders—in the CHA and in the individual hospitals taking part in this suit—have the welfare of Connecticut's citizens foremost in their minds as they take whatever actions are necessary.

APPEARANCES BY PRESIDENTS BEFORE CONGRESS OR THE COURTS

Mr. KENNEDY. Mr. President, in the course of research into precedents for appearances by past Presidents before Congress or the courts in connection with controversies arising out of events in their administrations, the Library of Congress has found a number of examples involving President Lincoln and President Grant. Because these precedents will be of interest to all of us in Congress, I ask unanimous consent that the following items may be printed in the RECORD:

First. An article from the New York Tribune of February 14, 1862, entitled "The Premature Publication of the President's Message."

Second. An excerpt from pages 250–251 of volume 2 of "Abraham Lincoln, the War Years," by Carl Sandburg.

Third. An excerpt from page 60 of "Political Power and the Press," by William J. Small.

Fourth. An excerpt from pages 198–200 of volume 2 of "Abraham Lincoln, the War Years," by Carl Sandburg.

Fifth. Excepts from volume III—1861–1865—of "Lincoln Day by Day," published in 1960 by the Lincoln Sesquicentennial Commission.

Sixth. The text of a letter dated January 1, 1862, from President Lincoln to General McClellan. The letter is reprinted at page 88 of volume V, "The Collected Works of Abraham Lincoln," prepared by the Abraham Lincoln Association of Springfield, Ill., and published by the Rutgers University Press in 1953.

Seventh. An article from the New York Times of February 13, 1876, entitled "The Trial of General Babcock."

Eighth. An article from the New York Times of February 14, 1876, also entitled "The Trial of General Babcock."

Ninth. An editorial from the New York Times of February 14, 1876.

Tenth. A copy of the deposition by President Grant in the trial of General Babcock, his personal secretary, from the New York Times of February 18, 1876.

Eleventh. An editorial from the New York Times of February 18, 1876.

Twelfth. An article from the Washington Evening Star of February 19, 1876, entitled "The Babcock Trial, the Closing Arguments."

Thirteenth. An excerpt from pages 794–803 of "Hamilton Fish, the Inner History of the Grant Administration," by Allan Nevins.

The PRESIDING OFFICER. Without objection, the items will be printed in the RECORD.

ITEM 1

[From the New York Tribune, Feb. 14, 1862]

THE PREMATURE PUBLICATION OF THE PRESIDENT'S MESSAGE

President Lincoln today voluntarily appeared before the House Judiciary Committee and gave testimony in the matter of the premature publication in The Herald of a portion of his last annual message. Chevalier Wikof was then brought before the Committee, and answered the question which he refused to answer yesterday, stating, as is rumored, that the stolen paragraph was furnished to *The Herald* by Watt, the President's gardener, who was reported as disloyal by the Potter Committee, and whose nomination to a Lieutenancy the Senate decidedly refused to confirm, but who is still to be seen in the White House, and is said to be an applicant for a foreign appointment. The public can learn from the case in what sewers it is the taste of The Herald to fish for State secrets.

The Chevalier is still in close confinement at the Capitol, in quarters at which his fastidious tastes revolt. An iron bedstead was purchased for him today. His most frequent visitor is said to be Gen. Sickles. The first paper taken by the officers out of the pocket-book of "the special representative of *The N.Y. Herald*," now in Fort McHenry, was a pass admitting Dr. Ives at all hours to the War Department, signed "Geo. B. McClellan."

ITEM 2

(From pp. 250–251, "Abraham Lincoln, The War Years," volume 2, by Carl Sandburg (Harcourt, Brace & Company, New York)

By what means the *New York Herald* gave publication to parts of a message of the President to Congress—before it reached Congress—was a scandal that a congressional committee investigated. Henry (nicknamed "Chevalier") Wikoff admitted to the committee that it was he who had filed the stolen paragraphs at the telegraph office, but he was "under an obligation of strict secrecy" not to tell how he got them. The House ordered Wikoff held in close custody and he was locked up with special accommodations while the inquiry went on. "It was generally believed that Mrs. Lincoln had permitted Wikoff to copy those portions of the message that he had published," wrote Ben Perley Poore, "and this opinion was confirmed when General Sickles appeared as his counsel. The General vibrated between Wikoff's place of imprisonment, the White House, and the residence of Mrs. Lincoln's gardner, named Watt. The Committee finally summoned the General before them and put some questions to him. He replied sharply and for some minutes a war of words raged. He narrowly escaped Wikoff's fate, but finally, after consulting numerous books of evidence, the Committee concluded not to go to extremities. While the examination was pending, the Sergeant-at-Arms appeared with Watt. He testified that he saw the message in the library, and, being of a literary turn of mind, perused, it; that, however, he did not make a copy, but, having a tenacious memory, carried portions of it in his mind, and the next day repeated them

word for word to Wikoff. Meanwhile, Mr. Lincoln had visited the Capital and urged the Republicans on the Committee to spare him disgrace, so Watt's improbable story was received and Wikoff was liberated."

ITEM 3

(From p. 60, "Political Power and the Press," by William J. Small (W. W. Norton & Company, Inc., New York)

A news leak that shocked Abraham Lincoln was not invited to share in it as was Simon it to Congress, of a portion of his first State of the Union address. It appeared in the *New York Herald* in an article written by Chevalier Henry Wikoff, a reporter who had befriended Mrs. Lincoln. The suspicion was that the first lady had leaked the speech to Wikoff. When a congressional committee investigated, a White House gardener took the blame, offering a far-fetched story of having seen the speech on a library table as he arranged flowers, memorized sections, and passed them on to Wikoff. Lincoln paid a surprise visit to the committee to declare under oath that his wife was innocent. Wikoff was jailed and later returned to his newspaper but not to report at the White House.

ITEM 4

(From pp. 198–200, "Abraham Lincoln the War Years," volume 2, by Carl Sandburg (Harcourt, Grace & Company, New York)

Amid the snarling chaos of the winter of 1862–63 there were indications of a secret movement to impeach President Lincoln and get him out of the White House. Stubbornly had he followed his own middle course, earning in both parties enemies who for different reasons wanted him out of the way. There were radical Republicans who wanted a man obedient to their wishes. There were reactionaries in both parties who hoped that the confusion of an impeachment would slow down the war, bring back habeas corpus and other civil rights. The radical Republicans who took part in the secret movement, their names, could only be guessed. They felt their way carefully toward throwing Lincoln out of the White House. They knew that in any final vote to impeach they could count on a large block of Ayes from the political opposition. The New York Democratic-party leader, Horatio Seymour, heard of the movement but was the publication, before he ever delivered Cameron of Pennsylvania. Long after this embryo conspiracy had failed of its aim, Cameron said to an interviewer, Howard Carroll, in guarded statements that would implicate neither dead nor living Republicans:

"Late in 1862 or early in 1863 there can be no doubt that a secret effort was made to bring about the ejectment of President Lincoln from the White House. Some time after I returned from the Russian mission, and while I was resting at my home in Pennsylvania, I received from a number of the most prominent gentlemen an invitation to visit Washington and attend a meeting which, according to my information, was to be held in regard to national affairs. I afterward discovered that this invitation was extended to me because it was believed that my somewhat unpleasant exit from the War Department had rendered me hostile to Mr. Lincoln and his Administration. Knowing nothing of this at the time, I went to the capital, and found there assembled a number of prominent men who had come together ostensibly for the purpose of advising with each other regarding the condition of the country. This, I say, was their ostensible purpose, but I soon discovered that their real object was to find means by which the President could be impeached and turned out of office. The complaint against Mr. Lincoln was, that he lacked ability and energy, and that he was not pushing the war with sufficient vigor. These reasons, and the plan of attack, if I may use the expresssion, were all made known to me, and I was asked for my advice. I gave it, stating, with as much earnestness as I could command, that the movement proposed would be a disastrous one, and strongly urging that it would be little short of madness to interfere with the Administration."

Report and gassip finally shaped specific accusations that Mrs. Lincoln was connected with Union disasters, that there was a Southern spy in the White House who was the wife of the President. Newspaper dispatches had reported the killing in battle of two of her brothers, Confederate officers, and a third wounded. They were sons of her father's first wife. A full brother of Mrs. Lincoln, George R. C. Todd, was a surgeon in the Confederate Army. Then there was Benjamin Harlin Helm, brother of Mary Todd Lincoln's half-sister Emilie; a West Point graduate, he had visited his sister-in-law at the White House before war had opened and had gone forth and talked with several West Point friends, including Robert E. Lee, who had said with a sad wag of the head, "I have just resigned my commission in the United States Army," Helm had asked Colonel Lee, "Did you know that Mr. Lincoln is my brother-in-law?" "No, I did not," replied Lee, "but now let me say one word. I have no doubt of his [Lincoln's] good intentions, but he cannot control the elements. There must be a great war. I cannot strike at my own people, so I wrote out my resignation. My mind is too much disturbed to give you any advice. Do what your conscience and honor bid." In the finish Benjamin Hardin Helm put on a gray uniform and was now commanding a brigade with Bragg's army. Confederate Major General John C. Breckinridge was a kinsman of Mrs. Lincoln's stepmother and his name was linked with the President's wife. That General Helm had married into the Todd family fifteen years after Mrs. Lincoln left her Kentucky home, that her brother, Dr. George R. C. Todd, had been estranged from the family for years previous to 1861, with similar matters of fact, did not get into the common report and gossip. Also that she had as much of kith and kin in the Union army did not enter into current conversation. Two of her cousins, Porter by name, had the title of general in the Army of the Potomac; a son-in-law of her sister, Mrs. Wallace, was in a blue uniform. Other Todd relatives were in the Northern ranks.

Yet the talk of a Southern woman spy in the White House arrived at the point where Senate members of the Committee on the Conduct of the War had set a secret morning session for attention to reports that Mrs. Lincoln was a disloyalist.

One member of the committee told of what happened. "We had just been called to order by the Chairman, when the officer stationed at the committee room door came in with a half-frightened expression on his face. Before he had opportunity to make explanation, we understood the reason for his excitement, and were ourselves almost overwhelmed with astonishment. For at the foot of the Committee table, standing solitary, his hat in his hand, his form towering, Abraham Lincoln stood. Had he come by some incantation, thus of a sudden appearing before us unannounced, we could not have been more astounded." There was an "almost human sadness" in the eyes, and "above all an indescribable sense of his complete isolation" which the committee member felt had to do with fundamental senses of the apparition. "No one spoke, for no one knew what to say. The President had not been asked to come before the Committee, nor was it suspected that he had information that we were to investigate reports, which, if true, fastened treason upon his family in the White House."

At last the morning caller spoke slowly, with control, though a depth of sorrow in the tone of voice: "I, Abraham Lincoln, President of the United States, appear of my own volition before this Committee of the Senate to say that I, of my own knowledge, know that it is untrue that any of my family hold treasonable communication with the enemy."

Having attested this, he went away as silent and solitary as he had come. "We sat for some moments speechless. Then by tacit agreement, no word being spoken, the Committee dropped all consideration of the rumors that the wife of the President was betraying the Union. We were so greatly affected that the Committee adjourned for the day."

ITEM 5

(From "Lincoln Day by Day," Volume III: 1861–1865 (Lincoln Sesquicentennial Commission, Washington, 1960))

December 31, 1861—President confers hour and half with Joint Committee on Conduct of War.

January 6, 1862—Cabinet meets 7:30 P.M. at request of Joint Committee on Conduct of War. Lincoln rejects demand of Senator Wade (Ohio) for removal of McClellan.

January 25, 1862—Subcommittee of Committee on Conduct of War interviews Lincoln on military administration of Gen. Fremont.

February 13, 1862—President appears before House Judiciary Committee in matter of premature publication of last Annual Message.

February 15, 1862—Committee on Conduct of War requests 8 P.M. interview with Lincoln.

March 4, 1862—President and Gen. Hunter appear before Committee on Conduct of War regarding Kansas affairs.

April 4, 1862—President receives Sen. Wade (Ohio) and makes appointment to meet with Committee on Conduct of War in evening.

May 28, 1862—President appears before Committee on Conduct of War and describes 400-foot railroad bridge across Potomac built by Col. Haupt as having nothing in it but cornstalks and beanpoles.

April 4, 1863—President receives several members of Joint Committee on Conduct of War.

March 3, 1864—President confers with Committee on Conduct of War regarding commander of Army of Potomac.

ITEM 6

(From p. 88, "The Collected Works of Abraham Lincoln," Volume V, compiled by the Abraham Lincoln Association, Springfield, Illinois (Rutgers University Press 1953))

To George B. McClellan[1]

EXECUTIVE MANSION, Jany. 1, 1862.

MY DEAR GENERAL: I hear that the doings of an Investigating Committee, give you some uneasiness. You may be entirely relieved on this point. The gentlemen of the Committee were with me an hour and a half last night; and I found them in a perfectly good mood.

As their investigation brings them acquainted with facts, they are rapidly coming to think of the whole case as all sensible men would. Yours as ever

A. LINCOLN.

Gen. McClellan.

[1] ALS–F, ISLA. The Joint Committee on the Conduct of the War was composed of Senators Benjamin F. Wade, Zachariah Chandler, and Andrew Johnson, and Representatives Daniel W. Gooch, John Covode, George W. Julian, and Moses F. Odell. According to the Journal of the committee, all members met with the president on December 31 except Covode and Julian (*Report*, Part I, p. 72).

ITEM 7

[From the New York Times, Feb. 13, 1876]

THE TRIAL OF GEN. BABCOCK

(*The President's deposition:* An affidavit strongly in favor of Gen. Babcock—The President alone responsible for the changes made—an excellent character given the accused.)

WASHINGTON, Feb. 12.—The President's deposition, to be used in the Babcock trial, was taken to-day and forwarded to St. Louis. The Secretary of the Treasury and the Attorney General were the only persons present when the interrogations were answered, excepting of course, the Chief Justice, the counsel, and the stenographers. The deposition will not be used in court till the defense is begun, which, according to present appearances, may not be till near the end of next week. *The examination of the President extended from 11 till 2 o'clock*, and was strongly in favor of Gen. Babcock. The President declared that that officer had not interfered in the appointment of any official involved in the whisky frauds, that even in the case of the revocation of the order directing the transfer of the Supervisors, he [the President] was alone responsible. He explained that he had suspended that order believing that the Government would be better able, by throwing off their guard those engaged in the frauds, to develop their rascality. He stated that while Babcock had not interfered, he had suggested that the examination should be thorough, and should be made, not by inferior men, but, as was the custom in the Army, by men of tried integrity and established character, so as to give force to their reports. Babcock had suggested that any attempt to suppress or prevent thorough examination was attributable to a system of corruption or of blackmailing; that after Henderson's speech and the intimation that Gen. Babcock was in any way involved, that officer was exceedingly anxious for an immediate and prompt investigation, and telegraphed at once to St. Louis to know whether he could appear and be heard without delay. The prosecuting officer having responded that he could not be heard at that time, but there must be delay. Babcock thereupon sought and obtained a court of inquiry as the only immediate means of developing the facts. The President had known Gen. Babcock intimately since the Vicksburg campaign in 1863. He considered him a most efficient and reliable officer, and he believed his reputation to be excellent in the Army, and wherever he was known. He had not seen or heard anything in any way connecting Gen. Babcock with the whiskey rings, or tending to impair his confidence in that officer's integrity. Babcock's explanation of the telegrams signed Sylph, &c., which have excited so much attention, had been explained to his entire satisfaction, and relieved Gen. Babcock of any imputation of complicity in the whisky frauds. Babcock now had his full confidence. The cross-examination emphasized the fact that if Gen. Babcock had been engaged in any wrong transactions the President had no knowledge of it, and he did not believe it. Many of the questions asked were regarded as wholly irrelevant. William A. Cooke was engaged some time ago, and not recently, as has been stated in Gen. Babcock's defense, and has assisted in the preparation of the case from the beginning.

ITEM 8

[From the New York Times, Feb. 14, 1876]

THE TRIAL OF GENERAL BABCOCK

(The President's Deposition: Points of the testimony taken in the White House—the President's evidence fortified by papers and telegrams.)

WASHINGTON, Feb. 13.—A full synopsis of the President's testimony was tonight telegraphed to Emory A. Storrs, of Gen. Babcock's counsel, by Mr. William A. Cook, who represented the defense in the taking of the testimony here. The following points of the testimony are those not included in the dispatches sent to THE TIMES last night, and are taken from the counsel's abstract. The President testifies that Gen. Babcock had always performed his duties as Private Secretary to the President's satisfaction. He knows his general reputation in Washington and in the Army. It is good. Nothing was ever heard by him against Babcock until the present charges. He remembers that Babcock showed him a dispatch from Joyce applying for the Collectorship. It was simply shown as other telegrams. This was after the death of Ford. He told Babcock that Ford, having died suddenly and away from home, he the President, should consult Ford's bondsmen in making the appointment. They and others recommended Maguire. He did not think Babcock ever, directly or indirectly, sought to influence the appointment of Maguire; did not remember of Babcock ever speaking to him in reference to any charges made against Joyce or McDonald. He certainly took no lively interest in the matter. Remembered McDonald being in Washington Dec. 18, 1874, and rode with him once. Did not remember a word of conversation on any matter touching his official position or those cases. Saw him as he (the President) was driving and stopped and requested him to ride. Since Babcock's indictment no effort had been made to interfere with the trial. At the time the Court of Inquiry was ordered he supposed Babcock would not be indicted, because he understood that the Grand Jury would adjourn in a day or two. Much of the testimony is fortified by papers and telegrams.

ITEM 9

[From The New York Times, Feb. 14, 1876]

The President's deposition in the case of Gen. BABCOCK will no doubt be read with interest everywhere. An abstract only of it has yet been published, but it touches on many important points. The President testified that BABCOCK never asked for the appointment of MAGUIRE, and never conversed with him on the subject of the charges against JOYCE or MCDONALD. Since BABCOCK'S indictment, "no attempt has been made to interfere with the trial"—a statement which is fully verified by the very proceedings now going on at St. Louis. The prosecution is evidently not constrained by any secret influence in favor of the accused. The President, Gen. BABCOCK'S integrity. The proceedings to it will be observed, still affirms his belief in be held this week will doubtless reveal the full strength of the case for the Government, even if the trial is not concluded.

ITEM 10

[From The New York Times, Feb. 18, 1876]

Mr. Storrs then asked for the deposition of the President, which was produced by the clerk, and it was read by Judge Porter. As several objections had been made to questions and answers, Judge Dillon, during the noon recess, looked it over and marked the objections overruled or sustained, leaving this deposition, however, it is said, very nearly in the same form as it was originally, and is as follows:

THE PRESIDENT'S DEPOSITION

The following is the President's deposition in full as filed in the United States Circuit Court in the case of Gen. Babcock:

In the Circuit Court of the United States, Eastern District of Missouri—The United States vs. Orville E. Babcock.—Transcript of stenographer's notes at the deposition of U.S. Grant for the defendant, taken at Washington, February, 1876.

Direct examination by Mr. Cook:

Q. How long have you known Gen. Babcock, and how intimately?

A. I have known him since 1863; we first met during the Vicksburg campaign in that year; since March, 1864, I have known him intimately.

Q. Please state in what various capacities he has been employed, and what positions he has held since 1863.

A. From about March, 1864, to the 4th of March, 1869, he was aid de camp on my military staff; since that time up to the time of his indictment, he has been acting as my private secretary, and in addition to that for several years he has been superintendent of Public Buildings and Grounds.

Q. As your private secretary, please state what were his general duties?

A. His general duties were to carry all communications from the President to Congress, to have charge and supervision over all of the correspondence, particularly of official correspondence, and in his capacity of private secretary he received my mails, opened my letters and read them. In regard to many of them, he gave directions to the departments without reference to me, and such as required any dictation or answer from me he submitted to me.

Q. His relations with you were confidential?

A. Very.

Q. Do you know whether during the period of time that Gen. Babcock has been your private secretary, he has been frequently applied to by persons throughout the country to lay their special matters before you or before the various departments?

Counsel for the prosecution objects to the questions as irrelevant and incompetent to that issue in the case.

A. That was the frequent and you might say almost daily occurrence.

Q. In what manner, so far as you have observed with reference to the public interest, has Gen. Babcock discharged his duties as your private secretary?

Objected to by counsel for the prosecution as immaterial and irrelevant.

A. I have always regarded him as most efficient and most faithful.

Q. Are you acquainted with the general reputation of Gen. Babcock in the city where he has lived, among his associates and his acquaintances, in the Army and elsewhere, for honesty and integrity?

A. I suppose that I might say that I have been acquainted with his general reputation in the Army and where he is known; where he has lived elsewhere I do not know anything about it, but I suppose myself to be acquainted with the reputation he has in the Army and in this city.

Q. Now state, if you please, what his general reputation is and has been? A. I have always supposed it to be good: if 12 years' intimate association with a man gives one an opportunity of judging what other people think of him, I certainly have had a good opportunity, not only of knowing his character myself, but of knowing the reputation he sustains.

Q. And from these opportunities what has been his reputation? A. Good.

Q. Were you acquainted with C. W. Ford, of St. Louis, in his lifetime and what, if any position did he hold at the time of his death? A. I was intimately acquainted with Mr. Ford; first in the State of New York when I was a Lieutenant in the Army; he was then a young lawyer, living in the same town where I was stationed; then from 1854 to 1860, we were both living in St. Louis County, and any relations were intimate from 1854 up to the day of his death; he was connected with the United States Express Company in St. Louis, and from 1869 (but I will not be sure about that), to his death he was Collector of Internal Revenue of the First Collection District of Missouri.

Q. State what, if any, applications were made at the time of his decease as to the appointment of his successor?

Question objected to by counsel for the prosecution as unnecessary, irrelevant, and incompetent.

A. It will be impossible for me to remember all of the applications that were made for the place. I do remember, however, of Gen. Babcock bringing me a dispatch that was addressed to him from John A. Joyce, practically applying for the place.

Answer objected to by counsel for the prosecution unless the telegram is produced.

Q. Have you that dispatch? A. I have not.

Q. Do you know where it is personally? A. No; I suppose it could be found. I think very likely either Gen. Babcock's counsel or the District Attorney at St. Louis has it.

Q. Were there any requests or communications with regard to the appointment of Mr. Ford's successor emanating from his sureties?

Objected to by counsel for the prosecution as immaterial, irrelevant, and incompetent.

A. When Gen. Babcock showed me that dispatch from John A. Joyce, I said to him that Mr. Ford having died very suddenly, and away from home, I should be guided largely in selecting his successor by the recommendations or wishes of his bondsmen; that I thought they were entitled at least to approve of the appointment of the man who would go in and settle up the affairs of his office.

Answer objected to by counsel for the prosecution on the ground that it is incompetent for the witness to state conversations between himself and the defendant of the nature given.

Q. What did you ultimately decide to do with reference to the appointment, and to whom, if to any one, did you decide to leave the naming of his successor?

Objected to by counsel for the prosecution, as irrelevant and incompetent.

A. That was answered in my answer to the previous question.

Q. Whom did the bondsmen actually recommend?

Objected to as incompetent and irrelevant.

A. Constantine Maguire.

Q. And on whose recommendation exclusively was he appointed?

A. I could not say on whose recommendation exclusively; he was well recommended and satisfactory to the bondsmen of Mr. Ford.

Answer objected to by counsel for the prosecution unless the recommendations, if in writing, are produced.

Q. Did Gen. Babcock ever in any way, directly or indirectly, urge or request, or seek to influence the appointment of Mr. Maguire, or did he ever exchange a word with you on the subject which indicated that he desired his appointment?

Objected to on the ground of irrelevancy and incompetency. The witness cannot state conversations between himself and defendant.

A. I do not think he ever did; I do not think he was aware of the existence of Constantine Maguire before his recommendation.

Q. Did you inform Gen. Babcock that you intended to leave the name of Ford's successor to his bondsmen, and did you request him to so notify these parties?

Objected to on the ground of irrelevancy and incompetency; the question is answered in a previous answer.

Q. It embraces, perhaps, this addition. Did you request him to notify the parties? Same objection as to previous question.

A. That part I don't remember; it was not expected or thought of that this would ever become a matter of investigation, and therefore my memory would not be accurate.

Q. Are the telegrams now shown you the ones received in relation to the appointment of Mr. Maguire?

Objected to as immaterial and incompetent, and because the papers do not purport to be originals.

A. I have no doubt that these are the dispatches or copies of the dispatches that I received, or if not, telegrams similar in tenor to those that were received.

The papers were marked exhibits Nos. 1, 2, 3, 4, and 5.

Q. There is a letter, Mr. President, connected with these telegrams dated Jan. 4, 1876, from D. O. Pratt, Commissioner. Will you be kind enough to explain how that letter was received by you, and what connection it had with the telegrams?

Objected to as immaterial, irrelevant, and incompetent.

A. The note from the Commissioner of Internal Revenue is in answer to a request for me to be furnished with telegrams recommending Maguire to the office of Collector.

Answer objected to by prosecution as incompetent and immaterial.

Q. Did Gen. Babcock, so far as you know, ever seek in any way to influence your action in reference to any charge made, or proposed to be made, against Joyce or McDonald, or either of them?

Objected to as incompetent, immaterial and irrelevant.

A. I do not remember of his ever speaking to me on the subject at all; he certainly took no lively interest in the matter, or I should have remembered it.

Q. Did Gen. Babcock, so far as you know, ever seek in any way to influence your action with reference to any investigation or alleged whisky frauds in St. Louis or elsewhere?

Objected to as immaterial, irrelevant and incompetent.

A. He did not; possibly I might state right here that I remember but one instance of his ever talking to me at all about the matter of investigations, except since he has been indicted, and then it was simply to say to me that he had asked Mr. Douglass why it was that they threatened all their officials as though they were dishonest persons by sending spies to watch them, and asking why they could not make inspections somewhat as they do in the Army—send a man of character to their distilleries, and take their books and make a report that could be relied on; I believe that he simply told me that he had said this to Mr. Douglass.

Answer objected to by prosecution as immaterial and incompetent in stating conversations between the accused and witness.

Q. Do you remember the circumstances of Gen. McDonald's being in the City of Washington on the 7th of December, 1874? A.—I do not remember the particular date; I remember the time in question.

Q. If I understand you correctly, Gen. Babcock's conception was that in making the investigation it would be wiser to have it done by men of superior character than by men of inferior and suspicious character?

Objected to by the prosecution as immaterial and irrelevant.

A. Yes.

Q. Did you ride with him on or about that date or occasion, and was anything said then by him to you with reference to the investigation of alleged frauds in his district?

Objected to by the prosecution as irrelevant and immaterial. Conversations between John McDonald and witness are not admissible in any theory of this case.

A. I did pick him up on the sidewalk as I was taking a drive, and invited him to get in and drive with me. I have no recollection of a single word of conversation on any matter touching his official position or business.

Q. Did Gen. Babcock, at or about that time, say anything to your knowledge; did he in any way undertake to prevent them?

Same objection as to previous question.

A. I have no recollection of his saying anything about that; he certainly did not intercede with me to prevent them.

Q. Do you remember the circumstances of the promulgation of *any* order transferring the various Supervisors from their own to other districts?

Same objection as to previous question.

A. I do.

Q. State fully with whom the idea upon which that order was based originated, and the particulars of the reasons which induced you to direct it. Same objection.

A. Some time while Mr. Richardson was Secretary of the Treasury—I think, at all events, before Mr. Bristow became Secretary of the Treasury. Mr. Douglass expressed the idea to me that it would be a good plan to occasionally change the Supervisors around from one district to another, and I expressed myself favorably to it, but it was not done then and not thought of any more, but when it became evident that the Treasury was being defrauded of a portion of the revenue that it should receive from the distillation of spirits in the West, Secretary Bristow called on me and made a general statement of his suspicions, and I then suggested to him this idea. On that suggestion the order making these transfers of Supervisors was made. At that time I did not understand that there was any suspicion at all of the officials but I know that each one of the officials had his own way of transacting his business; that these distillers have so much pecuniary interest in deceiving, the officials would learn their ways and learn how to evade them; and my idea was that by putting new Supervisors acquainted with their duties over them, their crooked ways would be detected. Those are the views I had and the reasons why I suggested the change.

Answer objected to by counsel for the prosecution as incompetent. The reasons why the order was made are not material.

Q. Can you state whether Mr. Douglass, at that time Commissioner of Internal Revenue, was aware of the fact that you had suggested or made the order?

Same objections as to previous question.

A. I do not know.

Q. So far as you personally know?

A. I do not know that he knew anything about it.

Q. After the order had been finally issued, were any efforts made to induce you to direct its revocation or suspension?

Same objection as to the previous question.

A. Most strenous efforts were made.

Q. Were such efforts made by prominent public men?

Same objection as to previous question.

A. They were.

Q. Did you resist the pressure that was made upon you for the revocation or suppression of the order, and if you finally decided to direct the revocation of that order, will you please state why you were induced to do so, and by whom?

Objected to as immaterial and irrelevant and incompetent.

A. I resisted the effort to have the order revoked until I became convinced that it should be revoked or suspended in the interest of detecting frauds that had already been committed; in a conversation with Supervisor Tutton he stated to me that if the object of that order was to detect frauds that had already been committed, he thought it would fail; he said this order went into effect on the 15th of February; this was in January when we were talking; that it gave the distillers who had been defrauding the Treasury nearly three weeks' notice to get their houses in order, and to be prepared to receive the new Supervisors; that the new Supervisors would probably go into the district where frauds might have been committed, and he would find everything in good order, and would so report; that the order might possibly and probably would result in stopping the frauds at least for a time, but would not lead to the detec-

tion of those that had already been committed; he said, if the order was revoked it would be looked upon as a triumph by those who had been defrauding the Treasury; it would throw them off their guard, and he could then send special agents of the Treasury out to these suspected distilleries; we could send good men, such as one he mentioned—Mr. Brooke; he said they could go out and not be known to the distillers, and before they would be aware of it, their ways would be discovered, the proofs would be all complete, and then they could seize their distilleries and them, and prosecute them; I was so convinced that his argument was good, and that it was in the interest of punishing frauds that this order should be suspended, that I told them I should suspend it immediately, without any further consultation with anybody; I gave the directions for the suspension of the order making the transfers; my recollection is that I wrote the directions for the order on a card with a pencil, certainly before leaving my office that afternoon and on that the order went to the Treasury, signed by one of my Secretaries.

Counsel for the prosecution objected to all conversations with Supervisor Tutton and to the statement of the contents of any written document.

Q. Did Gen. Babcock ever in any way, directly or indirectly, seem to influence your action in reference to that order?

Objected to by the prosecution as immaterial and irrelevant.

A. I do not think he ever did; I do not remember him ever speaking to me about it or exhibiting any interest in the matter.

Q. From anything that he ever said or did, did you know whether he desired that the order should be revoked or suspended?

Same objection as the previous question.

A. That, I think, is already full answered.

Q. Has Gen. Babcock, so far as you know, or any one for him, undertaken to prevent a full or any investigation of his alleged connection with what is known as the "Whisky Ring" at St. Louis or elsewhere?

Objected to by counsel for prosecution as irrelevant, as calling for the judgment of the witness, not for the *acts* of the accused.

A. To my knowledge he has not. General Babcock has complained very bitterly of his treatment after the speech of Mr. Henderson in the *Avery* trial was delivered.

Prosecution objects to any statements made by the accused to witness.

Q. Since his indictment, has any effort been made, to your knowledge to dismiss the indictment found against him, or to enter a *nolle prosequi*, or in any way interfere with or prevent his trial?

Same objection as to previous question.

A. No.

Q. Has Gen. Babcock, so far as you know, ever used any effort with yourself or with any one else to prevent the finding of indictments against any person suspected of complicity with the Whisky Ring at St. Louis?

Same objection as to the previous question.

A. No.

Q. Since the finding of these indictments against those persons, has Gen. Babcock, so far as you know, ever exhibited any desire to interfere with or prevent the trial, or exhibit any interest, any wish in that direction?

Objected to by the prosecution as incompetent and immaterial, and as calling for the judgment of the witness on the acts and conduct of the accused.

A. Not to my knowledge.

Q. At the time the Court of Inquiry was called at Gen. Babcock's request, was it not understood by yourself, and so far as you know by him, that no indictments would be found against him? If so, why did you so understand?

Objected to as immaterial, irrelevant, and incompetent.

A. No indictment had been found against him. I supposed none would be, because I understood from the Attorney General that the Grand Jury, which was then in session, would adjourn in a day or two. That was the only course left to him then, apparently, at the time he made the request.

Counsel for prosecution objects to statements or information derived from the Attorney General.

Q. Was not that court called because it was supposed that Gen. Babcock could have no other way of vindicating himself?

Objected to by the prosecution as leading and incompetent.

A. I so understood.

Q. Was it not called very soon after he was informed that he could not be heard as a witness in that case?

Objected to as immaterial and irrelevant.

A. I cannot say any further than his dispatch to the District Attorney asking to be heard.

Q. Do you know whether he was anxious to appear as a witness in that case?

Objected to as immaterial and irrelevant.

A. I cannot say any further than his dispatch to the District Attorney asking to be heard.

Q. Do you know whether he did send a dispatch to the District Attorney for the purpose of being a witness in that case?

Objected to by counsel for the prosecution as immaterial, and the dispatch should be produced.

A. I know he must have done so because I saw the answer which he received from the District Attorney.

Answer objected to, as the dispatch of the District Attorney should be produced as the best evidence.

Q. So far as you know, what was the substance of the answer of the District Attorney, Mr. Dyer, to the telegrams of Gen. Babcock, desiring to appear as a witness in the *Avery* case?

Objected to by the counsel for the prosecution as irrelevant, immaterial, and calling for secondary evidence.

A. He in substance, informed him that their would be no more criminal prosecutions till, I think, some time in the following month; I do not remember the date accurately.

Q. And I presume his desire could not be complied with? A.—It amounted to a statement that his desire could not be complied with.

Answer objected to by the counsel for the prosecution for the same reasons as applied to the question.

Q. Have you ever seen anything in the conduct of Gen. Babcock, or has he ever said anything to you which indicated to your mind that he was in any way interested or connected with the Whisky Ring at St. Louis or elsewhere?

Objected to by the counsel for the prosecution as immaterial, incompetent and calling for the judgment of the witness on the act of the defendant.

A. Never.

Q. In what manner, as regards the public interests and as evincing his fidelity and integrity, has he performed his duties as your private secretary? Same objection as to the previous question.

A. Always to my entire and full satisfaction.

Q. Have you in any form observed or learned anything in connection with Gen. Babcock's conduct which has tended to diminish your confidence in his fidelity and integrity, and is that confidence in his fidelity and integrity still unimpaired and undiminished?

Same objections as the next preceeding question.

A. I always had great confidence in his integrity and his efficiency, and as yet my confidence in him is unshaken; I have never learned anything that would shake that confidence; of course I know of this trial that is progressing.

Cross examination by Mr. Eaton—

Q. General, of course you do not suppose, do you, that while Gen. Babcock has been your private secretary, and in intimate and confidential relations with you, any one would voluntarily come to you with statements injurious to his reputation?

Objected to by counsel for defendant.

A. I do not know any such thing.

Q. Perhaps you are aware, General, that the Whisky Ring have persistently tried to fix the origin of that Ring in the necessity for funds to carry ont the political campaign. Did you ever have any intimation from Gen. Babcock or any one else, in any manner, directly or indirectly, that any funds for political purposes were being raised by any improper methods?

Question objected to by counsel for the defendant.

A. I never did; I have seen, since these trials, intimations of that sort in the newspapers, but never before.

Q. Then let me ask you if the prosecuting officers have not been entirely correct in repelling all insinuations that you ever tolerated any such means for raising funds?

Objected to by counsel for the defendant.

A. I was not aware that they attempted to repel any insinuations.

Q. Speaking of C. W. Ford, I presume, General, that your confidence in him continued up to the time of his death?

A. I never had a suspicion that anything was wrong.

Q. Did you regard his knowledge of men and affairs in St. Louis as trustworthy?

A. I had as much confidence in him that way as any man I knew in St. Louis.

Q. When did you cease to reside in St. Louis, General?

A. In May, 1860.

Q. From 1860 down to the time of Mr. Ford's death, Mr. Ford's residence was also in St. Louis?

A. Yes, sir.

Q. Did you have private correspondence with Mr. Ford during the time he was Collector?

Objected to by counsel for the defendant.

A. I did.

Q. Did you preserve the correspondence?

A. No, I never kept a copy of a letter that I sent to him in my life.

Q. Did you preserve letters that you received from him?

A. No, sir; I did not preserve those, we corresponded very regularly, because I had such confidence in him that I left him to conduct my own affairs there, and I had to be constantly sending him money; I would send a check of $500, $1,000 and $1,200 at a time, and he would pay out the money and account to me for it; my confidence in him was such that I did this without even saving the letters.

Counsel for the prosecution objects to the latter part of the answer as not responsive to the question.

Q. Do you remember a letter of Mr. Ford to yourself, dated May 30, 1870, in which he spoke of McDonald as "a bad egg," and as saying to you that he was a discredit to the Administration?

Objected to by counsel for the defendant.

WITNESS.—Was that before or after McDonald's appointment?

Mr. EATON. It was shortly after McDonald was appointed; very early in that year, if I recollect.

A. I have no recollection of such a letter; I have an indistinct recollection that when McDonald was first recommended for the position he told me, either in a letter or in a conversation, that McDonald would not

do; my recollection is that finally he united with others in recommending McDonald; I have a general knowledge that about the time McDonald was being pressed for the appointment, Ford thought it was not a suitable appointment, but my recollection is that he afterward acquiesced in it, and possibly either joined in the recommendation, which was a written one, and will be on file in the Treasury Department, or else he told me in a conversation.

Q. Do you remember whether John A. Joyce was recommended to you as Ford's successor by Gen. Babcock?

A. He was not.

Q. Was anything said to you by Gen. Babcock between the time of the death of Ford and the appointment of Constantine Maguire touching Joyce's fitness for the place?

A. Babcock presented me a dispatch that he had received from Joyce, saying that he was an applicant or making application for it, I do not remember the wording of it; the substance of it was that he wanted to be Ford's successor; my reply to him was that I should be guided largely in selecting the successor of Mr. Ford by the recommendation of his bondsmen; he having died suddenly, unexpectedly, and away from home, I thought they were entitled to be at least consulted as to the successor who should settle up his accounts.

Q. Did you advise Gen. Babcock to telegraph to Joyce to get the bondsmen of Ford to recommend Joyce for collector?

A. I made the statement in substance that I have given in answer to a former question; whether I told him to do so by telegraph or not it would be impossible for me to say; that might be regarded at least as authority to so telegraph.

Q. Did you see any telegram of that character from Babcock to Joyce at that time?

A. I do not remember to have seen any.

Q. Did Gen. Babcock at that time show you a dispatch from Joyce in these words: "St. Louis, Oct. 28, 1873.—See dispatch to the President. We mean it. Mum. Signed Joyce"?

A. I don't think that my memory goes back to that time; since these prosecutions were commenced I have seen that.

Q. I am asking you in regard to that time?

A. I do not call it to memory.

Q. Did you receive a protest against the appointment of Constantine Maguire, signed by James K. Yeatman, Robert Campbell, and others?

Objected to by counsel for defendant.

A. I do not remember such a letter. If such a one was received, it is no doubt on file in the Treasury Department. Such a protest may have been received.

Q. Your purpose of leaving the nomination of Mr. Ford's successor to his bondsmen was because they were liable on his bond for the administration of his office, was it not?

A. Yes, Sir. Further than that, some of them were men that I know very well, and had great confidence in.

Q. Speaking of Ford's objection to McDonald, were you aware that in the matter of education, McDonald, when he was appointed, was an ignorant man, barely able to write his name?

Objected to by counsel for the defendant.

A. I was aware that he was not an educated man, but he was a man that had seen a great deal of the world and of people, and I would not call him ignorant exactly, he was illiterate.

Q. Did you receive a protest against McDonald's appointment, signed by Carl Schurz, G. A. Finkelnburg, R. T. Van Horn, and other men in Missouri?

Objected to by counsel for defendant.

A. I do not remember it. I may have done so; I do not know that it would have had any particular weight with me if I had received it, his indorsements being good.

Q. Was not that objection based on the ground of his entire unfitness for the place.

A. I do not remember if it was received; it is no doubt a matter of record, and can be obtained.

Q. Did you ever see the paper now shown you? If so, state in whose handwriting it is.

Counsel for defendant objects to any examination in regard to this paper.

A. As to the handwriting, I do not pretend to be an expert; I have had a great many letters from Mr. Ford; that looks like his signature; I do not remember to have ever seen that before, and I do not think I ever did.

Q. Do you know the other signatures to the paper?

A. No. I know all the parties, but I do not know their signatures.

The paper referred to was marked exhibit No. 6.

Q. Did you see at or about the time of its date the affidavits now shown you, made by James Marr, taken from the files of the Treasury Department? [a copy of which, marked Exhibit No. 7, is annexed.]

Objected to by defendant's counsel.

A. If I ever did see that paper it has passed entirely from my memory, and I think it would be impossible that such a document as that could be read by me and I not remember it.

Q. Do you remember at this distance of time on whose recommendation Mr. Joyce was appointed?

A. My recollection is that when McDonald was appointed Supervisor he asked the Commissioner of Internal Revenue to give him an assistant from his office—some one who was acquainted with the duties; I think there was no acquaintance existing at all between Joyce and McDonald at that time; that is my recollection; I never had heard of Joyce myself, and did not know of the existence of such a man until he was appointed on the recommendation, as I understand, of the then Commissioner, who thought him to be the most capable man in his office; I did not remember about these dispatches at all until since the conspiracy trials have commenced; I have heard Gen. Babcock's explanation of most or all of them since that; many of these dispatches may have been shown to me at the time and explained, but I do not remember it.

Q. Did you know at the time that during the Fall of 1875, subsequent to your visit to St. Louis, Gen. Babcock corresponded with John McDonald after the latter was indicted, and sent his letter to McDonald under cover to Major E. B. Grimes?

Objected to by defendant's counsel.

A. No; I was not aware of it at the time.

Q. Did you know at the time that Gen. Babcock sent cipher dispatches to Major Luckey, at St. Louis, over his own and over a fictitious signature, on the 17th or 18th of last November?

A. I do not remember as to particular dates, but we have an Executive Mansion cipher, so that when myself and Secretaries are separated, dispatches can be sent without being read by the operators. We always have had such a cipher. I have no particular knowledge, but I know in a general way that they were corresponding while Mr. Luckey was there during the Avery trial, he having gone there, as I understood, as a witness.

Q. Did you see the dispatches before they were sent?

A. I do not think I saw the dispatches.

Q. Have you any objections to stating the meaning in that cipher of two words only—the words "Hamlet" and "Bandage"?

A. I never keep the cipher, and I never wrote a cipher dispatch; I never travel without having a Secretary with me.

Q. You do not know what these words mean?

A. I do not know; when I want to send a dispatch in ciper, I give it to one of my Secretaries in the ordinary form, and he transmits it.

Q. On or about Dec. 5, 1873, did Gen. Babcock show you a dispatch from Joyce to himself in these words, "Is there any hitch in sending Maguire's name to the Senate? Joyce"?

A. I cannot remember particularly; I think, however, Gen. Babcock did ask me if there was any reason why Maguire's name should not be sent; I have an indistinct recollection of his asking me the question.

Q. You have said that you resisted the pressure brought to bear upon you by prominent public men in regard to the suspension or revocation of the order transferring Supervisors; if you have no objection, will you please state the names of these prominent men who brought that pressure to bear upon you.

A. There were many persons, and I think I could give the names of several Senators and probably members of Congress, but probably I should have to refer to papers that are on file; I do not know that it is material. I know that the pressure was continual from the Supervisors and their friends.

Q. Can you from memory name any Senators or Representatives?

A. I could name two or three, but I do not believe that it is necessary.

Mr. EATON. I will not press it then. Will you please to state whether Gen. Babcock showed you, on or about the time of its date, a dispatch to him in these words: "St. Louis, Feb. 3, 1875. Gen. O. E. Babcock, Executive Mansion, Washington, D.C. We have official information that the enemy weakens. Push things. Sylph?"

A. I do not remember of ever seeing that dispatch until since those prosecutions have commenced.

Q. Did you know that Gen. Babcock was at that time in correspondence with Joyce about the transfer of Supervisors?

A. I know that he received frequent letters from Joyce, for I saw a number of them myself, and those I did see were generally as to what he was doing in the way of writing editorials for the different papers, and inclosing editorials which he would say in his letters he had written, and asking how he liked the tone of them, and so on; I recollect him saying in one letter, that some papers in the State of Missouri, and perhaps in Arkansas—at different points, at all events—were willing to publish as editorial matter what he would write for them.

Answer objected to by counsel for the prosecution as going beyond the scope of the question.

Q. Did you have any conversation with Gen. Babcock prior to May, 1875, in reference to a letter written by J. J. Brooke to Deputy Commissioner Rogers?

Objected to by counsel for the defendant.

A. I do not remember dates, but I remember of his showing me a letter that had been handed him from somebody in Philadelphia to Mr. Rogers, and he said that it appeared in his judgment to be simply blackmailing, and I think that was the occasion on which he told me what he had stated to Mr. Douglass; that is as I remember now.

Q. Do you remember that Gen. Babcock, prior to May, 1875, talked with you about the propriety of sending detectives into the several districts to detect frauds?

A. I do not; I remember of his telling me at one time of what he had proposed to Mr. Douglass, but the date of it I do not remember, and that was not a suggestion to me; it was merely what he had suggested to Mr. Douglass, and this is the same that I have before stated.

Q. Do you remember when that conversation was?

A. No I do not; my recollection is that he had shown that letter to Mr. Douglass before he had to me, and that was the occasion when he told me of his suggestion.

Q. Did Gen. Babcock, about the time of its date, show you a dispatch in these words:

"St. Louis, Oct. 27, 1874. Gen. O. E. Babcock, Executive Mansion, Washington, D.C.:

Have you talked with D.? Are things right? How? J."

Objected to by defendant's counsel.

A. I do not remember anything about it.

Q. Did Gen. Babcock at or about the time of its date show you a dispatch in the following words: "St. Louis, April 23, 1875, Gen. O. E. Babcock, Executive Mansion, Washington, D.C.:

Tell Mack to see Parker, of Colorado, and telegram to Commissioner, Crush out St. Louis enemies. GRIT."

Objected to by counsel for defendant.

Q. Did Gen. Babcock at any time tell you he had endeavored to influence Commissioner Douglass to revoke that order?

A. No.

Q. Since you say that Gen. Babcock has not manifested to you any desire to interfere with or prevent the trial of the indictments against himself and others, will you be so good as to state whether any of his friends, for him, have at any time since these indictments were found endeavored to prevent the trial of the indictments against him or any other of the indicted parties, and if so please state who have made such efforts?

A. They have not, with me.

Q. Will you please state why the order for the Court of Inquiry in Gen. Babcock's case was made before the adjournment of the Grand Jury which found the indictment against him, if you know?

A. It was made because he applied for it, and I thought he was clearly entitled to vindicate himself if he was innocent. He had been denied that opportunity before the Grand Jury.

Q. Did Gen. Babcock show you a telegram from District Attorney Dyer saying that the next conspiracy case would be tried on Dec. 15, 1875?

A. He did. I do not remember about the dates particularly.

Q. Now, I suppose, Mr. President, that the substance of your testimony is, what we all know to be true, that, if there has been any misconduct on the part of Gen. Babcock, it has not come to your knowledge?

A. Yes, Sir; that is true.

Q. You do not know, of course, do you, whether Mr. Douglass suggested to Secretary Bristow the same thing about the transfer of Supervisors which, you say, he originally suggested to you?

A. I do not know anything about it, except from the Secretary himself.

Q. Do you recollect that Supervisor Tutton was ordered from Philadelphia to St. Louis under this order for transfer?

A. That is my recollection, that he was ordered to St. Louis.

Q. You say that Gen. Babcock has made no efforts with you to avoid a trial, but you do not know of your own knowledge, of course, whether he has made an efforts with others?

A. I do not.

Re-direct examination by Mr. Cook [handing a copy of a telegram to the witness]—I wish you would state what you know in relation to that.

A. The dispatch seems to be: "Washington, Oct. 27—To William H. Denton, William McKea and John M. Krum. Your request in regard to the Collectorship will be complied with U.S. Grant." These gentlemen are a part of the bondsmen of Ford, and they have recommended Constantine Maguire for Ford's place as Collector.

Q. The original of that is, I believe, in your writing?

A. Yes, Sir; I wrote that. I saw the original this morning.

The copy of the telegram above referred to is attached, and marked "Exhibit No. 8."

Objected to by counsel for the prosecution on the ground of incompetency, irrelevancy, and immateriality.

Q. What was the character of the correspondence between Mr. Joyce and Gen. Babcock as exhibited to you?

Objected to as incompetent and calling for secondary evidence, and being as a whole irrelevant to the issues of the case.

A. My answer to that is the same as has been given and objected to.

Q. What was the general character of the explanation of the dispatches to which your attention has been directed, as given you by Gen. Babcock?

Objected to by the counsel for the prosecution on the ground that it is irrelevant and immaterial, and that the declarations of the accused as to the dispatches referred to cannot be used as evidence in his favor.

A. The explanations which he gave seemed to me to clear up all grounds of suspicion against him.

Q. What was the general character of these explanations? Same objection as to previous question.

A. It was generally a statement of their meaning and what they were in response to, but I could not probably give at this time his explanation of any one of them.

Q. But the explanations at the time were such as to satisfy you?

Same objection as to previous questions.

A. They seemed to me to be entirely satisfactory.

U. S. GRANT.

After reading the deposition, Mr. Storrs offered the recommendations in favor of the appointment of Gen. McDonald as Supervisor of this district, but the court ruled them out, and the defense closed their case. The court then adjourned.

ITEM 11

[From the New York Times, Feb. 18, 1876]

The President's deposition in the case of Gen. Babcock, which is now published in full, contains very few facts which can be used with much effect on either side of the case. Its general tenor is that the President had unbounded confidence in his private secretary; that he has seen no good reason to suppose that his confidence was misplaced; that Gen. Babcock did not show any special desire to influence his action in regard to the revenue officers at St. Louis; that the order transferring the Supervisors was revoked on perfectly defensible grounds, without respect to any outside pressure, and that satisfactory explanations have been made by Gen. Babcock of the mysterious telegrams which form the chief part of the evidence against him. To all of which, of course, the prosecution may reply that the President was grossly mistaken about the character of his intimate friend, the deceased Collector Ford, and that he may have been equally so in regard to his trusted secretary, Gen. Babcock. As evidence, a large portion of the testimony is obviously irrelevant, and a good deal of it has been stricken out by the court. What will go on the record is likely to rank mainly as evidence to character.

ITEM 12

[From the Washington Evening Star, Feb. 19, 1876]

THE BABCOCK TRIAL: THE CLOSING ARGUMENTS

ST. LOUIS, FEB. 19.—The closing arguments in the Babcock trial were commenced this morning in the U.S. circuit court, by James P. Broadhead, of the special counsel for the government. The court room was crowded, and the outer doors were kept locked all the morning. After speaking of the attention which the jury had given during the ten days of the trial preceding, and his belief that the jurors meant to do their duty, Col. Broadhead said: The government I represent is not the Congress, the President, or the judiciary, but it is the law of the land. The strict enforcement of the law is vital to national existence. It is for you simply to inquire if the law has been violated by this defendant, and if it has it is for you to take cognizance of it, and the punishment is in your hands. The grand jury found an indictment against this man, but you are to pass on the evidence submitted to you, and if you believe that the defendant is guilty you are not to be influenced by his former good character. Men as good as he have fallen before temptation, and a conspiracy may exist by solemn agreement or by a tacit understanding, and one who connives at the purpose of a guilty combination or if he shields it, is himself guilty in the eye of the law.

ITEM 13

(From pp. 794–803, "Hamilton Fish, The Inner History of the Grant Administration" by Allan Nevins (Dodd, Mead & Company, New York 1936))

Babcock's trial opened in St. Louis On February 8, 1876. What scenes occurred in the White House before he left it we do not know. But we do know some of the steps taken there to protect him.

On February 1 the Chicago *Times* published a circular letter which Attorney-General Pierrepont had written the Federal Attorneys in St. Louis, Chicago, and Milwaukee forbidding them to promise immunity to criminals who turned state's evidence. This letter, dated January 26, had obviously been extorted by Grant's pressure. Pierrepont later testified as much, saying that Grant had asked for it four or five times, and had wished it "even stronger." It was immediately republished throughout the land. Pierrepont wrote that he had read reports that immunity would be widely bestowed; and that the attorneys must not do "anything that might look like favoring or even protecting men who have defrauded the government." He ordered them to avoid "even the appearance of such favorable treatment," and ended by stating that he was determined to see "that no one has been maliciously persecuted; that no one has escaped through favoritism or partiality, and that no guilty person who has either been convicted or has confessed his guilt was left unpunished." As the House Judiciary Committee later pointed out, this was highly censurable. "The testimony of accomplices," the Committee stated, "has been used against their associates from the earliest ages of our jurisprudence." Indeed, it has often been the principal weapon of justice. We have seen that once before (page 592) Pierrepont had shown willingness to shield a criminal. Fish learned later that his promise not to let the proposed military court interfere with civil prosecution in St. Louis had meant nothing. After making it, he had telegraphed Attorney Dyer ordering him to furnish the military tribunal with all the evidence against Babcock. Dyer had read Pierrepont a stinging lesson. He replied that evidence procured by a Federal court in St. Louis could not be taken out of its jurisdiction and delivered in time of peace to military officers, especially when daily use was being made of it in grand jury work and the trial of cases. He would be held in contempt of court if he did this.

Pierrepont's circular would have been bad enough if never published. But Babcock—according to Pierrepont's subsequent testimony—filched a copy, which he sent to his counsel, Emory Storrs, and Storrs saw that it was spread in the press. It appeared at a critical moment in the progress of the Chicago prosecutions. Some fifty distillers, rectifiers, gaugers, storekeepers, and others had been indicted in that city. A number of the distillers were rich men, of business and social standing. The Chicago correspondent of

the New York *Herald* had predicted on January 5 that they would all plead guilty, and sentence would be suspended on motion of the government. This would be proper for three reasons. First, the conviction of the guiltiest men, the political originators of the Ring, could not be obtained without their evidence. In the second place, most of the distillers and rectifiers had been literally driven into fraud by competition, intimidation, and the general laxity of the revenue service. In the third place, the government meant to insist upon forfeiture of the seized property, and felt that it would be cruel to send these once-honored men to the penitentiary as well. They felt disgrace keenly, while forfeiture would mean utter ruin to some. Much was expected from their evidence. Although no letters had been found signed by Babcock, a number had been discovered from an unidentified Washington official who had been the special informant of the Chicago Ring and whose papers disclosed him as "a person of great commanding influence." On January 14 thirteen distillers did plead guilty in Chicago. It was hoped that one man in especial, Hesing, would implicate Senator Logan and two Congressmen in approving the acceptance of political contributions from the Ring. But Pierrepont's circular smashed all such hopes.[1]

The circular had an immediate effect in St. Louis. Charles Nordhoff, one of the fairest journalists of the day, wrote: "About the time when this letter was sent . . . it became public that one Everest, concerned in the St. Louis Whiskey Frauds, was likely to give important testimony in General Babcock's trial." Everest, paymaster of the Ring, actually gave only minor evidence. In fact, all the conspirators who might have turned states' evidence became silence itself. Babcock could draw an easier breath as his trial opened.

It was unquestionably at Babcock's instigation that Grant thus crippled the prosecution. But no one can doubt that the President knew precisely what he was doing. Were it not for a significant entry in Fish's diary, it might be pleaded that he had acted in ignorance of court procedure and law. But Fish records that on March 17, 1876, Zach Chandler reported to the Cabinet that he had discovered extensive frauds in the Interior Department as Delano had been running it. Corrupt clerks had been padding the lists of persons entitled to quarter-section grants under some legislation of 1872, and about eight hundred fraudulent entries of land had thus been permitted. One minor official had confessed, while the Chief Clerk of the Bureau involved was obviously guilty either of dishonesty or gross neglect. "The President," writes Fish, "directs every effort to be made to obtain evidence, and protection for the Clerk from prosecution to the extent of the law if he can furnish evidence which will convict persons more guilty than himself." In other words, Grant was quick to order immunity promised to an officer in the Interior Department if he would incriminate other men; he was equally quick to stop the grant of immunity to far less censurable malefactors when to do so endangered his own secretary.

In still another way official interference had already been felt in St. Louis. Prompted by someone high in the government, George Bliss, Pierrepont's successor as Federal Attorney in New York, sent west a deputy, Roger Sherman, ostensibly to find evidence for the government. Bliss was what the *Nation* called a bouffe official; he always failed the government and let the rogues somehow win. Fish believed that the breakdown of the case against James Watson Webb was due to his inefficiency or worse. Informed observers were therefore not surprised when Sherman obtained evidence in disreputable quarters for the defendant, which he turned over to Babcock himself! "In bouffe prosecutions," wrote Godkin,[2] "the government always collects the evidence and hands it over to the defendant." It is perhaps significant that Bliss belonged to the Conkling-Arthur-Tom Murphy machine, and that Pierrepont had become a supporter of Conkling for the presidential nomination in 1876. Leaders of this machine were not averse to seeing Secretary Bristow, who was also mentioned for the nomination, checked and humiliated.

On the first day of Babcock's trial, the prosecution introduced telegrams to prove that he had been in constant communication with Ring members; it proved his clandestine intercourse with McDonald after the latter's indictment; and the Ring paymaster, Everest, went so far as to swear that he had seen $500 put into an envelop apparently for Babcock. The President that day called a special Cabinet meeting. Fish observed that he was worried and excited. He announced that he wished the Cabinet to discuss urgent messages from Babcock's counsel in St. Louis. Dubious of the outcome, they had implored Grant by telegram and letter to appear as witness. While the Cabinet sat another telegram arrived. It declared that the opening speech of the prosecution indicated an absolute necessity for Grant's testimony.

"The President," writes Fish,[3] "manifested a great deal of excitement, and complained that they had taken from him his secretaries and clerks, his messengers and doorkeepers; that the prosecution was aimed at himself, and they were putting him on trial; that he was as confident as he lived of Babcock's innocence. (He referred to his long association with him, the entire confidence he had in him, and that he knew he was not guilty; and that were he guilty, it would be an instance of the greatest ingratitude and trickery that ever was.)" Grant added that he had wished to give the Chief Justice a deposition in behalf of Babcock, but that the telegrams from Babcock's counsel indicated that this might not suffice. He therefore made an astounding proposal. "The President expressed his determination to go to St. Louis, to start either this evening or tomorrow morning, and said he should like to take at least two members of the Cabinet with him; and enquired of the Attorney-General whether he would accompany him."

For the President of the United States to rush halfway across the continent and enter a criminal court as witness would shock the nation. Fish protested indignantly. He brought out the fact that no subpoena can be served on the President. "I then remarked," he writes, "that should the President go, it would be a voluntary offering of himself as a witness for the defense in a criminal prosecution instituted by the government, of which the President is the representative and embodiment; that it would therefore place him in the attitude of volunteering as a witness to defeat the prosecution, which the law made it his duty to enforce."

Pierrepont and Butler supported Fish's view. The former called attention to the impending national election, which brought every act of the Administration under sharp scrutiny. So unprecedented a step by the Chief Magistrate would encounter acid criticism. Bristow frankly said that he thought the proposed action undignified and improper. Belknap was silent. Robeson alone favored Grant's plan. He even suggested that the Attorney-General might request the court to subpoena the President; to which Pierrepont tartly replied that as by law he was the prosecuting officer, it was not for him to have special witnesses summoned for the defence. Nevertheless, Grant was still eager to take the stand. He suggested that Robeson might take steps to have the court postpone the case, with a view to the President's subsequent appearance. But Pierrepont and Bristow again objected, while Fish attacked the President's idea in sweeping terms:

"I objected to the form of suggestion proposed, inasmuch as it intimated that the President might at a future time attend in case the case was postponed to another time; that I did not think the President of the United States should in any case allow himself to be brought into court as a witness, and put on the stand to testify. I refer to the trial of Aaron Burr, when an effort was made to bring Mr. Jefferson into court as a witness.

"The Cabinet was unanimous in the opinion that the President ought not to leave Washington during the session to be made a witness of, and there was no dissent expressed to the position which I took, that he ought not, under any circumstances, to consent to appear in court as a witness.

"Various suggestions were made as to the mode of conveying the conclusion that the President would not appear as a witness. . . . While the discussion was going on, the President wrote in pencil what he suggested as an answer at first, with a view of sending it to the counsel for the defense, but this was objected to, on the ground that the government could not advise the line of the defense; some of the expressions were excepted to, and a part of it was rewritten by him."

During the talk Grant sheepishly admitted that he had told Babcock's lawyers, before they went to St. Louis, that he would appear in the trial! Babcock had doubtless extracted this promise. The Cabinet finally agreed that Pierrepont should inform the defense that it was "impossible and unseemly" for the President to attend, but that if the court requested it he would make a deposition. The defense attorneys (upon whom Babcock was said to have spent $25,000, at first retaining Ben Butler) acted on this suggestion. Grant made his deposition in the White House on February 12, the process occupying about five hours. Chief Justice Waite served as notary, and Bristow and Pierrepont were present. The President made a good witness, answering questions without hesitation, and giving emphatic testimony for Babcock's good character.

II

As the case against Babcock proceeded, additional evidence of a damaging character was produced. It was proved that when on several occasions the Ring was trying to prevent Federal investigations, he had furnished the members material assistance. In the spring of 1874 Joyce had telegraphed him from St. Louis to "Make D[ouglass] call off his scandal hounds." Early in 1875 when the Ring was opposing a Presidential order transferring supervisors and revenue agents, Babcock was again active and Joyce telegraphed him: "We have official information that the enemy weakens. Push things." It was proved that Babcock had helped to obtain a Collectorship for a leading Ring member, Maguire. As these facts came out, his counsel fought to have every possible scrap of evidence kept from the jury. It was shown that he had tried to delay the trial. He neither produced nor explained his side of the correspondence with McDonald and Joyce in 1874–75. His lawyers failed to offer any rational explanation of his numerous suspicious messages to Ring members.[5] At one point Judge Dillon intervened on his behalf. Some strange cipher dispatches had passed between Luckey (another of Grant's secretaries) in St. Louis and Babcock in Washington just before the trial began. The prosecution was prepared to submit them. But the court ruled that this correspondence was tantamount to that between counsel and client, and was inadmissible.

Yet even as the injurious new evidence came out Grant's suspicion and resentment increased. Talking with Fish on February 15, he indulged in a new outburst.[6] The prosecution was aimed at himself, he said, not at

Footnotes at end of article.

Babcock. Bristow, possessed by the idea of his complicity in the frauds, was using every means in his power to destroy him. He had been watched by detectives while in St. Louis; these detectives were still trying to collect evidence that Ring members had paid his travelling expenses. All sorts of small devices were being employed to hold him up to public condemnation. He did not blame Bristow personally so much as a pack of flatterers who hoped to see the Secretary become President, and who were egging him on in his schemes. Grant spoke with equal resentment of Bluford Wilson. His hand was helping to control these intrigues against the President. Though the law gave the Attorney-General exclusive authority over Federal prosecutions, Bristow and Wilson in the Treasury had taken charge of these trials.

"I understand," said Fish, "that the law vests the control of suits for the violation of internal revenue laws in the Treasury Department."

"No," said Grant, "the Attorney-General and I have examined the law, and the Attorney-General has full control over suits. The Babcock trial will soon be over, and as soon as it is, Secretary Bristow will leave the Cabinet."

Fish knew that an attack along a broad front was now being made upon the prosecuting officers. Washington was full of outraged politicians growling, "It is time to stop this thing": "It is killing the party sir"; "There is a higher kind of statesmanship than going about with spies and informers, sir." One sector of the attack lay in efforts to take any connection with the whiskey cases out of the hands of the inflexible Bristow and implacable Wilson, and put them entirely in the hands of the pliable Pierrepont. An Act of 1869 clearly vested the control of such prosecutions in the Secretary of the Treasury. But the President was urged to interfere in spite of this law, and to insist that Bristow keep his hand off. Pierrepont, as the above dialogue indicates, was willing to support this interference. As a result of these manoeuvres a marked coolness sprang up between Bristow and Pierrepont. Another sector of the attack concentrated its fire upon Bluford Wilson. A host of politicians were demanding his outright dismissal. They included Senators who were particularly close to Grant. In Illinois Logan was connected by rumor with the Whiskey Ring, and in Wisconsin Matt Carpenter—two Senators whom Fish disliked for their soft-money, pro-Cuban, bloody-shirt proclivities; much evidence existed that their political organizations had received contributions from Ring sources. They were doubtless keenly interested in getting rid of Bluford Wilson.

Still a third sector, the most alarming of all, was busily occupied with efforts to promote a general Cabinet overturn. If Bristow, Jewell, and Fish could be compelled to resign in a body, many politicians would be jubilant. Some, as Nordhoff wrote, would like to see such an overturn because it would defeat and humiliate the reformers; others, because it would give jobs to themselves or their friends. Why tolerate such men when the example of Hoar and Cox showed how easily they could be ousted?

Fish knew, too, how innocent Bristow was of any wrongful intent, and how keen was his sense of duty. Only a few days earlier the Secretary, who regarded Fish as a kindly mentor, had poured into his ear a confidential lament upon his relations with Grant.[7] He wished to be loyal to the President, he said, and keep his confidence. But Grant was more and more openly hostile. Bristow assured Fish that he had merely assisted with the whiskey prosecutions—he had not tried to control them. Despite his rights under the law of 1869, he had given no orders to Attorney Dyer, but had allowed Pierrepont to direct the cases. He observed with grief that the President's manner was cold, distrustful, and offensive. When Grant talked with him he indulged in cutting thrusts and insinuations. After referring dejectedly to the crippling effect of Pierrepont's circular upon the prosecutions, Bristow went on to say that he was not an active candidate for the Presidency—that he did not see how he could afford financially to take the office so early in life. He spoke again, while Fish protested, of resigning:

"He asks my advice. Remarking on the delicacy of advising in such matters, I expressed the hope that he will not resign; that assuming that his name is to go before the convention as a candidate for the nomination, his resigning at this time . . . would at once be accepted by the public as admission of disagreements between him and the President, and would make him the rallying-point for all those in the Republican Party hostile to the President, which would at once lead to the distraction of the party, and possibly to the nomination of himself on an independent ticket, but would, I thought, defeat his chances of nomination as the regular candidate of the party. . . .

"He reminded me that last summer he had proposed to resign, and that in September he went to Long Branch, having his resignation in his pocket, and had handed it to the President, who had told him that he did not wish to accept it, that he was throwing away a great opportunity, that he was more likely than any one person to be named as his successor, and that there was no one whom he would prefer, and he begged him to take back his resignation, which he did; and that the President added that he would be in Washington about October 1, when they would consider the subject again, if necessary; that the President did not return until some weeks after the time named, and that nothing further had been done on the subject. . . .

"I endeavored to soothe him, and suggested that the President at this moment was naturally sensitive with regard to the pending frauds, and that his friendship for Babcock was very sincere, and his confidence in him was very great; that he naturally disbelieved the charges against him, and possibly also felt that the prosecution of persons who were appointees of his reflected upon the Administration.

"I advised him to wait and take no action. . . ."

Babcock's trial ended February 24 in acquittal. A decisive influence had been produced upon the jury by Grant's disposition. The President swore that he had never noted anything in his secretary's conduct or talk which indicated a connection with the Ring, and that in view of their close relations he believed that if Babcock had been guilty he would have known it. After his emphatic statement, a vote to convict Babcock would have been a vote to accuse Grant of complicity or incredible blindness. But the evidence against him in any event lacked conclusiveness. Most men who studied it were morally convinced of his guilt, but full legal proof was wanting. Organs like the *Tribune*, *Nation*, and Springfield *Republican* were content to see him escape the penitentiary, but they were convinced that his resignation from the public service and the Army ought to be instantly demanded.

Although Grant's eyes were at last partially unsealed to Babcock's true character, it was impossible for him ever to give up completely a prejudice either for or against a man. He now behaved with the most unworthy indecision. The day after the acquittal he announced that he intended to make his son, U. S. Grant Jr. private secretary.[8] "He said it was hard on his son, as it would put him back a year, but he was compelled to have someone whom he could absolutely trust to open letters, and if he did that he could do nothing else." But two days later Babcock boldly returned—and Grant let him resume his desk in the executive office. On February 29 Fish called at the White House, stalked grimly past Babcock, and bearding Grant, protested in outspoken terms. "Yes," said the abashed Grant,[9] "but Babcock is there only temporarily. An article in the New York *Tribune* the other day stated that he was to be ejected. When I saw that I allowed him to take a message to the Senate; but it will not occur again." On March 1 Babock was still in the office. Grant called that afternoon on Fish, who lifted his eyes inquiringly:

"The President said [writes Fish] he would resign today, and that he had appointed his son as his private secretary, and there was no place for Babcock in the office; that he had promised his resignation today, and the President had waited a half hour before coming to see me for it, but it had not come.

"I told him he had nothing to resign. After a moment's pause he smiled and said, 'That's true, he's only got to stay away.'"

That was Babcock's last day in the White House. But he temporarily retained his place as Superintendent of Public Buildings and Grounds; Grant presently appointed him Inspector of Lighthouses; and he saw the President occasionally. In April he was indicted upon the safe-burglary charges, and Shepherd went bail for him. But there was no sign of a movement in the army to force his resignation.

FOOTNOTES

[1] See N.Y. *Herald*, January 5–15, for a mass of material on the Chicago Ring.

[2] *Nation*, March 2, 1876; cf. N.Y. *Herald*, February 18, 1876.

[3] Diary, February 8, 1876.

[4] *Ibid.*

[5] See *Nation*, March 2, 1876, for a careful analysis.

[6] Special memorandum by Fish, dated March 6, 1876; Fish Papers.

[7] Diary, February 6, 1876.

[8] Diary, February 25, 1876.

[9] Diary, March 1, 1876; these passages explode the fictitious account in Coolidge, *Grant*, 485.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

DISTRICT OF COLUMBIA CHARTER ACT

The PRESIDING OFFICER. Under the previous order, the unfinished business will be temporarily laid aside and the Senate will proceed to the consideration of S. 1435, which the clerk will state by title.

The second assistant legislative clerk read as follows:

A bill (S. 1435) to provide for an elected Mayor and City Council for the District of Columbia, and for other purposes.

The Senate proceeded to consider the bill, which had been reported from the Committee on the District of Columbia with an amendment, to strike out all after the enacting clause and insert:

That, subject to the retention by Congress of the ultimate legislative authority over the Nation's Capital which is granted by the Constitution, it is the intent of Congress to restore to the inhabitants of the District of Columbia the powers of local self-government which are a basic privilege of all American citizens; to reaffirm through such action the confidence of the American people in the strengthened validity of principles of local self-government by the elective process; to

promote among the inhabitants of the District the sense of responsibility for the development and well-being of their community which will result from the enjoyment of such powers of self-government; to provide for the more effective participation in the development of the District and in the solution of its local problems by those persons who are most closely concerned; and to relieve the National Legislature of the burden of legislating upon purely local District matters. It is the further intention of Congress to exercise its retained ultimate legislative authority over the District only insofar as such action shall be necessary or desirable in the interest of the Nation.

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TITLE I—DEFINITIONS

DEFINITIONS

SEC. 101. For the purposes of this Act—

(1) The term "District" means the District of Columbia.

(2) The terms "District Council" and "Council" mean the Council of the District of Columbia provided for by title III.

(3) The term "District of Columbia Council" means the Council of the District of Columbia established under Reorganization Plan Numbered 3 of 1967.

(4) The term "Chairman" means, unless otherwise indicated in this Act, the Chairman of the District Council provided for by title III.

(5) The term "Mayor" means the Mayor provided for by title IV.

(6) The term "qualified voter", except as otherwise specifically provided, shall have the same meaning as that provided for a "qualified elector" under paragraph (2) of section 2 of the District of Columbia Election Act.

(7) The term "act" includes any legislation adopted by the District Council (including legislation pursuant to section 503 of this Act), except where the term "Act" is used to refer to this Act or other Acts of Congress herein specified.

(8) The term "District of Columbia Election Act" means the Act of August 12, 1955 (69 Stat. 699), as amended.

(9) The term "person" includes an individual, partnership, association, joint-stock company, trust, or corporation.

(10) The term "capital project", or "project", means (a) any physical public betterment or improvement and any preliminary studies and surveys relative thereto; (b) the acquisition of property of a permanent nature; or (c) the purchase of equipment for any public betterment or improvement when first erected or acquired.

(11) The term "pending", when applied to any capital project, means authorized but not yet completed.

(12) The term "District revenues", as used in title VI, means all revenues derived from taxes, fees, charges, and miscellaneous receipts (including all annual Federal payments to the District authorized by law), but such term does not include revenues derived from the Water Fund, Highway Fund, other special funds, or from the Federal grant-in-aid program.

(13) The term "election", unless the context otherwise indicates, means an election held pursuant to the provisions of this Act.

(14) The term "domicile" means that place where a person has his true, fixed, and permanent home and to which, when he is absent, he has the intention of returning.

(15) The terms "publish" and "publication", unless otherwise specifically provided herein, mean publication in a newspaper of general circulation in the District.

(16) The term "municipal courts of the District of Columbia" means the Superior Court of the District of Columbia, the District of Columbia Court of Appeals, and such other municipal courts as the District Council may hereafter establish by act.

(17) The term "annual budget" means the entire budget for all activities of the government of the District of Columbia as heretofore submitted to the Congress by the President of the United States and shall include both operating and capital outlay expenditures.

TITLE II—STATUS OF THE DISTRICT

SEC. 201. (a) All of the territory constituting the permanent seat of the Government of the United States shall continue to be designated as the District of Columbia. The District of Columbia shall remain and continue a body corporate, as provided in section 2 of the Revised Statutes relating to said District. Said Corporation shall continue to be charged with all the duties, obligations, responsibilities, and liabilities, and to be vested with all of the powers, rights, privileges, immunities, and assets, respectively, imposed upon and vested in said Corporation or the Commissioner of the District of Columbia.

(b) No law or regulation which is in force on the effective date of part 2, title III, of this Act shall be deemed amended or repealed by this Act except to the extent specifically provided herein or to the extent that such law or regulation is inconsistent with this Act, but any such law or regulation may

be amended or repealed by legislation or regulation as authorized in this Act, or by Act of Congress.

(c) Nothing contained in this section shall affect the boundary line between the District of Columbia and the Commonwealth of Virginia as the same was established or may be subsequently established under the provisions of title I of the Act of October 31, 1945 (59 Stat. 552).

TITLE III—THE DISTRICT COUNCIL

PART 1—CREATION OF THE DISTRICT COUNCIL

CREATION AND MEMBERSHIP

SEC. 301. There is hereby created a Council of the District of Columbia consisting of eleven members, of whom the Chairman and two members shall be elected at large and the other eight members shall be elected one from each of the eight election wards established under the District of Columbia Election Act. The term of office of the Chairman and other members of the Council shall be four years beginning at noon on January 2 of the calendar year next following the calendar year of their election; except that of the members (other than the Chairman) first elected after the effective date of this provision, one member elected at large and four members elected from wards shall serve for terms of two years. The members who shall serve for terms of two years shall be determined by lots cast before the Board of Elections of the District of Columbia upon a date set and pursuant to regulations issued by the Board of Elections.

QUALIFICATIONS FOR HOLDING OFFICE

SEC. 302. No person shall hold the office of member of the District Council, including the Office of Chairman, unless he (1) is a qualified voter, (2) is domiciled in the District and, if he is nominated for election from a particular ward, resides in the ward from which he is nominated, (3) has, during the three years next preceding his election, resided and been domiciled in the District, and (4) is not engaged in any employment (whether as an employee or as a self-employed individual) and holds no public office or position (other than his employment in and position as a member of the Council), for which he is compensated in an amount in excess of his actual expenses in connection therewith, except that nothing in this clause shall prohibit any such person, while a member of the Council, from serving as a delegate or alternate delegate to a convention of a political party nominating candidates for President and Vice President of the United States, or from holding an appointment in a Reserve component of an armed force of the United States other than a member serving on active duty under a call for more than thirty days. A member of the Council shall forfeit his office upon failure to maintain the qualifications required by this section.

COMPENSATION

SEC. 303. Each member of the District Council, including the Chairman, shall receive compensation, payable in periodic installments, at rates established by act passed by the Council. All members shall receive such additional allowances for expenses as may be approved by the Council to be paid out of funds duly appropriated therefor.

CHANGES IN MEMBERSHIP AND COMPENSATION OF DISTRICT COUNCIL MEMBERS

SEC. 304. The number of members constituting the District Council, the qualifications for holding office, and the compensation of such members may be changed by act passed by the Council: *Provided*, That no such act (other than an act involving compensation or allowances) shall take effect until after it has been assented to by a majority of the qualified voters of the District voting at an election on the proposition set forth in any such act.

PART 2—PRINCIPAL FUNCTIONS OF THE DISTRICT COUNCIL

ABOLISHMENT OF EXISTING GOVERNMENT AND TRANSFER OF FUNCTIONS

SEC. 321. (a) The District of Columbia Council, the offices of Chairman of the District of Columbia Council, Vice Chairman of the District of Columbia Council, and the seven other members of the District of Columbia Council, and the offices of the Commissioner of the District of Columbia and Assistant to the Commissioner of the District of Columbia, as established by Reorganization Plan Numbered 3 of 1967, are hereby abolished: *Provided*, That this subsection shall not be construed to reinstate any governmental body or office in the District abolished in said plan or otherwise heretofore.

(b) Except as otherwise provided in this Act, all functions granted to or imposed upon, or vested in or transferred to the District of Columbia Council or the Commissioner of the District of Columbia, as established by Reorganization Plan Numbered 3 of 1967, shall be carried out respectively by the District Council and the Mayor in accordance with the provisions of this Act.

CERTAIN DELEGATED FUNCTIONS OF CERTAIN AGENCIES

SEC. 322. No function of the District of Columbia Council (established under Reorganization Plan Numbered 3 of 1967) or of the Commissioner of the District of Columbia which such District of Columbia Council or Commissioner has delegated to an officer, employee, or agency (including any body of or under such agency) of the District, nor any function now vested pursuant to section 501 of Reorganization Plan Numbered 3 of 1967 in the District Public Service Commission, Zoning Commission, Zoning Advisory Council, Board of Zoning Adjustment, Office of the Recorder of Deeds, or Armory Board, or in any officer, employee, or body of or under such agency, shall be considered as a function transferred to the District Council pursuant to section 321 of this Act. Each such function is hereby transferred to the officer, employee, or agency (including any body of or under such agency), to whom or to which it was delegated, or in whom or in which it has remained vested, until the Mayor or Council established under this title, or both, pursuant to the powers herein granted, shall revoke, modify, or transfer such delegation or vesting.

PROCEDURE OF ZONING ACTS

SEC. 323. (a) The provisions of section 322 of this Act notwithstanding, before any zoning regulation or equivalent legislation for the District is approved by the District Council, Zoning Commission, or other authority—

(1) the Council, Zoning Commission, or authority shall deposit such regulation or legislation in its introduced form with the National Capital Planning Commission. Such Planning Commission shall, within thirty days after the day of such deposit, submit its comments to the Council, Zoning Commission, or authority, including advice as to whether the proposed regulation or legislation is in conformity with the comprehensive plan for the District of Columbia. The Council, Zoning Commission, or authority shall not pass the regulation or legislation unless it has received said comments, or the National Capital Planning Commission has failed to comment, within the thirty-day period above specified; and

(2) the Council, Zoning Commission, or authority, or an appropriate committee thereof, shall hold a public hearing on the regulation or legislation. At least thirty days' notice of the hearing shall be published, as the Council, Zoning Commission, or authority may direct. Such notice shall include the time and place of the hearing and a summary of all changes in existing law which would be made by adoption of the regulation or legislation. The Council, Zoning Commission, or authority (or committee thereof holding a hearing) shall give such additional notice as it finds expedient and practicable. At the hearing interested persons shall be given reasonable opportunity to be heard. The hearing may be adjourned from time to time. The time and place of reconvening shall be publicly announced before adjournment is had.

(b) The Council, Zoning Commission, or authority shall deposit with the National Capital Planning Commission each such regulation or item of legislation passed by it.

(c) This section shall not be construed to restrict legislation (or regulation) regarding solely the procedure (apart from this section) or mechanism for regulating zoning in the District and not itself regulating such zoning.

APPOINTMENT OF ARMORY BOARD

SEC. 324. (a) The first sentence of section 2 of the Act of June 4, 1948 (62 Stat. 339), is hereby amended to read as follows: "There is hereby established an Armory Board, to be composed of three members who shall be appointed by the Mayor by and with the advice and consent of the Council and who shall serve at the pleasure of the Mayor.".

(b) All functions and authority vested in the President by the Act of June 12, 1934 (48 Stat. 930), as amended, are hereby transferred to and vested in the Mayor.

POWERS OF AND LIMITATIONS UPON DISTRICT COUNCIL

SEC. 325. (a) The legislative power granted to the District by this Act shall be vested in the District Council.

(b) Notwithstanding any other provision of this Act, the Congress of the United States reserves the right, at any time, to exercise its constitutional authority as legislature for the District of Columbia, by enacting legislation for the District on any subject, whether within or without the scope of legislative power granted to the District Council by this Act, including legislation to amend or repeal any law in force in the District prior to or after the enactment of this Act and any act passed by the Council.

(c) Except as provided in subsection (d) of this section, the legislative power of the District shall extend to all rightful subjects of legislation within the District consistent with the Constitution of the United States and the provisions of this Act, subject to all the restrictions and limitations imposed upon States by the tenth section of the first article of the Constitution of the United States.

(d) The Council shall have no authority to pass any act contrary to the provisions of this Act, or—

(1) impose any tax on property of the United States or any of the several States, or upon the whole or any portion of the personal income, either directly or at the source thereof, of any individual not a resident of the District (the terms "individual" and "resident" to be understood for the purposes of this paragraph as under section 4 of the Act of July 16, 1947 (61 Stat. 332));

(2) lend the public credit for support of any private undertaking;

(3) authorize the issuance of bonds except in compliance with the provisions of title VI;

(4) enact any act, or enact any act to amend or repeal any Act of Congress, which concerns the functions or property of the United States or which is not restricted in its application exclusively in or to the District;

(5) pass any act inconsistent with or contrary to the Act of June 6, 1924 (43 Stat. 463), as amended, or the Act of May 29, 1930 (46 Stat. 482), as amended, and the Council shall not pass an act inconsistent with or contrary to any provision of any Act of Congress as it specifically pertains to any duty,

authority, and responsibility of the National Capital Planning Commission.

(e) Every act shall include a preamble, or be accompanied by a report, setting forth concisely the purposes of its adoption. Every act shall be published, upon becoming law, as the Council may direct.

(f)(1) Subject to the provisions of paragraph (2) of this subsection, an act passed by the Council shall be presented by the Chairman of the Council to the Mayor, who shall, within ten calendar days after the act is presented to him, either approve or disapprove such act. If the Mayor shall approve such act, he shall indicate the same by affixing his signature thereto, and such act shall, subject to the provisions of subsection (g) of this section, become law. If the Mayor shall disapprove such act, he shall, within ten calendar days after it is presented to him, return such act to the Council setting forth his reasons for such disapproval. If any act so passed shall not be returned to the Council by the Mayor within ten calendar days after it shall have been presented to him, the Mayor shall be deemed to have approved it, and such act shall, subject to the provisions of subsection (g) of this section, become law. If, within thirty calendar days after an act has been timely returned by the Mayor to the Council with his disapproval, two-thirds of the members of the Council present and voting vote to repass such act, the act so repassed shall, subject to the provisions of subsection (g) of this section, become law.

(2) In the case of any budget act adopted by the Council pursuant to section 503 of this Act and submitted to the Mayor in accordance with paragraph (1) of this subsection, the Mayor shall have power to disapprove any item or provision of such act and approve the remainder. In any case in which the Mayor so disapproves of any such item or provision, he shall append to the act when he signs it a statement of the items and the provisions which he disapproves, and he shall return a copy of the act and statement with his objections to the Council. No such item or provision so disapproved shall become law unless within thirty calendar days after such copy and statement has been timely returned, such item or provision is repassed by two-thirds of the members of the Council present and voting. Any such item or provision so repassed shall, subject to the provisions of subsection (g) of this section, become law.

(g) The provisions of subsection (f) of this section notwithstanding, acts of the District Council exercising functions not heretofore legally exercisable by the Commissioner of the District of Columbia pursuant to section 401 of Reorganization Plan Numbered 3 of 1967 or by the District of Columbia Council pursuant to section 402 of said plan, shall become law only in accordance with the following:

(1) Within five calendar days following the date upon which such acts (including repassed items and provisions referred to in paragraph (2) of subsection (f) of the District Council would have become law apart from this subsection, such acts of the District Council shall be transmitted to the Congress by the Mayor or, in the case of such acts repassed by a two-thirds vote of the District Council over the Mayor's disapproval, by the Chairman of the Council.

(2)(A) Any act (including repassed items and provisions referred to in paragraph (2) of subsection (f)) so transmitted shall become law upon the date of expiration of a period of thirty calendar days of continuous session of the Congress following the date on which such act is transmitted, unless during such period there is passed by either the Senate or the House of Representatives a resolution stating in substance that the Senate or the House of Representatives, as the case may be, does not approve the proposed act, in which case such proposed act shall be considered void and of no effect. For the purposes of this paragraph, in the computation of the thirty-day period there shall be excluded the days on which either the Senate or the House of Representatives is not in session because of adjournment of more than three days to a day certain or an adjournment of the Congress sine die.

(B) The provisions of sections 910–913 of title 5, United States Code, shall apply to the procedure to be followed in the Senate and House of Representatives in the exercise of their respective responsibilities under subparagraph (A) of this paragraph in the same manner and to the same extent as such provisions apply to the procedure followed in the case of reoganization plans; except that references in such provisions to a "resolution with respect to a reorganization plan" shall be deemed for the purposes of this paragraph to refer to a resolution of disapproval under subparagraph (A).

(h) On or after the effective date of this part, any person appointed to serve as judge of one of the municipal courts of the District of Columbia shall not (1) be appointed to serve for a term of less than fifteen years, (2) serve on the court past the year that the seventieth anniversary of his birth shall occur, or (3) receive as compensation for such service an amount less than the amount payable to an associate judge of the Superior Court of the District of Columbia on the effective date of this part. Appointments to positions as judges of the municipal courts of the District of Columbia, including vacancies therein, shall be made by the Mayor, with the advice and consent of the Senate of the United States. In making any such appointment to fill any such position the Mayor shall do so by appointing one of three persons possessing the qualifications for such position who shall be nominated and whose names shall be submitted to the Mayor by a nonpartisan judicial nomination commission established and organized in accordance with section 326 of this Act. Nothing in this Act shall be construed to change or authorize the change of the tenure of any persons occupying positions as judges of the municipal courts of the District of Columbia on the effective date of this part, and in no case may their compensation be decreased.

(i) Except as limited by subsections (g) (2) and (h) of this section, upon the effective date of this part, jurisdiction over the municipal courts of the District of Columbia shall vest with the District Council in all matters (other than the appointment of the judges) pertaining to the organization and composition of such courts, and to the qualification, tenure, and compensation of the judges thereof, but in no event shall the Council transfer or modify any function performed by the United States marshal or the United States attorney for the District on the effective date of this part.

(j) Nothing in this section or elsewhere in this Act shall be construed as authorizing the District Council to modify or otherwise alter the jurisdiction, established by enactment of the Congress of the United States, of the United States District Court for the District of Columbia or any other United States court other than the municipal courts of the District.

(k) Nothing in this Act shall be construed as vesting in the District government any greater authority over the Washington Aqueduct, the Commission on Mental Health, the National Zoological Park, the National Guard of the District of Columbia, or, except as otherwise specifically provided in this Act, over any Federal agency, than was vested in the Commissioner of the District prior to the effective date of part 2, title III, of this Act.

NONPARTISAN JUDICIAL NOMINATION COMMISSION

SEC. 326. (a) There is hereby established the Nonpartisan Judicial Nomination Commission (referred to in this section as the "Commission"). The Commission shall consist of five members selected in accordance with the provisions of subsection (b) of this section, and shall serve for terms of four years, except that of the members initially selected in accordance with subsection (b)(1)(A), one shall serve for two years and one shall serve for four years, and with respect to the members initially selected in accordance with subsection (b)(1)(B), one shall serve for two years and one shall serve for four years. In making their respective initial appointments, the Mayor shall designate, at the time of such appointments, which appointee shall have the short-term appointment.

(b)(1) Members of the Commission shall be appointed as follows:

(A) two members shall be appointed by the Mayor from a list of not less than three nominees for each such office to be filled submitted to him by the District of Columbia Bar Association; and

(B) two members, who shall be nonlawyers, shall be appointed by the Mayor from a list of not less than three nominees for each such office to be filled submitted to him by the Council.

(2) The chief judge of the District of Columbia Court of Appeals shall be a member of the Commission and shall serve as Chairman.

(3) It shall be the function of the Commission to submit nominees for appointment to positions as judges of the municipal courts of the District of Columbia in accordance with section 325(h) of this Act.

(c) Any vacancy in the Commission shall not affect its powers but shall be filled in the same manner in which the original appointment was made. Any person so appointed to fill a vacancy shall serve only for the remainder of the unexpired term of his predecessor.

(d)(1) The Commission shall act only at a meeting and may act only by the concurrence of a majority of its members. The Chairman shall preside at any meeting at which he is present, and, in his absence, the Commission shall choose a member to act as temporary Chairman.

(2) The Commission shall choose one of its members as secretary. It shall be the duty of the secretary to prepare and keep the minutes of all meetings. In the secretary's absence, the Commission shall choose a member to be acting secretary. The minutes shall record the names of the members present, any objections to the holding of the meeting on the ground of lack of or insufficiency of notice, any and all action taken by the Commission, and any other matters that the Commission may deem appropriate.

(e) When it is known that a vacancy will occur at a definite future date, within sixty days, but the vacancy has not yet occurred, the Commission, in order to facilitate the administration of justice by preventing delay in filling court vacancies so that all courts may have all judges ready to dispose of their judicial business as nearly as may be possible, may make its nominations and submit to the Mayor the names of the persons nominated before the occurrence of the vacancy.

(f)(1) The Commission should at all times take cognizance of the fact that the best qualified nominees may be those whom it would be most difficult to persuade to serve. Accordingly, the Commission should not limit its consideration to persons who have been suggested by others or to persons who have indicated their willingness to serve. It shall be in order for the Commission, in its discretion, to tender nomination to one or more qualified persons, prior to, and subject to, the formal action by the Commission in making its nominations, in order to ascertain whether such a person will agree to serve if nominated.

(2) The Commission may, in its discretion, publicize some, all, or none of the names

of the possible nominees who have been suggested to it or whom it has under consideration. In exercising such discretion the Commission should take account of the fact that there may be lawyers who merely desire the publicity, that there may be lawyers whom publicity would deter from agreeing in advance to serve, and that the Commission needs all pertinent information about the possible nominees whom it is seriously considering. In no case shall the Commission describe possible nominees as "applicants" or by any other term suggesting that they are seeking to be nominated.

(3) The action of the Commission in making nominations with respect to any vacancy shall be taken only at a meeting and only by the execution of a certificate of nomination (which may be in the form of a communication to the Mayor), setting forth the nominations thereby made, signed on behalf of the Commission by the Chairman and secretary. The Commission or its Chairman shall forthwith cause the original of such certificate to be transmitted to the Mayor.

(4) After the Commission has nominated and submitted to the Mayor the names of three persons for appointment to fill a vacancy in accordance with this section, any name or names may be withdrawn for cause deemed by such Commission to be of a substantial nature affecting the nominee's qualifications and showing he is not a fit and proper person to hold the office, and another name or names may be substituted therefor at any time before the Mayor acts by making an appointment to fill such vacancy. Nothing herein contained shall be deemed to impose (or to recognize) any obligation whatsoever upon the Commission to reconsider or withdraw any nomination, whether or not the Mayor shall have requested reconsideration thereof, or shall have purported to reject, such nominations. If any nominee dies or requests in writing that his name be withdrawn, the Commission shall nominate another person to replace him. Whenever there are existing at the same time two or more vacancies in the same court, and the Commission has nominated and submitted to the Mayor lists of three persons for each of such vacancies, the Commission, in its sole discretion may, if it desires to do so, before the Mayor acts by making an appointment, withdraw the lists of nominations, change the names of any of such persons nominated from one list to another and resubmit them as so changed, and may substitute a new name for any of those previously nominated when a name has been withdrawn for cause.

(5) The action of the Commission in withdrawing a nomination or nominations and submitting a new nomination or nominations shall be taken only at a meeting and only by the execution of a certificate of withdrawal of nomination and a certificate of substitutive nomination (both of which may be in the form of a communication to the Mayor) signed on behalf of the Commission by the Chairman and secretary of the Commission. If any nomination or nominations being withdrawn have already been transmitted to the Mayor, the Commission or its Chairman shall forthwith notify the Mayor by telegram of the Commission's action and cause the original of such certificate of withdrawal to be transmitted to the Mayor. Meetings of the Commission to consider the withdrawal of nominations may be called by the Chairman or a majority of such Commission. Action of the Commission in withdrawing nominations may be taken at the same meeting at which the nominations were made, or at any later meeting, and such action may be proposed by any member of the Commission.

PART 3—ORGANIZATION AND PROCEDURE OF THE DISTRICT COUNCIL

THE CHAIRMAN

SEC. 331. (a) The Chairman of the District Council shall be the presiding officer of the Council. The District Council shall elect from among its members, for a term of two years, a Vice Chairman.

(b) When the Mayor is unable to act, the Chairman of the Council shall act in his stead. When the Chairman of the Council is unable to so act, the officer designated pursuant to section 402(1) shall so act.

(c) In the event that the Chairman of the Council becomes Mayor by reason of a vacancy in the office of Mayor (as provided in section 401(b)(2) of this Act), the Vice Chairman shall serve as Chairman in accordance with the provisions of section 10(e)(2)(A) of the District of Columbia Election Act, as amended by title VIII of this Act.

SECRETARY OF THE DISTRICT COUNCIL; RECORDS AND DOCUMENTS

SEC. 332. (a) The Council shall appoint a Secretary as its chief administrative officer and such assistants and clerical personnel as may be necessary. The terms of employment of such Secretary, assistants, and clerical personnel shall be governed by existing provisions of law until such time as the Council enacts legislation establishing a District Government merit system as set forth in section 402(4) of this Act. The provisions of any such system so established shall include terms of employment for employees of the Council which are similar to those provisions therein applicable to other District government employees, including such exemptions provided therein as prescribed by the Council. Nothwithstanding the foregoing provisions of this subsection or of any other provision of this Act, the compensation of such Secretary, assistants, and clerical personnel shall be prescribed by the Council.

(b) The Secretary shall (1) keep a record of the proceedings of the Council, (2) keep a record showing the text of all acts introduced and the ayes and noes of each vote, (3) authenticate by his signature and record in full in a continuing record kept for that purpose all acts passed by the Council, including the date and time that each such act takes effect, and (4) perform such other duties as the Council may from time to time prescribe.

(c) The records required by subsection (b) shall be available for public inspection during normal business hours and copies of the records shall be made available for purchase under such conditions and upon the payment of such fees as the Council shall deem appropriate.

MEETINGS

SEC. 333. (a) A majority of the District Council shall constitute a quorum for the lawful convening of any meeting of the Council and for the transaction of business of the Council.

(b) The first meeting of the Council after this part takes effect shall be called by the Chairman of the District Council.

(c) The Council shall provide for the time and place of its regular meetings. The Council shall hold at least one regular meeting in each calendar week except during the month of August. Special meetings may be called, upon the giving of adequate notice, by the Mayor, the Chairman, or any three members of the Council.

(d) Meetings of the Council shall be open to the public and shall be held at reasonable hours and at such places as may be necessary to accommodate a reasonable number of spectators. Any citizen shall have the right to petition and be heard by the Council at any of its meetings, within reasonable limits as set by the Council.

COMMITTEES

SEC. 334. The Council Chairman, with the advice and consent of the Council, shall determine the standing and special committees which may be expedient for the conduct of the Council's business. The Chairman shall appoint members to such committees. All committee meetings shall be open to the public.

ACTS AND RESOLUTIONS

SEC. 335. (a) The Council, to discharge the powers and duties imposed herein, shall pass acts and adopt resolutions, upon a vote of a majority of the members of the Council present and voting, unless otherwise provided herein. The Council shall use acts for all legislative purposes. Resolutions shall be used to express simple determinations, decisions, or directions of the Council of a special or temporary character.

(b)(1) The enacting clause of all acts passed by the Council shall be, "Be it enacted by the Council of the District of Columbia:".

(2) The resolving clause of all resolutions passed by the Council shall be, "The Council of the District of Columbia hereby resolves,".

(c) A special election may be called by resolution of the Council to present for an advisory referendum vote of the people any proposition upon which the Council desires to take action.

PASSAGE OF ACTS

SEC. 336. The Council shall not pass any act before the thirteenth day following the day on which it is introduced. Subject to the other limitations of this Act, this requirement may be waived by the unanimous vote of the members present, if such members present constitute a majority of the Council.

INVESTIGATIONS BY DISTRICT COUNCIL

SEC. 337. (a) The Council, or any committee or person authorized by it, shall have power to investigate any matter relating to the affairs of the District; and for that purpose may require the attendance and testimony of witnesses and the production of books, papers, and other evidence. For such purpose any member of the Council (if the Council is conducting the inquiry) or any member of the committee may issue subpenas and administer oaths upon authorization by the Council or committee as appropriate.

(b) In case of contumacy by, or refusal to obey a subpena issued to, any person, the Council shall have power to refer the matter to any judge of the Superior Court of the District of Columbia, who may by order require such person to appear and to give or produce testimony or books, papers, or other evidence, bearing upon the matter under investigation; and any failure to obey such order may be punished by such court as a contempt thereof as in the case of failure to obey a subpena issued, or to testify, in a case pending before such court.

TITLE IV—MAYOR

ELECTION, QUALIFICATIONS, AND SALARY

SEC. 401. (a) There is hereby created the office of Mayor of the District of Columbia. The Mayor shall be elected as provided in title VIII. The term of office of the Mayor shall be four years, beginning at noon on January 2 of the calendar year next following the calendar year in which he is elected.

(b)(1) No person shall hold the office of Mayor unless he (1) is a qualified voter, (2) is domiciled and resides in the District, (3) has, during the three years next preceding his nomination, been resident in and domiciled in the District, and (4) is not engaged in any employment (whether as an employee or as a self-employed individual) and holds no public office or position (other than his employment in and position as Mayor), for which he is compensated in an amount

in excess of his actual expenses in connection therewith, except that nothing in this clause shall be construed as prohibiting such person, while holding the office of Mayor, from serving as a delegate or alternate delegate to a convention of a political party nominating candidates for President and Vice President of the United States, or from holding an appointment in a Reserve component of an armed force of the United States other than a member serving on active duty under a call for more than thirty days. The Mayor shall forfeit his office upon failure to maintain the qualifications required by this section.

(2) When the office of Mayor is vacant, the Chairman of the District Council shall, immediately upon the creation of such vacancy, become Mayor and shall serve for the remainder of the unexpired term of his predecessor vacating such office.

(c) The Mayor shall receive an annual salary in an amount established by act passed by the Council, and an allowance, in such amount as the Council shall establish, for official reception and representation expenses, which he shall certify in reasonable detail to the District Council. Such salary shall be payable in periodic installments.

(d) Subject to the provisions of subsection (c) relating to compensation, the method of election, the qualifications for office, the compensation and the allowance for official expenses pertaining to the office of Mayor may be changed by acts passed by the Council, except that no such act (other than an act involving compensation or allowance) shall take effect until after it has been assented to by a majority of the qualified voters of the District voting at an election on the proposition set forth in such act.

POWERS AND DUTIES

SEC. 402. The executive power of the District shall be vested in the Mayor who shall be the chief executive officer of the District government. He shall be responsible for the proper administratiton of the affairs of the District coming under his jurisdiction or control, and to that end shall have the following powers, duties, and functions:

(1) The Mayor shall designate the officer or officers of the executive department of the District who shall, during periods when the Mayor is unable to act, and the Chairman of the Council is unable to act in accordance with section 331(b) of this Act, execute and perform all the powers and duties of the Mayor.

(2) The Mayor shall act as the official spokesman for the District and as the head of the District for ceremonial purposes.

(3) The Mayor shall administer all laws relating to the appointment, promotion, discipline, separation, and other conditions of employment of personnel in the office of the Mayor, personnel in executive departments of the District, and members of boards, commissions, and other agencies, who, under laws in effect on the date immediately preceding the effective date of section 321(a) of this Act, were subject to appointment and removal by the Commissioner of the District of Columbia. All actions affecting such personnel and such members shall, until such time as legislation is enacted by the Council superseding such laws and establishing a permanent District government merit system or systems, pursuant to paragraph (4) of this section, continue to be subject to the provisions of Acts of Congress relating to the appointment, promotion, discipline, separation, and other conditions of employment applicable to officers and employees of the District government, to section 1001(d) of this Act, and where applicable, to the provisions of the joint agreement between the Commissioners and the Civil Service Commission authorized by Executive Order Numbered 5941 of November 18, 1930, relating to the appointment of District personnel. He shall appoint or assign persons to positions formerly occupied, ex officio, by the Commissioner of the District of Columbia or by the Assistant to the Commissioner and shall have power to remove such persons from such positions. The officers and employees of each agency with respect to which legislative power is delegated by this Act and which, immediately prior to the effective date of section 321(a) of this Act, was not subject to the administrative control of the Commissioner of the District shall continue to be appointed and removed in accordance with applicable laws until such time a such laws may be superseded by legislation passed by the Council establishing a permanent District government merit system or systems pursuant to paragraph (d) of this section.

(4) The Mayor shall administer the personnel functions of the District covering employees of all District departments, boards, commissions, offices, and agencies, except as otherwise provided by this Act. Personnel legislation enacted by Congress, prior to or after the effective date of this section, including, without limitation, legislation relating to appointments, promotions, discipline, separations, pay, unemployment compensation, health, disability and death benefits, leave, retirement, insurance, and veterans' preference applicable to officers and employees of the District government as set forth in section 1002(c), shall continue to be applicable until such time as the Council shall, pursuant to this section, enact legislation establishing a District government merit system or systems. The District government merit system or systems shall be developed by the Mayor for presentation to the Council. The system or systems may provide for continued participation in all or part of the Federal Civil Service System and shall provide for officers and employees of the District government personnel benefits, including but not limited to, pay, tenure, leave, residence, retirement, health and life insurance, and employee disability and death benefits, all at least equal to those provided by legislation enacted by Congress, or regulation adopted pursuant thereto, and applicable to officers and employees of the District government immediately prior to the effective date of the system or systems established pursuant to this Act. The District government merit system or systems shall take effect not earlier than one year nor later than five years after the effective date of this section.

(5) The Mayor shall, through the heads of administrative boards, offices, and agencies, supervise and direct the activities of such boards, offices, and agencies.

(6) The Mayor shall, at the end of each fiscal year, prepare reports for such year of (A) the finances of the District, and (B) the administrative activities of the executive office of the Mayor and the executive departments of the District. He shall submit such reports to the Council within ninety days after the close of the fiscal year.

(7) The Mayor shall keep the Council advised of the financial condition and future needs of the District and make such recommendations to the Council as may seem to him desirable.

(8) The Mayor may submit drafts of acts to the Council.

(9) The Mayor may delegate any of his functions (other than the function of approving or disapproving acts passed by the Council or the function of approving contracts between the District and the Federal Government under section 901) to any officer, employee, or agency of the executive office of the Mayor, or to any director of an executive department who may, with the approval of the Mayor, make a further delegation of all or a part of such functions to subordinates under his jurisdictions.

(10) The Mayor shall appoint a City Administrator, who shall serve at the pleasure of the Mayor. The City Administrator shall be the chief administrative officer of the Mayor, and he shall assist the Mayor in carrying out his functions under this Act, and shall perform such other duties as may be assigned to him by the Mayor. The City Administrator shall be paid at a rate equal to the maximum rate for GS-18 of the General Schedule under section 5332 of title 5, United States Code, plus $500, except that, effective on and after the establishment of any District government merit system by legislation of the Council, the City Administrator shall be paid at a rate equal to that paid to the highest paid employee of the District government pursuant to such merit system or systems so established by legislation of the Council, plus $500.

(11) The Mayor may propose to the executive or legislative branch of the United States Government legislation or other action dealing with any subject whether or not falling within the authority of the District government as defined in this Act.

(12) The Mayor, as custodian thereof, shall use and authenticate the corporate seal of the District in accordance with law.

(13) The Mayor shall have the right, under rules to be adopted by the Council, to be heard by the Council or any of its committees.

(14) The Mayor is authorized to issue and enforce administrative orders, not inconsistent with this or any other Act of the Congress or any act of the Council, as are necessary to carry out his functions and duties.

TITLE V—THE DISTRICT BUDGET

PART 1—BUDGET

FISCAL YEAR

SEC. 501. The fiscal year of the District of Columbia shall begin on the 1st day of July and shall end on the 30th day of June of the succeeding calendar year. Such fiscal year shall also constitute the budget and accounting year.

BUDGETARY DETAILS FIXED BY MAYOR

SEC. 502. (a) The Mayor shall prepare and submit not later than March 15, to the District Council, in such form and manner as the Mayor shall determine, the annual budget of the District and the budget message and may, from time to time, submit supplemental budget requests.

(b) The Mayor shall, in consultation with the Council, take whatever action may be necessary to achieve, insofar as is possible (1) consistency in accounting and budget classifications, (2) synchronization between accounting and budget classifications and organizational structure, and (3) support of the budget justifications by information on performance and program costs as shown by the accounts.

ADOPTION OF BUDGET

SEC. 503. A budget for each fiscal year shall be adopted by the Council, by act, not later than April 15 of the fiscal year preceding the fiscal year during which such budget is applicable, except that the Council may, by resolution, extend the period for the adoption of such budget. In no event, however, shall any such extension extend beyond June 1 of that preceding fiscal year, unless such extension is authorized by an act passed by the Council which provides for funding expenditures for the next following fiscal year at the same rate as for such preceding fiscal year.

BUDGET ESTABLISHES APPROPRIATIONS

SEC. 504. The adoption of any budget by act of the Council shall operate to appropriate and to make available for expenditure, for the purposes therein named, the several amounts stated therein as proposed expenditures, subject to the provisions of section 505.

FINANCIAL DUTIES OF THE MAYOR

SEC. 505. The Mayor, through his duly designated subordinates, shall have charge of the administration of the financial affairs of the District and to that end he shall—

(1) supervise and be responsible for all financial transactions to insure adequate control of revenues and resources and to insure that appropriations are not exceeded;

(2) maintain systems of accounting and internal control designed to provide—

(A) full disclosure of the financial results of the District government's activities,

(B) adequate financial information needed by the District government for management purposes,

(C) effective control over and accountability for all funds, property, and other assets;

(3) submit to the Council a quarterly financial statement, by appropriation and department, and in such further detail as the Council may specify;

(4) submit to the Council no later than December 31 following each fiscal year, a complete financial statement and report;

(5) supervise and be responsible for the assessment of all property subject to assessment within the corporate limits of the District for taxation, make all special assessments for the District government, prepare tax maps, and give such notice of taxes and special assessments as may be required by law;

(6) supervise and be responsible for the assessment and collection of all taxes, special assessments, license fees, and other revenues of the District for the collection of which the District is responsible and receive all money receivable by the District from the Federal Government, or from any court, or from any agency of the District;

(7) have custody of all public funds belonging to or under the control of the District, or any agency of the District government, and deposit all funds coming into his hands, in such depositories as may be designated and under such terms and conditions as may be prescribed by act of the Council;

(8) have custody of all investments and invested funds of the District government, or in possession of such government in a fiduciary capacity, and have the safekeeping of all bonds and notes of the District and the receipt and delivery of District bonds and notes for transfer, registration, or exchange.

CONTROL OF APPROPRIATIONS

SEC. 506. The Mayor, with the concurrence of the Council, may provide for (1) the transfer during the budget year of any appropriation balance then available for one item of appropriation to another item of appropriation, and (2) the allocation to new items of funds appropriated for contingent expenditure.

ACCOUNTING SUPERVISION AND CONTROL

SEC. 507. (a) The Mayor, through his duly authorized subordinates, shall—

(1) prescribe the forms of receipts, vouchers, bills, and claims to be used by all the agencies, offices, and instrumentalities of the District government;

(2) examine and approve all contracts, orders, and other documents by which the District government incurs financial obligations, having previously ascertained that moneys have been appropriated and allotted and will be available when the obligations shall become due and payable;

(3) audit and approve before payment all bills, invoices, payrolls, and other evidences of claims, demands, or charges against the District government and with the advice of the legal officials of the District determine the regularity, legality, and correctness of such claims, demands, or charges; and

(4) perform internal audits of central accounting and department and agency records of the District government, including the examination of any accounts or records of financial transactions, giving due consideration to the effectiveness of accounting systems, internal control, and related administrative practices of the respective agencies.

(b) Nothing in this Act shall be construed as affecting the applicability to the District government of the provisions of section 3679 of the Revised Statutes of the United States (31 U.S.C. 665).

GENERAL FUND

SEC. 508. The general fund of the District shall be composed of the revenues of the District other than the revenues applied by law to special funds. All moneys received by any agency, officer, or employee of the District in its or his official capacity shall belong to the District government and shall be paid promptly to the Mayor, or his duly authorized subordinates, for deposit in the appropriate funds.

CONTRACTS EXTENDING BEYOND ONE YEAR

SEC. 509. No contract involving expenditure out of an appropriation which is available for more than one year shall be made for a period of more than five years unless, with respect to a particular contract, the Council, by a two-thirds vote of its members present and voting, authorizes the extension of such period for such contract. Such contracts shall be made pursuant to criteria established by act of the Council.

ANNUAL BUDGET FOR THE BOARD OF EDUCATION

SEC. 510. With respect to the annual budget for the Board of Education in the District of Columbia, the Mayor and the Council may establish the maximum amount of funds which will be appropriated to the Board, but may not specify the purposes for which such funds may be expended or the amount of such funds which may be expended for the various programs under the jurisdiction of the Board of Education.

PART 2—ANNUAL POSTAUDIT BY GENERAL ACCOUNTING OFFICE

INDEPENDENT ANNUAL POSTAUDIT

SEC. 521. (a) The financial transactions shall be audited by the General Accounting Office in accordance with such principles and procedures and under such rules and regulations as may be prescribed by the Comptroller General of the United States. In the determination of the auditing procedures to be followed and the extent of the examination of vouchers and other documents, the Comptroller General shall give due regard to generally accepted principles of auditing, including consideration of the effectiveness of the accounting organizations and systems, internal audit and control, and related administrative practices. The audit shall be conducted at the place or places where the accounts are normally kept. The representatives of the General Accounting Office shall have access to all books, accounts, financial records, reports, files, and all other papers, things, or property belonging to or in use by the District and necessary to facilitate the audit, and such representatives shall be afforded full facilities for verifying transactions with the balances or securities held by depositories, fiscal agents, and custodians. The District of Columbia shall reimburse the General Accounting Office for expenses of such audit in such amounts as may be agreed upon by the Mayor and the Comptroller General, and the amounts so reimbursed shall be deposited into the Treasury of the United States as miscellaneous receipts.

(b) (1) The Comptroller General shall submit his audit reports to the Congress, the Mayor, and the Council. The reports shall set forth the scope of the audits and shall include such comments and information as the Comptroller General may deem necessary to keep the Congress, the Mayor, and the Council informed of the operations to which the reports relate, together with such recommendations with respect thereto as the Comptroller General may deem advisable. The reports shall show specifically every program, expenditure, and other financial transaction or undertaking which, in the opinion of the Comptroller General, has been carried on or made without authority of law.

(2) After the Mayor and his duly authorized subordinates have had an opportunity to be heard, the Council shall make such report, together with such other material as it deems pertinent thereto, available for public inspection.

(3) The Mayor, within ninety days after the report has been made to him and the Council, shall state in writing to the Council, with a copy to the Congress, what has been done to comply with the recommendations made by the Comptroller General in the report.

AMENDMENT OF BUDGETARY AND ACCOUNTING ACT

SEC. 522. Section 2 of the Budgetary and Accounting Act, 1921 (31 U.S.C. 2), is hereby amended by striking out "and the municipal government of the District of Columbia".

PART 3—ADJUSTMENT OF FEDERAL AND DISTRICT EXPENSES

ADJUSTMENTS

SEC. 531 (a) Subject to section 901 and other provisions of law, the Mayor, with the approval of the Council, and the Director of the Office of Management and Budget, are authorized and empowered to enter into an agreement or agreements concerning the manner and method by which amounts owed by the District to the United States, or by the United States to the District, shall be ascertained and paid.

(b) The United States shall reimburse the District for necessary expenses incurred by the District in connection with lawful assemblages, and in connection with marches and demonsrtations in the District, which relate solely to the Federal Government. The manner and method of ascertaining and paying the amounts needed to so reimburse the District shall be determined by agreement entered into in accordance with subsection (a) of this section.

(c) Each officer and employee of the District required to do so by the District Council shall provide a bond with such surety and in such amount as the Council may require. The premiums for all such bonds shall be paid out of appropriations for the District.

TITLE VI—BORROWING

PART 1—BORROWING FOR CAPITAL IMPROVEMENTS

BORROWING POWER; DEBT LIMITATIONS

SEC. 601 (a) The District may incur indebtedness by issuing its bonds in either coupon or registered form to fund or refund indebtedness of the District at any time outstanding and to pay the cost of constructing or acquiring any capital projects requiring an expenditure greater than the amount of taxes or other revenues allowed for such capital projects by the anual budget: *Provided*, That no bonds or other evidences of indebtedness, other than bonds to fund or refund oustanding indebtedness, shall be issued in an amount which would cause the amount of principal and interest required to be paid in any fiscal year on the aggregate amount of all outstanding capital program obligations to exceed fourteen per centum of the District revenues which the Mayor estimates will be credited to all funds of the District for such fiscal year.

(b) The Council shall make provision for the payment of any bonds issued pursuant to this title, in the manner provided in section 631 hereof.

(c) As used in this title, the term "Capital program obligations" means all outstanding

obligations incurred by the District as a result of borrowing for capital outlay programs, but not including obligations incurred pursuant to the authority contained in the District of Columbia Stadium Act of 1957 (71 Stat. 619; D.C. Code, title 2, chapter 17, subchapter II), in the District of Columbia Redevelopment Act of 1945 (60 Stat. 790; D.C. Code, sections 5–701 through 719), and in the District of Columbia Alley Dwelling Act (48 Stat. 930), as amended (D.C. Code, sections 5–103 through 5–116).

CONTENTS OF BORROWING LEGISLATION; REFERENDUM ON BOND ISSUE

SEC. 602. (a) The Council may by act authorize the issuance of bonds: *Provided*, That such act shall contain at least the following provisions:

(1) A provision setting forth a brief description of each purpose for which indebtedness is proposed to be incurred;

(2) A provision setting forth the maximum amount of the principal of the indebtedness which may be incurred for each such purpose;

(3) A provision setting forth the maximum rate of interest to be paid on such indebtedness; and

(4) A provision setting forth, in the event that the Council determined, in its discretion, to submit the question of issuing such bonds to a vote of the qualified voters of the District, the manner of holding such election, the manner of voting for or against the incurring of such indebtedness, and the form of ballot to be used at such election, which form shall permit the voters to vote separately for or against the incurring of indebtedness for each of the purposes for which indebtedness is proposed to be incurred.

(b) The Council may call a special election for the purpose of voting upon the issuance of said bonds, such election to be held by the Board of Elections at any date set by the Council not less than forty days after the enactment of such act.

(c) The Board of Elections is authorized and directed to prescribe the manner of registration and the polling places and to name the judges and clerks of election and to make such other rules and regulations for the conduct of such elections as are not specifically provided by the Council as may be necessary or appropriate to carry out the provisions of this section, including provisions for the publication of a notice of such election stating briefly the proposition or propositions to be voted on and the designated polling places in the various precincts and wards in the District. The said notice shall be published at least once a week for four consecutive calendar weeks on any day of the week, the first publication thereof to be not less than thirty nor more than forty days prior to the date fixed by the Council for the election. The Board of Elections shall canvass the votes cast at such election and certify the results thereof to the Council in the manner prescribed for the canvass and certification of the results of general elections. The certification of the result of the election shall be published once by the Board of Elections as soon as practicable following the date of the election, but in no event later than six weeks thereafter.

PUBLICATION OF BORROWING LEGISLATION

SEC. 603. The Mayor shall publish any act authorizing the issuance of bonds at least once within five days after the enactment thereof in substantially the following form:

"NOTICE

"The following act authorizing the issuance of bonds published herewith has become effective, and the time within which a suit, action, or proceeding questioning the validity of such bonds can be commenced, as provided in the District of Columbia Charter Act, will expire twenty days from the date of the first publication of this notice (or in the event the proposition of issuing the proposed bonds is to be submitted to the qualified voters, twenty days after the date of publication of the promulgation of the results of the election ordered by the Council to be held).

"_____ _____,
"Mayor."

SHORT PERIOD OF LIMITATION

SEC. 604. Upon the expiration of twenty days from and after the date of publication of the notice of the enactment of an act authorizing the issuance of bonds without the submission of the proposition for the issuance thereof to the qualified voters, or upon the expiration of twenty days from the date of publication of the promulgation of the results of an election upon the proposition of issuing bonds, as the case may be, all as provided in section 603—

(1) any recitals or statements of fact contained in such act or in the preambles or the titles thereof or in the results of the election of any proceedings in connection with the calling, holding, or conducting of election upon the issuance of such bonds shall be deemed to be true for the purpose of determining the validity of the bonds thereby authorized, and the District and all others interested shall thereafter be estopped from denying same;

(2) such act and all proceedings in connection with the authorization of the issuance of such bonds shall be conclusively presumed to have been duly and regularly taken, passed, and done by the District and the Board of Elections in full compliance with the provisions of this Act and of all laws applicable thereto;

(3) The validity of such act and said proceedings shall not thereafter be questioned by either a party plaintiff or a party defendant, and no court shall have jurisdiction in any suit, action, or proceeding questioning the validity of same, except in a suit, action, or proceeding commenced prior to the expiration of such twenty days.

ACTS FOR ISSUANCE OF BONDS

SEC. 605. After the expiration of the twenty-day limitation period provided for in section 604 of this part, the Council may by act establish an issue of bonds as authorized pursuant to the provisions of sections 601 to 604, inclusive, hereof. An issue of bonds is hereby defined to be all or any part of an aggregate principal amount of bonds authorized pursuant to said sections, but no indebtedness shall be deemed to have been incurred within the meaning of this Act until the bonds have been sold, delivered, and paid for, and then only to the extent of the principal amount of bonds so sold and delivered. The bonds of any authorized issue may be issued all at one time, or from time to time in series and in such amounts as the Council shall deem advisable. The act authorizing the issuance of any series of bonds shall fix the date of the bonds of such series, and the bonds of each such series shall be payable in annual installments beginning not more than three years after the date of the bonds and ending not more than thirty years from such date. The amount of said series to be payable in each year shall be so fixed that when the annual interest is added to the principal amount payable in each year the total amount payable in each year in which part of the principal is payable shall be substantially equal. It shall be an immaterial variance if the difference between the largest and the smallest amounts of principal and interest payable annually during the term of the bonds does not exceed 3 per centum of the total authorized amount of such series. Such act shall also prescribe the form of the bonds to be issued thereunder, and of the interest coupons appertaining thereto, and the manner in which said bonds and coupons shall be executed. The bonds and coupons may be executed by the facsimile signatures of the officer or officers designated by the act authorizing the bonds, to sign the bonds, with the exception that at least one signature shall be manual. Such bonds may be issued in coupon form in the denomination of $1,000, registerable as to principal only or as to both principal and interest, and if registered as to both principal and interest may be issuable in denominations of multiples of $1,000. Such bonds and the interest thereon may be payable at such place or places within or without the District as the Council may determine.

PUBLIC SALE

SEC. 606. All bonds issued under this part shall be sold at public sale upon sealed proposals at such price or prices as shall be approved by the Council after publication of a notice of such sale at least once not less than ten days prior to the date fixed for sale in a daily newspaper carrying municipal bond notices and devoted primarily to financial news or to the subject of State and municipal bonds published in the city of New York, New York, and in a newspaper of general circulation published in the District. Such notice shall state, among other things, that no proposal shall be considered unless there is deposited with the District as a down-payment a certified check or cashier's check for an amount equal to at least 2 per centum of the par amount of bonds bid for, and the Council shall reserve the right to reject any and all bids.

PART 2—SHORT-TERM BORROWING

BORROWING TO MEET APPROPRIATIONS

SEC. 621. In the absence of unappropriated available revenues to meet appropriations made pursuant to section 504, the Council may by act authorize the issuance of negotiable notes, in a total amount not to exceed 5 per centum of the total appropriations for the current fiscal year, each of which may be renewed from time to time, but all such notes and renewals thereof shall be paid not later than the close of the fiscal year following that in which such act becomes effective.

BORROWING IN ANTICIPATION OF REVENUES

SEC. 622. For any fiscal year, in anticipation of the collection or receipt of revenues of that fiscal year, the Council may by act authorize the borrowing of money by the execution of negotiable notes of the District not to exceed in the aggregate at any time outstanding 20 per centum of the total anticipated revenue, each of which shall be designated "Revenue Note for the Fiscal Year 19 ". Such notes may be renewed from time to time, but all such notes, together with the renewals, shall mature and be paid not later than the end of the fiscal year for which the original notes have been isssued.

NOTES REDEEMABLE PRIOR TO MATURITY

SEC. 623. No notes issued pursuant to this part shall be made payable on demand, but any note may be made subject to redemption prior to maturity on such notice and at such time as may be stated in the note.

SALE OF NOTES

SEC. 624. All notes issued pursuant to this part may be sold at not less than par and accrued interest at private sale without previous advertising.

PART 3—PAYMENT OF BONDS AND NOTES

SPECIAL TAX

SEC. 631. (a) The act of the Council authorizing the issuance of bonds pursuant to this title, shall, where necessary, provide for the levy annually of a special tax without limitation as to rate or amount upon all the taxable real and personal tangible property

within the District in amounts which, together with other revenues of the District available and applicable for said purposes, will be sufficient to pay the principal of and interest on said bonds and the premium, if any, upon the redemption thereof, as the same respectively become due and payable, which tax shall be levied and collected at the same time and in the same manner as other District taxes are levied and collected, and when collected shall be set aside in a sinking fund and irrevocably dedicated to the payment of such principal, interest, and premium.

(b) The full faith and credit of the District shall be and is hereby pledged for the payment of the principal of and the interest on all bonds and notes of the District hereafter issued pursuant to this title whether or not such pledge be stated in the bonds or notes or in the act authorizing the issuance thereof.

(c) As soon as practicable following the beginning of each fiscal year, the Mayor and the Comptroller General of the United States shall review the amounts of District revenues which have been set aside and deposited in a sinking fund as provided in subsection (a). Such review shall be carried out with a view to determining whether the amounts so set aside and deposited are sufficient to pay the principal of and interest on bonds issued pursuant to this title, and the premium (if any) upon the redemption thereof, as the same respectively become due and payable. To the extent that the Mayor and the Comptroller General determine that sufficient District revenues have not been so set aside and deposited, the Federal payment made for the fiscal year within which such review is conducted shall be first utilized to make up any deficit in such sinking fund.

PART 4—TAX EXEMPTION—LEGAL INVESTMENT—WATER POLLUTION—RESERVOIRS—CONTRIBUTIONS—TERMINATION OF BORROWING AUTHORITY

TAX EXEMPTION

SEC. 641. Bonds and notes issued by the Council pursuant to this title and the interest thereon shall be exempt from all Federal and District taxation except estate, inheritance, and gift taxes.

LEGAL INVESTMENT

SEC. 642. Notwithstanding any restriction on the investment of funds by fiduciaries contained in any other law, all domestic insurance companies, domestic insurance associations, executors, administrators, guardians, trustees, and other fiduciaries within the District of Columbia may legally invest any sinking funds, moneys, trust funds, or other funds belonging to them or under or within their control in any bonds issued pursuant to this title, it being the purpose of this section to authorize the investment in such bonds or notes of all sinking, insurance, retirement, compensation, pension, and trust funds. National banking associations are authorized to deal in, underwrite, purchase and sell, for their own accounts or for the accounts of customers, bonds and notes issued by the District Council to the same extent as national banking associations are authorized by paragraph seven of section 5136 of the Revised Statutes (12 U.S.C. 24), to deal in, underwrite, purchase and sell obligations of the United States, States, or political subdivisions thereof. All Federal building and loan associations and Federal savings and loan associations; and banks, trust companies, building and loan associations, and savings and loan associations, domiciled in the District of Columbia, may purchase, sell, underwrite, and deal in, for their own account or for the account of others, all bonds or notes issued pursuant to this title: *Provided*, That nothing contained in this section shall be construed as relieving any person, firm, association, or corporation from any duty of exercising due and reasonable care in selecting securities for purchase or investment.

WATER POLLUTION

SEC. 643. (a) The Mayor shall annually estimate the amount of the District's principal and interest expense which is required to service District obligations attributable to the Maryland and Virginia pro rata share of District sanitary sewage water works and other water pollution projects which provide services to the local jurisdictions in those States. Such amounts as determined by the Mayor shall be used to exclude the Maryland and Virginia share of pollution projects cost from the limitation on the District's capital program obligations as provided in this title.

(b) The Mayor shall enter into agreements with the States and local jurisdictions concerned for annual payments to the District of rates and charges for waste treatment services in accordance with the use and benefits made and derived from the operation of the said waste treatment facilities. Each such agreement shall require that the estimated amount of such rates and charges will be paid in advance, subject to adjustment after each year. Such rates and charges shall be sufficient to cover the cost of construction, interest on capital, operation and maintenance, and the necessary replacement of equipment during the useful life of the facility.

COST OF RESERVOIRS ON POTOMAC RIVER

SEC. 644. (a) The Mayor is authorized to contract with the United States, any State in the Potomac River Basin, any agency or political subdivision thereof, and any other competent State or local authority, with respect to the payment by the District of Columbia to the United States, either directly or indirectly, of the District's equitable share of any part or parts of the non-Federal portion of the costs of any reservoirs authorized by the Congress for construction on the Potomac River or any of its tributaries. Every such contract may contain such provisions as the Mayor may deem necessary or appropriate.

(b) Unless hereafter otherwise provided by legislation enacted by the Council, all payments made by the District of Columbia and all moneys received by the District of Columbia pursuant to any contract made under the authority of this Act shall be paid from, or be deposited in, a fund designated by the Mayor. Charges for water delivered from the District of Columbia water system for use outside the District of Columbia may be adjusted to reflect the portions of any payments made by the District of Columbia under contracts authorized by this Act which are equitably attributable to such use outside the District.

DISTRICT OF COLUMBIA CONTRIBUTIONS TO THE WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY

SEC. 645. Notwithstanding any provision of law to the contrary, beginning with fiscal year 1973 the District share of the cost of the Adopted Regional System described in the National Capital Transportation Act of 1969 (Public Law 91–143; 83 Stat. 320), shall be payable from the proceeds of the sale of District obligations issued pursuant to the authority contained in this title.

TERMINATION OF THE DISTRICT'S AUTHORITY TO BORROW FROM THE TREASURY

SEC. 646. (a) The first section of the Act entitled "An Act to authorize the Commissioners of the District of Columbia to borrow funds for capital improvement programs and to amend provisions of law relating to Federal Government participation in meeting costs of maintaining the Nation's Capital City", approved June 6, 1958 (72 Stat. 183); D.C. Code, sec. 9–220), is amended by striking out subsections (b), (c), (d), and (e).

(b) The Act entitled "An Act authorizing loans from the United States Treasury for the expansion of the District of Columbia water system", approved June 2, 1950 (60 Stat. 195; D.C. Code, sec. 43–1540), is repealed.

(c) Title II of the Act entitled "An Act to authorize the financing of a program of public works construction for the District of Columbia, and for other purposes", approved May 18, 1954 (68 Stat. 108), is amended by striking out sections 213, 214, 216, 217, and 218 (D.C. Code, sections 43–1612, 43–1613, 43–1615, 43–1616, and 43–1617), authorizing loans from the United States Treasury for sanitary and combined sewer systems of the District.

(d) Section 402 of title IV of such Act approved May 18, 1954 (68 Stat. 110; D.C. Code, sec. 7–133), authorizing loans from the United States Treasury for the District of Columbia highway construction program, is repealed.

(e) Nothing contained in this section shall be deemed to relieve the District of its obligation to repay any loan made to it under the authority of the Act specified in the preceding subsections, nor to preclude the District from using the unexpended balance of any such loan appropriated to the District prior to the effective date of this provision.

TITLE VII—FEDERAL PAYMENT

ANNUAL FEDERAL PAYMENT TO THE DISTRICT

SEC. 701. (a) In recognition of the unique character of the District of Columbia as the Nation's Capital City, regular annual payments by the Federal Government are hereby authorized to cover the proper share of the expenses of the District government. On or before January 10 of each year, the Mayor shall, with the approval of the Council, submit to the Secretary of the Treasury through the Comptroller General a request for a Federal payment to be made during the following fiscal year, and the amount of such payment shall be computed in accordance with this part.

(b) The Federal payment for each fiscal year shall be determined on the basis of a percentage of the amount of District of Columbia fees, charges, miscellaneous receipts, and tax revenues which the Mayor estimates, on the basis of fees, charges, receipts, and tax rates authorized by law in effect at the time of such estimate, will be credited to the general fund of the District during such fiscal year as follows:

(1) For the fiscal year ending June 30, 1974, such payment shall be an amount equal to 37½ per centum of such fees, charges, receipts, and revenues so estimated for that fiscal year; and

(2) For the fiscal year ending June 30, 1975, and for each fiscal year thereafter, such payment shall be an amount equal to 40 per centum of such fees, charges, receipts, and revenues so estimated for such fiscal year.

(c) Commencing with the fiscal year ending June 30, 1974, the amount of the Federal payment for any fiscal year shall be adjusted by an amount equal to the difference between (1) the Federal payment made for such fiscal year and (2) the per centum in effect for that fiscal year times such fees, charges, miscellaneous receipts, and tax revenues actually credited to the general fund during such fiscal year.

(d) After review by the Comptroller General of the request for Federal payment and certification by him on or before April 10 of the fiscal year preceding the fiscal year for which the annual Federal payment is being requested that such request is in conformity with the provisions of this part, the Secretary of the Treasury shall, not later than September 1 of each fiscal year, cause such payment to be made to the District out of any money in the Treasury not otherwise appropriated, and the Secretary of the Treasury is authorized to advance on or after

July 1, out of any money in the Treasury not otherwise appropriated, without interest, such amounts (not to exceed in the aggregate the total payment in the previous fiscal year) as may be required by the District pending the payment of the amount authorized by this section.

(e) The Comptroller General shall enter into cooperative arrangements with the Mayor whereby adjustments, disputes, differences, or disagreements involving the Federal payment may be resolved.

(f) Nothing contained in this title or any other provision of this Act shall be construed as relieving the United States of its obligations to make payments to the District government pursuant to the provisions of sections 106 and 212 of the Act of May 18, 1954 (D.C. Code, sec. 43–1601, 1611). Such payments shall be in addition to any other payments authorized by this Act.

TITLE VIII—AMENDMENTS TO DISTRICT OF COLUMBIA ELECTION ACT

AMENDMENTS

SEC. 801. The District of Columbia Election Act is amended as follows:

(1) The first section of such Act is amended by inserting immediately after "Board of Education,", the following: "the members of the Council of the District of Columbia, the Mayor".

(2) Section 2 of such Act is amended (1) by striking out subparagraph (A) in paragraph (2) thereof and inserting in lieu: "(A) who, for the purpose of voting in an election under this Act, has resided in the District continuously during the thirty-day period ending on the day of such election and who does not claim voting residence or right to vote in any State or territory"; and (2) by adding at the end thereof the following new paragraphs:

"(8) The term 'Council' or 'Council of the District of Columbia' means the Council of the District of Columbia established pursuant to the District of Columbia Charter Act.

"(9) The term 'Mayor' means the office of Mayor of the District of Columbia established pursuant to the District of Columbia Charter Act."

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

"SEC. 3. There is hereby created a Board of Elections for the District of Columbia, to be composed of three members appointed by the Mayor, by and with the advice and consent of the District Council. The term of each such member shall be three years from the expiration of the term of his predecessor. Any person appointed to fill a vacancy shall be appointed only for the unexpired term of his predecessor. When a member's term of office expires, he may continue to serve until his successor is appointed and has qualified. The Mayor shall from time to time designate the Chairman of the Board."

(B) The members of the Board of Elections in office on the date when the Mayor first elected takes office shall continue in office for the remainder of the terms for which they were appointed.

(4) Subsections (h), (i), (j), and (k) of section 8 of such Act are amended to read as follows:

"(h) (1) (A) The Delegate, Mayor, Chairman of the District Council, and the two at-large members of the District Council shall be elected by the qualified electors of the District of Columbia in a general election. Each candidate for the office of Delegate, Mayor, Chairman of the District Council, and at-large members of the District Council in any general election shall, except as otherwise provided in subsection (j) of this section and section 10(d), have been elected as such candidate by the next preceding primary or party runoff election.

"(B) (i) A member of the office of District Council (other than the Chairman and any member elected at large) shall be elected in a general election by the qualified electors of the respective ward of the District from which the individual seeking such office was elected as a candidate for such office as provided in clause (ii) of this paragraph.

"(ii) Each candidate for the office of member of the District Council (other than the Chairman and at-large members) shall, except as otherwise provided in subsection (j) of this section and section 10(d), have been elected as such a candidate at the next preceding primary or party runoff election to fill such office within that ward.

"(2) The nomination and election of any individual to the office of Delegate, Mayor, Chairman of the Council, and member of the Council shall be governed by the provisions of this Act. No political party shall be qualified to hold a primary election to select candidates for election to any such office in a general election unless, in the next preceding election year, at least seven thousand five hundred votes were cast in the general election for a candidate of such party for any such office or for its candidates for electors of President and Vice President.

"(i) (1) Each individual in a primary election for candidate for the office of Delegate, Mayor, Chairman of the Council, or at-large member of the Council shall be nominated for any such office by a petition (A) filed with the Board not later than the forty-fifth day before the date of such primary election; and (B) signed by at least two thousand duly registered voters of the same political party as the nominee, or by 1 per centum of the duly registered members of such political party, whichever is less, as shown by the records of the Board of Elections as of the ninety-ninth day before the date of such election.

"(2) Each individual in a primary election for candidate for the office of member of the Council (other than the Chairman and at-large members) shall be nominated for such office by a petition (A) filed with the Board not later than the forty-fifth day before the date of such primary election; and (B) signed by at least two hundred and fifty persons in the ward from which such individual seeks election who are duly registered in such ward under section 7 of this Act, and who are of the same political party as the nominee.

"(3) A nominating petition for a candidate in a primary election for any such office may not be circulated for signature before the ninety-ninth day preceding the date of such election and may not be filed with the Board before the seventieth day preceding such date. The Board may prescribe rules with respect to the preparation and presentation of nominating petitions. The Board shall arrange the ballot of each political party in each such primary election as to enable a voter of such party to vote for nominated candidates of that party.

"(j) (1) A duly qualified candidate for the office of Delegate, Mayor, Chairman of the Council, or member of the Council may, subject to the provisions of this subsection, be nominated directly as such a candidate for election for such office (including any such election to be held to fill a vacancy). Such person shall be nominated by a petition filed with the Board not less than the forty-fifth day before the date of such general election; and (A) in the case of a person who is a candidate for the office of member of the Council (other than the Chairman or an at-large member), signed by five hundred voters who are duly registered under section 7 in the ward from which the candidate seeks election; and (B) in the case of a person who is a candidate for the office of Delegate, Mayor, Chairman of the Council, or at-large member of the Council, signed by duly registered voters equal in number to 1½ per centum of the total number of registered voters in the District, as shown by the records of the Board as of the ninety-ninth day before the date of such election, or by three thousand persons duly registered under section 7, whichever is less. No signatures on such a petition may be counted which have been made on such petition more than ninety-nine days before the date of such election.

"(2) Nominations under this subsection for candidates for election in a general election to any office referred to in paragraph (1) shall be of no force and effect with respect to any person whose name has appeared on the ballot of a primary election for that office held within eight months before the date of such general election.

"(k) (1) In each general election for the office of member of the Council (other than the office of Chairman or an at-large member) the Board shall arrange the ballots in each ward to enable a voter registered in that ward to vote for any one candidate who (A) has been duly elected by any political party in the next preceding primary or party runoff election for such office from such ward, (B) has been duly nominated to fill a vacancy in such office in such ward pursuant to section 10(d), or (C) has been nominated directly as a candidate for such office in such ward under subsection (j) of this section.

"(2) In each general election for the office of member of the Council at large, the Board shall arrange the ballots to enable a registered voter to vote for as many candidates for election as members at large as there are members at large to be elected in such election. Such candidates shall be only those persons who (A) have been duly elected by any political party in the next preceding primary or party runoff election for such office, (B) have been duly nominated to fill vacancies in such office pursuant to section 10(d), or (C) have been nominated directly as a candidate under subsection (j) of this section.

"(3) In each general election for the office of Delegate, Mayor, or Chairman of the Council, the Board shall arrange the ballots to enable a registered voter to vote for any one of the candidates for any such office who (A) has been duly elected by any political party in the next preceding primary or party runoff election for such office, (B) has been duly nominated to fill a vacancy in such office pursuant to section 10(d), or (C) has been nominated directly as a candidate under subsection (j) of this section.".

(5) Paragraph (3) of section 10(a) of such Act is amended (1) by inserting "(A)" immediately before the word "Except", and (2) by adding at the end thereof the following:

"(B) (i) Except as otherwise provided in the case of special elections under this Act and in subclause (ii) of this clause, primary elections of each political party for the offices of Chairman of the Council and member of the Council (to be filled) shall be held on the first Tuesday in September of each even-numbered year, and general elections for such offices (to be filled) shall be held on the Tuesday next after the first Monday in November of each even-numbered year.

"(ii) Notwithstanding the provisions of subclause (i) of this clause, the initial primary election of each political party for the offices of Mayor, Chairman of the Council, and members of the Council shall be held on the first Tuesday next following the expiration of the ninety-day period following the date of the acceptance of the District of Columbia Charter in accordance with the provisions of title XIV of the District of Columbia Charter Act, and the initial general election for such offices shall be held on the Tuesday next after the first Monday in November of the calendar year in which such primary is held.

"(C) Except as otherwise provided in the case of a special election under this Act, primary elections of each political party for the

office of Mayor shall be held on the first Tuesday in September of each Presidential election year, commencing with calendar year 1976, and the general election for such office shall be held on the Tuesday next after the first Monday in November of each Presidential election year commencing with calendar year 1976.".

(6) Paragraph (4) of section 10(a) of such Act is amended to read as follows:

"(4)(A) Runoff elections shall be held whenever (i) in any primary election of a political party for candidates for the office of Delegate, Mayor, Chairman of the Council, member of the Council from a ward, or member of the Council at large where only one at-large position is to be filled, no one candidate for any such office receives at least 40 per centum of the total votes cast in that election for all candidates of that party for that office, and (ii) in any general election for any such office, no one candidate receives at least 40 per centum of the total votes cast in that election for all candidates for that office. The candidates in any such runoff election for any such office shall be the two persons who received, respectively, the two highest numbers of votes in such preceding primary or general election for such office. The candidate receiving the highest number of votes in any such runoff election for such office shall be declared elected.

"(B)(i) When more than one office of at-large member of the Council is being filled in any primary election of a political party, the candidates for such offices who receive the highest number of votes shall be declared elected, except that no candidate shall be declared elected who does not receive at least 40 per centum of the number of all votes cast in that election for all candidates of that party for such offices divided by the number of at-large offices to be filled in such election. Where one or more of the at-large positions remains unfilled, a runoff election shall be held. The candidates in such runoff election shall be those unsuccessful candidates, in number not more than one more than the number of such offices to be filled, who in such primary next preceding such runoff election, received the highest number of votes less than 40 per centum.

"(ii) When more than one office of at-large member of the Council is being filled in any general election, the candidates for such offices who receive the highest number of votes shall be declared elected, except that no candidate shall be declared elected who does not receive at least 40 per centum of the number of all votes cast in that election for all candidates for such offices to be filled in such election divided by the number of at-large offices to be so filled. Where one or more of the at-large positions remain unfilled, a runoff election shall be held. The candidates in such run-off election shall be those unsuccessful candidates, in number not more than one more than the number of such offices to be filled, who in such preceding general election received the highest number of votes less than 40 per centum. The candidate or candidates, as the case may be, receiving the highest number of votes shall be declared elected.

"(C) If any person withdraws his candidacy from any such runoff election (under the rules and within the time limits prescribed by the Board), or dies before the date of the election, the person who received the same number of votes in such preceding primary or general election, as the case may be, next preceding such runoff election as a candidate in such runoff election or who received a number of votes in such primary or general election which is next highest to the number of votes in any such election received by a candidate in the runoff election, and who is not already a candidate in the runoff election, shall automatically become such a candidate in such runoff election.

"(D) Any such runoff election shall be held not less than two weeks nor more than four weeks after the date on which the Board has determined the results of the preceding primary or general election, as the case may be. At the time of announcing any such determination, the Board shall establish and announce the date on which the runoff election will be held, if one is required.".

(7) Section 10(b) of such Act is amended by deleting "and for members of the Board of Education," and inserting ", Mayor, Chairman of the Council, member of the Council and Board of Education,".

(8) Section 10(d) of such Act is amended to read as follows:

"(d) In the event that any official, other than the Delegate, Mayor, Chairman of the Council, member of the Council, member of the Board of Education, or a winner of a primary election for the office of Delegate, Mayor, Chairman of the Council, or member of the Council, elected pursuant to this Act dies, resigns, or becomes unable to serve during his or her term of office leaving no person elected pursuant to this Act to serve the remainder of the unexpired term of office, the successor or successors to serve the remainder of such term shall be chosen pursuant to the rules of the duly authorized party committee, except that such successor shall have the qualifications required by this Act for such office. In the event that such a vacancy occurs in the office of a candidate for the office of Delegate, Mayor, Chairman of the Council, or member of the Council who has been declared the winner in the preceding primary or party runoff election for such office, the vacancy may be filled not later than fifteen days prior to the next general election for such office, by nomination by the party committee of the party which nominated his predecessor. In the event that such a vacancy occurs in the office of Delegate more than twelve months before the expiration of its term of office, the Board shall call special elections to fill such vacancy for the remainder of its term of office."

(9) Section 10(e) of such Act is amended (1) by inserting "(1)" immediately before "Whenever", and (2) by adding at the end thereof the following new paragraph:

"(2)(A) Whenever a vacancy occurs in the office of Chairman of the Council, member of the Council elected from a ward, or member of the Council at large, such vacancy shall be filled at the next general election for any of the offices of Chairman of the Council, member of the Council from a ward, or member of the Council at large, which occurs more than ninety-nine days after such vacancy occurs. In the case of the office of Chairman of the Council, the Vice Chairman of the Council shall fill such vacancy by serving as Chairman until the unexpired term of the vacant office ends, or until January 2 next following the date of the election of a person to serve the remainder of such unexpired term, whichever occurs first. In the case of the office of member of the Council from a ward, or a member of the Council at large, the Council shall appoint a person to fill the vacancy until the unexpired term of the vacant office ends or until January 2 next following the date of the election of a person to serve the remainder of such unexpired term, whichever occurs first. A person elected to fill any such vacancy shall hold office for the duration of the unexpired term of office to which he was elected. Any person appointed under this paragraph shall have the same qualifications for holding such office as were required of his immediate predecessor.

"(B) When a vacancy in an unexpired term for an at-large position is being filled at the same general election as one or more full-term at-large positions, the successful candidate or candidates with the highest number of votes in the general election, or in the runoff election if a runoff election is necessary, shall be declared elected to the full-term position or positions, and any candidate declared elected at the general election shall for this purpose be deemed to have received a higher number of votes than any candidate elected in the runoff election."

(10) The first sentence of section 15 of such Act is amended to read as follows: "No person shall be a candidate for more than one office on the Board of Education or the District Council in any election for members of the Board of Education or Council, and no person shall be a candidate for more than one office on the Council in any primary election."

(11) Section 15 of such Act is further amended (1) by designating the existing text of such section as subsection (a), and (2) by adding at the end thereof the following new subsection:

"(b) No person who is holding the office of Mayor, Delegate, Chairman of the Council, member of the Council or member of the School Board shall, while holding such office, be eligible as a candidate for any other of such offices in any primary or general election, unless the term of the office which he so holds expires on or prior to the date on which he would be eligible, if elected in such primary or general election, to take the office with respect to which such election is held."

DISTRICT COUNCIL JURISDICTION

SEC. 802. Notwithstanding any other provision of this Act or of any other law, the District Council shall have jurisdiction to legislate with respect to matters involving or relating to elections in the District of Columbia, subject to the provisions of section 304, section 401(d), and subsections (g) and (h) of section 325 of this Act.

TITLE IX—MISCELLANEOUS

AGREEMENTS WITH UNITED STATES

SEC. 901. (a) For the purpose of preventing duplication of effort or for the purpose of otherwise promoting efficiency and economy, any Federal officer or agency may furnish services to the District government and any District officer or agency may furnish services to the Federal Government. Except where the terms and conditions governing the furnishing of such services are prescribed by other provisions of law, such services shall be furnished pursuant to an agreement (1) negotiated by the Federal and District authorities concerned, and (2) approved by the Director of the Office of Management and Budget and by the Mayor. Each such agreement shall provide that the cost of furnishing such services shall be borne in the manner provided in subsection (c) by the government to which such services are furnished at rates or charges based on the actual cost of furnishing such services.

(b) For the purpose of carrying out any agreement negotiated and approved pursuant to subsection (a), any District officer or agency may in the agreement delegate any of his or its functions to any Federal officer or agency, and any Federal officer or agency may in the agreement delegate any of his or its functions to any District officer or agency. Any functions so delegated may be exercised in accordance with the terms of the delegation.

(c) The cost to each Federal officer and agency in furnishing services to the District pursuant to any such agreement shall be paid, in accordance with the terms of the agreement, out of appropriations made by the Council to the District officers and agencies to which such services are furnished. The costs to each District officer and agency in furnishing services to the Federal Government pursuant to any such agreement shall be paid, in accordance with the terms of the agreement, out of appropriations made

by the Congress or other funds available to the Federal officers and agencies to which such services are furnished.

PERSONAL INTEREST IN CONTRACTS OR TRANSACTIONS

SEC. 902. Any officer or employee of the District who is convicted of a violation of section 208 of title 18, United States Code, shall forfeit his office or position.

COMPENSATION FROM MORE THAN ONE SOURCE

SEC. 903. (a) Except as provided in this Act, no person shall be ineligible to serve or to receive compensation as a member of the Board of Elections because he occupies another office or position or because he receives compensation (including retirement compensation) from another source.

(b) The right to another office or position or to compensation from another source otherwise secured to such a person under the laws of the United States shall not be abridged by the fact of his service or receipt of compensation as a member of such Board, if such service does not interfere with the discharge of his duties in such other office or position.

ASSISTANCE OF THE UNITED STATES CIVIL SERVICE COMMISSION IN DEVELOPMENT OF DISTRICT MERIT SYSTEM

SEC. 904. The United States Civil Service Commission is hereby authorized to advise and assist the Mayor and the Council in the further development of the merit system authorized by section 402(4) and the said Commission is authorized to enter into agreements with the District government to make available its registers of eligibles as a recruiting source to fill District positions as needed. The costs of any specific services furnished by the Civil Service Commission may be compensated for under the provisions of section 901 of this Act.

TITLE X—SUCCESSION IN GOVERNMENT

TRANSFER OF PERSONNEL, PROPERTY, AND FUNDS

SEC. 1001. (a) In each case of the transfer, by any provision of this Act, of functions to the Council, to the Mayor, or to any agency or officer, there are hereby transferred (as of the time of such transfer of functions) to the Council, to the Mayor, to such agency, or to the agency of which such officer is the head, for use in the administration of the functions by the Council, the Mayor, or such agency or officer, the personnel (except the Commissioner of the District of Columbia and the Assistant to the Commissioner, and the Chairman of the District of Columbia Council, the Vice Chairman of the District of Columbia Council, and the other members thereof, all of whose offices are abolished by this Act), property, records, and unexpended balances of appropriations and other funds, which relate primarily to the functions so transferred.

(b) If any question arises in connection with the carrying out of subsection (a), such question shall be decided—

(1) in the case of functions transferred from a Federal officer or agency, by the Director of the Office of Management and Budget; and

(2) in the case of other functions (A) by the Council, or in such manner as the Council shall provide, if such functions are transferred to the Council, and (B) by the Mayor if such functions are transferred to him or to any other officer or agency.

(c) Any of the personnel transferred to the Council, the Mayor, or any agency by this section which the Council, the Mayor, or the head of such agency shall find to be in excess of the personnel necessary for the administration of its or his functions shall, in accordance with law, be retransferred to other positions in the District or Federal Government or be separated from the service.

(d) No officer or employee shall, by reason of his transfer by this Act or his separation from service under this Act, be deprived of a civil service status held by him prior to such transfer or any right of appeal or review he may have by reason of his separation from service.

EXISTING STATUTES, REGULATIONS, AND OTHER ACTIONS

SEC. 1002. (a) Any statute, regulation, or other action in respect of (and any regulation or other action issued, made, taken, or granted by) any officer or agency from which any function is transferred by this Act shall, except to the extent modified or made inapplicable by or under authority of law, continue in effect as if such transfer had not been made; but after such transfer, references in such statute, regulation, or other action to an officer or agency from which a transfer is made by this Act shall be held and considered to refer to the officer or agency to which the transfer is made.

(b) As used in subsection (a), the term "other action" includes, without limitation, any rule, order, contract, compact, policy, determination, directive, grant, authorization, permit, requirement, or designation.

(c) Unless otherwise specifically provided nothing contained in this Act shall be construed as affecting the applicability to the District of Columbia government of personnel legislation relating to the District government until such time as the Council may otherwise elect to provide equal or equivalent coverage as provided in section 402(4).

PENDING ACTIONS AND PROCEEDINGS

SEC. 1003. (a) No suit, action, or other judicial proceeding lawfully commenced by or against any officer or agency in his or its official capacity or in relation to the exercise of his or its official functions, shall abate by reason of the taking effect of any provision of this Act; but the court, unless it determines that the survival of such suit, action, or other proceeding is not necessary for purposes of settlement of the questions involved, shall allow the same to be maintained, with such substitutions as to parties as are appropriate.

(b) No administrative action or proceeding lawfully commenced shall abate solely by reason of the taking effect of any provision of this Act, but such action or proceeding shall be continued with such substitutions as to parties and officers or agencies as are appropriate.

VACANCIES RESULTING FROM ABOLISHMENT OF OFFICES OF COMMISSIONER AND ASSISTANT TO THE COMMISSIONER

SEC. 1004. Until the 1st day of July next after the first Mayor takes office under this Act no vacancy occurring in any District agency by reason of section 321, abolishing the offices of Commissioner of the District of Columbia and Assistant to the Commissioner, shall affect the power of the remaining members of such agency to exercise its functions; but such agency may take action only if a majority of the members holding office vote in favor of it.

TITLE XI—SEPARABILITY OF PROVISIONS

SEC. 1101. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the remainder of the Act and the application of such provision to other persons or circumstances shall not be affected thereby.

TITLE XII—TEMPORARY PROVISIONS

POWERS OF THE PRESIDENT DURING TRANSITION PERIOD

SEC. 1201. The President of the United States is hereby authorized and requested to take such action during the period following the date of the enactment of this Act and ending on the date of the first meeting of the District Council, by Executive order or otherwise, with respect to the administration of the functions of the District of Columbia government, as he deems necessary to enable the Board of Elections properly to perform its functions under this Act.

REIMBURSABLE APPROPRIATIONS FOR THE DISTRICT

SEC. 1202. (a) The Secretary of the Treasury is authorized and directed to advance to the District of Columbia the sum of $750,000, out of any money in the Treasury not otherwise appropriated, for use (1) in paying the expenses of the Board of Elections (including compensation of the members thereof), and (2) in otherwise carrying into effect the provisions of this Act.

(b) The full amount expended out of the money advanced pursuant to this section shall be reimbursed to the United States, without interest, during the second fiscal year which begins after the effective date of title V, from the general fund of the District of Columbia.

TITLE XIII—EFFECTIVE DATES

EFFECTIVE DATES

SEC. 3101. (a) As used in this title and title XIV the term "charter" means titles I to XI, both inclusive.

(b) The charter shall take effect only if accepted pursuant to title XIV. If the charter is so accepted, it shall take effect on the day following the date on which it is accepted (as determined pursuant to section 1405) except that—

(1) part 2 of title III and title V shall take effect on the day upon which the Council members first elected take office;

(2) section 402 shall take effect on the day upon which the Mayor first elected takes office; and

(3) title VII shall take effect with respect to the first fiscal year beginning next after the Mayor first elected takes office and with respect to subsequent fiscal years.

(c) Titles XII, XIII, and XIV shall take effect on the day following the date on which this Act is enacted.

TITLE XIV—SUBMISSION OF CHARTER FOR REFERENDUM

CHARTER REFERENDUM

SEC. 1401. On a date to be fixed by the Board of Elections, not more than four months after the enactment of this Act, a referendum (in this title referred to as the "charter referendum") shall be conducted to determine whether the registered qualified voters of the District of Columbia accept the charter.

BOARD OF ELECTIONS

SEC. 1402. (a) In addition to its other duties, the Board of Elections established under the District Election Act of 1955 shall conduct the charter referendum and certify the results thereof as provided in this title.

(b) Notwithstanding the fact that such sections does not otherwise take effect unless the charter is accepted under this title, the applicable provisions of title VIII of this Act shall govern the Board of Elections in the performance of its duties under this Act.

APPLICABILITY OF TITLE VIII

SEC. 1403. Except as otherwise indicated in this title, the provisions of title VIII of this Act shall to the extent applicable govern all aspects (including, but not solely, the registration and qualification of voters, the method of voting, recounts and contests, and election violations) of the referendum election herein, notwithstanding the fact that such title VIII does not otherwise take effect unless the charter is accepted.

CHARTER REFERENDUM BALLOTS NOTICE OF VOTING

SEC. 1404. (a) The charter referendum ballot shall contain the following, with a blank space appropriately filled:

"The District of Columbia Charter Act, enacted ————, proposes to establish a new charter for the District of Columbia,

but provides that the charter shall take effect only if it is accepted by the registered qualified voters of the District in this referendum.

"By indicating, in one of the squares provided below, whether you are for or against the charter.

☐ For the charter
☐ Against the charter".

(b) Voting may be by paper ballot or by voting machine. The Board of Elections may make such changes in the second paragraph of the charter referendum ballot as it determines to be necessary to permit the use of voting machines if such machines are used.

(c) Not less than five days before the date of charter referendum, the Board of Elections shall mail to each person registered (1) a sample of the charter referendum ballot, and (2) information showing the polling place of such person and the date and hours of voting.

(d) Not less than one day before the charter referendum, the Board of Elections shall publish, in newspapers of general circulation published in the District of Columbia, a list of the polling places and the date and hours of voting.

ACCEPTANCE OR NONACCEPTANCE OF CHARTER

SEC. 1405. (a) If a majority of the registered qualified voters voting in the charter referendum vote for the charter the charter shall be considered accepted as of the time the Board of Elections certifies the result of the charter referendum to the President of the United States, as provided in subsection (b).

(b) The Board of Elections shall, within a reasonable time, but in no event more than thirty days after the date of the charter referendum, certify the result of the charter referendum to the President of the United States and to the Secretary of the Senate and the Clerk of the House of Representatives.

TITLE XV—TITLE OF ACT

SHORT TITLE

SEC. 1501. This Act, divided into titles and sections according to table of contents, and including the declaration of congressional policy which is a part of such Act, may be cited as the "District of Columbia Charter Act".

The PRESIDING OFFICER. The unfinished business, S. 1081, will be temporarily laid aside and will remain in a temporarily laid-aside status until the disposition of S. 1435 or until the hour of 1:30 p.m., whichever is earlier.

Mr. EAGLETON. Mr. President, I ask unanimous consent that there be a brief quorum call, with the time to be charged to neither side.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. EAGLETON. 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. EAGLETON. Mr. President, the pending order of business, S. 1435, commonly called District of Columbia home rule, is now before the Senate.

On seven separate occasions during the past 14 years, the last time being in 1971, this body has seen fit to pass such legislation.

Your Committee on the District of Columbia again brings before you a bill to provide home rule for the District. In truth, while there has been a great deal of discussion about the pros and cons of home rule for the District, no bill has actually provided for complete home rule for the District since the Constitution specifically gives to the Congress supervision over the affairs of the District of Columbia.

What this home rule bill would do would be to assign to an elected Mayor and an elected City-Council the functions which are presently being performed by an appointed Mayor and by the Congress of the United States. As will be discussed more fully later, the bill gives each House of Congress a continuing item-by-item veto over any actions undertaken by the Council.

I think that President Johnson, in his message on home rule, summed up most aptly the basic philosophical argument in favor of this delegation when he stated:

Our Federal, State, and local governments rest on the principle of democratic representation—the people elect those who govern them. We cherish the credo declared by our forefathers: No taxation without representation. We know full well that men and women give the most of themselves when they are permitted to attack problems which directly affect them.

Yet the citizens of the District of Columbia, at the very seat of the Government created by our Constitution, have no vote in the government of their city. They are taxed without representation. They are asked to assume the responsibilities of citizenship while denied one of its basic rights. No major capital in the free world is in a comparable condition of disenfranchisement.

The second reason that the committee believes that this type of delegation to the citizens of the District of Columbia of the affairs of the city is essential is demonstrated by the effectiveness of the working of Reorganization Plan No. 3 of 1967. That plan, which changed the system of government in the District from a three-commissioner system to a system of a Commissioner-Mayor and an appointed Council, has proven, in the opinion of the committee, to be quite successful.

It has relieved the Congress of many legislative burdens. However, it has not been a complete delegation. The Congress has still been called upon to make many decisions, such as the following:

First. After several previous attempts, Congress finally authorized members of the District of Columbia Fire Department and Police Department to play in the Metropolitan Police Department Band;

Second. In order to make life easier in the District of Columbia, we passed a national statute that permits the flying of kites in the District of Columbia so that the International Fly-Out contest could be held at the base of the Washington Monument;

Third. We passed a good procedure for the removal of snow and ice in the District; and

Fourth. In order to alleviate the financial crisis in the District, we reformed licensing fees and by Federal statute now require a registration of 25 cents for each dog owned or kept in the District of Columbia.

Fifth. Recently we enacted a bill which would add seats to the football stadium.

I believe it is not in the interest of this body, nor is it in the interest of the citizens of the United States we are elected to represent, or even of the citizens of the District of Columbia that the time of the U.S. Senate be spent preparing, holding hearings, considering, and debating matters that are purely local in nature. Rather, as your committee proposes in this bill, Congress should delegate the making of these local regulations to a body elected by the citizens of the District of Columbia, with the continuing right to supervise such body to insure that the Federal interest in this, our Nation's Capital, is never violated.

Mr. President, more is at stake than the local matters previously recited, because, as is reflected in S. 1435, the very essence of local government will be mandated and legislated by this bill, once enacted into law, so that an elected Mayor and an elected City Council can make the vital decisions that affect the destinies of three-quarters of a million American citizens. We will find in the bill the right of the City Council and the Mayor to enact into law ordinances relating to taxation, excluding at least two very important things that they cannot act upon: The taxation, of course, of any Federal property is prohibited by the Constitution, and we prohibit them from the imposition of an income tax on nonresidents of the District of Columbia. But with those two exceptions, one constitutional and one that we impose statutorily, the City Council and an elected Mayors, elected by the three-quarters of a million people of the city, can decide in what way and how much to tax their citizens, can enact local ordinances into law, and can begin to shape their own destiny as should be the right of all American citizens.

As I have pointed out, the bill provides for an elected Mayor and an elected 11-member Council, of whom the Chairman and two members would be elected at large and the other eight members would be elected from wards, the same wards that are presently utilized for members of the school board.

The Mayor and Council would take over the functions of the present Commissioner-Mayor and nonelected Council and, in addition, would have the powers which are delegated by this bill, including those relating to issuing debt obligations and generally initiating local legislation. The council would be delegated the right to change all District taxes, not just the property tax. However, as I have pointed out, the bill specifically denies the council the right to tax the personal income of nonresidents, or what is popularly known as a commuter tax.

The Federal contribution toward the needs of the Nation's Capital would be computed as a percentage of the general fund revenues which the District government obtains from its citizens and visitors by means of various taxes and other charges. Under this bill, the Federal payment would rise from 37½ per-

cent the first year after enactment to a permanent figure of 40 percent for succeeding years. I might note that last year the Federal payment to the District of Columbia was in the neighborhood of 39 percent but that the Federal payment this year is 36 percent of the general fund revenues.

That is fairly close, in percentage comparison, to the formula we have spelled out in S. 1435.

In working up this bill the committee was cognizant of the questions that were raised during the 1965 and 1971 debate, most of them centering around the problem of whether or not to have a District delegate, a school board, and a formula for the Federal payment which was then based on an assessment of the value of real estate being used by the Federal Government in the District of Columbia.

I believe we have met most of these old or 1965 objections—the first two through the passage of time, and the third, we think by means of the percentage formula we have adopted in the bill.

Returning to the provisions of the bill, I might further note that the Mayor and the members of the Council are elected for 4-year terms, a portion of the Council running every 2 years. The elections will occur the same year that the District Delegate election occurs and during Presidential election years. The elections will be on a partisan basis, representatives of all political parties in the District having indicated during the hearings that such elections would be acceptable, indeed preferable, to them.

The committee bill does not contain a Presidential veto, but rather has an item-by-item veto by either House of the Congress of the United States. It is the committee's view that a Presidential veto does not truly reflect the provision of the Constitution which delegates to the Congress supervision over the affairs of the District of Columbia. Accordingly the committee has attempted to devise a system whereby the Congress itself may continue to closely supervise the affairs of the District of Columbia. Any proposed legislation which the City Council may enact and which the Mayor approves, or, if he vetoes, two-thirds of the Council approve over his veto, must thereafter be submitted to the Congress for 30 days. During this 30 days, in accordance with the provisions of the act regarding the approval or disapproval of reorganization plans, either House of Congress may consider a resolution disapproving of such proposed act. If either House, during the 30-day period, disapproves of the proposed legislation it shall be null and void, and shall not go into effect. If, and only if, neither House of Congress disapproves the proposed legislation shall the act become law.

In the event Congress is not in session for 30 continuous days after the City Council and Mayor have approved proposed legislation, such act shall have no effect; it being the committee's view that the Council may only enact legislation at such times as to allow Congress 30 days within which to consider the legislation.

I shall not take the time of this body to again enumerate all of the arguments that can be made for allowing the citizens of the District of Columbia to have the right which citizens have in every other jurisdiction in the United States. Suffice it to say that it is the unanimous recommendation of the District of Columbia Committee that the citizens of the District of Columbia be given a new charter so that they may to a greater extent than heretofore, govern themselves.

The PRESIDING OFFICER. Who yields time?

Mr. MATHIAS. Mr. President, I yield myself such time as I may require.

I wish to thank the distinguished chairman of the Committee on the District of Columbia, the Senator from Missouri (Mr. EAGLETON), for the leadership that he has given in bringing the fight for home rule to the Senate floor, not only this year but in previous years. I think he has demonstrated in a very positive and very concrete way that he believes in the principles that are involved in the fight for home rule for the citizens of the District of Columbia. It has been a pleasure for me to serve with him, and to attest to the seriousness with which he takes not only this subject, but all his work in the committee.

Under the chairman's direction, the Senate did pass a home rule bill by the overwhelming margin of 64 to 8 in the 92d Congress. Today, we have another opportunity to produce results as impressive as that. I think we have reason to be more optimistic that home rule will come to the District of Columbia because of the progress that is being made not only in the Senate but also in the other body.

Mr. President, I did not come to Congress some years ago with any dogmatic views about home rule for the District of Columbia. I had no doctrinaire position on it, but I was elected when I came as a freshman Representative to the other body to be a member of the Committee on the District of Columbia of that body. I must say that the more I observed the way the affairs of the District of Columbia were conducted, or perhaps it might be more accurate to say the way in which the affairs of the District of Columbia were not conducted, that I felt home rule was really the only answer.

Because, let me say, in all honesty, if there is a problem affecting the District of Columbia and another problem which arises at the same time affecting the State of Maryland and I am asked to choose where I will devote my time and attention, I am frank to say that it is going to be on the affairs of the State of Maryland and not on the affairs of the District of Columbia.

That, I might say, has been the attitude and the compulsion of members of the Committee on the District of Columbia of both Houses. They have looked after their national responsibilities and the responsibilities they owe to their own States. The District of Columbia gets what time is left over. Frankly, Mr. President, that is not enough.

The legislation we are considering today has been needed for exactly 99 years. It was in 1874 that Congress temporarily suspended local government in the District of Columbia. Like many acts that we label as being temporary, it has been perpetuated far beyond any reason or any excuse.

It was not a unique situation in 1874 that the city government was in trouble. Practically every city government in the United States was in trouble in that same general period of time. In many large cities, the State legislatures which stood in the same relationship to municipal governments that the Congress did in relationship to the District of Columbia, took over the direction of all or a substantial part of the municipal authority. But, in many cases, throughout the country, that municipal authority has now been returned to the people after a period of reform, after a period of consideration of the basic problems which gave rise to municipal corruption and municipal malfeasance which was rampant in the decade of the 1870's.

But here in Washington we never recognized with the passage of time, the possibility that time and effort could have cured the problem. As a result, for over three generations, the people of the Nation's Capital, alone among all American citizens, have been denied the right to choose their local officials and to administer their own local affairs.

The passage of this bill would restore local self-government to the Capital and would return to the citizens of the District of Columbia, after far too long a time, the basic democratic privileges which the citizens of every village, every town, every city, every county, every State now enjoy.

Let me emphasize the word "return," because home rule is nothing novel for the District of Columbia. There was a Mayor of Washington, elected by the people. There was a City Council, elected by the people. In fact, in the very earliest days, there was more than one, because each of the various small communities that had existed prior to the establishment of the District of Columbia had its own elected municipal officials.

So we would merely be reestablishing the grassroots democracy which existed when the Federal Government acquired the immediate authority for the government of this area.

I think that the popular election of local official is an essential step toward perfecting American democracy. It is also the next logical step forward for the District of Columbia which follows on the constitutional amendment which does enable District residents to vote for President and Vice President, the creation of a local elected school board, and the establishment of the office of a nonvoting delegate in the other body.

I think that these acts are a sound progression from the total denial of the rights of citizenship to the opportunity to choose municipal leadership and to enjoy a government, not one appointed by the President and confirmed by the Senate, but one selected by the people and responsible to the people.

Now S. 1435 does, of course, reaffirm the constitutional responsibilities of Congress to oversee the government of the Nation's Capital. This is an historic duty. It arose out of the very unhappy mutiny of the Army in Philadelphia in which Congress itself was threatened by a mob and which was not adequately dealt with by the police authorities of either the city of Philadelphia or the State of Pennsylvania. As a result, Congress determined, and the Constitutional Convention decided, that wherever the seat of the Federal Government would be, the Federal Government itself would have control over the maintenance of peace and good order.

So Congress does reaffirm, in this bill, that historic constitutional responsibility.

As was the case in the bill that was passed in the Senate by the 92d Congress, S. 2435 explicitly reserves to Congress the power to legislate in a few particularly difficult areas.

For example, the elected council would be prohibited from enacting any tax on any property of the United States, which constitutes a substantial portion of the real estate within the District of Columbia, or any tax on the incomes of persons not residing in the District.

The task before us today is to enact legislation that will assign to the elected Mayor and Council substantial administrative and legislative authority, respectively.

There is no question that Congress has to enact self-government legislation for the District of Columbia because the simple fact is that the present way we run the Nation's Capital does not work very well.

I do not lack respect for Walter Washington, the hard-working and diligent Commissioner-Mayor. He is a sensitive public servant who is caught in perhaps the most thankless situation that exists in public service in the entire United States. He is forced to bear many burdens for which he gets very little praise and with which he has almost no authority to deal. The City Council, I think, in its present limited scope, has done admirably in a difficult job of trying to give some feel of representation within the restrictive limits of its charter, trying to represent people without having any way to get a real mandate. But the fact is that we have created a situation in which we are trapped—Congress, the White House, the city government, and most of all the people of the District. We are trapped in a system which hardly deserves to be called a system. It is an obsolete and cumbersome and arbitrary system of arrangements that have been made at various times through which authority is diffused and power is fragmented and decisionmaking is delayed. The Mayor does not have the power, Congress does not have the time, and the people of the District do not have the vote.

This might have been a situation which could have been tolerated in the past, but I do not think it is adequate for the Capital of this Republic, for the Capital of the United States, as we are about to commemorate the two hundredth anniversary of our independence. I think it is past time to say to the people of Washington that they will no longer be dependent on the judgment, however wise, or the wisdom or the considerations, however well motivated, of officials who are elected somewhere else.

I think it is past time for us to delegate responsibility for the day-to-day government of this city to men and women who are elected by the residents of the city. There is no better way for Congress to meet its own obligations to provide for the government of the Nation's Capital, and no better way to show the Nation and the world that the Declaration of Independence does not stop at the District line, than to pass this bill today.

Mr. EAGLETON. Mr. President, I sincerely thank the distinguished senior Senator from Maryland for his eloquent presentation in support of the home rule bill.

No bill that reaches the floor of this body is the product of any one Senator or any one legislator by himself. It takes effective functioning on the committee level, especially, if at all possible, with a bipartisan approach, to bring good, solid, meaningful legislation to the floor of this body.

It has been a distinct pleasure for me, during the 2½ years I have served as chairman of the Senate District of Columbia Committee, to work with the distinguished senior Senator from Maryland (Mr. MATHIAS), not only on this piece of legislation but also other matters relating to the District of Columbia. He is interested, he is informed, he is accommodating, and in all measures he does make a significant contribution.

Thus, this home rule bill 1973 is very much a bipartisan product of the Senate District of Columbia Committee, with a significant input from Members on both sides of the aisle; and a large measure of the credit for what we consider to be a very fine piece of legislation belongs to the distinguished senior Senator from Maryland (Mr. MATHIAS).

The PRESIDING OFFICER. Who yields time?

Mr. MATHIAS. I thank the distinguished chairman of the committee for his kind remarks.

Mr. President, I yield 3 minutes to the Senator from Virginia.

Mr. SCOTT of Virginia. I thank the distinguished Senator for yielding, Mr. President.

I commend the chairman of the committee and the ranking minority member for the type of bill they have brought before the Senate for consideration. I am very sympathetic with the thoughts expressed by the Senator from Maryland with regard to service on the District of Columbia Committee. I, too, live in a nearby State and have indicated that I did not care to serve on this committee. Serving on the D.C. committee is a thankless job. It does seem desirable to have purely local matters decided by local people, rather than to have the Congress pass upon such matters.

The bill before the Senate, providing for an elected Mayor and an elected Council, has been an effort on the part of the committee to distinguish between the functions that are purely local in nature and the functions that relate to the Federal city, because certainly the city of Washington is a city in which people live, just as they do in every community within the Nation. But it is more than that. It is the Federal city, and I believe that this dual nature has been thought of and incorporated in the bill before the Senate today.

I certainly have no objection to the Mayor being elected or a Council being elected, rather than to have them appointed by the President. I would hope, however, that they would concern themselves with purely local matters.

History tells us, Mr. President, that when the Continental Congress was meeting in Philadelphia in 1782, a group of mutinous Army troops, not then deactivated after the Revolutionary War, marched upon the Capitol—estimates vary from 80 to 250 troops—who gathered around Independence Hall where the Continental Congress was in session. James Madison, in his writings, reports that these troops had disobeyed the orders of their officers and came to Philadelphia to petition the Congress for pay allegedly due them. While no actual violence occurred, Madison reports that they did get liquid spirits from nearby bars, that they did wantonly point their muskets through the windows of the Hall of Congress and offer mock obstruction to Members as they passed through their ranks. A number of the Members of the Continental Congress participated in the writing of the Constitution which provides, as Senators know, for the seat of government to be established on land ceded by the States with the ultimate supremacy of the Federal Government over the ceded territory.

The PRESIDING OFFICER. The Senator's 3 minutes have expired.

Mr. MATHIAS. I yield the Senator 1 additional minute.

Mr. SCOTT of Virginia. I thank the Senator.

Mr. President, I intend to offer a number of amendments. One would prevent a parking tax on nonresidents of the District in excess of that paid by District residents. That is amendment No. 268. I ask unanimous consent that the name of the Senator from Virginia (Mr. HARRY F. BYRD, JR.) be added as a cosponsor of that amendment.

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

Mr. SCOTT of Virginia. The second amendment would clarify the jurisdiction of the National Capital Planning Commission to restrict its jurisdiction to the geographic boundaries of the District of Columbia. The third amendment would transfer the jurisdiction of the penal institution at Lorton from the District of Columbia government to the Department of Justice.

Mr. President, I ask unanimous consent that the name of the Senator from Virginia (Mr. HARRY F. BYRD, JR.) be added as a cosponsor of Amendment No. 266, also.

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

Mr. SCOTT of Virginia. There is also concern, Mr. President, over the ap-

pointive power of the various police forces within the District of Columbia and supervision of these policemen. I understand that other Senators will have amendments relating to the police and perhaps other features of this bill. Mr. President, I hope that the managers will accept at least a portion of these amendments so that a bill will be enacted which will permit the citizens of the District of Columbia to decide purely local matters and the Federal Government to decide matters of a Federal nature.

The PRESIDING OFFICER. Who yields time?

Mr. MATHIAS. I yield 3 minutes to my distinguished colleague from Maryland.

Mr. BEALL. Mr. President, I thank my distinguished colleague, the ranking minority member of the District of Columbia Committee, for yielding me a few minutes to indicate my support for the proposed legislation.

At the outset, I congratulate the chairman and the ranking member and the members of the committee for bringing to the floor a balanced piece of legislation which does, indeed, give to the residents of the District of Columbia an even greater opportunity to participate in the government of their own local affairs. I think it is balanced because it also provides that Congress will retain an influence, as it should, with respect to the conduct of affairs in the Federal city.

I particularly commend my senior colleague from Maryland for his untiring efforts and hard work on the District of Columbia Committee.

He served in this capacity as a Member of the House of Representatives and now as a Member of the Senate. As our colleague from Virginia has pointed out, it is not altogether a pleasant duty. It is a duty that is time consuming and it could divert one's attention from larger legislative activities.

But the interests of the State of Maryland and the District of Columbia are inextricably intertwined. We are in an era when we govern on a regional basis, so it is extremely important for the people of Maryland that they have a strong, knowledgeable voice in the government of the District of Columbia. It is extremely important that there be the closest cooperation between the District of Columbia and the State of Maryland, and neighboring suburban counties.

For that reason I think that Senator MATHIAS has performed yeomen service for constituents in Maryland. He has seen to it that there is this cooperation to protect the interests of all the citizens of the region, to see that they have the best possible government through their social and economic existence.

I rise to support this legislation and to commend my colleague for the job he is doing for the people of Maryland in connection with this matter.

The PRESIDING OFFICER. Who yields time?

AMENDMENT NO. 268

Mr. SCOTT of Virginia. Mr. President, I call up my amendment No. 268 and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. SCOTT of Virginia. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objecton, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment, ordered to be printed in the RECORD, is as follows:

On page 105, line 12, immediately after "(1)", insert "(A)".

On page 105, between lines 18 and 19 insert the following:

"(B) impose any tax, assessment, permit, fee, or other charge whatsoever upon any individual not a resident of the District in connection with the utilization by such individual of highways, roads, or parking facilities (including on-street and off-street parking) within the District of Columbia, which is not imposed upon, or which is in excess of the amount imposed upon, a resident of the District;".

Mr. SCOTT of Virginia. Mr. President, this amendment would merely prohibit the District of Columbia from doing indirectly what the committee bill says that it cannot do directly, and that is to impose a tax on the commuter or visitor to Washington. The pertinent part of the amendment states that the District of Columbia shall not—

impose any tax, assessment, permit, fee, or other charge whatsoever upon any individual not a resident of the District in connection with the utilization by such individual of highways, roads, or parking facilities (including on-street and off-street parking) within the District of Columbia, which is not imposed upon, or which is in excess of the amount imposed upon, a resident of the District.

We have had the matter of a commuter tax brought up a number of times. Sometimes it is called a reciprocal tax, sometimes it is called an income tax or a parking tax. All these efforts to tax people who work in the District of Columbia but who live in suburban Maryland and Virginia have not been successful.

Mr. President, I do have material that could be presented to the Senate that would amplify this matter, but it is my understanding that the floor managers of the measure are agreeable to accepting the amendment. I ask the distinguished chairman if this is true.

Mr. President, I reserve the remainder of my time.

Mr. EAGLETON. Yes, as the chairman of the committee and manager of the bill, I am willing to accept the amendment offered by the distinguished junior Senator from Virginia.

It can be argued that what he describes is already prohibited by section 325 subparagraph (d)(1) of the bill as presently drafted. As a clarification the amendment is useful and I am glad to accept it and take it to conference.

Mr. SCOTT of Virginia. I thank the Senator.

Mr. MATHIAS. Mr. President, I concur in the statement of the chairman of the committee. I believe that any attempt to impose a discriminatory tax on nonresidents would be a burden on interstate commerce and it is clearly prohibited by the commerce clause of the Constitution.

I think also with the chairman that the bill itself provides safeguards, but to make doubly sure I am happy to join the chairman in accepting the amendment.

Mr. SCOTT of Virginia. Mr. President, I yield to my distinguished colleague from Virginia.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. HARRY F. BYRD, JR. I thank the chairman of the committee for accepting the amendment. I commend my colleague, Mr. SCOTT, for introducing the amendment.

I think the amendment does clarify and make certain a very important point. It would be discriminatory to handle it otherwise where the tax could be placed on nonresidents in a different proportion than residents are taxed.

I think the Senator was correct in presenting the amendment. I thank the Senator from Missouri (Mr. EAGLETON) and the ranking Republican member of the committee (Mr. MATHIAS) for accepting the amendment.

Mr. SCOTT of Virginia. I appreciate the comments of my colleague and the willingness of the managers on both sides of the aisle to accept the amendment.

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

The PRESIDING OFFICER. Does the Senator from Missouri yield back his time?

Mr. EAGLETON. I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment of the Senator from Virginia.

The amendment was agreed to.

AMENDMENT NO. 266

Mr. SCOTT of Virginia. Mr. President, I call up my amendment No. 266.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. SCOTT of Virginia. 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, ordered to be printed in the RECORD, is as follows:

On page 181, between lines 10 and 11, insert the following new title:

"TITLE XV—TRANSFER OF JURISDICTION OVER PENAL FACILITIES AT LORTON

"SEC. 1501. (a) The facilities operated by the District of Columbia Department of Corrections in the State of Virginia commonly known as the Lorton Reservation and consisting of the Correctional Complex, the Minimum Security Facility, the Youth Corrections Center, and related facilities, all functions, powers, duties, and records of the Commissioner of the District of Columbia and the District of Columbia Council with respect thereto, and the care, custody, discipline, instruction, and rehabilitiation of persons committed to or residing therein are transferred to the Attorney General of the United States.

"(b)(1) The positions and personnel of the District of Columbia Department of Corrections (other than medical positions and personnel) who the Director of the Office

of Management and Budget determines were employed in connection with any function, power, or duty transferred by this section are transferred to the Attorney General. All personnel transferred by this subsection shall continue to have the employment rights and privileges which they had on the day prior to the effective date of this title.

"(2) The medical positions and personnel of the District of Columbia Department of Corrections who the Director of the Office of Management and Budget determines were employed in connection with any function, power, or duty transferred by this section are transferred to the Secretary of Health, Education, and Welfare, together with such records as the Director of the Office of Management and Budget determines relate to their functions. Such medical personnel shall continue to have the employment rights and privileges which they had on the day prior to the effective date of this title.

"(c) So much of the property, unexpended balances of appropriations, allocations, and other funds of the District of Columbia Department of Corrections as the Diector of the Office of Management and Budget determines are used, held, available, or to be made available in connection with the functions transferred by this section are hereby transferred to the Attorney General or the Secretary of Health, Education, and Welfare, as appropriate.

"(d) No contract for services or supplies made pursuant to authority granted by law by the District of Columbia Department of Corrections with respect to the Lorton Reservation shall be invalidated by the enactment of this title.

"SEC. 1502. (a) All rules and regulations promulgated by the District of Columbia Department of Corrections with respect to the Lorton Reservation shall continue in force and effect until amended or repealed by the Attorney General.

"(b) A person who is an inmate of the Lorton Reservation on the day prior to the effective date of this title shall be subject to the provisions of law and the regulations governing good time allowances which were in effect with respect to him on the day prior to the effective date of this title.

"(c) A person who, on the day prior to the effective date of this title, has work release privileges pursuant to the District of Columbia Work Release Act, approved November 10, 1966 (D.C. Code, secs. 24–461 to 24–470), shall remain subject to the provisions of that Act until his release from custody.

"SEC. 1503. (a) On the effective date of this title, there shall be transferred to the Federal Prison Industries Fund such portion of the District of Columbia Correctional Industries Fund as the Director of the Office of Management and Budget determines is reasonably attributable to the occupational programs of the Lorton Reservation.

"(b) On the effective date of this title, funds previously paid into the work release trust fund by persons who are inmates of the Lorton Reservation on that date and who have been granted work release privileges prior to that date, shall be transferred to the custody of the Attorney General. Collections made after the effective date of this title with respect to persons who have work release privileges on the effective date of this title shall be made by the Attorney General and disbursed in accordance with the individual work release plan developed under section 7 of the District of Columbia Work Release Act (D.C. Code, sec. 24–466).

"(c) All other funds belonging to or held for the benefit of employees of the Lorton Reservation or inmates therein shall be transferred to the custody of the Attorney General.

"SEC. 1504. (a) Section 937 of the Act entitled 'An Act to establish a code of law for the District of Columbia,' approved March 3, 1901 (D.C. Code, sec. 24–405), is amended—

"(1) by striking out 'the jail or in the workhouse of the District of Columbia' and inserting in lieu thereof facilities operated by the District of Columbia Department of Corrections', and

"(2) by striking out 'superintendent of the Washington Asylum and Jail for those confined in the jail, and upon the certificate of the superintendent of the workhouse for those confined in the workhouse,' and inserting in lieu thereof 'superintendent of the particular facility in which they are confined'.

"(b) The Act entitled 'An Act to require that all inmates of the workhouse and reformatory for the District of Columbia shall be returned to and released in said District,' approved June 10, 1910 (D.C. Code, sec. 24–406), is amended by striking out 'the workhouse and reformatory for the District of Columbia' and inserting in lieu thereof 'facilities operated by the District of Columbia Department of Corrections'.

"(c)(1) The last paragraph of so much of the first section of the Act of June 5, 1920, as appears under the heading 'CHARITIES AND CORRECTIONS' and the subheading 'Reformatory' (D.C. Code, sec. 24–418), is amended by striking out 'the workhouse and the reformatory' and inserting in lieu thereof 'facilities operated by the District of Columbia Department of Corrections'.

"(2) The third paragraph of so much of the first section of the Act of February 28, 1923, as appears under the heading 'CHARITIES AND CORRECTIONS' and the subheading 'Reformatory' (D.C. Code, sec. 24–418), is amended by striking out 'at the reformatory' and inserting in lieu thereof 'at facilities operated by the District of Columbia Department of Corrections'.

"(d) The Act entitled 'An Act to establish a Board of Public Welfare in and for the District of Columbia, to determine its functions, and for other purposes', approved March 16, 1926, is amended as follows:

"(1) Section 6 of such Act (D.C. Code, sec. 3–106) is amended by striking out '(b) the reformatory at Lorton in the State of Virginia;'.

"(2) Section 7 of such Act (D.C. Code, sec. 24–411) is amended by striking out 'the reformatory at Lorton in the State of Virginia,'.

"(e) Section 2 of the Act entitled 'An Act to create a Department of Corrections in the District of Columbia', approved June 7, 1946 (D.C. Code, sec. 24–442), is amended by striking out 'the Reformatory at Lorton in the State of Virginia'.

"(f) Section 304 of the District of Columbia Law Enforcement Act of 1953, approved June 29, 1953 (D.C. Code, sec. 4–134c), is amended—

"(1) by amending subsection (a) to read as follows:

"'(a) Whenever the United States Board of Parole has authorized the release of a prisoner convicted in the District of Columbia, it shall notify the Chief of Police of that fact as far in advance of the prisoner's release as possible.', and

"(2) by adding after subsection (b) a new subsection as follows:

"'(c) Except in cases covered by subsection (a) of this section, the Attorney General shall give notice to the Chief of Police as far in advance as possible, whenever a prisoner who has been convicted in the District of Columbia and is under sentence of six months or more is to be released from an institution under the management and regulation of the Attorney General.'

"(g) The Act of June 1, 1957 (D.C. Code, sec. 24–418a) is amended—

"(1) by striking out 'District of Columbia Reformatory located at Lorton, Virginia, at fair market prices determined by the Commissioners of the District of Columbia,' and inserting in lieu thereof 'facilities under the management and regulations of the Attorney General at Lorton, Virginia, at fair market prices determined by the Attorney General,', and

"(2) by striking out the last sentence thereof.

"(h) The first, second, and third provisos of so much of the first section of the Act of March 2, 1911, as appears under the heading 'CHARITIES AND CORRECTIONS' and the subheading 'Workhouse' (D.C. Code, sec. 24–403), are repealed.

"(i) So much of the first section of the Act of September 1, 1916, as appears under the heading 'CHARITIES AND CORRECTIONS' and the subheading 'Reformatory' (D.C. Code, sec. 24–402), is repealed.

"(j) So much of the first section of the Act of March 3, 1915, as appears under the heading 'JUDICIAL' and the subheading 'United States Courts' and relates to reimbursement of District of Columbia convicts (D.C. Code, sec. 24–424), is amended to read as follows:

"'The cost of the care and custody of persons convicted of violations of laws applicable exclusively to the District of Columbia and committed to Federal penal or correctional institutions shall be charged against the District of Columbia in quarterly accounts to be rendered by the Attorney General of the United States. The amount to be charged against the District of Columbia shall be ascertained by multiplying the average daily number of such persons in the particular institution during the quarter by the per capita cost for all prisoners in the same institution for the same quarter, but excluding expenses of construction or extraordinary repair of buildings.'

"SEC. 1505. Prosecution for violations of laws applicable exclusively to the District of Columbia which relate to violations of law in or affecting penal or correctional institutions of the District of Columbia (including the Lorton Reservation) committed prior to the effective date of this title shall not be affected by this title or abated by reason thereof and the penalties applicable to such violations shall apply to any person convicted of such a violation occurring before the effective date of this title.

"SEC. 1506. (a) All functions, powers, and duties exercised by the District of Columbia Board of Parole on the day prior to the effective date of this title are hereby transferred to the United States Board of Parole.

"(b) There are hereby transferred to the United States Board of Parole all of the property, records, and unexpended balances of appropriations, allocations, and other funds available or to be made available, of the District of Columbia Board of Parole.

"(c) The positions, members, and personnel of the District of Columbia Board of Parole are transferred to the United States Board of Parole and shall, with respect to all rights, privileges, and benefits, be considered as continuous employees of the United States Board of Parole without break in service. The former members of the District of Columbia Board of Parole and all other personnel transferred by this subsection may be assigned to such duties as the Attorney General deems appropriate, but without diminution of compensation or employment rights previously acquired.

"(d)(1) The positions and personnel of the District of Columbia Department of Corrections who the Director of the Office of Management and Budget determines were employed in connection with the counseling or supervision of persons paroled or mandatorily released from the Lorton Reservation or the Women's Detention Center of the District of Columbia are transferred to the United States Board of Parole and shall, with respect to all rights, privileges, and benefits, be considered as continuous employees of the United States Board of Parole without break in service. Personnel transferred by this subsection may be assigned to such duties as the Attorney General deems appropriate, but

without diminution of compensation or employment rights previously acquired.

"(2) Nothing in this subsection shall affect the employment by the District of Columbia Department of Corrections of personnel assigned to or employed in connection with halfway houses or similar community-based facilities of the Department of Corrections.

"SEC. 1507. (a) Persons convicted and sentenced in the District of Columbia prior to the effective date of this title shall be considered for parole and paroled in accordance with the applicable laws in effect in the District of Columbia on the day sentence was imposed upon them.

"(b) Persons on parole in the District of Columbia on the day prior to the effective date of this title shall remain subject to all of the terms and conditions imposed upon them prior to the effective date of this title and their parole shall be subject to termination or modification in accordance with the law in effect in the District of Columbia on the day prior to the effective date of this title.

"(c) Nothing in this title shall affect the validity of warrants issued by the District of Columbia Board of Parole or any member thereof prior to the effective date of this title.

"SEC. 1508. The District of Columbia Department of Corrections and all other agencies and officials of the District shall cooperate with the United States Board of Parole and shall furnish the Board with such information, files, and records as it may deem necessary in the performance of its duties.

"SEC. 1509. (a) The Act entitled 'An Act to establish a Board of Indeterminate Sentence and Parole for the District of Columbia and to determine its functions, and for other purposes,' approved July 15, 1932, is amended as follows:

"(1) Section 5 of such Act (D.C. Code, sec. 24–205) is amended to read as follows:

"'SEC. 5. Any officer of a facility of the District of Columbia Department of Corrections or any officer of the Metropolitan Police Department to whom a warrant of the United States Board of Parole for the retaking of a parole violator is delivered, shall execute the warrant by taking such prisoner and returning him to the custody of the Attorney General.'

"(2) Sections 4, 6, 7, 9, and 10 of such Act (D.C. Code, sections 24–204, 24–206 to 24–209) are repealed.

"(b) The Act entitled 'An Act to reorganize the system of parole of prisoners convicted in the District of Columbia', approved July 17, 1947 (D.C. Code, sections 24–201a to 24–201c), is repealed.

"(c) Title 18, United States Code, is amended as follows:

"(1) Section 4202 of such title is amended by inserting 'or District of Columbia' immediately after 'A Federal'.

"(2) Section 4205 of such title is amended by inserting 'or District of Columbia' immediately after 'any United States'.

(3) Section 5025 of such title is amended—

"(A) by amending subsection (b) to read as follows:

"'(b) The Director of the Bureau of Prisons may contract wtih the District of Columbia for the treatment, rehabilitation, or supervision of youth offenders committed to the custody of the Attorney General by courts in the District of Columbia. With respect to youth offenders convicted in the District of Columbia of violations of laws of the United States not applicable exclusively to the District of Columbia, the cost shall be paid from the "Appropriation for Support of United States Prisoners." '; and

"(B) by repealing subsection (c).

"(4) Section 5026 of such title is amended by striking out ', or the Board of Parole of the District of Columbia,', and 'respectively,'.

"SEC. 1510. Such further measures and dispositions as the Director of the Office of Management and Budget shall deem to be necessary in order to effectuate the transfers referred to in this title shall be carried out in such manner as he shall direct and by such agencies as he shall designate.

"SEC. 1511. This title and the amendments made by this title shall be effective on the date of enactment of this Act.".

On page 131, line 11, strike out "XV" and insert in lieu thereof "XVI".

On page 81, line 13, strike out "SEC. 1501." and insert in lieu thereof "SEC. 1601.".

Mr. SCOTT of Virginia. Mr. President, the purpose of this amendment is to transfer jurisdiction over the present complex at Lorton, Va., in Fairfax County from the District of Columbia government to the Department of Justice, to be under the jurisdiction of the U.S. Bureau of Prisons.

This proposal is not new in Congress. It was passed by the House as a part of the District of Columbia Court Reform and Criminal Procedure Act during the 91st Congress. The Senate version of the bill did not include the Lorton transfer and the provision was dropped in conference between the Senate and the House.

Mr. President, as Senators know, the present complex is located in Fairfax County, Va., but Fairfax County has no jurisdiction over it. As a matter of fact, Virginia has no voice over the inmates. It has been a festering sore for many years, so much so that the General Assembly of Virginia earlier this year passed a joint resolution memorializing the Congress of the United States to undertake corrective actions at the Lorton Prison Complex to insure proper administration and security of that facility.

Mr. President, I ask unanimous consent to have printed in the RECORD a copy of House Joint Resolution No. 229 of the General Assembly of the Commonwealth of Virginia.

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

HOUSE JOINT RESOLUTION NO. 229

Memorializing the Congress of the United States to undertake corrective actions at the Lorton Prison Complex to insure proper administration and security of that facility.

Whereas, the District of Columbia's penal institution at Lorton, Virginia is unique in that it is physically located within the confines of the Commonwealth of Virginia; and

Whereas, the administration and control of subject facility is exclusively that of the District of Columbia government with no participation by local or State governmental officials or agencies; and

Whereas, there have been one hundred thirty-seven instances of prisoner escapes during the nineteen hundred seventy-two calendar year, an increase of fifty-eight over nineteen hundred seventy-one, endangering the lives and safety of Virginia citizens; and

Whereas, the administrators of subject facility have responded to local citizen concern in an arrogant and most uncooperative manner; and

Whereas, citizens of Virginia have been captured in their homes, kidnapped and escapees of the Lorton Complex have been charged with the murder of a police officer; and

Whereas, there have been fifteen inmate assaults on prison officers and sixty-three cases of assaults by inmate upon inmate with three violent deaths; and

Whereas, the consumption of alcoholic beverages and use of hard drugs has become commonplace within the prison complex with four recorded instances of death due to drug overdose in nineteen hundred seventy-two; and

Whereas, escapes have taken place at Lorton Prison and gone unreported to Fairfax County, Prince William County, and State law enforcement agencies, for as long as an eight hour period of time, endangering the lives and safety of Virginia residents; now, therefore, be it

Resolved by the House of Delegates, the Senate of Virginia concurring, That the Congress of the United States is memorialized by the General Assembly of Virginia to give its most expeditious consideration to transferring the control of the Lorton Prison Complex to the Federal Prison Systems, and to undertake corrective actions to insure proper administration and security of subject facility.

Resolved further, That the Clerk of the House of Delegates is instructed to send copies of this resolution to the Clerk of the House of Representatives and the Senate of the United States Congress, and to the Virginia delegation in the Congress.

Agreed to by the House of Delegates, February 7, 1973.

Agreed to by the Senate, February 23, 1973.

Mr. SCOTT of Virginia. Mr. President, I would like to read for the information of my colleagues portions of the resolution to which I have referred. The resolution was sponsored by 97 of the 100 members of the House of Delegates which does show the feeling of the people of Virginia. It is indicated in the preface that there have been 137 instances of prisoner escapes during the 1972 calendar year, an increase of 58 over 1971, endangering the lives and safety of Virginia citizens.

The resolution states that the administrators of the facility have responded to local citizen concern in an arrogant and most uncooperative manner and that the citizens of Virginia have been captured in their homes, kidnapped, and escapees of the Lorton complex have been charged with the murder of a police officer.

There have been 50 inmate assaults on prison officers and 53 cases of assaults of inmates upon inmates, with 3 violent deaths. The consumption of alcoholic beverages and the use of hard drugs has become commonplace within the prison complex, with 4 recorded instances of death due to drug overdose in 1972.

The resolution goes on further with recitations, but then states:

Resolved by the House of Delegates, the Senate of Virginia concurring, that the Congress of the United States is memorialized by the General Assembly of Virginia to give its most expeditious consideration to transferring the control of the Lorton Prison Complex to the Federal Prison Systems, and to undertake corrective actions to insure proper administration and security of subject facility.

Mr. President, I introduced a measure some 5 years ago in the House of Representatives to accomplish the same purpose, and this is the measure that was ultimately included in the House version of the District of Columbia Court Reform and Criminal Procedure Act of 1970.

I did that because the correctional officers came in great numbers to my congressional office and asked that action be taken. They told me of almost unbelievable acts committed within the prison complex.

The House District of Columbia Committee had hearings on this matter.

I shall yield now to my colleague from Virginia and then read a portion from the report of the House Committee on the District of Columbia. I am glad now to yield to my colleague.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. HARRY F. BYRD, JR. Mr. President, I support the amendment offered by the Senator from Virginia (Mr. SCOTT), of which I am a cosponsor. I had hoped it would not be necessary to have legislation on this matter.

Some 18 months ago I wrote the President of the United States and communicated with the Mayor of the District of Columbia, urging that steps be taken to have adequate security for those who are inmates of Lorton, which is situated in the State of Virginia. This is a matter of great concern to the people of Virginia who live in that area, the people of Fairfax County and Prince William County.

It is a matter that I had hoped, as I mentioned before, could have been handled by the District of Columbia government, but since it is not being handled to the satisfaction of the people of Virginia, I think an amendment like this is necessary.

My colleague from Virginia had just pointed out that the Virginia legislature passed a resolution asking that something be done in regard to Lorton. The resolution pointed out that 137 prisoners had escaped in 1972. There seems to be a complete breakdown, for one reason or another, in the handling of that prison. The people who live in the area where Lorton is located, citizens of Virginia, are entitled to have that prison operated in an appropriate way, in a way that will safeguard the residents of that area.

I know of no other way to force action than to present, and hopefully have the Senate approve, legislation turning this matter over to the Federal Government, and taking it out of the hands of the District of Columbia.

It is unfortunate it has come to this state of affairs, but certainly conditions at Lorton demand remedial action, and this is an opportunity for Congress to take such action.

I support the amendment.

Mr. SCOTT of Virginia. Mr. President, I appreciate the comments and the support of my colleague the senior Senator from Virginia.

Mr. President, because of the time limitations, I ask unanimous consent that the findings of the House committee, beginning on page 2 and concluding on page 5 of House Report 91–850 be included in the RECORD at this point.

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

HOUSE REPORT 91–850—EXCERPT

During the past five years, the Department of Corrections has spent approximately four millions of dollars for capital improvements. It has operated almost autonomously. Because of these facts and the public complaints, it was imperative that a detailed study and investigation be conducted.

The Special Select Subcommittee has conducted more than four months of study and investigation, held even public hearings,[1] subpoenaed witnesses and documents, received sworn testimony, heard numerous witnesses, examined untold number of papers, reports, surveys and other related matters, as to the Department of Corrections' policies, programs and internal problems.

FINDINGS

1. There is a chain of command that exists ineffectively, and in regulations only, from the Director to the lowest level of paid personnel. The Director on occasions gives direct orders to various paid personnel, on all levels, as well as prisoner, without notice of, or notifying intervening levels of responsibility. (See Transcript of Hearings, Pages 19, 20, 24, 25, 33, 34, 35, 50,, 67, 80, 81, 232, 234, 378, 380, 436)

2. The Director and his staff expressed surprise at developments happening within their areas of responsibility, when such incidents were brought to their attention in hearings before the Special Select Subcommittee. (See Transcript of Hearings, Pages 68, 235, 412)

3. Correctional officers were assaulted by inmates on all too frequent occasions, and it appeared that the proper discipline of prisoners might have prevented most of the incidents complained of. (See Transcript of Hearings, Pages 34, 35, 39, 53, 54, 55, 163, 164, 187, 208, 261, 273, 274, 275, 276, 381, 382, 390, 419, 421, 422, 423, 424, 425, 439, 440, 473, 474, 480, 481, 482, 536, 537, 538, 539)

4. When correctional officers strictly enforced regulations, they were transferred to other duties. (See Transcript of Hearings, Pages 282, 412, 413, 526, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540)

5. The prisoners were allowed to organize an "Inmate Advisory Council." This group gave advice and made demands, which were granted, as to the operation of their facility. (See Transcript of Hearings, Pages 33, 50, 281, 282, 283, 284, 352, 412, 414)

6. Escapes from the five institutions under the control of the Department of Corrections are all too frequent. It appeared that these incidents occurred from lack of proper security at the various institutions and, the permissive policy of the Department of Corrections' staff. (See Transcript of Hearings, Pages 37, 38, 39, 40, 56, 57, 58, 83, 84, 85, 86, 96, 98, 99, 100, 109, 110, 111, 112, 113, 114, 120, 129, 130, 131, 132, 133, 134, 135, 136, 137, 141, 142, 147, 154, 160, 161, 166, 169, 170, 176, 177, 178, 179, 181, 182, 183, 185, 186, 188, 190, 218, 237, 238, 239, 240, 271, 272, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 335, 342, 349, 372, 387, 388, 390, 391, 392, 393, 406, 431, 432, 433, 476, 477, 478, 496, 497, 500, 501, 543, 544)

7. The use of narcotics by inmates is widespread, and there appears very little effort by the administration to control it. (See Transcript of Hearings, Pages 32, 35, 62, 63, 64, 95, 96, 97, 100, 101, 121, 122, 138, 139, 140, 141, 142, 147, 148, 156, 157, 158, 159, 166, 168, 169, 173, 175, 176, 177, 178, 180, 182, 183, 198, 200, 201, 259, 337, 338, 397, 400, 423, 424, 492, 495, 498, 499, 543, 544, 545, 547, 548, 549, 550, 552, 553, 554, 555, 556)

8. The inmates at the Reformatory (Lorton Correctional Complex), Minimum Security Facility and Youth Center at Lorton, Virginia, plus the Women's Detention Center, Washington, D.C. manufactured "moonshine alchol" in copious quantities. This violation of the laws of the District of Columbia, the State of Virginia and the United States has been a long and continuous one through the years. Recently one officer who was very thorough in locating and destroying such alcohol was transferred to other duties and told "he was making waves and the prisoners did not like it." (See Transcript of Hearings, Pages 35, 36, 37, 38, 39, 150, 151, 171, 172, 173, 174, 208, 258, 259, 337, 382, 383, 384, 391, 392, 393, 395, 396, 397, 400, 404, 428, 429, 430, 431, 492)

9. Some of the prisoners who were selected to operate canteens within the prisons, upon inventory were found to have shortages through misappropriation of funds or inventory. In one, of several recent instances, an inmate named GOSKINS, 89798, on November 20, 1969 was found short $1211.97. He was allowed to be released on parole the following day, with only limited efforts undertaken for repayment. (See Transcript of Hearings, pages 440, 441, 442, 443, 444, 445, 446, 519, 520, 521, 522, 523, 524, 525, 526)

10. The practice of homosexuality and lesbianism is widespread and uncontrolled, and no effort is made to segregate these deviates from other prisoners. (See Transcript of Hearings, Pages 102, 103, 104, 105, 106, 107, 123, 349, 398, 399, 400, 483, 490)

11. Rapes of prisoners by other prisoners are commonplace. (See Transcript of Hearings, Pages 53, 54, 55, 86, 87, 90, 91, 94, 95, 394, 421)

12. No control or inventory is maintained by the supervisory personnel of eating utensils used within the institutions. Hundreds, perhaps thousands, of these utensils have been manufactured into deadly weapons, some of which are now in the possession of the Special Select Subcommittee. The prisoners have been known to use these weapons not only on one another but on the officers. Even after this was brought to the surprised attention of the Director of the Department of Corrections and his staff, no efforts were made to correct this deadly situation. (See Transcript of Hearings, Pages 296, 297, 310, 311, 312, 384, 385, 386, 404, 405, 419, 436, 437)

13. The prisoners do not perform even menial tasks and threaten to riot if an effort is made to force them to work. (See Transcript of Hearings, Pages 43, 287, 288, 289, 290, 291, 372)

14. The five institutions are filthy and ill kept. This situation could easily be corrected with prisoner participation in cleanliness, with soap, mops and pails, plus paint. (See Transcript of Hearings, Pages 43, 123, 124, 125, 126, 143, 145, 146, 287, 288, 289, 290, 291, 406, 485).

15. The various institutions maintain schools for prisoners. They are poorly attended, maintained and taught. Some of the vocational equipment is out-of-date and not only outdated, but limited to the very basic fundamentals of teaching. (See Transcript of Hearings, Pages 203, 211, 212, 433, 434, 435, 488)

16. The hiring practices are beyond belief. There are no minimum educational requirements, a starting age of 18 years, and no character or security investigations of these correctional officer personnel are made. (See Transcript of Hearings, Pages 108, 109, 114, 115, 116, 117, 118, 126, 127, 128, 148, 149, 170, 171, 197, 204, 205, 206, 207, 224, 225, 226, 227, 230, 231, 245, 246, 247, 281, 283, 284, 318, 327, 328, 333, 334, 335, 402, 415, 416, 417, 418, 420, 421, 424, 425, 426, 460, 461, 462, 463, 476, 493, 527)

17. Promotions of paid personnel are made without any written criteria, and on the apparent personal whims of the personnel-officer and the candidates' immediate supervisor. The escalation and deescalation of the candidates' grade eligibility, on the Civil Service registers are manipulated at will. (See Transcript of Hearings, Pages 236, 237, 241, 242, 243, 244, 247, 248, 249, 250, 251, 252,

[1] Hearings, Special Select Committee of the Committee on the District of Columbia, on Department of Corrections, and H.R. 11956 to transfer certain District of Columbia Institutions in Fairfax County, Virginia, to the Attorney General, 91st Cong., 1st sess.

333, 334, 349, 350, 351, 403, 404, 407, 408, 409, 410, 411, 413, 414, 415)

18. The rifling, removal, and destruction of personal and other official files appears to have been done at will, by both authorized and unauthorized personnel. (See Transcript of Hearings, Pages 234, 237, 244, 245, 353, 354)

19. A large segment of the paid personnel have never been fingerprinted, and many of those who were did not have FBI reports on their prints. It appears that none of the higher echelon of administrative employees, and very few, if any, of the department staff have been fingerprinted. Many of those who have been fingerprinted possess criminal records and are allowed continued employment by the Department. (See Transcript of Hearings, Pages 277, 278, 279, 280, 281, 376, 457, 458, 459, 460, 468, 512, 513)

20. There appears to be no criteria for placing inmates in "half-way houses". They attempted to use select or restricted areas in the District, where innumerable prisoners would be allowed to roam at will and terrorize the neighborhood. Not only was the attempt made, but the effort is still being pursued. (See Transcript of Hearings, Pages 175, 357, 358, 359, 360, 362, 363, 364, 365, 366, 367, 368, 369)

21. Outdated and outmoded bookkeeping methods over various funds kept within the Department are maintained with "self-audits". Such "self-audits" were offered to the special Select Subcommittee as proof of balances. (See Transcript of Hearings, Pages 235, 293, 294, 295, 296, 441, 442, 443, 444, 445, 446, 515, 516, 517, 518, 519, 520, 528, 529)

22. There appears to be no specific criteria for the placing of prisoners into "work release programs". The escapes of these prisoners were extremely high, even by the Department of Corrections' statistics. (See Transcript of Hearings, Pages 37, 38, 98, 99, 100, 173, 175, 178, 370, 371, 474, 475)

23. "Moonlighting" (the holding of other jobs), or performing services for hire, is prevalent among a large number of employees. This extra-income producing work was openly condoned, permitted or "winked-at" by the Director's office. (See Transcript of Hearings, Pages 20, 68, 340, 341, 343, 446)

24. Numerous personnel are hired under "contract" (without character investigation or being fingerprinted) which avoided Civil Service procedures and also used funds set aside for other activities or for the hiring of additional guards. (See Transcript of Hearings, Pages 41, 42, 339, 340, 379, 380)

25. The Correctional Advisory Council, Washington, D.C. advised the Director on policies he should follow, and he admitted giving their advice close attention. (See Transcript of Hearings, Page 51)

26. The morale of the paid personnel, especially the guards, or Correctional Officers is at an all-time low. (See Transcript of Hearings, Pages 38, 51, 87, 88, 118, 119, 120, 132, 133, 134, 135, 136, 137, 166, 236, 237, 241, 260, 282, 283, 284, 315, 316, 317, 318, 353, 402, 404, 418, 421, 425, 426, 497, 526, 527, 533)

27. Full inspections or "shakedowns" of the institutions are seldom. According to Directive DO 5000.4A, they are ordered to be done twice a month. This permits contraband of all types to flow freely in and about the various prisons. (See Transcript of Hearings, Pages 64, 101, 102, 165, 210, 259, 260, 401, 402, 404)

28. The training of correctional officers in particular, and personnel in general is from no training at all, to extremely limited courses. (See Transcript of Hearings, Pages 131, 132, 319)

29. No continuing examinations, records or controls are kept on prisoners with contagious diseases. (See Transcript of Hearings, Pages 145, 149, 201)

30. Visitors are allowed physical contact with prisoners, at which time contraband has been apprehended being passed between them. Any sum of money may be deposited to any prisoner's account by any one, ostensibly to pay for contraband. (See Transcript of Hearings, Pages 155, 156, 198, 199, 200, 291, 292, 293, 420, 427, 482, 499, 500, 511)

31. First offender prisoners are commingled with hardened or recidivist criminals, there being no segregation facilities available. (See Transcript of Hearings, Pages 157, 179, 180, 181, 285, 286)

32. The administrators of the various institutions under the Department of Corrections are unbelievably inept and without proper experience or training. (See Transcript of Hearings, Pages 195, 196, 226, 335, 336, 347, 348, 352, 354, 355, 372, 425, 447, 448, 449, 450, 451, 452, 482, 489, 490, 491, 492, 494)

33. The inmate population in the Department of Corrections was found to be below capacity. (See Transcript of Hearings, Pages 228, 229, 230, 268, 269, 270, 460)

Mr. SCOTT of Virginia. Mr. President, these findings coincide very much with the findings of the General Assembly of Virginia, but on page 30 of that same report, there is a concluding paragraph which reads:

There further appears a quite unique bonus for the Federal Bureau of Prisons, in that by having jurisdiction over the Reformatory at Lorton, Virginia, they will, for the first time have jurisdiction over paroled prisoners. They will have a full opportunity to set up the D.C. penal system, as a model for the Nation to observe, from first admission to an institution, through that of parole.

Mr. President, citizens who live near the prison complex have also contacted the office and shared their concern. The situation has become so bad, Mr. President, that the attorney general of the State of Virginia filed suit in the State court—which has since been transferred to the Federal district court—to have the prison complex declared a public nuisance.

Mr. President, I ask unanimous consent to insert in the RECORD a copy of the complaint filed in the circuit court of Fairfax County by Virginia's attorney general.

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

[In the Circuit Court of Fairfax County, Va.]

COMPLAINT

Commonwealth of Virginia, Plaintiff v. District of Columbia, a municipal corporation, serve on: Stanley J. Anderson, District of Columbia Council, Washington, D.C.; Kenneth L. Hardy, Director, Department of Corrections, Washington, D.C.; and Delbert C. Jackson, Superintendent, Lorton Reformatory, Lorton, Va., Defendants.

JURISDICTION

(1) The jurisdiction of this Court is invoked pursuant to Title 8, Chapter 25, of the Code of Virginia (1950), as amended, §§ 8–578, *et seq.*

PARTIES

(2) Plaintiff Commonwealth of Virginia brings this action in her *parens patriae* capacity as guardian of the health, safety and welfare of her citizens.

(3) Defendant District of Columbia is a municipal corporation which owns and operates a penal facility, known as the Lorton Reformatory, in Fairfax County, Virginia. Defendant Kenneth Hardy is the Director of the District of Columbia Department of Corrections, which is charged by statute with the administration of the Lorton Reformatory. Defendant Delbert C. Jackson is the Superintendent of the said reformatory.

CAUSE OF ACTION

(4) Within the calendar year 1972 and prior to the filing of this Complaint, at least seventy-nine (79) inmates, most of whom are felons who have been convicted of crimes of violence, have escaped from the Lorton Reformatory, including thirty-nine (39) who have physically breached the security perimeter.

(5) On information and belief, these escapes have been made possible by the inadequacy of the security, staffing and supervision of the said reformatory by the defendants.

(6) The number and frequency of the said escapes and the presence of the escapees in Northern Virginia and particularly in Fairfax County, Virginia, constitutes a continuing danger to the health, safety and welfare of the citizens of the Commonwealth of Virginia who have been or may be injured, taken hostage, robbed or burglarized by these inmates in their desperate flight.

(7) Based on the foregoing facts, defendants are guilty of maintaining a public nuisance, to-wit: the Lorton Reformatory.

(8) If defendants are permitted to continue to maintain the said nuisance, the health, safety and welfare of the citizens of the Commonwealth of Virginia will continue to be endangered as described above.

(9) If defendants are permitted to continue to maintain the said nuisance, the Commonwealth of Virginia will be unable to attract industrial and residential citizens to the area surrounding the Lorton Reformatory, to the detriment of her economy and development.

(10) If defendants are permitted to continue to maintain the said nuisance, the Commonwealth of Virginia will be required to hire and maintain extra and special law enforcement personnel specifically for the protection of her citizens in the Lorton area and for the apprehension of defendants' escapees.

PRAYER FOR RELIEF

(11) Wherefore, plaintiff prays that the Court will take jurisdiction over the complaint and grant the following relief:

a: Declare that the defendants' current operation of the Lorton Reformatory constitutes a public nuisance.

b: Enter an order prohibiting the defendants from continuing to operate the Lorton Reformatory unless measures satisfactory to the Court are implemented forthwith effectively to eliminate the possibility of easy escape from the said facility.

c: Order such other general and special relief as shall seem appropriate upon a review of the evidence.

COMMONWEALTH OF VIRGINIA.

Mr. SCOTT of Virginia. Mr. President, the Board of Supervisors of Fairfax County, where the prison complex is located, has also asked that the prison facility be transferred to the U.S. Bureau of Prisons. Knowing the feeling of the people of Virginia on this matter, I have written to the President and the Attorney General, urging that the executive department take action to improve conditions at Lorton. Escapes have become so routine that I have heard commentators on radio and television joking about their frequency. It would be comical that inmates could walk in and out of an institution as freely as they do if it was not such a serious matter.

I recall an account in the paper that one of the inmates asked a correctional officer to take him to George Washington University, where he was going to lecture at the university. He did go there, and the correctional officer let him out, and he went in the front door while the car

was being parked. Then the correctional officer went inside the hospital and asked where the symposium was going on. The people at the hospital knew nothing about it, and he asked where the inmate was. They did not know anything about him, either.

The affairs of the institutions have been conducted so loosely and the correctional heads of the District of Columbia Department of Corrections have been so unresponsive to the people of Virginia where the complex is located that I do feel we have no alternative but to transfer this facility to the Department of Justice. I feel that the prisoners themselves will benefit from this.

You know, Mr. President, we like to believe that in this country we live under the rule of law, but in this prison complex it is the law of the violators that runs the institution. It is an intolerable situation, and I urge that this amendment be adopted.

I reserve the remainder of my time.

Mr. EAGLETON. Mr. President, I rise in opposition to the amendment offered by the Senator from Virginia with respect to the Lorton Reformatory. This is a home rule bill. The title on the hearings report states: "Home Rule, 1973."

The Senator from Virginia giveth and the Senator from Virginia taketh away. We are giving home rule by this bill insofar as the District of Columbia operation of their institution is concerned, insofar as their courts are concerned, insofar as their power to tax, to pass ordinances, zoning, and all of the normal, routine powers that go with a city or a State. The District of Columbia is a curious composite of both city and State.

As we give with one hand, the measure of the Senator from Virginia would take away by saying that they cannot run their own penal system.

No one likes penitentiaries. No one likes incinerators. I take it that the good people of Virginia do not want prisons or incinerators in their backyard. We have many who hold the same feelings in Missouri with respect to penal institutions and incinerators.

The fact is that Lorton is where it is, and that any quasi-state containing 750,000 people has to have a penal institution. There it is in the home State of the Senator from Virginia. I am sure that the immediate residents of that area have written him and are concerned, upset, and dismayed. The Senator's amendment is in response to that concern and dismay.

It still has to be said that a governmental entity comprised of three-fourths of a million people must have a penal institution. And if it is to have true home rule, it must have jurisdiction over that penal institution, including the management, control, and parole practices in connection therewith.

The Senator from Virginia (Mr. SCOTT) for years in the House introduced this penal legislation.

On June 14, 1973, I asked the Attorney General for his comments as to whether this institution should be transferred to the Bureau of Prisons, since that is under the Department of Justice. We have not heard from him since that time. I must say in all candor that I am not anxiously pursuing a response.

The distinguished Senator from North Dakota (Mr. BURDICK), chairman of the Subcommittee on Penitentiaries of the Judiciary Committee, is strongly opposed to this legislation and believes that insofar as jurisdiction is concerned this matter should be heard, if not jointly by his subcommittee and the Committee on the District of Columbia, then exclusively by his Subcommittee on Penitentiaries.

Mr. President, I have one further word to say, and then I will yield back the remainder of my time.

I emphasize that in home-rule legislation, which is designed to give a greater measure of governmental self-control to the citizens of the District of Columbia, it is improper to say that we will give them home rule on the one hand and then with the other hand will remove their penal facilities from their control.

Mr. SCOTT of Virginia. Mr. President, if the Senator will yield, as the Senator has mentioned, the facility is incidentally and actually located in Virginia, rather than in one of the other States. I would be glad to accept an amendment to transfer it to any one of the other 49 States.

When the Attorney General of Virginia wants to have that institution declared a public nulisance—and a suit has been filed in the Federal court for that purpose—that shows how strongly the people of Virginia feel about the facility being located in their own State, a facility over which they have no control.

Mr. EAGLETON. Mr. President, we are having grave trouble trying to devise a mission for the Space Shuttle. Maybe a better solution would be to use the Shuttle to put this penal institution in another planet. That would remove it even further from the mind, sight, and sound of the Senator from Virginia and would trouble him even less. However, we are not going to move the penitentiary to Maine, California, or outer space. It is in Virginia, and as far as I am concerned, that is where it will remain.

Mr. SCOTT of Virginia. Mr. President, in all seriousness, all that the people of Virginia want is a responsible administration of the facility in Virginia. We do not feel that we have had that. The institution should be transferred to the Federal Bureau of Prisons.

All 10 Members of the House of Representatives who represent Virginia have cosponsored legislation identical to this amendment.

I have here a statement by the then president of the American Federation of Government Employees, Mr. John Griner, who has since retired. I ask unanimous consent that this statement be printed at this point in the RECORD.

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

STATEMENT OF JOHN F. GRINER

Once again, as I did on December 11, 1969, I come before you to ask for justice and equity for a group of most loyal and faithful government employees working at the Lorton Reformatory at Lorton, Virginia.

The immediate issue which attends my testimony today is H.R. 4624, a Bill to transfer to the Attorney General jurisdiction over the District of Columbia penal facilities at Lorton. One of the main purposes of that Bill is to incorporate the Lorton facilities into those maintained by the Attorney General of the United States through the Federal Bureau of Prisons.

Our organization has been especially privileged and honored to represent under exclusive recognition both the employees at Lorton Reformatory and those on duty at the Federal Bureau of Prisons. Consequently, we are aware of the problems with which these institutions must contend.

Candor and an awareness of equity require me to state that conditions within both need considerable improvement. As to their problems, I request your permission to insert into the Record of these Hearings on H.R. 4624 the remarks I made on March 3, 1971, regarding the Federal Bureau of Prisons to the Senate Subcommittee on National Penitentiaries. It appears as Annex I to my statement.

I request your permission to insert also into the Record the statement I made on December 11, 1969, before the House District of Columbia Committee on conditions at Lorton Reformatory. It appears as Annex II to my statement.

Bearing in mind the conditions within both penal systems, I believe that it would be most unwise for any of us to assume that the mere legal transfer of Lorton Reformatory to Federal jurisdiction will automatically produce the best possible results. Such a transfer might, I sincerely hope, solve, or at least mitigate, a few of the most difficult immediate problems with which the authorities of the District of Columbia have been contending. I am not sure, however, what impact such a transfer might have on the urgent improvement programs which the Federal Bureau of Prisons itself has initiated to overcome its own past difficulties.

Nor am I sure what the long-range impact of such a legal transfer might have on the general political and psychological climate within the population residing in the District of Columbia. As you know, the government of the District of Columbia is itself undergoing a transition toward greater self-government. Moreover, the populace has just elected a non-voting representative for the District of Columbia to this House, who will be able to speak for them directly on Capitol Hill.

The issue before you therefore is not a single issue and in fact it appears to be more like the knot which ties together and perhaps entangles many problems all of which have been with us unsolved and unraveled too long.

Honesty and forthrightness require me to say two things. First of all, the authorities in the District of Columbia have made great efforts to try to improve the situation at Lorton. They have worked very hard and they should be commended. And conditions have improved.

But, and I say this with understanding for their problems, they have not improved as much as we had hoped. Consequently, it must be conceded that we are still faced with the same basic question that existed when I appeared before the House Committee on December 11, 1969. Does the government of the District of Columbia have the finances and the legal and political determination to transform Lorton Reformatory into a model institution?

Those who say, "It does," will obviously feel that Lorton Reformatory need not be transferred to Federal jurisdiction. Those who say, "It does not," feel that every day of delay makes the solution of the problem so much harder.

As you know, our organization has only two basic interests by right in this question—interests arising from our obligations to the employees both of Lorton Reformatory and the Federal Bureau of Prisons.

OUR FIRST INTEREST

Our first interest is the right to safe and equitable working conditions of the correctional officers who must risk life and limb to maintain modern, legal penal institutions.

This interest involves our organization in problems far more complex than most of us realized before we went through the experiences of the last two years both at Lorton Reformatory and within the Bureau of Prisons.

I shall try to concentrate my next remarks on the new insights, involved in our first interest, which our organization has acquired even as we began dealing with, and solving, some of the old problems.

The first major new insight all of us gained concerns the essential role of the correctional officer.

The correctional officer, no matter what his other duties, is basically a custodian of human beings. In this case, he is the custodian of that category of human beings who have incurred the adverse judgment of their fellow citizens to confine them to a place of detention where their normal human rights to freedom of action are highly restricted.

The correctional officer not only supervises large numbers of human beings in collective groups, but he must carry out his work, at best, among uncooperative human beings and, at worst, among hostile ones.

Even this is not the whole of the problem. The main issue is that neither the public nor Federal management has dealt with the correctional officer in his true professional character. That professional character is just now being realized, largely because of the role of our own union in insisting on good labor-management contracts which spell out clearly the reciprocal rights and duties of these correctional officers.

The specific problems involved in this new insight into the role of the correctional officer are many. They are elaborated in detail in the statement. I made on March 3, 1971, on the Federal Bureau of Prisons and, since that has been inserted into the Record, for the sake of economy of time, I shall omit discussing them here.

OUR SECOND INTEREST

Next to correctly identifying the specific role of the correctional officer, our second interest is in representing them properly not only in their specific professional role but also in the role they share with all other Federal and District of Coluumbia employees of "government employee." They are entitled to the full measure of protections of the statutes concerning "government employees" and they are entitled to be represented fully and properly when they bargain collectively.

And, I regret to say, correctional officers at Lorton Reformatory have not enjoyed the full measure of their rights either under the statutes or under collective bargaining. But I must immediately add, they have not enjoyed these fully under the Federal Bureau of Prisons either.

IS TRANSFER THE SOLUTION?

Taking into account all the different aspects of the problem, it is clear to us that the mere transfer of Lorton Reformatory will not by itself be sufficient to solve the basic issues involved. We concede that there is a great deal of merit to transferring Lorton Reformatory. We concede that, if one leaves out of account the feelings of the populace of the District of Columbia, it might be argued that it is better to transfer Lorton Reformatory to the Attorney General than leaving it where it is. Of course, this raises the unanswered question whether it might not be equally true, if pure logic were our rule, that one should transfer the penal institutions of some states to the Attorney General. But I realize that is a matter beyond the jurisdiction of this Committee.

However, no matter what legal action is taken, our organization believes that time will show that it is a secondary issue beside the more fundamental ones. These basic issues are first far better insights into what "correctional officers" are. And secondly, precisely because of the nature of the duties of correctional officers, it is essential that good and meaningful collective bargaining be instituted between prison management and the correctional officers represented by their union.

SUMMARY AND CONCLUSION

In summary, I should like to state that our organization sees merit to H.R. 4624 to overcome the present unsolved problems at Lorton Reformatory by transferring it to Federal jurisdiction. However, I wish to stress that unless other, more fundamental reforms are introduced into the Bureau of Federal Prisons, the basic goals of H.R. 4624 will not be attained. These goals require new insights into the role of the "correctional officer" and a firm determination to extend the full protections of the statutes and of collective bargaining to correctional officers.

In concluding, I wish to add only that if these new insights and protections had been applied at Lorton in the past, there might not have been any reason for introducing H.R. 4624 and Lorton Reformatory might already have become a model penal institution under the jurisdiction of the District of Columbia.

I appreciate the opportunity afforded our organization to testify and I shall be pleased to try to answer any questions which might have arisen.

STATEMENT OF JOHN F. GRINER, TO THE SENATE SUBCOMMITTEE ON NATIONAL PENITENTIARIES, MARCH 3, 1971

I come before you, distinguished members of the Senate Subcommittee on National Penitentiaries in a matter that is both extremely urgent and extremely complex—the role of the Bureau of Prisons as a model organization not only for resolving the problem of human crime and rehabilitation, as a Federal enterprise, but alo as a model for State and Local governments. The American Federation of Government Employees is interested in both of these issues because we represent in exclusive recognition units not only all correctional officers in all Federal prisons but also those at the Lorton Reformatory, which is the local prison of the District of Columbia.

At the outset, I wish to express our most sincere thanks to your Subcommittee for monitoring the progress made since the President's statement of November 13, 1969, for probing into issues which have arisen in that interval, and for holding these Hearings.

Secondly, I wish the record to show that I have read with deep interest the most sincere and forthright statement made to you by Norman A. Carlson, the Director of the Bureau of Prisons. His testimony reveals the gravity and urgency with which the Federal management authorities view this problem. As I have stated elsewhere, we pledge Federal management our best efforts to help them reach the goals our nation has placed in their hands.

These goals involve changes not only in the size, structure and mechanism of the Federal penitentiary system but in fundamental national and governmental attitudes toward the prison population and its relationship to society as a whole. To achieve these goals, we will, of course, have to mobilize more financial and human resources to improve both staff training and to remove inadequate and overcrowded facilities.

But that will not be enough. We will have to change the attitudes of other government officials also, particularly those dealing with administration of justice and law enforcement.

First of all, we can no longer overlook the fact that forty per cent of those released from confinement return to prison at a later date. Therefore, we must end stop-gap attitudes in government to this problem and deal seriously with the prison population itself, differentiating between the specific problems they present. We need genuine specialists for the distinct categories of offenders, such as juveniles; women; narcotics and alcoholic addicts; the mentally ill criminals; and hard-core criminals.

We need urgently a major change in the attitude of the other Bureaus and offices of the Department of Justice itself regarding the role of the Federal penitentiary system. Judges, prosecutors and the police departments should understand the great impact their actions have on the prison population itself. To the extent that the problems of the Federal Bureau of Prisons continue to be neglected by the Department of Justice, and especially the Federal District Attorneys, to that extent prison reform will lag.

One of the most urgent needs is to eliminate the indifferent and even lenient attitude of too many District Attorneys to crimes of assault committed against correctional officers. Too often these criminals are permitted to plead guilty to lesser crimes on the understanding that the sentences imposed will run concurrently with those already being served. In effect, this means no sentence at all. The impact on the prison population is contempt for the Federal legal and correctional system; the impact on the correctional officers is demoralization.

NEW INSIGHTS NEEDED

I believe that we now know the problem is more complex than most of us realized before we went through the experiences of the last two years. I shall try to concentrate my next remarks on the new insights our organization has acquired even as we began dealing with, and solving, some of the old problems.

The first major new insight all of us gained concerns the essential role of the correctional officer.

The correctional officer, no matter what his other duties, is basically a custodian of human beings. In this case, he is the custodian of that category of human beings who have incurred the adverse judgment of their fellow citizens to confine them to a place of detention where their normal human rights to freedom of action are highly restricted.

The correctional officer not only supervises large numbers of human beings in collective groups, but he must carry out his work, at best, among uncooperative human beings and, at worst, among hostile ones.

Even this is not the whole of the problem. The main issue is that neither the public nor Federal management has dealt with the correctional officer in his true professional character. That professional character is just now being realized, largely because of the role of our own union in insisting on good labor-management contracts which spell out clearly the reciprocal rights and duties of these correctional officers.

SPECIFIC PROBLEMS OF FEDERAL PENITENTIARIES

A complicating additional factor is the vast qualitative changes for the worse in the composition of the prison population. Some of these qualitative changes can be reversed by appropriation of more funds for facilities, for larger staff, for screening of inmates and the other items suggested in the testimony of the Director of the Bureau of Prisons.

But many of them will need other fundamental changes in law and in regulations, not just regarding the inmates but regarding the rights and duties of correctional officers.

What kinds of problems can be solved by appropriations?

First of all, there is a great lack of numbers of employees. Money would help solve this problem.

Second, many posts are unmanned at long periods of time when it is considered less dangerous. When the inmates note this situation, it often results in surprise prison

breaks or riots. Money can help solve that problem.

Third, there is overcrowding of facilities which means that the selective supervision of the more incorrigible groups is rendered difficult. Money can help solve that problem.

Fourth, many of the penitentiaries and camps are outmoded or poorly constructed for proper detention, or their environment has changed from rural to semi-urban so that escapes can be easily effected. Money can help solve that problem.

But there are many things that money alone cannot change. Only insight and understanding, with sufficient funds of course, can solve these other problems. This means that the correctional officers should be accepted in their true role which is that of supervisors of human beings. They should be consulted in the development of all programs involving them directly with the prisoners in their charge.

A prime goal of management should be to consult regularly with the correctional officers to avoid situations where these officers will be physically assaulted by the inmates.

Correctional officers should be given timely access to information regarding changes in the character of the prison populations, especially those resulting from mass transfers from one prison installation to another. If the transfers are for reasons of security, the correctional officers should be given proper advance briefings and asked how their own installation can best absorb the new population.

When new supervisors are assigned to a prison installation, the supervisor should be given adequate orientation time for consultations with the permanent staff so that he does not inadvertently precipitate a riot or a prison outbreak by changes in local prison rules and regulations.

Prison wardens should be cautioned not to create situations of conflict by granting inmates access to offices or positions which allow them to expose correctional personnel to assault or abuse or detract from the respect in which they are held by other inmates.

A regular, strictly-enforced system should be installed for recording warnings by correctional officers to supervisors regarding "problem inmates". Too often we hear of regrettable situations where the supervisor disregarded the warnings but, since they were not recorded, he subsequently blamed the correctional officers for negligence of duty.

A strict accounting should be kept of efforts by management to force correctional officers to perform extracurricular "services" for inmates. While our union itself encourages its members to engage in voluntary humanitarian undertakings of "donated labor", it is our experience that these can best be carried out in a context outside one's own job and that employees should not be asked to donate time for work for which they would be normally paid. Moreover, the manner in which some of the "donated time" is obtained violates the clear provisions of title 31, United States Code 665(b) which prohibits Federal officials from receiving or soliciting a donation of free time and voluntary service from Federal employees.

THE PROBLEM OF HAZARDOUS DUTY AND EARLY RETIREMENT

Although the employees of the Bureau of Prisons are "eligible" for earlier retirement under the provisions of subparagraph (c) of Section 8336 of title 5, United States Code, there is a serious inequity which exists in the present law regarding them and all other persons eligible under its provisions.

For more than six years I have been petitioning the several Committees of Congress to redress this inequity.

As the law now reads, employees are "eligible" but cannot exercise this eligibility as a "right" to retire unless "the head of the agency recommends retirement and the Civil Service Commission approves that recommendation".

The time has come to redefine retirement at age 50 after 20 years of service in hazardous duties. We are not content with the language in the Federal Personnel Manual which states that the only reason earlier hazardous duty retirement is available is because, and I am quoting, "certain employees . . . are no longer capable of carrying on efficiently, and their replacement by younger men would improve the service".

At another point, the Federal Personnel Manual states the following:

"A more generous method of computing the amount of annuity is provided, not as a special reward for the type of service involved, but rather because a more liberal formula is usually necessary to make the earlier retirement (with resulting shorter service) economically possible."

The AFGE repudiates this concept. These men are not a special category of charity cases—they have served their country well, risking life and health and limb; and they should be shown the very special gratitude of their employer, the Federal government, for exceptional services well rendered.

We ask the removal of all those features of present law and regulation which require both the Agency Head and the Civil Service Commission to determine that in fact the individual is no longer capable of carrying on efficiently and that his replacement by a younger man would improve the service.

Specifically, we are requesting that, upon application of the eligible employee, his request for retirement must be honored and that the Agency Head and the Civil Service Commission have no other functions than to take note of the application for retirement and to determine whether the applicant is eligible according to his record and length of service. No determination should be made regarding his efficiency or whether any other person could perform the job better, be that other person younger, older, or the same age.

We have been recommending this change in the law not only to eliminate the present branding of the loyal employee as inefficient but also because the Congress, in other laws, has already recognized the principle that the employee need only ask for the retirement to which he is entitled. In this connection, I invite your Subcommittee's attention especially to existing law which states that any Federal employee 55 years of age with 30 years of service will obtain an annuity simply by requesting it. Following this principle, any Federal employee 50 years of age with 20 years in a hazardous occupation should obtain it simply by asking for it. No one should be making humiliating judgments about the employee's "efficiency".

A MEANINGFUL MODEL FOR STATE AND LOCAL CORRECTIONAL INSTITUTIONS

As I stated at the outest of my testimony, our organization is interested not only in the issue of the Bureau of Prisons being a model Federal organization but also being a meaningful model for state and local correctional institutions. Our interest is direct because we represent in an exclusive unit all correctional officers at Lorton Reformatory which is the local prison of the District of Columbia.

On December 11, 1969, I had the privilege to testify on conditions at the Lorton Reformatory, Lorton, Virginia before the House Committee on the District of Columbia. Inasmuch as your Subcommittee is interested in the relevance of the program of the Federal Bureau of Prisons to state and local correctional institutions, I request your permission to include in the record excerpts from the testimony I submitted to the House Committee. Those excerpts appear textually as an annex to my present statement and, rather than repeat them verbally, I should like to propose that you accept them in written form for the record. I believe that my testimony on Lorton Reformatory indicates that state and local correctional systems have the same problems, though different in contexts, as installations of the Federal Bureau of Prisons.

SUMMARY AND CONCLUSION

In summary, I should like to reiterate that we are most grateful that your Hearings have been directed to the comprehensive question of the ten-year program of the Bureau of Prisons to establish a model system.

We endorse fully the views expressed by the Director of the Bureau of Prisons regarding the need for more funds and for new programs. Our union will cooperate with management to achieve these fine goals.

Nevertheless, as I stressed, money alone will not solve the problem. Further changes in governmental attitude, especially in the Department of Justice, are necessary. District attorneys and the courts should deal with crimes committed in prison as serious matters. Further, Federal management should recognize the essential role of the correctional officer and extend to him the full measure of rights, as well as duties, which this role imposes on him. The best way to do this is through a good labor-management relations program based on contract.

I urgently recommend a change in subparagraph (c) of Section 8336 of title 5, United States Code, to permit Bureau of Prisons personnel to retire at 50 years of age after 20 years of duty by right and not by charity.

And in conclusion, I should like to suggest that the Subcommittee may wish to review with the Committees on the District of Columbia information on conditions at Lorton Reformatory, as a basis of comparison to test the Federal program in the light of the needs of local correctional systems.

I thank the Subcommittee members once again for the privilege of testifying and I am submitting for the record as an annex excerpts of my earlier testimony on Lorton Reformatory.

I shall be most pleased to answer any questions the Subcommittee may wish to ask.

ANNEX TO STATEMENT BY JOHN F. GRINER BEFORE THE SENATE SUBCOMMITTEE ON NATIONAL PENITENTIARIES, MARCH 3, 1971

. . ."My appearance before you, in the last two years, have had to deal increasingly with matters which give me and my organization a great deal of concern. The record will show that I have had to appeal to you and other Committees of the Congress to provide legislation assuring the safety not only to the public as a whole but also providing greater security and protection to personnel of the courts and the law enforcement agencies located in the District of Columbia. . . .

The immediate issue which brings me before you today, the situation in the Lorton Reformatory, Lorton, Virginia, confirms the wisdom of our previous testimony before you.

Our organization considers it a great honor that the employees of the Lorton Reformatory elected it as its exclusive representative to bargain with management. It is a privilege, however, which involves duties as well as rights. It is also our right to speak for them.

It is not my purpose to recite to you the state of affairs and the events leading up to the present conditions at the Lorton Reformatory. Least of all is it my function to submit to you judgments as to the responsibility of individuals and of organizations for allowing these conditions to develop.

What is it that we are asking on behalf of these employees?

We are asking only that you assure due process to the employees of the Lorton Reformatory in matters of their grievances and appeals and that you help provide them with proper safety and security during the discharge of their official duties.

What we ask you to give them is, therefore, exactly the same thing we have been asking Congress to give to every employee of the Federal government and of the District of Columbia. We are, in effect, asking for nothing more than we have asked for every government employee.

As to these rights and duties, I should like the record to show that our Local 1550 has consistently sought to have these unfortunate conditions at Lorton Reformatory improved first of all by the management of the government office directly involved. For this reason, they have regularly called them, in a timely fashion, to the attention of the proper authorities at Lorton, Virginia and in the Department of Corrections of the District of Columbia.

I should appreciate the record showing also that, unfortunately, on many occasions our Local 1550 has not been consulted on matters of proper interest to it or apprised even in time of decisions already taken by the management authorities. We would hope that this situation will not continue into the future.

It should be noted also for the record that an exclusive bargaining contract was signed on October 10, 1969, which gave our Local 1550 the right to negotiate on the problems which have arisen within the Department of Corrections. The Commissioner-Mayor of the District of Columbia has stated that the terms of the management-labor contract will be observed. It is my firmest conviction that, if that contract is carried out in good faith by all parties, its provisions will eliminate almost all of the problems that have existed within the Department of Corrections, I therefore most fervently hope that these provisions will be observed scrupulously in the future.

It should be noted also that monies have been appropriated which will give the D.C. Department of Corrections the full amount of revenues requested for the fiscal year 1970. If properly expended, these monies will go a long way to resolve a great number of the problems confronting both management and the employees.

Most of all, I beseech your Committee to take measures to improve the rules and regulations regarding the security of correctional officers and the protection of the other staff personnel at Lorton Reformatory. Our Local 1550 representatives have stated to me that during the current year, for example, a family picnic was held at which about 2,800 people visited the 1,200 inmates at Lorton, all at one time. Thus there were approximately 4,000 persons gathered together in a confined area, under special circumstances where emotions might be easily aroused. I request your Committee to ascertain whether the repetition of such a mass gathering is in the public interest or whether it might not be better to have smaller groups of inmates and family and friends visit together.

I have read reports in the press of other statements before your Committee regarding the presence of knives and other weapons as well as dope on the premises. It is not within the scope of my function as a union representative to provide the proof of these allegations. However, it is my duty to the employees of Lorton Reformatory to request that you assure them that they will not have to work in any establishment under the jurisdiction of the Federal government or the government of the District of Columbia where such conditions are allowed to exist. . . ."

STATEMENT OF JOHN F. GRINER, TO THE HOUSE DISTRICT OF COLUMBIA COMMITTEE ON CONDITIONS AT THE LORTON REFORMATORY, LORTON, VA., DECEMBER 11, 1969

I come before you, distinguished members of the House Committee on the District of Columbia, to ask for justice and equity for a group of loyal and faithful employees of the Lorton Reformatory at Lorton, Virginia.

Our organization, the American Federation of Government Employees, is the largest union in the country of employees of the Federal government and of the District of Columbia. Today we represent about 630,000 employees in exclusive recognition units and we have a dues-paying membership of approximately 320,000.

In the past you have been gracious to allow me to appear on matters affecting not only the pay, the rights and duties of employees of the District of Columbia but to speak also on such other matters, as parking facilities, which concern all Federal and District employees who work here.

As you know, we are steadfastly committed to carrying on our internal affairs, as well as the affairs we have with the public, in a climate of peace and good will. We place our deepest trust in the fullest participation of our members in truly democratic processes, most of all in those kinds of official and private conduct summarized by the words—"due process". As you are aware, the goodly part of our union's activity is concerned with securing grievance and appeal procedures for all employees of the Federal and District of Columbia governments which safeguard fundamental human liberties and rights, especially those included in the definition of "due process".

However, my appearances before you, in the last two years, have had to deal increasingly with matters which give me and my organization a great deal of concern. The record will show that I have had to appeal to you and other Committees of the Congress to provide legislation assuring the safety not only to the public as a whole but also providing greater security and protection to personnel of the courts and the law enforcement agencies located in the District of Columbia.

In October, 1968, I submitted to you a statement in support of H.R. 14430, a Bill to establish a Commissioner of Police for the District of Columbia. In that statement, our organization went on record in favor of placing law enforcement under one head and under one system of uniform administration. We stated that in our opinion this would improve the morale of the personnel in the law enforcement agencies and would also tend to make law enforcement more efficient and, I wish to add, make it both more humane and more human.

The immediate issue which brings me before you today, the situation in the Lorton Reformatory, Lorton, Virginia, confirms the wisdom of our previous testimony before you.

Our organization considers it a great honor that the employees of the Lorton Reformatory elected it as its exclusive representative to bargain with management. It is a privilege, however, which involves duties as well as rights. It is our duty to speak for every employee at that Reformatory, whether he or she is a dues-paying member. It is also our right to speak for them.

It is not my purpose to recite to you the state of affairs and the events leading up to the present conditions at the Lorton Reformatory. Least of all it is my function to submit to you judgments as to the responsibility of individuals and of organizations for allowing these conditions to develop.

What is it that we are asking on behalf of these employees?

We are asking only that you assure due process to the employees of the Lorton Reformatory in matters of their grievances and appeals and that you help provide them with proper safety and security during the discharge of their official duties.

What we are asking you to give them is, therefore, exactly the same thing we have been asking Congress to give to every employee of the Federal government and of the District of Columbia. We are, in effect, asking for nothing more than we have asked for every government employee.

As to these rights and duties, I should like the record to show that our Local 1550 has consistently sought to have these unfortunate conditions at Lorton Reformatory improved first of all by the management of the government office directly involved. For this reason, they have regularly called them, in a timely fashion, to the attention of the proper authorities at Lorton, Virginia and in the Department of Corrections of the District of Columbia.

I should appreciate the record showing also that, unfortunately, on many occasions our Local 1550 has not been consulted on matters of proper interest to it or apprised even in time of decision already taken by the management authorities. We would hope that this situation will not continue into the future.

It should be noted also for the record that an exclusive bargaining contract was signed on October 10, 1969, which gave our Local 1550 the right to negotiate on the problems which have arisen within the Department of Corrections. The Commissioner-Mayor of the District of Columbia has stated that the terms of the management-labor contract will be observed. It is my firmest conviction that, if that contract is carried out in good faith by all parties, its provisions will eliminate almost all of the problems that have existed within the Department of Corrections. I therefore most fervently hope that these provisions will be observed scrupulously in the future.

It should be noted also that monies have been appropriated which will give the D.C. Department of Corrections the full amount of revenues requested for the fiscal year 1970. If properly expended, these monies will go a long way to resolve a great number of the problems confronting both management and the employees.

Most of all, I beseech your Committee to take measures to improve the rules and regulations regarding the security of correctional officers and the protection of the other staff personnel at Lorton Reformatory. Our Local 1550 representatives have stated to me that during the current year, for example, a family picnic was held at which about 2,800 people visited the 1,200 inmates at Lorton, all at one time. Thus there were approximately 4,000 persons gathered together in a confined area, under special circumstances where motions might be easily aroused. I request your Committee to ascertain whether the repetition of such a mass gathering is in the public interest or whether it might not be better to have smaller groups of inmates and family and friends visit together.

I have read reports in the press of other statements before your Committee regarding the presence of knives and other weapons as well as dope on the premises. It is not within the scope of my function as a union representative to provide the proof of these allegations. However, it is my duty to the employees of Lorton Reformatory to request that you assure them that they will not have to work in any establishment under the jurisdiction of the Federal government or the government of the District of Columbia where such conditions are allowed to exist.

I ask your indulgence to allow me to end on an optimistic note.

I know the members of this Committee well, I know the Members of Congress well. I have the fullest confidence that you will find

the means to bring peace, safety, security and due process to the employees of Lorton Reformatory. And I request that the record show that I pledge the entire energies of the American Federation of Government Employees to assist you in every way you may designate in achieving these fundamental reforms there.

In conclusion, I wish again to express to this distinguished Committee my deepest appreciation for your allowing me to submit today this testimony to you.

Mr. SCOTT of Virginia. Mr. President, this is not something——

Mr. EAGLETON. Mr. President, do I have the floor or does the Senator from Virginia have the floor?

Mr. SCOTT of Virginia. The Senator from Missouri has the floor.

Mr. EAGLETON. Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

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

The PRESIDING OFFICER. The Senator from Virginia has 3 minutes remaining.

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

The PRESIDING OFFICER. The Senator from Missouri has 10 minutes remaining.

Mr. EAGLETON. Mr. President, if the Senator from Virginia wishes additional time, I will yield him some of my time on the amendment.

Mr. SCOTT of Virginia. Mr. President, I appreciate the consideration of the distinguished Senator from Missouri.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. SCOTT of Virginia. Mr. President, I would like to summarize my personal feelings and the feelings of the correctional officers who are charged with the responsibility of operating the facility. These correctional officers in the grade of sergeant and below, and one or two higher grades, have come to my office. They have said that the hierarchy within the District of Columbia Department of Corrections is not letting them operate the facility in what they consider to be a proper way.

They say that every time there is a dispute between the correctional officers and the inmates, the heads of the District of Columbia Department of Corrections side in with the inmates. That is the type of facility we have located in Virginia.

Mr. President, we have these inmates who come from the District of Columbia oftimes knowing each other as young people and having been part of the same street gangs. They go to this institution in Virginia, and they continue there some of the operations that they have had in the past on the streets of the District of Columbia.

No effort is made to rehabiliate these men or to teach them to live under a rule of law.

The inmates learn while there how to do some of these criminal acts or how to improve on their criminal activities while they are in that institution. This is a matter on which the people of Virginia feel very strongly.

I would urge just as forcefully as it is within my command that this action be taken. It is something on which hearings have been held before the House Committee on the District of Columbia, although no hearings have been had within the Senate committee. However, the House committee did hold hearings on this matter and they did recommend this. They included it within the legislation that passed the House. This is a good bill, Mr. President. It has been attached as my amendment.

I think it is entirely relevant to the subject matter that is pending before the Senate, and I urge its adoption.

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

Mr. EAGLETON. Mr. President, I yield 3 minutes on the amendment to the Senator from Maryland.

Mr. MATHIAS. Mr. President, I feel compelled to oppose the amendment. It is not a new idea. It is something that has been debated in Congress a number of times. I think it is bad in principle. The statement that a city or municipal government should not have control of its own penal facility is contrary to the established practice in penitentiary management and the rehabilitation of criminals.

I can understand the motives which have caused the distinguished sponsor of the bill to bring it forward, and I am not saying that there are not serious problems at Lorton. But it is a problem which goes far beyond the immediate circumstances that have been described. It is one which would have an impact on the entire Federal prison system. The committee has asked the Attorney General for his views on the subject as it is brought forward in S. 375. We do not yet have the opinion of the Attorney General on S. 375.

There is a question of committee jurisdiction which has been raised by the committee, in that there is a possibility that there is primary jurisdiction in the Subcommittee on National Penitentiaries of the Committee on the Judiciary. But in addition to these procedural concerns, I think there is a substantial substantive question about whether we ought to divorce the city's Lorton facility from the correctional system.

I think this whole question was addressed very eloquently by my constituent, Mr. James Bennett, the former Commissioner of Federal Prisons, who is a resident of Bethesda, Md., and who has devoted his lifetime to the operation and improvement of the Federal prison system. He testified before the Senate committee some time ago that it would be absolutely disastrous to divorce the correctional system of the District of Columbia from the Lorton facility, but that if there was any hope of improving both the total correctional system and the Lorton facility, it would have to be adopted as a whole and not in part. Therefore, I feel that I must oppose the amendment.

Mr. EAGLETON. Mr. President, may I inquire of the Senator from Virginia, can we now set aside this amendment and proceed to the next one?

Mr. SCOTT of Virginia. Mr. President, in response to the distinguished Senator's inquiry, I do ask for the yeas and nays, but I am perfectly willing to postpone the rollcall until the conclusion of the bill. The distinguished Senator has asked that the votes be back to back with final passage.

I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. EAGLETON. Mr. President, I ask for the yeas and nays on passage of the bill.

The yeas and nays were ordered.

Mr. EAGLETON. Mr. President, I yield back the remainder of my time. I ask unanimous consent that the vote on the amendment on which the yeas and nays have just been ordered occur subsequently, and that in the interim another amendment be considered.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Missouri? The Chair hears none, and it is so ordered.

AMENDMENT NO. 267

Mr. SCOTT of Virginia. Mr. President, I have another amendment. I call up my amendment No. 267, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. SCOTT of Virginia. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

Mr. SCOTT of Virginia's amendment (No. 267) is as follows:

On page 181, between lines 10 and 11, insert the following:

"TITLE XV—MISCELLANEOUS

"NATIONAL CAPITAL PLANNING COMMISSION

"SEC. 1501. Notwithstanding any other provision of this Act, the Act entitled 'An Act providing for a comprehensive development of the park and playground system of the National Capital', approved June 6, 1924, as amended (D.C. Code, sec. 1–1001), or any other law, the National Capital Planning Commission, on and after the date of the enactment of this Act, shall have no jurisdiction, power, or authority to engage in or carry out any planning, project, development, or other activity or function, outside the exterior boundaries of the District of Columbia."

On page 181, line 11, strike out "XV" and insert in lieu thereof "XVI".

On page 181, line 13, strike out "SEC. 1501." and insert in lieu thereof "SEC. 1601."

Mr. SCOTT of Virginia. Mr. President, the amendment simply provides that the jurisdiction of the National Capital Planning Commission be identical to the exterior boundaries of the District of Columbia. In other words, it provides that the National Capital Planning Commission shall have no jurisdiction in Virginia, in Maryland, or in any of the other States of the Union, but that its jurisdiction shall be confined within the boundaries of the District of Columbia.

In a number of instances the Planning Commission has attempted to exercise jurisdiction in Virginia: With respect to the Dulles Access Road, to the use of commuter buses on that road, and to an additional hangar at Quantico. It also intervened when the Federal Republic

of Germany asked to build an air cargo facility at Dulles Airport. The Commission said the proposed cargo facilities did not fit in with the overall plans for Dulles.

It would seem to me that the overall plans for Dulles should be a matter to be determined by the Department of Transportation and by the Federal Aviation Agency rather than by an organization whose primary concern is with the District of Columbia. The Commission should not attempt to tell the people in Virginia what they should do.

The Commission has intervened in the question of bridges across the Potomac River. Even under my amendment, the Commission could still express its views about the bridges. The Potomac is a District of Columbia river along the boundaries of the District of Columbia; it is a Maryland river outside the District of Columbia.

But the Commission would not have any jurisdiction over the access roads leading to the bridges. For example, as to the proposed Interstate 266 that would run as a spur from Interstate 66 to the Three Sisters Bridge. The Commission has expressed an opinion and has attempted to control the construction of that highway. Frankly, I feel that that is a matter for the people of Virginia to decide. Plans for the construction of interstate highways have to be submitted, of course, to the Department of Transportation and the Federal Highway Administrator. My objection to the National Capital Planning Commission, throughout the entire amendment, relates to its activities outside the District of Columbia.

A suggestion has been made that the Commission be abolished and that its functions be transferred to the District of Columbia government. I would support such a proposal. I believe the House is considering something of that nature.

I hope that the Senate will give serious consideration to this matter. Let the people of the District of Columbia decide problems and issues as they relate to the District of Columbia. Let the people of Virginia decide matters that relate to Virginia. I simply do not like to see an agency purporting to regulate planning within the District of Columbia attempting to tell the people of Virginia how they should plan their facilities.

Mr. President, I reserve the remainder of my time.

Mr. EAGLETON. Mr. President, I shall speak briefly in opposition to the amendment and remarks of the Senator from Virginia with respect to limiting the jurisdiction of the National Capital Planning Commission.

The National Capital Planning Commission has approval power over Federal or District buildings only within a small portion of downtown Washington. Its control over Federal building in most of Washington, D.C., and in all of Virginia and Maryland is restricted to recommending and advising. That is all they can do. I read from the appropriate statute:

> Each Federal and District of Columbia Agency prior to the preparation of construction plans originated by such agencies for proposed developments and projects . . . to be paid for in whole or part from Federal or District funds, shall *advise and consult* with the Commission in the preparation by the agency of plans and programs in preliminary and successive stages . . . July 19, 1952, 66 Stat. 787; D.C. Code 1–1005.

Buildings that contain Federal employees but were not constructed and are not owned by the Federal Government, like Crystal City in Virginia or Parklawn in Maryland, are not even subject to the recommendations of the NCPC.

Innumerable bad experiences have taught us the value of proper comprehensive planning. The NCPC has a wealth of interjurisdictional information not available to the localities, like the half-million dollar transportation study or the master plan for the metropolitan area.

Effective comprehensive planning processes which are responsible to and accommodate the interests of both the Federal Government and the District of Columbia government, as well as effective liaison with governments in the National Capital region, are essential for the development of the Federal Establishment at the seat of government. With due regard for the rights and prerogatives of the adjoining States and local governments and which will, in accordance with present and future needs, best promote public health, safety, order, convenience, prosperity, and the general welfare, as well as efficiency and economy in the process of development.

The Washington metropolitan area is dotted with products of the fine work of the National Capital Planning Commission, as my distinguished colleague from Maryland, Senator MATHIAS, will attest. It should also be pointed out that Senator MATHIAS is the ranking Republican on the Senate District Committee.

So, Mr. President, I think that the amendment offered by the Senator from Virginia (Mr. SCOTT) avails very little. The authority of the National Capital Planning Commission, I repeat, underscore, and emphasize, insofar as the suburban areas of Maryland and Virginia are concerned, is purely advisory and consultative. It has no power of dictation. It has the power to advise and consult since this is a very much interrelated and National Capital area that affects the totality of the area, including the adjacent States.

Mr. SCOTT of Virginia. Mr. President, in response to the comments of the distinguished Senator from Missouri, of course he is correct that they have only the power to advise and consult, but I am told that 99 percent of their recommendations are accepted. So, to me, that means they do have a little bit of an iron fist under the velvet glove the distinguished Senator talks about.

I am also told that in the District of Columbia Committee of the House, consideration is being given to having two additional members from the District of Columbia appointed to that commission. I would submit, if this is done, then we will have more control by people in the District of Columbia over this Commission.

To me, it is a fine thing when it relates to District of Columbia matters only, but it is a bad thing when it relates to areas outside the District of Columbia. It will be interference by the District of Columbia in the affairs of the States of Maryland and Virginia.

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

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

Mr. MATHIAS. Mr. President, when those of us who were up early this morning saw the sun rise, we saw a very unusual, peculiar, and somewhat alarming sight. The sun did not come up bright and shining as it usually does over the hills of Maryland, it came up blood red and smoky. The reason was, of course, smog.

I only raise this point in connection with the amendment, because that smog did not stop at the District line. It was not confined to the District of Columbia. It spread out over Maryland and, I venture to say, it got across the river into Virginia.

Smog is not the only kind of problem that spreads out over the metropolitan area. Air pollution, water pollution, traffic congestion, all these are problems that do not stop at political boundaries.

Mr. President, the purpose of the National Capital Planning Act of 1952, which created the National Capital Planning Commission, is "to secure comprehensive planning for the physical development of the National Capital and its environs; to provide for the participation of the appropriate planning agencies of the environs in such planning, and to establish the agency and procedures requisite to the administration of the functions of the Federal and District of Columbia governments related to such planning." The Congress accordingly found that "the location of the seat of government in the District of Columbia has brought about the development of a metropolitan region extending well into adjoining territory in Maryland and Virginia; that effective comprehensive planning is necessary on a regional basis and of continuing importance to the Federal Establishment; that the distribution of Federal installations throughout the region has been and will continue to be a major influence in determining the extent and character of development; that there is needed a central planning agency for the National Capital region to coordinate certain developmental activities of the many different agencies of the Federal and District governments so that such activities may conform with general objectives; that there is an increasing mutuality of interest and responsibility between the various levels of government that calls for coordinate and unified policies in planning both Federal and local development in the interest of order and economy; that there are developmental problems of an interstate character, the planning of which requires collaboration between Federal, State, and local governments in the interest of equity and constructive action; and that the instrumentalities and procedures provided—in the act—will aid in providing the Congress from time to time with information and advice requisite to legislation."

The general objective of the act is "to enable appropriate agencies to plan for the development of the Federal Establishment at the seat of government in a manner consistent with the nature and function of the National Capital and with due regard for the rights and prerogatives of the adjoining States and local governments to exercise control appropriate to their functions, and in a manner which will, in accordance with present and future needs, best promote public health, safety, morals, order, convenience, prosperity, and the general welfare, as well as efficiency and economy in the process of development."

Amendment No. 267 would negate all of the very important objectives of the Congress in enacting the National Capital Planning Commission. The National Capital region in which the Planning Commission has jurisdiction over proposed Federal and District of Columbia government developments and projects includes the District of Columbia, Montgomery and Prince Georges Counties in Maryland; Arlington, Fairfax, Loudoun, and Prince William Counties in Virginia; and all cities now or hereafter existing in Maryland and Virginia within the geographic area bounded by the outer boundaries of the combined area of these counties. Within the Maryland portion of the National Capital region there are numerous Federal agencies, including:

Andrews Air Force Base.

National Agricultural Research Center.

Naval Ordnance Laboratory.

National Institutes of Health.

Naval Bethesda Hospital.

Atomic Energy Commission.

Bureau of Standards.

Naval Research Center at Carderock.

Census Bureau and Hydrographic Office at Suitland.

Walter Reed Army Medical Center at Forest Glen.

Patuxent Wildlife Refuge.

National Aeronautics Space Administration.

These Federal installations house approximately 90,000 civilian and military personnel.

The Planning Commission coordinates the many Federal interests in the region with regional and State authorities and provides a single central source for such coordinating activities.

To assure such coordination, the Commission, in agreement with the Metropolitan Washington Council of Governments and local authorities has established specific referral and review procedures for Federal installations in the region. All master plans and projects pursuant to those master plans are referred to the Council of Governments and to the planning authorities in Montgomery and Prince Georges Counties. The comments of the Council of Governments and the local governments are presented to the Planning Commission. In this way the local jurisdictions are insured a voice in decisionmaking for the development of Federal facilities in the region. The Planning Commission requires Federal agencies to present master plans for installations in order to insure orderly development within the installations as well as a means for coordinating the various activities of the Federal establishments with the jurisdiction in which they are located. For the most part all of the Federal installations in Maryland have an existing master plan approved by the Planning Commission after consultation and in agreement with the local jurisdictions.

There are over 60 individual local jurisdictions in the National Capital environs and many individual Federal installations. It is inconceivable to me that, at the seat of the National Government, there would not be a central planning source to work and coordinate with local jurisdictions in guiding an orderly physical development of the Federal Establishment.

Because the pending amendment would, I think, decrease the kind of coordination throughout the metropolitan area that would give us the opportunity to deal with these areawide problems, I must oppose the amendment.

Mr. EAGLETON. Mr. President, would the Senator from Virginia agree to a voice vote on his amendment?

Mr. SCOTT of Virginia. That will be all right.

The PRESIDING OFFICER (Mr. HATHAWAY). All time on this amendment has been yielded back.

The question is on agreeing to the amendment of the Senator from Virginia (Mr. SCOTT).

The amendment was rejected.

The PRESIDING OFFICER. The question recurs on agreeing to amendment No. 266, on which all time has expired.

Mr. EAGLETON. That is the so-called Lorton amendment on which all time has been yielded back.

Mr. ROBERT C. BYRD. Mr. President, I would suggest that if there be no further amendment at this time, a quorum call be suggested with the time not to be charged to either side. My understanding is that the distinguished Senator from New Hampshire (Mr. COTTON) may have an amendment.

Mr. EAGLETON. Mr. President I ask unanimous consent to suggest the absence of a quorum with the time not to be taken out of either side.

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

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

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

AMENDMENT NO. 304

Mr. COTTON. Mr. President, I call up my amendment No. 304.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Scott amendment again be temporarily laid aside, that the distinguished Senator from New Hampshire (Mr. COTTON) be permitted to call up his amendment, and that the debate proceed thereon, with the understanding that the vote on the amendment by Mr. COTTON will follow the vote on the amendment by Mr. SCOTT of Virginia.

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

The amendment will be stated.

The assistant legislative clerk read as follows:

On page 129, between lines 7 and 8, insert the following:

"(15) Notwithstanding any other provision of this Act or any other law, appointments to the position of Chief of Police of the District of Columbia Metropolitan Police Force shall be made by the President of the United States."

Mr. COTTON. Mr. President, unfortunately, I had the amendment in two forms, and by mistake, the one I presented, which was printed, was the wrong amendment. The amendment I wish to present reads as follows:

On page 129, between lines 7 and 8, insert the following:

"(15) Notwithstanding any other provision of this Act or any other law, appointments to the position of Chief of Police of the District of Columbia Metropolitan Police Force shall be made by the President of the United States, by and with the advice and consent of the Senate."

By mistake, the version that said "by and with the advice and consent of the Senate" was not handed in at the desk. I ask unanimous consent to substitute the amendment in this form for the one which was just read.

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

Mr. COTTON. Mr. President, the purpose of this amendment is not to throw any roadblock in the way of the passage of this bill. It is a source of pride to this Senator that in his 19 years in the Senate and his 8 years in the House, he has voted for every home rule bill that has been presented for the District of Columbia. At times, he has voted for amendments, but he has voted for every home rule bill.

It is the studied opinion of this Senator that when we have States in the Union, which have statehood, with sometimes less than 200,000 or 300,000 population, we have no right to withhold from about a million people—those who reside in the District of Columbia—the opportunity to vote for a proper form of home rule.

I shall vote for this bill, regardless of whether this amendment should or should not be adopted. I make this statement so that there will be no idea that this is intended as a roadblock in the way of the enactment of this measure.

Mr. President, I will take only 5 minutes to present the reasons for this amendment.

Mr. EAGLETON. Mr. President, will the Senator yield? Does he wish the yeas and nays?

Mr. COTTON. Mr. President, I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. COTTON. Mr. President, the District of Columbia is a Federal city—the city of Washington is a Federal city—which was set aside, of course, primarily for the Government of the United States, for the Executive, the Supreme Court, and the Congress. It has made good prog-

ress. Law enforcement in the District has made good progress in recent years. But the members of the Government of the United States, including members of the executive branches of the Government and including the Congress and the families of Congress, are obliged to live here, or at least spend a large portion of their time within the confines of this city.

It is the belief of this Senator that as we move into the area of home rule in the District, in the interest of the safety of Congress and of all members of all branches of government, we should for the time being, retain some control of the law enforcement agencies of this city—namely, the police.

This is not, in my opinion, an amendment that is hostile to the purposes of the bill before the Senate. If there is one thing that this Senator and I think all Members of Congress have viewed with regret and with sorrow during the past few years, particularly during the demonstrations we had over Vietnam and other kinds of unrest, it has been to have Federal troops or the National Guard called out and to appear on the streets, or to surround the Capitol or any other department of government in this District.

It does not improve the prestige of this nation with other nations to have Federal troops or National Guardsmen patrolling and protecting the Government of the United States. I feel it is highly essential that insofar as it is possible all law enforcement within the city of Washington should be in the hands of the police of Washington and that only under the most drastic and desperate circumstances, as a matter of national pride and national self-respect, should we ever have to see the streets of this city patrolled by Federal troops. In addition, of course, to our responsibility to protect the Congress, the courts, the White House, and the departments, we also have the added responsibility of protecting embassies of foreign countries located in the city.

If we are to preserve or restore our reputation abroad for being a law abiding nation, the most necessary thing is to make sure that we have the best possible police force in the District of Columbia, the city of Washington, that can be obtained and that is of vital interest to the Congress of the United States and the citizens of the United States.

Mr. President, for that reason I introduce this amendment which would simply provide that the one office of Chief of the Metropolitan Police Department in this city should be appointed by the President of the United States, whoever he may be, and should be ratified by the advice and consent of the Senate.

I believe that this proposed amendment is not in any way a reproach upon the contemplated city government that is contained in this measure. I believe city government would be responsible. I believe that any President would take into full consideration the desires and wishes of the city government before submitting, selecting, or appointing a Chief of Police, but I do believe this is a safeguard for the protection of the Federal Government in the Federal City, and the protection of foreign embassies. We recently had an example of an assassination. It is necessary for the protection of Congress. We had a Member of this body shot almost to death. We have had numerous employees of departments of Government and Congress assaulted. We have to confess with sorrow and shame that the streets of this city are not safe, despite all the honest efforts being made, and this is a national humiliation.

For that reason I felt compelled to submit this simple amendment that provides that in just one office, the Office of the Chief of Police of this city, the President of the United States holds the power to make the nomination and make the appointment, and that the appointment should receive the advice and consent of the Senate.

Mr. SCOTT of Virginia. Mr. President, will the Senator yield?

Mr. COTTON. I yield.

Mr. SCOTT of Virginia. Mr. President, I wish to associate myself with the remarks made by the distinguished Senator.

A question arises in my mind and I do not profess to know the answer. Would the Federal interest be protected by a Chief of Police appointed by an elected Mayor and an elected Council, because, again, we have to recognize that this is a Federal city, and the dual nature of our city. Just having recently recited what is to me an intolerable condition at the Lorton penal institution, I wonder if something akin to that might occur in the District of Columbia.

I wholeheartedly support the amendment of the Senator from New Hampshire.

Mr. EAGLETON. Mr. President, I rise in opposition to the amendment of the Senator from New Hampshire. I repeat again, because the Senator from New Hampshire was not here earlier today when we debated some of the other amendments, that this is a home rule bill. It is a bill which by its basic parameters gives the right and authority to conduct all governmental affairs to the residents of the District of Columbia. They will elect their own mayor and city council, and insofar as compatible with the Federal Constitution, conduct their own government affairs. These 750,000 residents of the District of Columbia do not have, at the present time, any meaningful voice in their own destiny.

At one and the same time when we pass the home rule bill, which gives the Mayor the power to appoint judges, the power to appoint his cabinet, the power to do this and that, and the Council the power to levy taxes and so forth, and all the powers in the bill, we would start dwindling away from that authority. According to the Senator from Virginia, they cannot run their own penitentiary, and now, according to the Senator from New Hampshire, they cannot appoint their own chief of police.

What the Senator is saying by his amendment is that the Mayor, whoever he may be, the individual we now know in office, or some other individual who might be Mayor, is incompetent to appoint a good man or a good woman as the chief of police of the District of Columbia. He implies that the sole wisdom so far as appointing power reposes with the President of the United States with the advice and consent of the Senate.

I am not willing to make that assumption. I am not willing to make the assumption that the Mayor to whom we give authority to do all these other things in this home rule bill would be so incompetent, stupid, or corrupt, as to appoint a sinister or inept police chief.

The chief of the police department exercises a purely local function. There are other Federal agencies in this town to protect the Federal function. We have the excellent Capitol Police force to protect the Capitol, we have the White House Police force to protect the White House and the Embassies, and it has been added to in recent years. There are various other Federal police forces protecting Federal office buildings in the District of Columbia.

The point I am making is that there is an adequate police force and that the local police force, which has jurisdiction over purely local matters, ought to be very much, in my judgment, a part of the home rule concept. It should be under the jurisdiction of the elected city government of the District of Columbia.

So while I appreciate the support that the Senator from New Hampshire has consistently given during his many excellent years both in the House of Representatives and the Senate to various home rule bills that have traveled their course during those years, I must respectfully disagree with him on his amendment today, because I think it is a backward step insofar as home rule is concerned. As I said before, the Senate giveth, and now the Senator wants to take it away.

I think this bill should be what it was when it passed last year—a bill that gives home rule, once and for all, to the people of the District of Columbia, and it is something that should not be done on a piecemeal basis, and we should not whittle away at it even before the bill becomes law.

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

Mr. EAGLETON. I am pleased to yield.

Mr. COTTON. The only statement made by my friend the Senator from Missouri that I take exception to is his assertion that the Senator from New Hampshire would believe that a mayor would intentionally appoint any unfit or sinister person. As a matter of fact, the Senator from New Hampshire happens to be an admirer of the present Mayor of the city of Washington. I have complete trust in his judgment and complete confidence in his completely impartial and faithful performance of his duty. However, when we create a city government, it is not all lodged in the mayor, and if I read this bill correctly, it is not all lodged in the Mayor now.

So I would like to say first that it is highly conceivable that we would get into a deadlock over the identity of the Chief

of Police, just as there has been a long delay and deadlock over the identity of the Superintendent of Schools in the District of Columbia. The choice has been narrowed down; I do not know how far it has been narrowed down.

Second, it is a Federal city, and I think the Federal Government should have a part, and that part would be the ultimate decision of the President, with the advice and consent of the Senate; and I cannot conceive of any President—they are not here today, but there are plenty of presidents around the Senate—who would not most certainly consult with and give due heed to the recommendations of the mayor and/or of the city government in the selection of a chief of police.

Therefore, to that extent only, I must take exception to the remarks of my friend. I think as the years go on in the city government and the more home rule it has and the more it exercises responsibility, the better it will be; this need not be a permanent part of the law.

Mr. EAGLETON. Mr. President, I yield 2 minutes to the Senator from Maryland.

Mr. MATHIAS. Mr. President, I just want to thank the distinguished Senator from New Hampshire for the thoughtful and well-considered way in which he has brought this amendment to the Senate. I think it has been a very useful thing that he has brought it to the Senate, because it puts into focus the very part of the relationship between the Federal Government and the seat of that government in the National Capital, and it brings into historical focus one of the very reasons for which the Federal district, the District of Columbia, was established.

Let me say that I think his amendment should be supported if it were not for the fact that there is the very fine Capitol Police force, the White House force, the Executive Protective Service, which protects the various embassies, the National Park Police, the largest marshal's office in the country, the GSA protective force, the Marine Barracks, the Navy Yard, Fort Belvoir, all of which are under the direct command of the President.

Beyond that, I would feel it would be unwise to add this amendment to the bill because of the structure of the bill itself, and I would simply offer to the Senator from New Hampshire a few words from the committee report, and I am quoting from page 4:

> The delegation of permissible home rule to the residents of the District is given with the express reservation that the Congress may any time revoke or modify the delegation in whole or in part, and further, that the Congress may take such action as, in its wisdom, it deems desirable with respect to any municipal action taken by the people or government of the municipality under the authority of the charter.

If any mistakes are made, we have reserved the power to correct them; and it seems to me that, under those circumstances, this amendment, as well motivated as I know it is, by the Senator from New Hampshire is unnecessary.

Mr. EAGLETON. Mr. President, I am prepared to yield back the remainder of my time. I understand we will have back-to-back votes on the Lorton amendment, next on the chief of police amendment, and then on final passage.

The PRESIDING OFFICER. That is correct.

Mr. MATHIAS. Mr. President, since becoming a Member of the Senate, I have come to develop a deep and abiding respect for the opinions of the distinguished Senator from New Hampshire (Mr. COTTON). I can, therefore, understand and share his desire to see the Nation's Capital manned by the finest police force that this country can muster. I also share the distinguished Senator's concern that the police force be led by a chief of the highest professional caliber. I do not, however, believe that it is necessary for the Congress of the United States to deprive the elected Mayor of the District of Columbia of the authority to appoint the chief of police.

Now as I understand the Senator's amendment, he would have the President of the United States appoint the Chief of the Metropolitan Police Department of the District of Columbia with the advice and consent of the Senate. Mr. President, I am confident that the Chief Executive's desire for law and order in Washington, D.C. is unexcelled. There is little question also but that the President's nominee would possess many of the sterling qualities that many of his past appointments have amply demonstrated to the Nation. But I think, Mr. President, that if the Senate is serious in its intent to provide a measure of self-government to the District of Columbia, this amendment takes us in the wrong direction. In fact, this amendment is retrogressive. Historically speaking, the Congress may well have good reason to be jittery about the control or lack of control of the law enforcement apparatus in the National Capital.

According to the records of the Constitutional Convention, the Founding Fathers sought the establishment of a federally controlled permanent seat of government separate from the jurisdiction of any State or locality in order to protect national officials from potential harassment, coercion, or arbitrary arrest by local courts and law enforcement officials. There was, moreover, a reluctance to rely on local officials for protection from potential mob violence or attempts by groups of persons to interfere with or otherwise harass or impede the conduct of the Federal Government's constitutionally prescribed duties. This concern stemmed from an incident which occurred on June 21, 1783, involving the Continental Congress and mutinous Revolutionary Army troops not yet deactivated. On that date from 80 to 250 armed troops—accounts vary on the number—marched on and surrounded Independence Hall in Philadelphia where the Continental Congress was in session. These troops had, disobeying orders of their officers, come to Philadelphia to petition the Congress for many months of pay due them. The troops were intoxicated, leaderless, and threatening to the assembled Members of Congress who had barred the doors and shutters of the Legislative Chamber. Congress requested police or militia protection from the Pennsylvania authorities, but such protection was denied. By evening the mutinous troops retired to their barracks and the Congress voted immediately to move to Princeton where local authorities promised protection from such an incident. This example was brought to the attention of the Delegates to the Constitutional Convention in 1787 and aided in carrying the argument for the "exclusive legislation" clause of article I, section 8 establishing a seat of government under the ultimate jurisdiction of the Federal Government.

Obviously, Mr. President, a presidentially appointed chief of police defeats an important part of the purpose of self-government. The mayor provides the anchor for a clear line of authority from the top, through agency heads to bureau chiefs and line personnel. The mayor and city council represent the points of accountability to the Congress. This, Mr. President, will promote a strong sense of responsibility in the mayor and the city council and give them incentives for assuring strong and responsible performance by the heads of departments and agencies. Imagine the disruption that would occur if all District agencies did not draw their authority and receive policy guidance and direction from the same source. Without question, the chances for effective and concerted action by the mayor in the event of an emergency or crisis or even during the course of the normal day-to-day operations of the Government will be tremendously hampered by having a local police department whose line of authority is anchored to the White House. Mr. President, I urge my colleagues to oppose this amendment.

Mr. COTTON. Mr. President, I am ready to yield back my time.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that there be 15 minutes on the first vote, and 10 minutes on the two succeeding votes, and as the distinguished Senator from Missouri has said, those votes will be back to back.

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

Mr. EAGLETON. Mr. President, I yield back my time.

The PRESIDING OFFICER. Does the Senator yield back his time on the bill?

Mr. EAGLETON. Mr. President, I yield back my time on the bill.

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

The PRESIDING OFFICER. All time on the bill has been yielded back.

Without objection, the unanimous-consent request with respect to time on the votes is agreed to.

The question occurs now on amendment No. 266, the amendment offered by the Senators from Virginia (Mr. SCOTT and Mr. HARRY F. BYRD, JR.). 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 Indiana (Mr.

BAYH), the Senator from Idaho (Mr. CHURCH), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from New Mexico (Mr. MONTOYA), the Senator from Utah (Mr. Moss), and the Senator from Illinois (Mr. STEVENSON), are necessarily absent.

I further announce that the Senator from Louisiana (Mr. LONG), the Senator from Washington (Mr. MAGNUSON), the Senator from Wyoming (Mr. MCGEE), and the Senator from Alabama (Mr. SPARKMAN), are absent on official business.

I also announce that the Senator from Mississippi (Mr. STENNIS) is absent because of illness.

I further announce that, if present and voting, the Senator from Indiana (Mr. BAYH), the Senator from Washington (Mr. MAGNUSON), and the Senator from Illinois (Mr. STEVENSON) would each vote "nay."

Mr. SCOTT of Pennsylvania. I announce that the Senator from Massachusetts (Mr. BROOKE), the Senator from Arizona (Mr. GOLDWATER), the Senator from New York (Mr. JAVITS), and the Senator from Pennsylvania (Mr. SCHWEIKER) are necessarily absent.

The Senator from Michigan (Mr. GRIFFIN) is absent on official business.

The Senator from Utah (Mr. BENNETT) is detained on official business.

If present and voting, the Senator from New York (Mr. JAVITS) would vote "nay."

The result was announced—yeas 39, nays 44, as follows:

[No. 271 Leg.]

YEAS—39

Abourezk	Ervin	Pearson
Aiken	Fannin	Proxmire
Allen	Fulbright	Randolph
Baker	Gravel	Roth
Bentsen	Hansen	Scott, Pa.
Buckley	Haskell	Scott, Va.
Byrd, Harry F., Jr.	Helms	Stevens
	Hollings	Taft
Chiles	Hruska	Talmadge
Cotton	Johnston	Thurmond
Curtis	McClure	Tower
Dole	Metcalf	Young
Dominick	Nelson	
Eastland	Nunn	

NAYS—44

Bartlett	Fong	McIntyre
Beall	Gurney	Mondale
Bellmon	Hart	Muskie
Bible	Hartke	Packwood
Biden	Hatfield	Pastore
Brock	Hathaway	Pell
Burdick	Huddleston	Percy
Byrd, Robert C.	Hughes	Ribicoff
Cannon	Humphrey	Saxbe
Case	Inouye	Stafford
Clark	Jackson	Symington
Cook	Kennedy	Tunney
Cranston	Mansfield	Weicker
Domenici	Mathias	Williams
Eagleton	McGovern	

NOT VOTING—17

Bayh	Javits	Moss
Bennett	Long	Schweiker
Brooke	Magnuson	Sparkman
Church	McClellan	Stennis
Goldwater	McGee	Stevenson
Griffin	Montoya	

So the amendment of Mr. SCOTT of Virginia was rejected.

The PRESIDING OFFICER. The question recurs on agreeing to amendment No. 304. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Idaho (Mr. CHURCH), the Senator from Utah (Mr. Moss), and the Senator from Illinois (Mr. STEVENSON) are necessarily absent.

I further announce that the Senator from Washington (Mr. MAGNUSON), the Senator from Wyoming (Mr. MCGEE), the Senator from Alabama (Mr. SPARKMAN), and the Senator from Louisiana (Mr. LONG) are absent on official business.

I also announce that the Senator from Mississippi (Mr. STENNIS) is absent because of illness.

I further announce that, if present and voting, the Senator from Washington (Mr. MAGNUSON), the Senator from Indiana (Mr. BAYH), and the Senator from Illinois (Mr. STEVENSON) would each vote "nay."

Mr. SCOTT of Pennsylvania. I announce the Senator from Massachusetts (Mr. BROOKE), the Senator from Arizona (Mr. GOLDWATER), the Senator from New York (Mr. JAVITS), and the Senator from Pennsylvania (Mr. SCHWEIKER) are necessarily absent.

The Senator from Michigan (Mr. GRIFFIN) is absent on official business.

If present and voting, the Senator from New York (Mr. JAVITS) would vote "nay."

The result was announced—yeas 33, nays 53, as follows:

[No. 272 Leg.]

YEAS—33

Aiken	Curtis	Montoya
Allen	Dole	Pearson
Bellmon	Dominick	Randolph
Bennett	Eastland	Scott, Pa.
Bentsen	Ervin	Scott, Va.
Brock	Fannin	Stevens
Buckley	Gurney	Talmadge
Byrd, Harry F., Jr.	Hansen	Thurmond
	Helms	Tower
Byrd, Robert C.	Hruska	Young
Cannon	McClellan	
Cotton	McIntyre	

NAYS—53

Abourezk	Hartke	Muskie
Baker	Haskell	Nelson
Bartlett	Hatfield	Nunn
Beall	Hathaway	Packwood
Bible	Hollings	Pastore
Biden	Huddleston	Pell
Burdick	Hughes	Percy
Case	Humphrey	Proxmire
Chiles	Inouye	Ribicoff
Clark	Jackson	Roth
Cook	Johnston	Saxbe
Cranston	Kennedy	Stafford
Domenici	Mansfield	Symington
Eagleton	Mathias	Taft
Fong	McClure	Tunney
Fulbright	McGovern	Weicker
Gravel	Metcalf	Williams
Hart	Mondale	

NOT VOTING—14

Bayh	Javits	Schweiker
Brooke	Long	Sparkman
Church	Magnuson	Stennis
Goldwater	McGee	Stevenson
Griffin	Moss	

So Mr. COTTON's amendment was rejected.

The PRESIDING OFFICER (Mr. HASKELL). 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 PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

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

Mr. DOMENICI. Mr. President, today I would like to go on record as voting for S. 1435, the home rule bill, in principle but with some reservations as to the actual mechanics of the local government.

Recently I have had the opportunity of discussing home rule with some of the nominations for District of Columbia counsel and feel that certain pertinent questions were raised. This bill is flexible in nature and I know is long overdue, but I feel that some of my thoughts would be useful.

This concept of home rule is not new to me because as mayor of the largest city in New Mexico, I played a very active role in our desire to gain home rule. Due to these years of experience in city government in Albuquerque, I can really say that I understand the desires of District of Columbia citizens who wish more control over the destiny of their own city. This city more than any other city in the world should have the right of self-government in a manner that is advantageous to both its people and the Federal Government.

My reservations do not involve the concept of home rule but I question the method by which everyday operations are handled. It is my feeling that the mechanics of city government cannot be assumed and that rigid blueprints for the actual operation should be included. Again referring to my past experience I found that our city could function in a more orderly fashion with a city charter. This charter gave specific job descriptions and roles of the basic integral part of the cities' government.

The purpose of my comments are to encourage the passage of S. 1435 because the process is long overdue. A basic point to remember is that we must not let the ball drop because we have a bill that creates home rule. A city cannot function by the passage of a bill alone, but only when the smallest of mechanisms have been carefully incorporated into the overall system will it function.

Recently I received a copy of our Albuquerque Joint County and City Charter Study Committee report. Included in this charter are provisions for mayor, taxes and bonded indebtedness, sheriff, and merit system with code of ethics, and so forth. I am not trying to imply that the Albuquerque charter would fit the role for District of Columbia, but only to point out that here was have an organizational blueprint that helps our city council and mayor to direct the operations of the city.

I think that most of my distinguished colleagues favor a home rule for the District of Columbia, but I have some reservations as to its ability to function both as a city and as the Nation's Capital. If we, as U.S. Senators, are responsible for granting home rule then we should be sure that we give this new form of government every opportunity to properly function. Let us not grant home rule for the District of Columbia, and then assume that the problems of city government will cease, but instead, let us grant

home rule with the wish that a city charter be drawn up by Members selected at large to define the organizational structure. Then and only then will the District of Columbia have an effective home rule.

Recently I met with John A. Nevius, Chairman, District of Columbia City Council, regarding the advisability of a charter included in a home rule bill. It seems that Mr. Nevius would concur that a charter would force the city to realistically plan an operational system of government.

I would hope that once the District of Columbia Council has been elected that they realize the value of a city charter. This charter would only be functional if it were to receive the necessary citizen input.

I honestly feel that the combination of home rule while using the mechanics of a city charter would satisfy the needs of the city and the Federal Government.

Mr. HUMPHREY. Mr. President, 99 years ago this month the first home rule bill for the District of Columbia was introduced in Congress. Since then, more than 40 home rule bills have been placed before it. The Senate has passed legislation extending some form of equal citizenship to the people of this city on seven separate occasions since I came here in 1949. In each case our efforts were thwarted in the House of Representatives. Gentlemen, this is incredible.

Nearly 200 years ago this Nation went to war over the issue of self-government—"no taxation without representation" was the rallying cry. We are just ending our involvement in another tragic conflict in which "self-determination of the people" has been a major objective. Even the Virgin Islands now has an elected Governor. Yet, Congress has not acted on the gross perversion of democracy that continues to exist right in its own backyard. We must extend to the people of the District of Columbia the basic privilege enjoyed by all other American citizens to elect the men and women who will control their local governments.

Mr. President, I have been an advocate of home rule since I first came to the Senate. I find it hard to believe that so little progress has been made. The arguments for home rule are as valid today as they were back in 1949. And the wisdom that supposedly comes with age has not diminished the conviction of my youth that home rule is right—morally, legally, and philosophically.

Twenty-four years ago, as a freshman Member of the Senate, I advocated home rule on the floor of the Senate. At that time I said:

> I believe the first thing which should be done by the Congress is to give as much power as possible to the people of the District of Columbia. I submit that when we are dealing with a million people, they should not be dealt with lightly, and we should not try to convert the Congress of the United States into a board of aldermen which occasionally thinks about the municipal problems of the greatest Capital in the world.

This statement, I believe, still rings true.

That this greatest of all democracies withholds from the citizens of its Capital City the right to elect their own government leaders is hypocrisy of the first order and a source of increasing embarrassment to our Nation.

As my good friend Sterling Tucker testified this past April before the House District Committee—

> If our own Federal Government does not believe that it can function democratically at its own seat, then how can it expect to convince the rest of the world that democracy is good for anybody, or can work anywhere?
>
> In the eyes of many people throughout the world, the Federal Government's attitude toward the District of Columbia appears, as suggested by an observing foreign student, like an automobile salesman who drives one make of car, but sells another—a salesman who doesn't have enough confidence in his own product to use it himself.

I wish to commend the members of the Senate Committee on the District of Columbia for again bringing this denial of justice to the conscience of the Congress. I strongly believe that we should unanimously pass S. 1435. To continue to deny basic citizenship to the residents of the District is unconscionable.

The present appointed Mayor-Commissioner and Council have accomplished a great deal and it would be unfair not to recognize this. However, the people of this city have every right to govern themselves.

I believe we should pass this bill, and then move speedily to extend full citizenship for the people of the District by approving full equality of voting representation in the Congress.

Mr. KENNEDY. Mr. President, I would like to take this opportunity to commend my esteemed colleague, Mr. EAGLETON, chairman of the Committee on the District of Columbia, for initiating and designing this essential and long overdue legislation. S. 1435 provides for the election of a Mayor and city council in the District of Columbia. In effect, this bill provides home rule to the 757,000 people in the Nation's Capital.

For almost a century—from 1800, when the District of Columbia was first established by Congress, until 1874, when Congress eliminated all elective offices for the District—citizens had at least some form of self-government.

Since 1874 there have been more than 40 home rule bills placed before the biennial sessions of Congress. All of these bills have failed to be enacted. Since 1874, the people of this city have been unable to select local municipal leaders. Nowhere in America should the basic principle of democracy be more firmly established than in the Nation's Capital. By some cruel irony, a nation founded as a haven from tyranny and oppression denies to the citizens of the Nation's Capital the basic rights of democracy.

Presidents Eisenhower, Kennedy, Johnson, and Nixon have all realized and supported the need for home rule in Washington, D.C. I also feel a strong concern for the injustice that denies a substantial group of our population, the right to participate in the government of their city. Can we really maintain that the citizens of the District are doomed to a perpetual colonial status, to denial of one of the most basic rights in civilized society, the right of self-government? To continue this denial would not only be unjust, but would also continue to adversely affect the lives of almost 1 million people. The citizens of Washington deserve to share in one of the fundamental bases of human dignity and constitutional rights, the rights of self-government.

The residents of the Federal City are deeply concerned about their city's condition and future as are the residents of any other major city. Washington's residents live with precisely the same issues that face every other part of the Nation. War and race, poverty and crime, education and health are the great issues of our time and they vitally affect all our people. But Washingtonians do not share equally with other Americans in the opportunity to make decisions that affect their daily lives. It has been said that the District of Columbia has the Nation's largest city council because the 535 Members of Congress determine the routine policies of local government.

The Capital has expanded into a vast and complex society, the heart of democracy in America. Its citizens are required to fulfill all the obligations of American citizenship but are denied the right of self-government. They are taxed hundreds of millions of dollars each year, and they bear all the other responsibilities of citizenship in a large metropolitan community, yet they do not have the right to elect the people that govern them.

Agonizing debates over many years have produced a wide variety of proposals to resolve the question of home rule. In my opinion, S. 1435 truly embraces the home rule concept of properly returning local control where it ought to be—into the hands of those who are governed.

On July 15, 1961, President John F. Kennedy summed up the plight of these second-class citizens:

> Restoration of suffrage and the responsibility to the people in the District for dealing with their municipal problems is long overdue. It is time to eliminate the last legal and constitutional anomaly in the United States and to reaffirm our belief in the principle that government should be responsible to the people.

The time for debate has long since passed. In S. 1435 we have the opportunity to return to the District of Columbia the right of the people to elect those who govern them. S. 1435 deserves the full support of the Senate in fulfilling that opportunity.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Idaho (Mr. CHURCH), the Senator from Utah (Mr. MOSS), and the Senator from Illinois (Mr. STEVENSON) are necessarily absent.

I further announce that the Senator from Alabama (Mr. SPARKMAN), the Sen-

ator from Wyoming (Mr. McGEE), the Senator from Louisiana (Mr. LONG), and the Senator from Washington (Mr. MAGNUSON) are absent on official business.

I also announce that the Senator from Mississippi (Mr. STENNIS) is absent because of illness.

I further announce that if present and voting, the Senator from Indiana (Mr. BAYH), the Senator from Idaho (Mr. CHURCH), the Senator from Washington (Mr. MAGNUSON), the Senator from Illinois (Mr. STEVENSON), and the Senator from Utah (Mr. Moss) would each vote "yea."

Mr. SCOTT of Pennsylvania. I announce that the Senator from Massachusetts (Mr. BROOKE), the Senator from Arizona (Mr. GOLDWATER), the Senator from New York (Mr. JAVITS), and the Senator from Pennsylvania (Mr. SCHWEIKER) are necessarily absent.

The Senator from Michigan (Mr. GRIFFIN) is absent on official business.

If present and voting, the Senator from New York (Mr. JAVITS) would vote "yea."

The result was announced—yeas 69, nays 17, as follows:

[No. 273 Leg.]

YEAS—69

Abourezk	Dominick	McIntyre
Aiken	Eagleton	Metcalf
Baker	Fong	Mondale
Bartlett	Fulbright	Montoya
Beall	Gravel	Muskie
Bennett	Gurney	Nelson
Bentsen	Hart	Packwood
Bible	Hartke	Pastore
Biden	Haskell	Pearson
Brock	Hatfield	Pell
Buckley	Hathaway	Percy
Burdick	Hollings	Proxmire
Byrd, Robert C.	Hruska	Randolph
Cannon	Huddleston	Ribicoff
Case	Hughes	Roth
Chiles	Humphrey	Scott, Pa.
Clark	Inouye	Stafford
Cook	Jackson	Stevens
Cotton	Johnston	Symington
Cranston	Kennedy	Taft
Curtis	Mansfield	Tunney
Dole	Mathias	Weicker
Domenici	McGovern	Williams

NAYS—17

Allen	Fannin	Saxbe
Bellmon	Hansen	Scott, Va.
Byrd, Harry F., Jr.	Helms	Talmadge
	McClellan	Thurmond
Eastland	McClure	Tower
Ervin	Nunn	Young

NOT VOTING—14

Bayh	Javits	Schweiker
Brooke	Long	Sparkman
Church	Magnuson	Stennis
Goldwater	McGee	Stevenson
Griffin	Moss	

So the bill (S. 1435) was passed, as follows:

S. 1435

An act to provide an elected Mayor and City Council for the District of Columbia, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, subject to the retention by Congress of the ultimate legislative authority over the Nation's Capital which is granted by the Constitution, it is the intent of Congress to restore to the inhabitants of the District of Columbia the powers of local self-government which are a basic privilege of all American citizens; to reaffirm through such action the confidence of the American people in the strengthened validity of principles of local self-government by the elective process; to promote among the inhabitants of the District the sense of responsibility for the development and well-being of their community which will result from the enjoyment of such powers of self-government; to provide for the more effective participation in the development of the District and in the solution of its local problems by those persons who are most closely concerned; and to relieve the National Legislature of the burden of legislating upon purely local District matters. It is the further intention of Congress to exercise its retained ultimate legislative authority over the District only insofar as such action shall be necessary or desirable in the interest of the Nation.

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TITLE I—DEFINITIONS

DEFINITIONS

SEC. 101. For the purposes of this Act—

(1) The term "District" means the District of Columbia.

(2) The terms "District Council" and "Council" mean the Council of the District of Columbia provided for by title III.

(3) The term "District of Columbia Council" means the Council of the District of Columbia established under Reorganization Plan Numbered 3 of 1967.

(4) The term "Chairman" means, unless

otherwise indicated in this Act, the Chairman of the District Council provided for by title III.

(5) The term "Mayor" means the Mayor provided for by title IV.

(6) The term "qualified voter", except as otherwise specifically provided, shall have the same meaning as that provided for a "qualified elector" under paragraph (2) of section 2 of the District of Columbia Election Act.

(7) The term "act" includes any legislation adopted by the District Council (including legislation pursuant to section 503 of this Act), except where the term "Act" is used to refer to this Act or other Acts of Congress herein specified.

(8) The term "District of Columbia Election Act" means the Act of August 12, 1955 (69 Stat. 699), as amended.

(9) The term "person" includes an individual, partnership, association, joint-stock company, trust, or corporation.

(10) The term "capital project", or "project", means (a) any physical public betterment or improvement and any preliminary studies and surveys relative thereto; (b) the acquisition of property of a permanent nature; or (c) the purchase of equipment for any public betterment or improvement when first erected or acquired.

(11) The term "pending", when applied to any capital project, means authorized but not yet completed.

(12) The term "District revenues", as used in title VI, means all revenues derived from taxes, fees, charges, and miscellaneous receipts (including all annual Federal payments to the District authorized by law), but such term does not include revenues derived from the Water Fund, Highway Fund, other special funds, or from any Federal grant-in-aid program.

(13) The term "election", unless the context otherwise indicates, means an election held pursuant to the provisions of this Act.

(14) The term "domicile" means that place where a person has his true, fixed, and permanent home and to which, when he is absent, he has the intention of returning.

(15) The terms "publish" and "publication", unless otherwise specifically provided herein, mean publication in a newspaper of general circulation in the District.

(16) The term "municipal courts of the District of Columbia" means the Superior Court of the District of Columbia, the District of Columbia Court of Appeals, and such other municipal courts as the District Council may hereafter establish by act.

(17) The term "annual budget" means the entire budget for all activities of the government of the District of Columbia as heretofore submitted to the Congress by the President of the United States and shall include both operating and capital outlay expenditures.

TITLE II—STATUS OF THE DISTRICT

SEC. 201. (a) All of the territory constituting the permanent seat of the Government of the United States shall continue to be designated as the District of Columbia. The District of Columbia shall remain and continue a body corporate, as provided in section 2 of the Revised Statutes relating to said District. Said Corporation shall continue to be charged with all the duties, obligations, responsibilities, and liabilities, and to be vested with all of the powers, rights, privileges, immunities, and assets, respectively, imposed upon and vested in said Corporation or the Commissioner of the District of Columbia.

(b) No law or regulation which is in force on the effective date of part 2, title III, of this Act shall be deemed amended or repealed by this Act except to the extent specifically provided herein or to the extent that such law or regulation is inconsistent with this Act, but any such law or regulation may be amended or repealed by legislation or regulation as authorized in this Act, or by Act of Congress.

(c) Nothing contained in this section shall affect the boundary line between the District of Columbia and the Commonwealth of Virginia as the same was established or may be subsequently established under the provisions of title I of the Act of October 31, 1945 (59 Stat. 552).

TITLE III—THE DISTRICT COUNCIL

PART 1—CREATION OF THE DISTRICT COUNCIL

CREATION AND MEMBERSHIP

SEC. 301. There is hereby created a Council of the District of Columbia consisting of eleven members, of whom the Chairman and two members shall be elected at large and the other eight members shall be elected one from each of the eight election wards established under the District of Columbia Election Act. The term of office of the Chairman and other members of the Council shall be four years beginning at noon on January 2 of the calendar year next following the calendar year of their election; except that of the members (other than the Chairman) first elected after the effective date of this provision, one member elected at large and four members elected from wards shall serve for terms of two years. The members who shall serve for terms of two years shall be determined by lots cast before the Board of Elections of the District of Columbia upon a date set and pursuant to regulations issued by the Board of Elections.

QUALIFICATIONS FOR HOLDING OFFICE

SEC. 302. No person shall hold the office of member of the District Council, including the Office of Chairman, unless he (1) is a qualified voter, (2) is domiciled in the District and, if he is nominated for election from a particular ward, resides in the ward from which he is nominated, (3) has, during the three years next preceding his election, resided and been domiciled in the District, and (4) is not engaged in any employment (whether as an employee or as a self-employed individual) and holds no public office or position (other than his employment in and position as a member of the Council), for which he is compensated in an amount in excess of his actual expenses in connection therewith, except that nothing in this clause shall prohibit any such person, while a member of the Council, from serving as a delegate or alternate delegate to a convention of a political party nominating candidates for President and Vice President of the United States, or from holding an appointment in a Reserve component of an armed force of the United States other than a member serving an active duty under a call for more than thirty days. A member of the Council shall forfeit his office upon failure to maintain the qualifications required by this section.

COMPENSATION

SEC. 303. Each member of the District Council, including the Chairman, shall receive compensation, payable in periodic installments, at rates established by act passed by the Council. All members shall receive such additional allowances for expenses as may be approved by the Council to be paid out of funds duly appropriated therefor.

CHANGES IN MEMBERSHIP AND COMPENSATION OF DISTRICT COUNCIL MEMBERS

SEC. 304. The number of members constituting the District Council, the qualifications for holding office, and the compensation of such members may be changed by act passed by the Council: *Provided*, That no such act (other than an act involving compensation or allowances) shall take effect until after it has been assented to by a majority of the qualified voters of the District voting at an election on the proposition set forth in any such act.

PART 2—PRINCIPAL FUNCTIONS OF THE DISTRICT COUNCIL

ABOLISHMENT OF EXISTING GOVERNMENT AND TRANSFER OF FUNCTIONS

SEC. 321. (a) The District of Columbia Council, the offices of Chairman of the District of Columbia Council, Vice Chairman of the District of Columbia Council, and the seven other members of the District of Columbia Council, and the offices of the Commissioner of the District of Columbia and Assistant to the Commissioner of the District of Columbia, as established by Reorganization Plan Numbered 3 of 1967, are hereby abolished: *Provided*, That this subsection shall not be construed to reinstate any governmental body or office in the District abolished in said plan or otherwise heretofore.

(b) Except as otherwise provided in this Act, all functions granted to or imposed upon, or vested in or transferred to the District of Columbia Council or the Commissioner of the District of Columbia, as established by Reorganization Plan Numbered 3 of 1967, shall be carried out respectively by the District Council and the Mayor in accordance with the provisions of this Act.

CERTAIN DELEGATED FUNCTIONS AND FUNCTIONS OF CERTAIN AGENCIES

SEC. 322. No function of the District of Columbia Council (established under Reorganization Plan Numbered 3 of 1967 or the commissioner of the District of Columbia which such District of Columbia Council or Commissioner has delegated to an officer, employee, or agency (including any body of or under such agency) of the District, nor any function now vested pursuant to section 501 of Reorganization Plan Numbered 3 of 1967 in the District Public Service Commission, Zoning Commission, Zoning Advisory Council, Board of Zoning Adjustment, Office of the Recorder of Deeds, or Armory Board, or in any officer, employee, or body of or under such agency, shall be considered as a function transferred to the District Council pursuant to section 321 of this Act. Each such function is hereby transferred to the officer, employee, or agency (including any body of or under such agency), to whom or to which it was delegated, or in whom or in which it has remained vested, until the Mayor or Council established under this title, or both, pursuant to the powers herein granted, shall revoke, modify, or transfer such delegation or vesting.

PROCEDURE OF ZONING ACTS

SEC. 323. (a) The provisions of section 322 of this Act notwithstanding, before any zoning regulation or equivalent legislation for the District is approved by the District Council, Zoning Commission, or other authority—

(1) the Council, Zoning Commission, or authority shall deposit such regulation or legislation in its introduced form with the National Capital Planning Commission. Such Planning Commission shall, within thirty days after the day of such deposit, submit its comments to the Council, Zoning Commission, or authority, including advice as to whether the proposed regulation or legislation is in conformity with the comprehensive plan for the District of Columbia. The Council, Zoning Commission, or authority shall not pass the regulation or legislation unless it has received said comments, or the National Capital Planning Commission has failed to comment, within the thirty-day period above specified; and

(2) the Council, Zoning Commission, or authority, or an appropriate committee thereof, shall hold a public hearing on the regulation of legislation. At least thirty days' notice of the hearing shall be published, as the Council, Zoning Commission, or authority may direct. Such notice shall include the

time and place of the hearing and a summary of all changes in existing law which would be made by adoption of the regulation or legislation. The Council, Zoning Commission, or authority (or committee thereof holding a hearing) shall give such additional notice as it finds expedient and practicable. At the hearing interested persons shall be given reasonable opportunity to be heard. The hearing may be adjourned from time to time. The time and place of reconvening shall be publicly announced before adjournment is had.

(b) The Council, Zoning Commission, or authority shall deposit with the National Capital Planning Commission each such regulation or item of legislation passed by it.

(c) This section shall not be construed to restrict legislation (or regulation) regarding solely the procedure (apart from this section) or mechanism for regulating zoning in the District and not itself regulating such zoning.

APPOINTMENT OF ARMORY BOARD

SEC. 324. (a) The first sentence of section 2 of the Act of June 4, 1948 (62 Stat. 339), is hereby amended to read as follows: "There is hereby established an Armory Board, to be composed of three members who shall be appointed by the Mayor by and with the advice and consent of the Council and who shall serve at the pleasure of the Mayor.".

(b) All functions and authority vested in the President by the Act of June 12, 1934 (48 Stat. 930), as amended, are hereby transferred to and vested in the Mayor.

POWERS OF AND LIMITATIONS UPON DISTRICT COUNCIL

SEC. 325. (a) The legislative power granted to the District by this Act shall be vested in the District Council.

(b) Notwithstanding any other provision of this Act, the Congress of the United States reserves the right, at any time, to exercise its constitutional authority as legislature for the District of Columbia, by enacting legislation for the District on any subject, whether within or without the scope of legislative power granted to the District Council by this Act, including legislation to amend or repeal any law in force in the District prior to or after the enactment of this Act and any act passed by the Council.

(c) Except as provided in subsection (d) of this section, the legislative power of the District shall extend to all rightful subjects of legislation within the District consistent with the Constitution of the United States and the provisions of this Act, subject to all the restrictions and limitations imposed upon States by the tenth section of the first article of the Constitution of the United States.

(d) The Council shall have no authority to pass any Act contrary to the provisions of this Act, or—

(1) (A) impose any tax on property of the United States or any of the several States, or upon the whole or any portion of the personal income, either directly or at the source thereof, of any individual not a resident of the District (the terms "individual" and "resident" to be understood for the purposes of this paragraph as under section 4 of the Act of July 16, 1947 (61 Stat. 332));

(B) impose any tax, assessment, permit, fee, or other charge whatsoever upon any individual not a resident of the District in connection with the utilization by such individual of highways, roads, or parking facilities (including on-street and off-street parking) within the District of Columbia, which is not imposed upon, or which is in excess of the amount imposed upon, a resident of the District;

(2) lend the public credit for support of any private undertaking;

(3) authorize the issuance of bonds except in compliance with the provisions of title VI;

(4) enact any act, or enact any act to amend or repeal any Act of Congress, which concerns the functions or property of the United States or which is not restricted in its application exclusively in or to the District;

(5) pass any act inconsistent with or contrary to the Act of June 6, 1924 (43 Stat. 463), as amended, or the Act of May 29, 1930 (46 Stat. 482), as amended, and the Council shall not pass an act inconsistent with or contrary to any provision of any Act of Congress as it specifically pertains to any duty, authority, and responsibility of the National Capital Planning Commission.

(e) Every act shall include a preamble, or be accompanied by a report, setting forth concisely the purposes of its adoption. Every act shall be published, upon becoming law, as the Council may direct.

(f) (1) Subject to the provisions of paragraph (2) of this subsection, an act passed by the Council shall be presented by the Chairman of the Council to the Mayor, who shall, within ten calendar days after the act is presented to him, either approve or disapprove such act. If the Mayor shall approve such act, he shall indicate the same by affixing his signature thereto, and such act shall, subject to the provisions of subsection (g) of this section, become law. If the Mayor shall disapprove such act, he shall, within ten calendar days after it is presented to him, return such act to the Council setting forth his reasons for such disapproval. If any act so passed shall not be returned to the Council by the Mayor within ten calendar days after it shall have been presented to him, the Mayor shall be deemed to have approved it, and such act shall, subject to the provisions of subsection (g) of this section, become law. If, within thirty calendar days after an act has been timely returned by the Mayor to the Council with his disapproval, two-thirds of the members of the Council present and voting vote to repass such act, the act so repassed shall, subject to the provisions of subsection (g) of this section, become law.

(2) In the case of any budget act adopted by the Council pursuant to section 503 of this Act and submitted to the Mayor in accordance with paragraph (1) of this subsection, the Mayor shall have power to disapprove any item or provision of such act and approve the remainder. In any case in which the Mayor so disapproves of any such item or provision, he shall append to the act when he signs it a statement of the items and the provisions which he disapproves, and he shall return a copy of the act and statement with his objections to the Council. No such item or provision so disapproved shall become law unless within thirty calendar days after such copy and statement has been timely returned, such item or provision is repassed by two-thirds of the members of the Council present and voting. Any such item or provision so repassed shall, subject to the provisions of subsection (g) of this section, become law.

(g) The provisions of subsection (f) of this section notwithstanding, acts of the District Council exercising functions not heretofore legally exercisable by the Commissioner of the District of Columbia pursuant to section 401 of Reorganization Plan Numbered 3 of 1967 or by the District of Columbia Council pursuant to section 402 of said plan, shall become law only in accordance with the following:

(1) Within five calendar days following the date upon which such acts (including repassed items and provisions referred to in paragraph (2) of subsection (f)) of the District Council would have become law apart from this subsection, such acts of the District Council shall be transmitted to the Congress by the Mayor or, in the case of such acts repassed by a two-thirds vote of the District Council over the Mayor's disapproval, by the Chairman of the Council.

(2) (A) Any act (including repassed items and provisions referred to in paragraph (2) of subsection (f)) so transmitted shall become law upon the date of expiration of a period of thirty calendar days of continuous session of the Congress following the date on which such act is transmitted, unless during such period there is passed by either the Senate or the House of Representatives a resolution stating in substance that the Senate or the House of Representatives, as the case may be, does not approve the proposed act, in which case such proposed act shall be considered void and of no effect. For the purposes of this paragraph, in the computation of the thirty-day period there shall be excluded the days on which either the Senate or the House of Representatives is not in session because of adjournment of more than three days to a day certain or an adjournment of the Congress sine die.

(B) The provisions of sections 910–913 of title 5, United States Code, shall apply to the procedure to be followed in the Senate and House of Representatives in the exercise of their respective responsibilities under subaparagraph (A) of this paragraph in the same manner and to the same extent as such provisions apply to the procedure followed in the case of reorganization plans; except that references in such provisions to a "resolution with respect to a reorganization plan" shall be deemed for the purposes of this paragraph to refer to a resolution of disapproval under subparagraph (A).

(h) On or after the effective date of this part, any person appointed to serve as judge of one of the municipal courts of the District of Columbia shall not (1) be appointed to serve for a term of less than fifteen years, (2) serve on the court past the year that the seventieth anniversary of his birth shall occur, or (3) receive as compensatiton for such service an amount less than the amount payable to an associate judge of the Superior occur, or (3) receive as compensation for effective date of this part. Appointments to positions as judges of the municipal courts of the District of Columbia, including vacancies therein, shall be made by the Mayor, with the advice and consent of the Senate of the United States. In making any such appointment to fill any such position the Mayor shall do so by appointing one of three persons possessing the qualifications for such position who shall be nominated and whose names shall be submitted to the Mayor by a nonpartisan judicial nomination commission established and organized in accordance with section 326 of this Act. Nothing in this Act shall be construed to change or authorize the change of the tenure of any persons occupying positions as judges of the municipal courts of the District of Columbia on the effective date of this part, and in no case may their compensation be decreased.

(i) Except as limited by subsections (g) (2) and (h) of this section, upon the effective date of this part, jurisdiction over the municipal courts of the District of Columbia shall vest with the District Council in all matters (other than the appointment of the judges) pertaining to the organization and composition of such courts, and to the qualification, tenure, and compensation of the judges thereof, but in no event shall the Council transfer or modify any function performed by the United States marshal or the United States attorney for the District on the effective date of this part.

(j) Nothing in this section or elsewhere in this Act shall be construed as authorizing the District Council to modify or otherwise alter the jurisdiction, established by enactment of the Congress of the United States, of the United States District Court for the District of Columbia or any other United States court other than the municipal courts of the District.

(k) Nothing in this Act shall be construed as vesting in the District government any greater authority over the Washington Aqueduct, the Commission on Mental Health, the National Zoological Park, the National Guard of the District of Columbia, or, except as otherwise specifically provided in this Act, over any Federal agency, than was vested in the Commissioner of the District prior to the effective date of part 2, title III, of this Act.

NONPARTISAN JUDICIAL NOMINATION COMMISSION

SEC. 326. (a) There is hereby established the Nonpartisan Judicial Nomination Commission (referred to in this section as the "Commission"). The Commission shall consist of five members selected in accordance with the provisions of subsection (b) of this section, and shall serve for terms of four years, except that of the members initially selected in accordance with subsection (b)(1)(A), one shall serve for two years and one shall serve for four years, and with respect to the members initially selected in accordance with subsection (b)(1)(B), one shall serve for two years and one shall serve for four years. In making their respective initial appointments, the Mayor shall designate, at the time of such appointments, which appointee shall have the short-term appointment.

(b)(1) Members of the Commission shall be appointed as follows:

(A) two members shall be appointed by the Mayor from a list of not less than three nominees for each such office to be filled submitted to him by the District of Columbia Bar Association; and

(B) two members, who shall be nonlawyers, shall be appointed by the Mayor from a list of not less than three nominees for each such office to be filled submitted to him by the Council.

(2) The chief judge of the District of Columbia Court of Appeals shall be a member of the Commission and shall serve as Chairman.

(3) It shall be the function of the Commission to submit nominees for appointment to positions as judges of the municipal courts of the District of Columbia in accordance with section 325(h) of this Act.

(c) Any vacancy in the Commission shall not affect its powers but shall be filled in the same manner in which the original appointment was made. Any person so appointed to fill a vacancy shall serve only for the remainder of the unexpired term of his predecessor.

(d)(1) The Commission shall act only at a meeting and may act only by the concurrence of a majority of its members. The Chairman shall preside at any meeting at which he is present, and, in his absence, the Commission shall choose a member to act as temporary Chairman.

(2) The Commission shall choose one of its members as secretary. It shall be the duty of the secretary to prepare and keep the minutes of all meetings. In the secretary's absence, the Commission shall choose a member to be acting secretary. The minutes shall record the names of the members present, any objection to the holding of the meeting on the ground of lack of or insufficiency of notice, any and all actions taken by the Commission, and any other matters that the Commission may deem appropriate.

(e) When it is known that a vacancy will occur at a definite future date, within sixty days, but the vacancy has not yet occurred, the Commission, in order to facilitate the administration of justice by preventing delay in filling court vacancies so that all courts may have all judges ready to dispose of their judicial business as nearly as may be possible, may make its nominations and submit to the Mayor the names of the persons nominated before the occurrence of the vacancy.

(f)(1) The Commission should at all times take cognizance of the fact that the best qualified nominees may be those whom it would be most difficult to persuade to serve. Accordingly, the Commission shall not limit its consideration to persons who have been suggested by others or to persons who have indicated their willingness to serve. It shall be in order for the Commission, in its discretion, to tender nomination to one or more qualified persons, prior to, and subject to, the formal action by the Commission in making its nominations, in order to ascertain whether such a person will agree to serve if nominated.

(2) The Commission may, in its discretion, publicize some, all, or none of the names of the possible nominees who have been suggested to it or whom it has under consideration. In exercising such discretion the Commission should take account of the fact that there may be lawyers who merely desire the publicity, that there may be lawyers whom publicity would deter from agreeing in advance to serve, and that the Commission needs all pertinent information about the possible nominees whom it is seriously considering. In no case shall the Commission describe possible nominees as "applicants" or by any other term suggesting that they are seeking to be nominated.

(3) The action of the Commission in making nominations with respect to any vacancy shall be taken only at a meeting and only by the execution of a certificate of nomination (which may be in the form of a communication to the Mayor), setting forth the nominations thereby made, signed on behalf of the Commission by the Chairman and secretary. The Commission or its Chairman shall forthwith cause the original of such certificate to be transmitted to the Mayor.

(4) After the Commission has nominated and submitted to the Mayor the names of three persons for appointment to fill a vacancy in accordance with this section, any name or names may be withdrawn for cause deemed by such Commission to be of a substantial nature affecting the nominee's qualifications and showing he is not a fit and proper person to hold the office, and another name or names may be substituted therefor at any time before the Mayor acts by making an appointment to fill such vacancy. Nothing herein contained shall be deemed to impose (or to recognize) any obligation whatsoever upon the Commission to reconsider or withdraw any nomination, whether or not the Mayor shall have requested reconsideration thereof, or shall have purported to reject, such nomination. If any nominee dies or requests in writing that his name be withdrawn, the Commission shall nominate another person to replace him. Whenever there are existing at the same time two or more vacancies in the same court, and the Commission has nominated and submitted to the Mayor lists of three persons for each of such vacancies, the Commission, in its sole discretion may, if it desires to do so, before the Mayor acts by making an appointment, withdraw the lists of nominations, change the names of any of such persons nominated from one list to another and resubmit them as so changed, and may substitute a new name for any of those previously nominated when a name has been withdrawn for cause.

(5) The action of the Commission in withdrawing a nomination or nominations and submitting a new nomination or nominations shall be taken only at a meeting and only by the execution of a certificate of withdrawal of nomination and a certificate of substitute nomination (both of which may be in the form of a communication to the Mayor) signed on behalf of the Commission by the Chairman and secretary of the Commission. If any nomination or nominations being withdrawn have already been transmitted to the Mayor, the Commission or its Chairman shall forthwith notify the Mayor by telegram of the Commission's action and cause the original of such certificate of withdrawal to be transmitted to the Mayor. Meetings of the Commission to consider the withdrawal of nominations may be called by the Chairman or a majority of such Commission. Action of the Commission in withdrawing nominations may be taken at the same meeting at which the nominations were made, or at any later meeting, and such action may be proposed by any member of the Commission.

PART 3—ORGANIZATION AND PROCEDURE OF THE DISTRICT COUNCIL

THE CHAIRMAN

SEC. 331. (a) The Chairman of the District Council shall be the presiding officer of the Council. The District Council shall elect from among its members, for a term of two years, a Vice Chairman.

(b) When the Mayor is unable to act, the Chairman of the Council shall act in his stead. When the Chairman of the Council is unable to so act, the officer designated pursuant to section 402(1) shall so act.

(c) In the event that the Chairman of the Council becomes Mayor by reason of a vacancy in the office of Mayor (as provided in section 401(b)(2) of this Act), the Vice Chairman shall serve as Chairman in accordance with the provisions of section 10(e)(2)(A) of the District of Columbia Election Act, as amended by title VIII of this Act.

SECRETARY OF THE DISTRICT COUNCIL; RECORDS AND DOCUMENTS

SEC. 332. (a) The Council shall appoint a Secretary as its chief administrative officer and such assistants and clerical personnel as may be necessary. The terms of employment of such Secretary, assistants, and clerical personnel shall be governed by existing provisions of law until such time as the Council enacts legislation establishing a District Government merit system as set forth in section 402(4) of this Act. The provisions of any such system so established shall include terms of employment for employees of the Council which are similar to those provisions therein applicable to other District government employees, including such exemptions provided therein as prescribed by the Council. Notwithstanding the foregoing provisions of this subsection or of any other provision of this Act, the compensation of such Secretary, assistants, and clerical personnel shall be prescribed by the Council.

(b) The Secretary shall (1) keep a record of the proceedings of the Council, (2) keep a record showing the text of all acts introduced and the ayes and noes of each vote, (3) authenticate by his signature and record in full in a continuing record kept for that purpose all acts passed by the Council, including the date and time that each such act takes effect, and (4) perform such other duties as the Council may from time to time prescribe.

(c) The records required by subsection (b) shall be available for public inspection during normal business hours and copies of the records shall be made available for purchase under such conditions and upon the payment of such fees as the Counci shall deem appropriate.

MEETINGS

SEC. 333. (a) A majority of the District Council shall constitute a quorum for the lawful convening of any meeting of the Council and for the transaction of business of the Council.

(b) The first meeting of the Council after this part takes effect shall be called by the Chairman of the District Council.

(c) The Council shall provide for the time and place of its regular meetings. The Council shall hold at least one regular meeting in each calendar week except during the

month of August. Special meetings may be called, upon the giving of adequate notice, by the Mayor, the Chairman, or any three members of the Council.

(d) Meetings of the Council shall be open to the public and shall be held at reasonable hours and at such places as may be necessary to accommodate a reasonable number of spectators. Any citizen shall have the right to petition and be heard by the Council at any of its meetings, within reasonable limits as set by the Council.

COMMITTEES

SEC. 334. The Council Chairman, with the advice and consent of the Council, shall determine the standing and special committees which may be expedient for the conduct of the Council's business. The Chairman shall appoint members to such committees. All committee meetings shall be open to the public.

ACTS AND RESOLUTIONS

SEC. 335. (a) The Council, to discharge the powers and duties imposed herein, shall pass acts and adopt resolutions, upon a vote of a majority of the members of the Council present and voting, unless otherwise provided herein. The Council shall use acts for all legislative purposes. Resolutions shall be used to express simple determinations, decisions, or directions of the Council of a special or temporary character.

(b)(1) The enacting clause of all acts passed by the Council shall be, "Be it enacted by the Council of the District of Columbia:".

(2) The resolving clause of all resolutions passed by the Council shall be, "The Council of the District of Columbia hereby resolves,".

(c) A special election may be called by resolution of the Council to present for an advisory referendum vote of the people any proposition upon which the Council desires to take action.

PASSAGE OF ACTS

SEC. 336. The Council shall not pass any act before the thirteenth day following the day on which it is introduced. Subject to the other limitations of this Act this requirement may be waived by the unanimous vote of the members present, if such members present constitute a majority of the Council.

INVESTIGATIONS BY DISTRICT COUNCIL

SEC. 337. (a) The Council, or any committee or person authorized by it, shall have power to investigate any matter relating to the affairs of the District; and for that purpose may require the attendance and testimony of witnesses and the production of books, papers, and other evidence. For such purpose any member of the Council (if the Council is conducting the inquiry) or any member of the committee may issue subpenas and administer oaths upon authorization by the Council or committee as appropriate.

(b) In case of contumacy by, or refusal to obey a subpena issued to, any person, the Council shall have power to refer the matter to any judge of the Superior Court of the District of Columbia, who may by order require such person to appear and to give or produce testimony or books, papers, or other evidence, bearing upon the matter under investigation; and any failure to obey such order may be punished by such court as a contempt thereof as in the case of failure to obey a subpena issued, or to testify, in a case pending before such court.

TITLE IV—MAYOR

ELECTION, QUALIFICATIONS, AND SALARY

SEC. 401. (a) There is hereby created the office of Mayor of the District of Columbia. The Mayor shall be elected as provided in title VIII. The term of office of the Mayor shall be four years, beginning at noon on January 2 of the calendar year next following the calendar year in which he is elected.

(b)(1) No person shall hold the office of Mayor unless he (1) is a qualified voter, (2) is domiciled and resides in the District, (3) has, during the three years next preceding his nomination, been resident in and domiciled in the District, and (4) is not engaged in any employment (whether as an employee or as a self-employed individual) and holds no public office or position (other than his employment in and position as Mayor), for which he is compensated in an amount in excess of his actual expenses in connection therewith, except that nothing in this clause shall be construed as prohibiting such person, while holding the office of Mayor, from serving as a delegate or alternate delegate to the convention of a political party nominating candidates for President and Vice President of the United States, or from holding an appointment in a Reserve component of an armed force of the United States other than a member serving on active duty under a call for more than thirty days. The Mayor shall forfeit his office upon failure to maintain the qualifications required by this section.

(2) When the office of Mayor is vacant, the Chairman of the District Council shall, immediately upon the creation of such vacancy, become Mayor and shall serve for the remainder of the unexpired term of his predecessor vacating such office.

(c) The Mayor shall receive an annual salary in an amount established by act passed by the Council, and an allowance, in such amount as the Council shall establish, for official reception and representation expenses, which he shall certify in reasonable detail to the District Council. Such salary shall be payable in periodic installments.

(d) Subject to the provision of subsection (c) relating to compensation, the method of election, the qualifications for office, the compensation and the allowance for official expenses pertaining to the office of Mayor may be changed by acts passed by the Council, except that no such act (other than an act involving compensation or allowance) shall take effect until after it has been assented to by a majority of the qualified voters of the District voting at an election on the propositions set forth in such act.

POWERS AND DUTIES

SEC. 402. The executive power of the District shall be vested in the Mayor who shall be the chief executive officer of the District government. He shall be responsible for the proper administration of the affairs of the District coming under his jurisdiction or control, and to that end shall have the following powers, duties, and functions:

(1) The Mayor shall designate the officer or officers of the executive department of the District who shall, during periods when the Mayor is unable to act, and the Chairman of the Council is unable to act in accordance with section 331(b) of this Act, execute and perform all the powers and duties of the Mayor.

(2) The Mayor shall act as the official spokesman for the District and as the head of the District for ceremonial purposes.

(3) The Mayor shall administer all laws relating to the appointment, promotion, discipline, separation, and other conditions of employment of personnel in the office of the Mayor, personnel in executive departments of the District, and members of boards, commissions, and other agencies, who, under laws in effect on the date immediately preceding the effective date of section 321(a) of this Act, were subject to appointment and removal by the Commissioner of the District of Columbia. All actions affecting such personnel and such members shall, until such time as legislation is enacted by the Council superseding such laws and establishing a permanent District government merit system or systems, pursuant to paragraph (4) of this section, continue to be subject to the provisions of Acts of Congress relating to the appointment, promotion, discipline, separation, and other conditions of employment applicable to officers and employees of the District government, to section 1001(d) of this Act, and where applicable, to the provisions of the joint agreement between the Commissioners and the Civil Service Commission authorized by Executive Order Numbered 5491 of November 18, 1930, relating to the appointment of District personnel. He shall appoint or assign persons to positions formerly occupied, ex officio, by the Commissioner of the District of Columbia or by the Assistant to the Commissioner and shall have power to remove such persons from such positions. The officers and employees of each agency with respect to which legislative power is delegated by this Act and which, immediately prior to the effective date of section 321(a) of this Act, was not subject to the administrative control of the Commissioner of the District, shall continue to be appointed and removed in accordance with applicable laws until such time as such laws may be superseded by legislation passed by the Council establishing a permanent District government merit system or systems pursuant to paragraph (4) of this section.

(4) The Mayor shall administer the personnel functions of the District covering employees of all District departments, boards, commissions, offices, and agencies, except as otherwise provided by this Act. Personnel legislation enacted by Congress, prior to or after the effective date of this section, including, without limitation, legislation relating to appointments, promotions, discipline, separations, pay, unemployment compensation, health, disability and death benefits, leave, retirement, insurance, and veterans' preference applicable to officers and employees of the District government as set forth in section 1002(c), shall continue to be applicable until such time as the Council shall, pursuant to this section, enact legislation establishing a District government merit system or systems. The District government merit system or systems shall be developed by the Mayor for presentation to the Council. The system or systems may provide for continued participation in all or part of the Federal Civil Service System and shall provide for officers and employees of the District government personnel benefits, including but not limited to, pay, tenure, leave, residence, retirement, health and life insurance, and employee disability and death benefits, all at least equal to those provided by legislation enacted by Congress, or regulation adopted pursuant thereto, and applicable to officers and employees of the District government immediately prior to the effective date of the system or systems established pursuant to this Act. The District government merit system or systems shall take effect not earlier than one year nor later than five years after the effective date of this section.

(5) The Mayor shall, through the heads of administrative boards, offices, and agencies, supervise and direct the activities of such boards, offices, and agencies.

(6) The Mayor shall, at the end of each fiscal year, prepare reports for such year of (A) the finances of the District, and (B) the administrative activities of the executive office of the Mayor and the executive departments of the District. He shall submit such reports to the Council within ninety days after the close of the fiscal year.

(7) The Mayor shall keep the Council advised of the financial condition and future needs of the District and make such recommendations to the Council as may seem to him desirable.

(8) The Mayor may submit drafts of acts to the Council.

(9) The Mayor may delegate any of his functions (other than the function of approving or disapproving acts passed by the

Council or the function of approving contracts between the District and the Federal Government under section 901) to any officer, employee, or agency of the executive office of the Mayor, or to any director of an executive department who may, with the approval of the Mayor, make a further delegation of all or a part of such functions to subordinates under his jurisdiction.

(10) The Mayor shall appoint a City Administrator, who shall serve at the pleasure of the Mayor. The City Administrator shall be the chief administrative officer of the Mayor, and he shall assist the Mayor in carrying out his functions under this Act, and shall perform such other duties as may be assigned to him by the Mayor. The City Administrator shall be paid at a rate equal to the maximum rate for GS–18 of the General Schedule under section 5332 of title 5, United States Code, plus $500, except that, effective on and after the establishment of any District government merit system by legislation of the Council, the City Administrator shall be paid at a rate equal to that paid to the highest paid employee of the District government pursuant to such merit system or systems so established by legislation of the Council, plus $500.

(11) The Mayor may propose to the executive or legislative branch of the United States Government legislation or other action dealing with any subject whether or not falling within the authority of the District government as defined in this Act.

(12) The Mayor, as custodian thereof, shall use and authenticate the corporate seal of the District in accordance with law.

(13) The Mayor shall have the right, under rules to be adopted by the Council, to be heard by the Council or any of its committees.

(14) The Mayor is authorized to issue and enforce administrative orders, not inconsistent with this or any other Act of the Congress or any act of the Council, as are necessary to carry out his functions and duties.

TITLE V—THE DISTRICT BUDGET

PART 1—BUDGET

FISCAL YEAR

SEC. 501. The fiscal year of the District of Columbia shall begin on the 1st day of July and shall end on the 30th day of June of the succeeding calendar year. Such fiscal year shall also constitute the budget and accounting year.

BUDGETARY DETAILS FIXED BY MAYOR

SEC. 502. (a) The Mayor shall prepare and submit not later than March 15, to the District Council, in such form and manner as the Mayor shall determine, the annual budget of the District and the budget message and may, from time to time, submit supplemental budget requests.

(b) The Mayor shall, in consultation with the Council, take whatever action may be necessary to achieve, insofar as is possible (1) consistency in accounting and budget classifications, (2) synchronization between accounting and budget classifications and organizational structure, and (3) support of the budget justifications by information on performance and program costs as shown by the accounts.

ADOPTION OF BUDGET

SEC. 503. A budget for each fiscal year shall be adopted by the Council, by act, not later than April 15 of the fiscal year preceding the fiscal year during which such budget is applicable, except that the Council may, by resolution, extend the period for the adoption of such budget. In no event, however, shall any such extension extend beyond June 1 of that preceding fiscal year, unless such extension is authorized by an act passed by the Council which provides for funding expenditures for the next following fiscal year at the same rate as for such preceding fiscal year.

BUDGET ESTABLISHES APPROPRIATIONS

SEC. 504. The adoption of any budget by act of the Council shall operate to appropriate and to make available for expenditure, for the purposes therein named, the several amounts stated therein as proposed expenditures, subject to the provisions of section 505.

FINANCIAL DUTIES OF THE MAYOR

SEC. 505. The Mayor, through his duly designated subordinates, shall have charge of the administration of the financial affairs of the District and to that end he shall—

(1) supervise and be responsible for all financial transactions to insure adequate control of revenues and resources and to insure that appropriations are not exceeded;

(2) maintain systems of accounting and internal control designed to provide—

(A) full disclosure of the financial results of the District government's activities,

(B) adequate financial information needed by the District government for management purposes,

(C) effective control over and accountability for all funds, property, and other assets;

(3) submit to the Council a quarterly financial statement, by appropriation and department, and in such further detail as the Council may specify;

(4) submit to the Council no later than December 31 following each fiscal year, a complete financial statement and report;

(5) supervise and be responsible for the assessment of all property subject to assessment within the corporate limits of the District for taxation, make all special assessments for the District government, prepare tax maps, and give such notice of taxes and special assessments as may be required by law;

(6) supervise and be responsible for the assessment and collection of all taxes, special assessments, license fees, and other revenues of the District for the collection of which the District is responsible and receive all money receivable by the District from the Federal Government, or from any court, or from any agency of the District;

(7) have custody of all public funds belonging to or under the control of the District, or any agency of the District government, and deposit all funds coming into his hands, in such depositories as may be designated and under such terms and conditions as may be prescribed by act of the Council;

(8) have custody of all investments and invested funds of the District government, or in possession of such government in a fiduciary capacity, and have the safekeeping of all bonds and notes of the District and the receipt and delivery of District bonds and notes for transfer, registration, or exchange.

CONTROL OF APPROPRIATIONS

SEC. 506. The Mayor, with the concurrence of the Council, may provide for (1) the transfer during the budget year of any appropriation balance then available for one item of appropriation to another item of appropriation, and (2) the allocation to new items of funds appropriated for contingent expenditure.

ACCOUNTING SUPERVISION AND CONTROL

SEC. 507. (a) The Mayor, through his duly authorized subordinates, shall—

(1) prescribe the forms of receipts, vouchers, bills, and claims to be used by all the agencies, offices, and instrumentalities of the District government;

(2) examine and approve all contracts, orders, and other documents by which the District government incurs financial obligations, having previously ascertained that moneys have been appropriated and allotted and will be available when the obligations shall become due and payable;

(3) audit and approve before payment all bills, invoices, payrolls, and other evidences of claims, demands, or charges against the District government and with the advice of the legal officials of the District determine the regularity, legality, and correctness of such claims, demands, or charges; and

(4) perform internal audits of central accounting and department and agency records of the District government, including the examination of any accounts or records of financial transactions, giving due consideration to the effectiveness of accounting systems, internal control, and related administrative practices of the respective agencies.

(b) Nothing in this Act shall be construed as affecting the applicability to the District government of the provisions of section 3679 of the Revised Statutes of the United States (31 U.S.C. 665).

GENERAL FUND

SEC. 508. The general fund of the District shall be composed of the revenues of the District other than the revenues applied by law to special funds. All moneys received by any agency, officer, or employee of the District in its or his official capacity shall belong to the District government and shall be paid promptly to the Mayor, or his duly authorized subordinates, for deposit in the appropriate funds.

CONTRACTS EXTENDING BEYOND ONE YEAR

SEC. 509. No contract involving expenditure out of an appropriation which is available for more than one year shall be made for a period of more than five years unless, with respect to a particular contract, the Council, by a two-thirds vote of its members present and voting, authorizes the extension of such period for such contract. Such contracts shall be made pursuant to criteria established by act of the Council.

ANNUAL BUDGET FOR THE BOARD OF EDUCATION

SEC. 510. With respect to the annual budget for the Board of Education in the District of Columbia, the Mayor and the Council may establish the maximum amount of funds which will be appropriated to the Board, but may not specify the purposes for which such funds may be expended or the amount of such funds which may be expended for the various programs under the jurisdiction of the Board of Education.

PART 2—ANNUAL POSTAUDIT BY GENERAL ACCOUNTING OFFICE

INDEPENDENT ANNUAL POSTAUDIT

SEC. 521. (a) The financial transactions shall be audited by the General Accounting Office in accordance with such principles and procedures and under such rules and regulations as may be prescribed by the Comptroller General of the United States. In the determination of the auditing procedures to be followed and the extent of the examination of vouchers and other documents, the Comptroller General shall give due regard to generally accepted principles of auditing, including consideration of the effectiveness of the accounting organizations and systems, internal audit and control, and related administrative practices. The audit shall be conducted at the place or places where the accounts are normally kept. The representatives of the General Accounting Office shall have access to all books, accounts, financial records, reports, files, and all other papers, things, or property belonging to or in use by the District and necessary to facilitate the audit, and such representatives shall be afforded full facilities for verifying transactions with the balances or securities held by depositories, fiscal agents, and custodians. The District of Columbia shall reimburse the General Accounting Office for expenses of such audit in such amounts as may be agreed upon by the Mayor and the Comptroller General, and the amounts so reimbursed shall be deposited into the Treasury of the United States as miscellaneous receipts.

(b) (1) The Comptroller General shall submit his audit reports to the Congress, the Mayor, and the Council. The reports shall

set forth the scope of the audits and shall include such comments and information as the Comptroller General may deem necessary to keep the Congress, the Mayor, and the Council informed of the operations to which the reports relate, together with such recommendations with respect thereto as the Comptroller General may deem advisable. The reports shall show specifically every program, expenditure, and other financial transaction or undertaking which, in the opinion of the Comptroller General, has been carried on or made without authority of law.

(2) After the Mayor and his duly authorized subordinates have had an opportunity to be heard, the Council shall make such report, together with such other material as it deems pertinent thereto, available for public inspection.

(3) The Mayor, within ninety days after the report has been made to him and the Council, shall state in writing to the Council, with a copy to the Congress, what has been done to comply with the recommendations made by the Comptroller General in the report.

AMENDMENT OF BUDGETARY AND ACCOUNTING ACT

SEC. 522. Section 2 of the Budgetary and Accounting Act, 1921 (31 U.S.C. 2), is hereby amended by striking out "and the municipal government of the District of Columbia".

PART 3—ADJUSTMENT OF FEDERAL AND DISTRICT EXPENSES

ADJUSTMENTS

SEC. 531. (a) Subject to section 901 and other provisions of law, the Mayor, with the approval of the Council, and the Director of the Office of Management and Budget are authorized and empowered to enter into an agreement or agreements concerning the manner and method by which amounts owed by the District to the United States, or by the United States to the District, shall be ascertained and paid.

(b) The United States shall reimburse the District for necessary expenses incurred by the District in connection with lawful assemblages, and in connection with marches and demonstrations in the District, which relate solely to the Federal Government. The manner and method of ascertaining and paying the amounts needed to so reimburse the District shall be determined by agreement entered into in accordance with subsection (a) of this section.

(c) Each officer and employee of the District required to do so by the District Council shall provide a bond with such surety and in such amount as the Council may require. The premiums for all such bonds shall be paid out of appropriations for the District.

TITLE VI—BORROWING

PART 1—BORROWING FOR CAPITAL IMPROVEMENTS

BORROWING POWER; DEBT LIMITATIONS

SEC. 601. (a) The District may incur indebtedness by issuing its bonds in either coupon or registered form to fund or refund indebtedness of the District at any time outstanding and to pay the cost of constructing or acquiring any capital projects requiring an expenditure greater than the amount of taxes or other revenues allowed for such capital projects by the annual budget: *Provided*, That no bonds or other evidences of indebtedness other than bonds to fund or refund outstanding indebtedness, shall be issued in an amount which would cause the amount of principal and interest required to be paid in any fiscal year on the aggregate amount of all outstanding capital program obligations to exceed fourteen per centum of the District revenues which the Mayor estimates will be credited to all funds of the District for such fiscal year.

(b) The Council shall make provision for the payment of any bonds issued pursuant to this title, in the manner provided in section 631 hereof.

(c) As used in this title, the term "Capital program obligations" means all outstanding obligations incurred by the District as a result of borrowing for capital outlay programs, but not including obligations incurred pursuant to the authority contained in the District of Columbia Stadium Act of 1957 (71 Stat. 619; D.C. Code, title 2, chapter 17, subchapter II), in the District of Columbia Redevelopment Act of 1945 (60 Stat. 790; D.C. Code, sections 5–701 through 719), and in the District of Columbia Alley Dwelling Act (48 Stat. 930), as amended (D.C. Code, sections 5–103 through 5–116).

CONTENTS OF BORROWING LEGISLATION; REFERENDUM ON BOND ISSUE

SEC. 602. (a) The Council may by act authorize the issuance of bonds: *Provided*, That such act shall contain at least the following provisions:

(1) A provision setting forth a brief description of each purpose for which indebtedness is proposed to be incurred;

(2) A provision setting forth the maximum amount of the principal of the indebtedness which may be incurred for each such purpose;

(3) A provision setting forth the maximum rate of interest to be paid on such indebtedness; and

(4) A provision setting forth, in the event that the Council determined, in its discretion, to submit the question of issuing such bonds to a vote of the qualified voters of the District, the manner of holding such election, the manner of voting for or against the incurring of such indebtedness, and the form of ballot to be used at such election, which forms shall permit the voters to vote separately for or against the incurring of indebtedness for each of the purposes for which indebtedness is proposed to be incurred.

(b) The Council may call a special election for the purpose of voting upon the issuance of said bonds, such election to be held by the Board of Elections at any date set by the Council not less than forty days after the enactment of such act.

(c) The Board of Elections is authorized and directed to prescribe the manner of registration and the polling places and to name the judges and clerks of election and to make such other rules and regulations for the conduct of such elections as are not specifically provided by the Council as may be necessary or appropriate to carry out the provisions of this section, including provisions for the publication of a notice of such election stating briefly the proposition or propositions to be voted on and the designated polling places in the various precincts and wards in the District. The said notice shall be published at least once a week for four consecutive calendar weeks on any day of the week, the first publication thereof to be not less than thirty nor more than forty days prior to the date fixed by the Council for the election. The Board of Elections shall canvass the votes cast at such election and certify the results thereof to the Council in the manner prescribed for the canvass and certification of the results of general elections. The certification of the result of the election shall be published once by the Board of Elections as soon as practicable following the date of the election, but in no event later than six weeks thereafter.

PUBLICATION OF BORROWING LEGISLATION

SEC. 603. The Mayor shall publish any act authorizing the issuance of bonds at least once within five days after the enactment thereof, together with a notice of the enactment thereof in substantially the following form:

"NOTICE

"The following Act authorizing the issuance of bonds published herewith has become effective, and the time within which a suit, action, or proceeding questioning the validity of such bonds can be commenced, as provided in the District of Columbia Charter Act, will expire twenty days from the date of the first publication of this notice (or in the event the proposition of issuing the proposed bonds is to be submitted to the qualified voters, twenty days after the date of publication of the promulgation of the results of the election ordered by the Council to be held).

"_____ _____,

"Mayor."

SHORT PERIOD OF LIMITATION

SEC. 604. Upon the expiration of twenty days from and after the date of publication of the notice of the enactment of an act authorizing the issuance of bonds without the submission of the proposition for the issuance thereof to the qualified voters, or upon the expiration of twenty days from the date of publication of the promulgation of the results of an election upon the proposition of issuing bonds, as the case may be, all as provided in sction 603—

(1) any recitals or statements of fact contained in such act or in the preambles or the titles thereof or in the results of the election or any proceedings in connection with the calling, holding, or conducting of election upon the issuance of such bonds shall be deemed to be true for the purpose of determining the validity of the bonds thereby authorized, and the District and all others interested shall thereafter be estopped from denying same;

(2) such Act and all proceedings in connection with the authorization of the issuance of such bonds shall be conclusively presumed to have been duly and regularly taken, passed, and done by the District and the Board of Elections in full compliance with the provisions of this Act and of all laws applicable thereto;

(3) the validity of such act and said proceedings shall not thereafter be questioned by either a party plaintiff or a party defendant, and no court shall have jurisdiction in any suit, action, or proceeding questioning the validity of same, except in a suit, action, or proceeding commenced prior to the expiration of such twenty days.

ACTS FOR ISSUANCE OF BONDS

SEC. 605. After the expiration of the twenty-day limitation period provided for in section 604 of this part, the Council may by act establish an issue of bonds as authorized pursuant to the provisions of sections 601 to 604, inclusive, hereof. An issue of bonds is hereby defined to be all or any part of an aggregate principal amount of bonds authorized pursuant to said sections, but no indebtedness shall be deemed to have been incurred within the meaning of this Act until the bonds have been sold, delivered, and paid for, and then only to the extent of the principal amount of bonds so sold and delivered. The bonds of any authorized issue may be issued all at one time, or from time to time in series and in such amounts as the Council shall deem advisable. The act authorizing the issuance of any series of bonds shall fix the date of the bonds of such series, and the bonds of each such series shall be payable in annual installments beginning not more than three years after the date of the bonds and ending not more than thirty years from such date. The amount of said series to be payable in each year shall be so fixed that when the annual interest is added to the principal amount payable in each year the total amount payable in each year in which part of the principal is payable shall be substantially equal. It shall be an immaterial variance if the difference between the

largest and the smallest amounts of principal and interest payable annually during the term of the bonds does not exceed 3 per centum of the total authorized amount of such series. Such act shall also prescribe the form of the bonds to be issued thereunder, and of the interest coupons appertaining thereto, and the manner in which said bonds and coupons shall be executed. The bonds and coupons may be executed by the facsimile signatures of the officer or officers designated by the act authorizing the bonds, to sign the bonds, with the exception that at least one signature shall be manual. Such bonds may be issued in coupon form in the denomination of $1,000, registerable as to principal only or as to both principal and interest, and if registered as to both principal and interest may be issuable in denominations of multiples of $1,000. Such bonds and the interest thereon may be payable at such place or places within or without the District as the Council may determine.

PUBLIC SALE

SEC. 606. All bonds issued under this part shall be sold at public sale upon sealed proposals at such price or prices as shall be approved by the Council after publication of a notice of such sale at least once not less than ten days prior to the date fixed for sale in a daily newspaper carrying municipal bond notices and devoted primarily to financial news or to the subject of State and municipal bonds published in the city of New York, New York, and in a newspaper of general circulation published in the District. Such notice shall state, among other things, that no proposal shall be considered unless there is deposited with the District as a down payment a certified check or cashier's check for an amount equal to at least 2 per centum of the par amount of bonds bid for, and the Council shall reserve the right to reject any and all bids.

PART 2—SHORT-TERM BORROWING

BORROWING TO MEET APPROPRIATIONS

SEC. 621. In the absence of unappropriated available revenues to meet appropriations made pursuant to section 504, the Council may by act authorize the issuance of negotiable notes, in a total amount not to exceed 5 per centum of the total appropriations for the current fiscal year, each of which may be renewed from time to time, but all such notes and renewals thereof shall be paid not later than the close of the fiscal year following that in which such act becomes effective.

BORROWING IN ANTICIPATION OF REVENUES

SEC. 622. For any fiscal year, in anticipation of the collection or receipt of revenues of that fiscal year, the Council may by act authorize the borrowing of money by the execution of negotiable notes of the District not to exceed in the aggregate at any time outstanding 20 per centum of the total anticipated revenue, each of which shall be designated "Revenue Note for the Fiscal Year 19 ". Such notes may be renewed from time to time, but all such notes, together with the renewals, shall mature and be paid not later than the end of the fiscal year for which the original notes have been issued.

NOTES REDEEMABLE PRIOR TO MATURITY

SEC. 623. No notes issued pursuant to this part shall be made payable on demand, but any note may be made subject to redemption prior to maturity on such notice and at such time as may be stated in the note.

SALE OF NOTES

SEC. 624. All notes issued pursuant to this part may be sold at not less than par and accrued interest at private sale without previous advertising.

PART 3—PAYMENT OF BONDS AND NOTES

SPECIAL TAX

SEC. 631. (a) The act of the Council authorizing the issuance of bonds pursuant to this title, shall, where necessary, provide for the levy annually of a special tax without limitation as to rate or amount upon all the taxable real and personal tangible property within the District in amounts which, together with other revenues of the District available and applicable for said purposes, will be sufficient to pay the principal of and interest on said bonds and the premium, if any, upon the redemption thereof, as the same respectively become due and payable, which tax shall be levied and collected at the same time and in the same manner as other District taxes are levied and collected, and when collected shall be set aside in a sinking fund and irrevocably dedicated to the payment of such principal, interest, and premium.

(b) The full faith and credit of the District shall be and is hereby pledged for the payment of the principal of and the interest on all bonds and notes of the District hereafter issued pursuant to this title whether or not such pledge be stated in the bonds or notes or in the act authorizing the issuance thereof.

(c) As soon as practicable following the beginning of each fiscal year, the Mayor and the Comptroller General of the United States shall review the amounts of District revenues which have been set aside and deposited in a sinking fund as provided in subsection (a). Such review shall be carried out with a view to determining whether the amounts so set aside and deposited are sufficient to pay the principal of and interest on bonds issued pursuant to this title, and the premium (if any) upon the redemption thereof, as the same respectively become due and payable. To the extent that the Mayor and the Comptroller General determine that sufficient District revenues have not been so set aside and deposited, the Federal payment made for the fiscal year within which such review is conducted shall be first utilized to make up any deficit in such sinking fund.

PART 4—TAX EXEMPTION—LEGAL INVESTMENT—WATER POLLUTION—RESERVOIRS—CONTRIBUTIONS—TERMINATION OF BORROWING AUTHORITY

TAX EXEMPTION

SEC. 641. Bonds and notes issued by the Council pursuant to this title and the interest thereon shall be exempt from all Federal and District taxation except estate, inheritance, and gift taxes.

LEGAL INVESTMENT

SEC. 642. Notwithstanding any restriction on the investment of funds by fiduciaries contained in any other law, all domestic insurance companies, domestic insurance associations, executors, administrators, guardians, trustees, and other fiduciaries within the District of Columbia may legally invest any sinking funds, moneys, trust funds, or other funds belonging to them or under or within their control in any bonds issued pursuant to this title, it being the purpose of this section to authorize the investment in such bonds or notes of all sinking, insurance, retirement, compensation, pension, and trust funds. National banking associations are authorized to deal in, underwrite, purchase and sell, for their own accounts or for the accounts of customers, bonds and notes issued by the District Council to the same extent as national banking associations are authorized by paragraph seven of section 5136 of the Revised Statutes (12 U.S.C. 24), to deal in, underwrite, purchase and sell obligations of the United States, States, or political subdivisions thereof. All Federal building and loan associations and Federal savings and loan associations; and banks, trust companies, building and loan associations, and savings and loan associations, domiciled in the District of Columbia, may purchase, sell, underwrite, and deal in, for their own account or for the account of others, all bonds or notes issued pursuant to this title: *Provided*. That nothing contained in this section shall be construed as relieving any person, firm, association, or corporation from any duty of exercising due and reasonable care in selecting securities for purchase or investment.

WATER POLLUTION

SEC. 643. (a) The Mayor shall annually estimate the amount of the District's principal and interest expense which is required to service District obligations attributable to the Maryland and Virginia pro rata share of District sanitary sewage water works and other water pollution projects which provide services to the local jurisdictions in those States. Such amounts as determined by the Mayor shall be used to exclude the Maryland and Virginia share of pollution projects cost from the limitation on the District's capital program obligations as provided in this title.

(b) The Mayor shall enter into agreements with the States and local jurisdictions concerned for annual payments to the District of rates and charges for waste treatment services in accordance with the use and benefits made and derived from the operation of the said waste treatment facilities. Each such agreement shall require that the estimated amount of such rates and charges will be paid in advance, subject to adjustment after each year. Such rates and charges shall be sufficient to cover the cost of construction, interest on capital, operation and maintenance, and the necessary replacement of equipment during the useful life of the facility.

COST OF RESERVOIRS ON POTOMAC RIVER

SEC. 644. (a) The Mayor is authorized to contract with the United States, any State in the Potomac River Basin, any agency or political subdivision thereof, and any other competent State or local authority, with respect to the payment by the District of Columbia to the United States, either directly or indirectly, of the District's equitable share of any part or parts of the non-Federal portion of the costs of any reservoirs authorized by the Congress for construction on the Potomac River or any of its tributaries. Every such contract may contain such provisions as the Mayor may deem necessary or appropriate.

(b) Unless hereafter otherwise provided by legislation enacted by the Council, all payments made by the District of Columbia and all moneys received by the District of Columbia pursuant to any contract made under the authority of this Act shall be paid from, or be deposited in, a fund designated by the Mayor. Charges for water delivered from the District of Columbia water system for use outside the District of Columbia may be adjusted to reflect the portions of any payments made by the District of Columbia under contracts authorized by this Act which are equitably attributable to such use outside the District.

DISTRICT OF COLUMBIA CONTRIBUTIONS TO THE WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY

SEC. 645. Notwithstanding any provision of law to the contrary, beginning with fiscal year 1973 the District share of the cost of the Adopted Regional System described in the National Capital Transportation Act of 1969 (Public Law 91-143; 83 Stat. 320), shall be payable from the proceeds of the sale of District obligations issued pursuant to the authority contained in this title.

TERMINATION OF THE DISTRICT'S AUTHORITY TO BORROW FROM THE TREASURY

SEC. 646. (a) The first section of the Act entitled "An Act to authorize the Commissioners of the District of Columbia to borrow funds for capital improvement programs and to amend provisions of law relating to Federal Government participation in meeting costs of maintaining the Nation's Capital City", approved June 6, 1958 (72 Stat. 183; D.C. Code, sec. 9–220), is amended by striking out subsections (b), (c), (d), and (e).

(b) The Act entitled "An Act authorizing loans from the United States Treasury for the expansion of the District of Columbia water system", approved June 2, 1950 (60 Stat. 195; D.C. Code, sec. 43–1540), is repealed.

(c) Title II of the Act entitled "An Act to authorize the financing of a program of public works construction for the District of Columbia, and for other purposes", approved May 18, 1954 (68 Stat. 108), is amended by striking out sections 213, 214, 216, 217, and 218 (D.C. Code, sections 43–1612, 43–1613, 43–1615, 43–1616, and 43–1617), authorizing loans from the United States Treasury for sanitary and combined sewer systems of the District.

(d) Section 402 of title IV of such Act approved May 18, 1954 (68 Stat. 110; D.C. Code, sec. 7–133), authorizing loans from the United States Treasury for the District of Columbia highway construction program, is repealed.

(e) Nothing contained in this section shall be deemed to relieve the District of its obligation to repay any loan made to it under the authority of the Act specified in the preceding subsections, nor to preclude the District from using the unexpended balance of any such loan appropriated to the District prior to the effective date of this provision.

TITLE VII—FEDERAL PAYMENT

ANNUAL FEDERAL PAYMENT TO THE DISTRICT

SEC. 701. (a) In recognition of the unique character of the District of Columbia as the Nation's Capital City, regular annual payments by the Federal Government are hereby authorized to cover the proper share of the expenses of the District government. On or before January 10 of each year, the Mayor shall, with the approval of the Council, submit to the Secretary of the Treasury through the Comptroller General a request for a Federal payment to be made during the following fiscal year, and the amount of such payment shall be computed in accordance with this part.

(b) The Federal payment for each fiscal year shall be determined on the basis of a percentage of the amount of District of Columbia fees, charges, miscellaneous receipts, and tax revenues which the Mayor estimates, on the basis of fees, charges, receipts, and tax rates authorized by law in effect at the time of such estimate, will be credited to the general fund of the District during such fiscal year as follows:

(1) For the fiscal year ending June 30, 1974, such payment shall be an amount equal to 37½ per centum of such fees, charges, receipts, and revenues so estimated for that fiscal year; and

(2) For the fiscal year ending June 30, 1975, and for each fiscal year thereafter, such payment shall be an amount equal to 40 per centum of such fees, charges, receipts, and revenues so estimated for such fiscal year.

(c) Commencing with the fiscal year ending June 30, 1974, the amount of the Federal payment for any fiscal year shall be adjusted by an amount equal to the difference between (1) the Federal payment made for such fiscal year and (2) the per centum in effect for that fiscal year times such fees, charges, miscellaneous receipts, and tax revenues actually credited to the general fund during such fiscal year.

(d) After review by the Comptroller General of the request for Federal payment and certification by him on or before April 10 of the fiscal year preceding the fiscal year for which the annual Federal payment is being requested that such request is in conformity with the provisions of this part, the Secretary of the Treasury shall, not later than September 1 of each fiscal year, cause such payment to be made to the District out of any money in the Treasury not otherwise appropriated, and the Secretary of the Treasury is authorized to advance on or after July 1, out of any money in the Treasury not otherwise appropriated, without interest, such amounts (not to exceed in the aggregate the total payment in the previous fiscal year) as may be required by the District pending the payment of the amount authorized by this section.

(e) The Comptroller General shall enter into cooperative arrangements with the Mayor whereby adjustments, disputes, differences, or disagreements involving the Federal payment may be resolved.

(f) Nothing contained in this title or any other provision of this Act shall be construed as relieving the United States of its obligations to make payments to the District government pursuant to the provisions of sections 106 and 212 of the Act of May 18, 1954 (D.C. Code, sec. 43–1601, 1611). Such payments shall be in addition to any other payments authorized by this Act.

TITLE VIII—AMENDMENTS TO DISTRICT OF COLUMBIA ELECTION ACT

AMENDMENTS

SEC. 801. The District of Columbia Election Act is amended as follows:

(1) The first section of such Act is amended by inserting immediately after "Board of Education", the following: "the members of the Council of the District of Columbia, the Mayor".

(2) Section 2 of such Act is amended (1) by striking out subparagraph (A) in paragraph (2) thereof and inserting in lieu: "(A) who, for the purpose of voting in an election under this Act, has resided in the District continuously during the thirty-day period ending on the day of such election and who does not claim voting residence or right to vote in any State or territory"; and (2) by adding at the end thereof the following new paragraphs:

"(8) The term 'Council' or 'Council of the District of Columbia' means the Council of the District of Columbia established pursuant to the District of Columbia Charter Act.

"(9) The term 'Mayor' means the office or Mayor of the District of Columbia established pursuant to the District of Columbia Charter Act."

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

"SEC. 3. There is hereby created a Board of Elections for the District of Columbia, to be composed of three members appointed by the Mayor, by and with the advice and consent of the District Council. The term of each such member shall be three years from the expiration of the term of his predecessor. Any person appointed to fill a vacancy shall be appointed only for the unexpired term of his predecessor. When a member's term of office expires, he may continue to serve until his successor is appointed and has qualified. The Mayor shall from time to time designate the Chairman of the Board."

(B) The members of the Board of Elections in office on the date when the Mayor first elected takes office shall continue in office for the remainder of the terms for which they were appointed.

(4) Subsections (h), (i), (j), and (k) or section 8 of such Act are amended to read as follows:

"(h)(1)(A) The Delegate, Mayor, Chairman of the District Council, and the two at-large members of the District Council shall be elected by the qualified electors of the District of Columbia in a general election. Each candidate for the office of Delegate, Mayor, Chairman of the District Council, and at-large members of the District Council in any general election shall, except as otherwise provided in subsection (j) of this section and section 10(d), have been elected as such candidate by the next preceding primary or party runoff election.

"(B)(i) A member of the office of District Council (other than the Chairman and any member elected at large) shall be elected in a general election by the qualified electors of the respective ward of the District from which the individual seeking such office was elected as a candidate for such office as provided in clause (ii) of this paragraph.

"(ii) Each candidate for the office of member of the District Council (other than the Chairman and at-large members) shall, except as otherwise provided in subsection (j) of this section and section 10(d), have been elected as such a candidate at the next preceding primary or party runoff election to fill such office within that ward.

"(2) The nomination and election of any individual to the office of Delegate, Mayor, Chairman of the Council, and member of the Council shall be governed by the provisions of this Act. No political party shall be qualified to hold a primary election to select candidates for election to any such office in a general election unless, in the next preceding election year, at least seven thousand five hundred votes were cast in the general election for a candidate of such party for any such office or for its candidates for electors of President and Vice President.

"(i)(1) Each individual in a primary election for candidate for the office of Delegate, Mayor, Chairman of the Council, or at-large member of the Council shall be nominated for any such office by a petition (A) filed with the Board not later than the forty-fifth day before the date of such primary election; and (B) signed by at least two thousand duly registered voters of the same political party as the nominee, or by 1 per centum of the duly registered members of such political party, whichever is less, as shown by the records of the Board of Elections as of the ninety-ninth day before the date of such election.

"(2) Each individual in a primary election for candidate for the office of member of the Council (other than the Chairman and at-large members) shall be nominated for such office by a petition (A) filed with the Board not later than the forty-fifth day before the date of such primary election; and (B) signed by at least two hundred and fifty persons in the ward from which such individual seeks election who are duly registered in such ward under section 7 of this Act, and who are of the same political party as the nominee.

"(3) A nominating petition for a candidate in a primary election for any such office may not be circulated for signature before the ninety-ninth day preceding the date of such election and may not be filed with the Board before the seventieth day preceding such date. The Board may prescribe rules with respect to the preparation and presentation of nominating petitions. The Board shall arrange the ballot of each political party in each such primary election as to enable a voter of such party to vote for nominated candidates of that party.

"(j)(1) A duly qualified candidate for the office of Delegate, Mayor, Chairman of the Council, or member of the Council may, subject to the provisions of this subsection, be nominated directly as such a candidate for election for such office (including any such election to be held to fill a vacancy). Such person shall be nominated by a petition filed with the Board not less than the forty-fifth day before the date of such general election; and (A) in the case of a person who is a candidate for the office of member of the Council (other than the Chairman or an at-

large member), signed by five hundred voters who are duly registered under section 7 in the ward from which the candidate seeks election; and (B) in the case of a person who is a candidate for the office of Delegate, Mayor, Chairman of the Council, or at-large member of the Council, signed by duly registered voters equal in number to 1½ per centum of the total number of registered voters in the District, as shown by the records of the Board as of the ninety-ninth day before the date of such election, or by three thousand persons duly registered under section 7, whichever is less. No signatures on such a petition may be counted which have been made on such petition more than ninety-nine days before the date of such election.

"(2) Nominations under this subsection for candidates for election in a general election to any office referred to in paragraph (1) shall be of no force and effect with respect to any person whose name has appeared on the ballot of a primary election for that office held within eight months before the date of such general election.

"(k)(1) In each general election for the office of member of the Council (other than the office of Chairman or an at-large member) the Board shall arrange the ballots in each ward to enable a vote registered in that ward to vote for any one candidate who (A) has been duly elected by any political party in the next preceding primary or party runoff election for such office from such ward, (B) has been duly nominated to fill a vacancy in such office in such ward pursuant to section 10(d), or (C) has been nominated directly as a candidate for such office in such ward under subsection (j) of this section.

"(2) In each general election for the office of member of the Council at large, the Board shall arrange the ballots to enable a registered voter to vote for as many candidates for election as members at large as there are members at large to be elected in such election. Such candidates shall be only those persons who (A) have been duly elected by any political party in the next preceding primary or party runoff election for such office, (B) have been duly nominated to fill vacancies in such office pursuant to section 10(d), or (C) have been nominated directly as a candidate under subsection (j) of this section.

"(3) In each general election for the office of Delegate, Mayor, or Chairman of the Council, the Board shall arrange the ballots to enable a registered voter to vote for any one of the candidates for any such office who (A) has been duly elected by any political party in the next preceding primary or party runoff election for such office, (B) has been duly nominated to fill a vacancy in such office pursuant to section 10(d), or (C) has been nominated directly as a candidate under subsection (j) of this section.".

(5) Paragraph (3) of section 10(a) of such Act is amended (1) by inserting "(A)" immediately before the word "Except", and (2) by adding at the end thereof the following:

"(B)(i) Except as otherwise provided in the case of special elections under this Act and in subclause (ii) of this clause, primary elections of each political party for the offices of Chairman of the Council and member of the Council (to be filled) shall be held on the first Tuesday in September of each even-numbered year, and general elections for such offices (to be filled) shall be held on the Tuesday next after the first Monday in November of each even-numbered year.

"(ii) Notwithstanding the provisions of subclause (i) of this clause, the initial primary election of each political party for the offices of Mayor, Chairman of the Council, and members of the Council shall be held on the first Tuesday next following the expiration of the ninety-day period following the date of acceptance of the District of Columbia Charter in accordance with the provisions of title XIV of the District of Columbia Charter Act, and the initial general election for such offices shall be held on the Tuesday next after the first Monday in November of the calendar year in which such primary is held.

"(C) Except as otherwise provided in the case of a special election under this Act, primary elections of each political party for the office of Mayor shall be held on the first Tuesday in September of each Presidential election year, commencing with calendar year 1976, and the general election for such office shall be held on the Tuesday next after the first Monday in November of each Presidential election year commencing with calendar year 1976.".

(6) Paragraph (4) of section 10(a) of such Act is amended to read as follows:

"(4)(A) Runoff elections shall be held whenever (i) in any primary election of a political party for candidates for the office of Delegate, Mayor, Chairman of the Council at large where only one at-large position is to be filled, no one candidate for any sucn office receives at least 40 per centum of the total votes cast in that election for all candidates of that party for that office, and (ii) in any general election for any such office, no one candidate receives at least 40 per centum of the total votes cast in that election for all candidates for that office. The candidates in any such runoff election for any such office shall be the two persons who received, respectively, the two highest numbers of votes in such preceding primary or general election for such office. The candidate receiving the highest number of votes in any such runoff election for such office shall be declared elected.

"(B)(i) When more than one office of at-large member of the Council is being filled in any primary election of a political party, the candidates for such offices who receive the highest number of votes shall be declared elected, except that no candidate shall be declared elected who does not receive at least 40 per centum of the number of all votes cast in that election for all candidates of that party for such offices divided by the number of at-large offices to be filled in such election. Where one or more of the at-large positions remains unfilled, a runoff election shall be held. The candidates in such runoff election shall be those unsuccessful candidates, in number not more than one more than the number of such offices to be filled, who in such primary next preceding such runoff election, received the highest number of votes less than 40 per centum.

"(ii) When more than one office of at-large member of the Council is being filled in any general election, the candidates for such offices who receive the highest number of votes shall be declared elected, except that no candidate shall be declared elected who does not receive at least 40 per centum of the number of all votes cast in that election for all candidates for such offices to be filled in such election divided by the number of at-large offices to be so filled. Where one or more of the at-large positions remain unfilled, a runoff election shall be held. The candidates in such run-off election shall be those unsuccessful candidates, in number not more than one more than the number of such offices to be filled, who in such preceding general election received the highest number of votes less than 40 per centum. The candidate or candidates, as the case may be, receiving the highest number of votes shall be declared elected.

"(C) If any person withdraws his candidacy from any such runoff election (under the rules and within the time limits prescribed by the Board), or dies before the date of the election, the person who received the same number of votes in such preceding primary or general election, as the case may be, next preceding such runoff election as a candidate in such runoff election or who received a number of votes in such primary or general election which is next highest to the number of votes in any such election received by a candidate in the runoff election, and who is not already a candidate in the runoff election, shall automatically become such a candidate in such runoff election.

"(D) Any such runoff election shall be held not less than two weeks nor more than four weeks after the date on which the Board has determined the results of the preceding primary or general election, as the case may be. At the time of announcing any such determination, the Board shall establish and announce the date on which the runoff election will be held, if one is required.".

(7) Section 10(b) of such Act is amended by deleting "and for members of the Board of Education," and inserting ", Mayor, Chairman of the Council, member of the Council and Board of Education,".

(8) Section 10(d) of such Act is amended to read as follows:

"(d) In the event that any official, other than the Delegate, Mayor, Chairman of the Council, member of the Council, member of the Board of Education, or a winner of a primary election for the office of Delegate, Mayor, Chairman of the Council, or member of the Council, elected pursuant to this Act dies, resigns, or becomes unable to serve during his or her term of office leaving no person elected pursuant to this Act to serve the remainder of the unexpired term of office, the successor or successors to serve the remainder of such term shall be chosen pursuant to the rules of the duly authorized party committee, except that such successor shall have the qualifications required by this Act for such office. In the event that such a vacancy occurs in the office of a candidate for the office of Delegate, Mayor, Chairman of the Council, or member of the Council who has been declared the winner in the preceding primary or party runoff election for such office, the vacancy may be filled not later than fifteen days prior to the next general election for such office, by nomination by the party committee of the party which nominated his predecessor. In the event that such a vacancy occurs in the office of Delegate more than twelve months before the expiration of its term of office, the Board shall call special elections to fill such vacancy for the remainder of its term of office."

(9) Section 10(e) of such Act is amended (1) by inserting "(1)" immediately before "Whenever", and (2) by adding at the end thereof the following new paragraph:

"(2)(A) Whenever a vacancy occurs in the office of Chairman of the Council, member of the Council elected from a ward, or member of the Council at large, such vacancy shall be filled at the next general election for any of the offices of Chairman of the Council, member of the Council from a ward, or member of the Council at large, which occurs more than ninety-nine days after such vacancy occurs. In the case of the office of Chairman of the Council, the Vice Chairman of the Council shall fill such vacancy by serving as Chairman until the unexpired term of the vacant office ends, or until January 2 next following the date of the election of a person to serve the remainder of such unexpired term, whichever occurs first. In the case of the office of member of the Council from a ward, or a member of the Council at large, the Council shall appoint a person to fill the vacancy until the unexpired term of the vacant office ends or until January 2 next following the date of the election of a person to serve the remainder of such unexpired term, whichever occurs first. A person elected to fill any such vacancy shall hold office for the duration of the unexpired term of office to which he was elected. Any

person appointed under this paragraph shall have the same qualifications for holding such office as were required of his immediate predecessor.

"(B) When a vacancy in an unexpired term for an at-large position is being filled at the same general election as one or more full-term at-large positions, the successful candidate or candidates with the highest number of votes in the general election, or in the runoff election if a runoff election is necessary, shall be declared elected to the full-term position or positions, and any candidate declared elected at the general election shall for this purpose be deemed to have received a higher number of votes than any candidate elected in the runoff election."

(10) The first sentence of section 15 of such Act is amended to read as follows: "No person shall be a candidate for more than one office on the Board of Education or the District Council in any election for members of the Board of Education or Council, and no person shall be a candidate for more than one office on the Council in any primary election."

(11) Section 15 of such Act is further amended (1) by designating the existing text of such section as subsection (a), and (2) by adding at the end thereof the following new subsection:

"(b) No person who is holding the office of Mayor, Delegate, Chairman of the Council, member of the Council or member of the School Board shall, while holding such office, be eligible as a candidate for any other of such offices in any primary or general election, unless the term of the office which he so holds expires on or prior to the date on which he would be eligible, if elected in such primary or general election, to take the office with respect to which such election is held."

DISTRICT COUNCIL JURISDICTION

SEC. 802. Notwithstanding any other provision of this Act or of any other law, the District Council shall have jurisdiction to legislate with respect to matters involving or relating to elections in the District of Columbia, subject to the provisions of section 304, section 401(d), and subsections (g) and (h) of section 325 of this Act.

TITLE IX—MISCELLANEOUS

AGREEMENTS WITH UNITED STATES

SEC. 901. (a) For the purpose of preventing duplication of effort or for the purpose of otherwise promoting efficiency and economy, any Federal officer or agency may furnish services to the District government and any District officer or agency may furnish services to the Federal Government. Except where the terms and conditions governing the furnishing of such services are prescribed by other provisions of law, such services shall be furnished pursuant to an agreement (1) negotiated by the Federal and District authorities concerned, and (2) approved by the Director of the Office of Management and Budget and by the Mayor. Each such agreement shall provide that the cost of furnishing such services shall be borne in the manner provided in subsection (c) by the government to which such services are furnished at rates or charges based on the actual cost of furnishing such services.

(b) For the purpose of carrying out any agreement negotiated and approved pursuant to subsection (a), any District officer or agency may in the agreement delegate any of his or its functions to any Federal officer or agency, and any Federal officer or agency may in the agreement delegate any of his or its functions to any District officer or agency. Any functions so delegated may be exercised in accordance with the terms of the delegation.

(c) The cost to each Federal officer and agency in furnishing services to the District pursuant to any such agreement shall be paid, in accordance with the terms of the agreement, out of appropriations made by the Council to the District officers and agencies to which such services are furnished. The costs to each District officer and agency in furnishing services to the Federal Government pursuant to any such agreement shall be paid, in accordance with the terms of the agreement, out of appropriations made by the Congress or other funds available to the Federal officers and agencies to which such services are furnished.

PERSONNEL INTEREST IN CONTRACTS OR TRANSACTIONS

SEC. 902. Any officer or employee of the District who is convicted of a violation of section 208 of title 18, United States Code, shall forfeit his office or position.

COMPENSATION FROM MORE THAN ONE SOURCE

SEC. 903. (a) Except as provided in this Act, no person shall be ineligible to serve or to receive compensation as a member of the Board of Elections because he occupies another office or position or because he receives compensation (including retirement compensation) from another source.

(b) The right to another office or position or to compensation from another source otherwise secured to such a person under the laws of the United States shall not be abridged by the fact of his service or receipt of compensation as a member of such Board, if such service does not interfere with the discharge of his duties in such other office or position.

ASSISTANCE OF THE UNITED STATES CIVIL SERVICE COMMISSION IN DEVELOPMENT OF DISTRICT MERIT SYSTEM

SEC. 904. The United States Civil Service Commission is hereby authorized to advise and assist the Mayor and the Council in the further development of the merit system authorized by section 402(4) and the said Commission is authorized to enter into agreements with the District government to make available its registers of eligibles as a recruiting source to fill District positions as needed. The costs of any specific services furnished by the Civil Service Commission may be compensated for under the provisions of section 901 of this Act.

TITLE X—SUCCESSION IN GOVERNMENT

TRANSFER OF PERSONNEL, PROPERTY, AND FUNDS

SEC. 1001. (a) In each case of the transfer, by any provision of this Act, of functions to the Council, to the Mayor, or to any agency or officer, there are hereby transferred (as of the time of such transfer of functions) to the Council, to the Mayor, to such agency, or to the agency of which such officer is the head, for use in the administration of the functions by the Council, the Mayor, or such agency or officer, the personnel (except the Commissioner of the District of Columbia and the Assistant to the Commissioner, and the Chairman of the District of Columbia Council, the Vice Chairman of the District of Columbia Council, and the other members thereof, all of whose offices are abolished by this Act), property, records, and unexpended balances of appropriations and other funds, which relate primarily to the functions so transferred.

(b) If any question arises in connection with the carrying out of subsection (a), such question shall be decided—

(1) in the case of functions transferred from a Federal officer or agency, by the Director of the Office of Management and Budget; and

(2) in the case of other functions (A) by the Council, or in such manner as the Council shall provide, if such functions are transferred to the Council, and (B) by the Mayor if such functions are transferred to him or to any other officer or agency.

(c) Any of the personnel transferred to the Council, the Mayor, or any agency by this section which the Council, the Mayor, or the head of such agency shall find to be in excess of the personnel necessary for the administration of its or his functions shall, in accordance with law, be retransferred to other positions in the District or Federal Government or be separated from the service.

(d) No officer or employee shall, by reason of his transfer by this Act or his separation from service under this Act, be deprived of a civil service status held by him prior to such transfer or any right of appeal or review he may have by reason of his separation from service.

EXISTING STATUTES, REGULATIONS, AND OTHER ACTIONS

SEC. 1002. (a) Any statute, regulation, or other action in respect of (and any regulation or other action issued, made, taken, or granted by) any officer or agency from which any function is transferred by this Act shall, except to the extent modified or made inapplicable by or under authority of law, continue in effect as if such transfer had not been made; but after such transfer, references in such statute, regulation, or other action to an officer or agency from which a transfer is made by this Act shall be held and considered to refer to the officer or agency to which the transfer is made.

(b) As used in subsection (a), the term "other action" includes, without limitation, any rule, order, contract, compact, policy, determination, directive, grant, authorization, permit, requirement, or designation.

(c) Unless otherwise specifically provided nothing contained in this Act shall be construed as affecting the applicability to the District of Columbia government of personnel legislation relating to the District government until such time as the Council may otherwise elect to provide equal or equivalent coverage as provided in section 402(4).

PENDING ACTIONS AND PROCEEDINGS

SEC. 1003. (a) No suit, action, or other judicial proceeding lawfully commenced by or against any officer or agency in his or its official capacity or in relation to the exercise of his or its official functions, shall abate by reason of the taking effect of any provision of this Act; but the court, unless it determines that the survival of such suit, action, or other proceeding is not necessary for purposes of settlement of the questions involved, shall allow the same to be maintained, with such substitutions as to parties as are appropriate.

(b) No administrative action or proceeding lawfully commenced shall abate solely by reason of the taking effect of any provision of this Act, but such action or proceeding shall be continued with such substitutions as to parties and officers or agencies as are appropriate.

VACANCIES RESULTING FROM ABOLISHMENT OF OFFICERS OF COMMISSIONER AND ASSISTANT TO THE COMMISSIONER

SEC. 1004. Until the 1st day of July next after the first Mayor takes office under this Act no vacancy occurring in any District agency by reason of section 321, abolishing the offices of Commissioner of the District of Columbia and Assistant to the Commissioner, shall affect the power of the remaining members of such agency to exercise its functions; but such agency may take action only if a majority of the members holding office vote in favor of it.

TITLE XI—SEPARABILITY OF PROVISIONS

SEC. 1101. If any provision of this Act or the application theerof to any person or circumstance is held invalid, the remainder of

the Act and the application of such provision to other persons or circumstances shall not be affected thereby.

TITLE XII—TEMPORARY PROVISIONS

POWERS OF THE PRESIDENT DURING TRANSITION PERIOD

SEC. 1201. The President of the United States is hereby authorized and requested to take such action during the period following the date of the enactment of this Act and ending on the date of the first meeting of the District Council, by Executive order or otherwise, with respect to the administration of the functions of the District of Columbia government, as he deems necessary to enable the Board of Elections properly to perform its functions under this Act.

REIMBURSABLE APPROPRIATIONS FOR THE DISTRICT

SEC. 1202. (a) The Secretary of the Treasury is authorized and directed to advance to the District of Columbia the sum of $750,000, out of any money in the Treasury not otherwise appropriated, for use (1) in paying the expenses of the Board of Elections (including compensation of the members thereof), and (2) in otherwise carrying into effect the provisions of this Act.

(b) The full amount expended out of the money advanced pursuant to this section shall be reimbursed to the United States, without interest, during the second fiscal year which begins after the effective date of title V, from the general fund of the District of Columbia.

TITLE XIII—EFFECTIVE DATES

EFFECTIVE DATES

SEC. 1301. (a) As used in this title and title XIV the term "charter" means titles I to XI, both inclusive.

(b) The charter shall take effect only if accepted pursuant to title XIV. If the charter is so accepted, it shall take effect on the day following the date on which it is accepted (as determined pursuant to section 1405) except that—

(1) part 2 of title III and title V shall take effect on the day upon which the Council members first elected take office;

(2) section 402 shall take effect on the day upon which the Mayor first elected takes office; and

(3) title VII shall take effect with respect to the first fiscal year beginning next after the Mayor first elected takes office and with respect to subsequent fiscal years.

(c) Titles XII, XIII, and XIV shall take effect on the day following the date on which this Act is enacted.

TITLE XIV—SUBMISSION OF CHARTER FOR REFERENDUM

CHARTER REFERENDUM

SEC. 1401. On a date to be fixed by the Board of Elections, not more than four months after the enactment of this Act, a referendum (in this title referred to as the "charter referendum") shall be conducted to determine whether the registered qualified voters of the District of Columbia accept the charter.

BOARD OF ELECTIONS

SEC. 1402. (a) In addition to its other duties, the Board of Elections established under the District Election Act of 1955 shall conduct the charter referendum and certify the results thereof as provided in this title.

(b) Notwithstanding the fact that such section does not otherwise take effect unless the charter is accepted under this title, the applicable provisions of title VIII of this Act shall govern the Board of Elections in the performance of its duties under this Act.

APPLICABILITY OF TITLE VIII

SEC. 1403. Except as otherwise indicated in this title, the provisions of title VIII of this Act shall to the extent applicable govern all aspects (including, but not solely, the registration and qualification of voters, the method of voting, recounts and contests, and election violations) of the referendum election herein, notwithstanding the fact that such title VIII does not otherwise take effect unless the charter is accepted.

CHARTER REFERENDUM BALLOT: NOTICE OF VOTING

SEC. 1404. (a) The charter referendum ballot shall contain the following, with a blank space appropriately filled:

"The District of Columbia Charter Act, enacted , proposes to establish a new charter for the District of Columbia, but provides that the charter shall take effect only if it is accepted by the registered qualified voters of the District in this referendum.

"By indicating, in one of the squares provided below, whether you are for or against the charter.

☐ For the charter

☐ Against the charter".

(b) Voting may be by paper ballot or by voting machine. The Board of Elections may make such changes in the second paragraph of the charter referendum ballot as it determines to be necessary to permit the use of voting machines if such machines are used.

(c) Not less than five days before the date of charter referendum, the Board of Elections shall mail to each person registered (1) a sample of the charter referendum ballot, and (2) information showing the polling place of such person and the date and hours of voting.

(d) Not less than one day before the charter referendum, the Board of Elections shall publish, in newspapers of general circulation published in the District of Columbia, a list of the polling places and the date and hours of voting.

ACCEPTANCE OR NONACCEPTANCE OF CHARTER

SEC. 1405. (a) If a majority of the registered qualified voters voting in the charter referendum vote for the charter the charter shall be considered accepted as of the time the Board of Elections certifies the result of the charter referendum to the President of the United States, as provided in subsection (b).

(b) The Board of Elections shall, within a reasonable time, but in no event more than thirty days after the date of the charter referendum, certify the result of the charter referendum to the President of the United States and to the Secretary of the Senate and the Clerk of the House of Representatives.

TITLE XV—TITLE OF ACT

SHORT TITLE

SEC. 1501. This Act, divided into titles and sections according to table of contents, and including the declaration of congressional policy which is a part of such Act, may be cited as the "District of Columbia Charter Act".

Mr. MANSFIELD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. MATHIAS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider a nomination which I sent to the desk and which has been cleared all around. The nomination was reported earlier today.

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

JOINT FEDERAL-STATE LAND USE PLANNING COMMISSION FOR ALASKA

The legislative clerk read the nomination of Burton W. Silcock, of Virginia, to be a member of the Joint Federal-State Land Use Planning Commission for Alaska.

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

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the President be notified of the confirmation of the nomination.

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

LEGISLATIVE SESSION

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

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

BICENTENNIAL COINS—UNANIMOUS-CONSENT AGREEMENT

Mr. ROBERT C. BYRD. Mr. President, I am authorized by the distinguished majority leader, and I have cleared the matter with the minority leadership, to ask unanimous consent that at such time as S. 1141, a bill to provide a new coinage design and date emblematic of the bicentennial of the American Revolution for dollars and half dollars, is called up and made the pending business before the Senate, there be a time limitation thereon of 1 hour, to be equally divided between the distinguished majority leader and the distinguished minority leader or their designees; that time on any amendment, debatable motion, or appeal be limited to 30 minutes, and that the agreement be in the usual form.

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

Mr. ROBERT C. BYRD subsequently said: Mr. President, I ask unanimous consent that with respect to the agreement previously entered regarding Calendar No. 231, S. 1141, the time on the bill be limited to one and a half hours, instead of 1 hour, and that an amendment by Mr. DOMINICK and Mr. MCCLURE—one amendment, cosponsored by those two Senators—be in order.

The PRESIDING OFFICER. Without objection it is so ordered.

The text of the unanimous consent agreement is as follows:

Ordered, That, during the consideration of S. 1141, a bill to provide a new coinage design and date emblematic of the bicentennial of the American Revolution for dollars and half dollars, debate on any amendment, debatable motion or appeal shall be limited to 30 minutes, to be equally divided and controlled by the mover of such and the manager of the bill: *Provided*, That in the event the manager of the bill is in favor of any such amendment or motion, the time in opposition thereto shall be controlled by the minority leader or his designee: *Provided further*, That no amendment that is not germane to the provisions of the said bill shall be received.

Ordered further, That on the question of the final passage of the said bill debate shall be limited to 1½ hours, to be equally divided and controlled, respectively, by the majority leader and the minority leader, or their designees: *Provided,* That the said leaders, or either of them, may, from the time under their control on the passage of the said bill, allot additional time to any Senator during the consideration of any amendment, debatable motion, or appeal.

ORDER TO LAY ASIDE THE UNFINISHED BUSINESS TEMPORARILY TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, following the disposition of S. 1328, the Senate proceed to the consideration of S. 1141, and that the unfinished business be temporarily laid aside and remain in a temporarily laid-aside status until the disposition of S. 1141 on tomorrow, or until the hour of 2 p.m., whichever is the earlier.

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

GEOPHYSICAL MODIFICATION ACTIVITY AS A WEAPON OF WAR, SENATE RESOLUTION 71—ORDER FOR VOTE TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at the hour of 12:30 p.m. tomorrow, the vote occur on S. Res. 71, expressing the sense of the Senate that the U.S. Government should seek the agreement of other governments to a proposed treaty prohibiting the use of any environmental or geophysical modification activity as a weapon of war, or the carrying out of any research or experimentation directed thereto.

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

Mr. PELL. Mr. President, I ask unanimous consent that it be in order at this time to ask for the yeas and nays on the resolution.

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

Mr. PELL. I ask for the yeas and nays on the resolution.

The yeas and nays were ordered.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Berry, one of its reading clerks, announced that the House insisted upon its amendments to the bill (S. 1636) to amend the International Economic Policy Act of 1972, disagreed to by the Senate; agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and that Mr. PATMAN, Mr. ASHLEY, Mr. REES, Mr. MITCHELL of Maryland, Mr. ST GERMAIN, Mr. HANNA, Mr. KOCH, Mr. YOUNG of Georgia, Mr. MOAKLEY, Mr. WIDNALL, Mr. BLACKBURN, Mr. BROWN of Michigan, Mr. JOHNSON of Pennsylvania, Mr. McKINNEY, and Mr. FRENZEL were appointed managers on the part of the House at the conference.

The message also announced that the Clerk of the House had returned 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, with all accompanying papers, to the Senate, in compliance with a request of the Senate thereon.

FEDERAL LANDS RIGHT-OF-WAY ACT OF 1973

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the unfinished business be laid before the Senate.

The PRESIDING OFFICER. The Chair lays before the Senate the unfinished business, S. 1081, which the clerk will state by title.

The bill was stated by title, as follows:

A bill (S. 1081) to authorize the Secretary of the Interior to grant rights-of-way across Federal lands where the use of such rights-of-way is in the public interest and the applicant for the right-of-way demonstrates, the financial and technical capability to use the right-of-way in a manner which will protect the environment.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 306

Mr. JACKSON. Mr. President, I call up my amendment No. 306 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. JACKSON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment will be printed in full in the RECORD.

Mr. JACKSON's amendment (No. 306) is as follows:

S. 1081

TITLE III—SUBPENA AND INJUNCTIVE RELIEF

FINDINGS

SEC. 301. (a) The Congress hereby finds that the investigative and law enforcement responsibilities of the Federal Trade Commission have been retricted and hampered because of inadequate legal authority to enforce subpenas and to seek preliminary injunctive relief to avoid unfair competitive practices.

(b) The Congress further finds that as a direct result of this inadequate legal authority significant delays have occurred in a major investigation into the legality of the structure, conduct, and activities of the petroleum industry, as well as in other major investigations designed to protect the public interest.

PURPOSE

SEC. 302. It is the purpose of this Act to grant the Federal Trade Commission the requisite authority to insure prompt enforcement of the laws the Commission administers by granting statutory authority to directly enforce subpenas issued by the Commission and to seek preliminary injunctive relief to avoid unfair competitive practices.

SEC. 303. Section 5(1) of the Federal Trade Commission Act (15 U.S.C. 45) (1)) is amended by striking subsection (1) and inserting in lieu thereof the following new paragraph:

"(1) Any person, partnership, or corporation who violates an order of the Commission after it has become final, and while such order is in effect, shall forfeit and pay to the United States a civil penalty of not more than $10,000 for each violation, which shall accrue to the United States and may be recovered in a civil action brought by the Attorney General of the United States or by the Commission in its own name by any of its attorneys designated by it for such purpose. Each separate violation of such an order shall be a separate offense, except that in the case of a violation through continuing failure to obey or neglect to obey a final order of the Commission, each day of continuance of such failure or neglect shall be deemed a separate offense. In such actions, the United States district courts are empowered to grant mandatory injunctions and such other and further equitable relief as they deem appropriate in the enforcement of such final orders of the Commission."

SEC. 304. Section 5 of the Federal Trade Commission Act (15 U.S.C. 45) is amended by adding at the end thereof the following new subsection:

"(m) Whenever in any civil proceeding involving this Act the Commission is authorized or required to appear in a court of the United States, or to be represented therein by the Attorney General of the United States, the Commission may elect to appear in its own name by any of its attorneys designated by it for such purpose."

SEC. 305. Section 6 of the Federal Trade Commission Act (15 U.S.C. 46), is amended by adding at the end thereof the following proviso: *"Provided,* That the exception of 'banks and common carriers subject to the Act to regulate commerce' from the Commission's powers defined in clauses (a) and (b) of this section, shall not be construed to limit the Commission's authority to gather and compile information, to investigate, or to require reports or answers from, any such corporation to the extent that such action is necessary to the investigation of any corporation, group of corporations, or industry which is not engaged or is engaged only incidentally in banking or in business as a common carrier subject to the Act to regulate commerce."

SEC. 306. Section 13 of the Federal Trade Commission Act (15 U.S.C. 53) is amended by redesignating "(b)" as "(c)" and inserting the following new subsection:

"(b) Whenever the Commission has reason to believe—

"(1) that any person, partnership, or corporation is violating, or is about to violate, any provision of law enforced by the Federal Trade Commission, and

"(2) that the enjoining thereof pending the issuance of a complaint by the Commission and until such complaint is dismissed by the Commission or set aside by the court on review, or until the order of the Commission made thereon has become final, would be in the interest of the public—

the Commission by any of its attorneys designated by it for such purpose may bring suit in a district court of the United States to enjoin any such act or practice. Upon a proper showing that such action would be in the public interest, and after notice to the defendant, a temporary restraining order or a preliminary injunction may be granted without bond: *Provided, however,* That if a complaint is not filed within such period as may be specified by the court after issuance of the temporary restraining order or preliminary injunction, the order or injunction may be dissolved by the court and be of no further force and effect: *Provided further,* That in proper cases the Commission may seek, and, after proper proof, the court may issue a permanent injunction. Any such suit shall be brought in the district in which such person, partnership, or corporation resides or transacts business."

SEC. 307. Section 16 of the Federal Trade Commission Act (15 U.S.C. 56) is amended to read as follows:

"SEC. 16. Whenever the Federal Trade Commission has reason to believe that any person, partnership, or corporation is liable to a penalty under section 14 or under subsection (1) of section 5 of this Act, shall—

"(a) certify the facts to the Attorney General, whose duty it shall be to cause appropriate proceedings to be brought for the enforcement of the provisions of such section or subsection; or

"(b) itself cause such appropriate proceedings to be brought."

Mr. JACKSON. Mr. President, this amendment will give to the Federal Trade Commission major new statutory authority which is designed to enable the Commission to carry out its mandate to protect the public interest through prompt and aggressive enforcement of the laws it administers.

The need for this legislation was brought to my attention in connection with the Interior Committee's study of national fuels and energy policy.

Questions were raised by the committee staff as to the present ability and legal authority of the Commission to deal with situations comparable to the current petroleum emergency. On June 15, following discussion between the Interior Committee staff and the staff of the Federal Trade Commission, Mr. Ronald M. Dietrich, General Counsel to the Commission, wrote me a letter on this matter. The General Counsel's letter noted that, while the Commission's investigative powers are broad enough to discover problem situations such as those existing in the petroleum industry, there are shortcomings. The letter states that:

The shortcomings of the Commission's present power are in the potential for delay in existing subpoena enforcement procedures and in its inability to obtain preliminary relief once the problem has been fully discovered.

The Commission has sought for a long time to have two specific powers to increase its ability to deal in an expeditious manner with such important problems. These two powers are the statutory authority to seek directly in the federal district courts preliminary injunctions against the continuation of anti-competitive conduct ("unfair methods of competition") as well as deceptive practices, and the corresponding statutory authority to proceed to federal district court itself to enforce its own subpoenas and to require reports from businesses under Section 6(b) of the Federal Trade Commission Act. At the present time, proposed legislation, S. 356 and H.R. 20, contain language which would give the Commission power to seek preliminary injunctions in deceptive practice situations. But they do not include the corresponding power to restrain the continuance of anti-competitive conduct. The power to seek such prelminary injunctions should, in my opinion, be available to the Commission in both deceptive practices and in anti-competitive conduct situations.

Mr. President, the purpose of the amendment I am introducing today is to grant the Federal Trade Commission the full range of powers and legal authority it needs to both identify and prevent unfair methods of competition and anticompetitive conduct.

On June 26, 1973, I introduced this legislation in the form of a bill, S. 2074, the Subpena and Injunctive Relief Amendments Act of 1973. At that time I had introduced into the RECORD the text of the correspondence on the FTC investigation of the petroleum industry and the investigation under way by the Permanent Investigations Subcommittee.

Because of the urgent need for this legislation and in view of the fact that similar authority was passed by the Senate in the last Congress as a part of the Magnuson-Moss Warranty Act, I am offering this measure as an amendment to S. 1081, the Federal Lands Right-of-Way Act of 1973.

I hope that the Senate will act favorably on this amendment.

Mr. President, I ask unanimous consent at this point to have printed in the RECORD a statement that I made yesterday in connection with this matter at a press conference.

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

STATEMENT BY SENATOR HENRY M. JACKSON, JULY 9 PRESS CONFERENCE ON THE FUEL CRISIS

1. BACKGROUND OF THE FTC REPORT

On May 31 of this year, I asked the Federal Trade Commission to furnish me with a report on the relationship between the structure of the petroleum industry and the critical fuel shortages facing the nation.

My purpose in requesting this report was to ascertain whether the serious and widespread shortages of gasoline, diesel, propane and heating oil were in any manner "contrived". Serious allegations have been made over the past six months in many quarters that there is a deliberate attempt underway on the part of the major integrated oil companies to drive independent refineries, distributors and marketers out of business; to obtain monoply control of new markets; to cut loose obligations to serve low profit markets; to force major price increases for all fuels; and to obtain the repeal of environmental legislation.

Equally serious allegations have been made that the nature and structure of the industry, when coupled with timid enforcement of inadequate Federal laws and policy, have created a situation in which shortage situations were inevitable and taking advantage of independents and consumers was predictable.

I stated in my May 31 letter to the FTC that "On the basis of available evidence I do not charge or allege conspiracy." I further stated that the purpose of the report was "to get a detailed, objective and judicial judgment on the issues which have been raised in connection with the current fuels crisis."

Late Friday afternoon the report was delivered to my office.

2. IMPORTANCE OF THE FTC REPORT

Entitled "Preliminary Federal Trade Commission Staff Report On Its Investigation Of The Petroleum Industry," the FTC report is an important document. It is the first step forward in what will be a long and difficult—and, I believe, successful—effort to bring purpose, equity and balance to Federal energy policies which govern the structure, behavior and performance of the nation's energy industries.

The FTC report is an important document because it sets the stage for sweeping reforms—reforms which should have been implemented long ago.

The FTC report lays the foundation and states the case for repeal of the oil depletion allowance: tax equity, promotion of competition, and greater economic efficiency.

The FTC report demonstrates that the nation must take direct and positive action—such as the recent Senate action in adopting a Mandatory Fuels Allocation program—if we are to maintain the independent sector of the oil industry as a viable competitive force. By insisting on their survival, we will assure the survival of competition and forestall the forces of cartel and monopoly.

The FTC report documents the need—the absolute necessity—to guard against the establishment of any oil import quota system which benefits only the major oil companies, supports artificially high prices and serves as a barrier to new competitors from entering the market.

The report also indicates that major oil company ownership of pipelines gives the companies an important weapon to control the crude oil produced by independent oil producers and the raw material supply to independent refiners.

The report concludes that it is essential that the nation must develop a program to insure fair competition, and implies that this program may require divestiture of major oil company pipelines and refineries.

The report also concludes that there is "cooperative" rather than "competitive" conduct on all levels in which the large oil vertically integrated companies interrelate.

This is the first time that a report by an agency of the Executive Branch has formally concluded that time honored and, until now, almost sacrosanct Federal oil policies have benefited the major oil companies while working hardship on the average American and the independent small businessman.

The FTC staff report does not say that the present gasoline shortage was deliberately contrived by the major oil companies. It does not blame the shortage entirely upon the anti-competitive structure and behavior of the petroleum industry. It does, however, indicate clearly that vertical integration, concentration and market control had an important role in creating the shortage. The report also says that the major oil companies are indeed using the shortage to eliminate competition and to increase their relative shares in all three sectors of the industry—production, refining and marketing.

The most important implication of the report as a whole is that the anti-competitive features of the petroleum industry do not flow from technical or economic necessity, nor are they the creation of a classical conspiracy in restraint of trade. Concentration and market power in the oil industry are largely the result of government policy. The report states, "The federal and state governments, with the force of law do for the major companies that which would be illegal for the companies to do for themselves."

In other words, many Federal programs and policies have enabled the major oil companies to function at will and with few restraints at the expense of the American consumer and the independent distributors and small oil businesses.

The report identifies the depletion, oil import controls, state prorationing, and—surprisingly—Cost of Living Council price controls as policies that have had anti-competitive results.

The staff report does not recommend specific legislative action. But if it can withstand careful scrutiny, as I believe that in many respects it will, its analysis has many profound implications for National Energy Policy.

For example, if the report is correct, the controversial tax preferences for oil and gas production—the depletion allowance, intangible drilling expenses, and foreign tax credits—are not very effective as incentives to increase petroleum production. But they do encourage vertical integration and economic concentration; they create a profit squeeze on independent refiners; and they make it impossible to find out exactly how profitable the major oil companies are. It is obvious that the Congress must take a hard new look at the oil industry's special tax treatment, and consider phasing it out in favor of more efficient and equitable incentives.

It is apparent that the regulation of pipelines by the Interstate Commerce Commission has not been adequate to prevent a whole range of anti-competitive effects from the concentrated ownership of transportation facilities by the largest companies. The FTC report provides a strong case for divorcement of oil transportation from production and refining. Congress must take a new and very hard look at this question.

The Senate's National Fuels and Energy Policy Study, of which I am Chairman, will look closely at each of these and other related areas and I will be introducing substantive legislation to effectuate fundamental policy changes where the facts dictate they are guaranteed and in the public interest.

That being said, however, the report has shortcomings. It is an abstract and theoretical document. It is written in the language of economists. It lacks hard-hitting and specific recommendations for corrective action which many believe are necessary, and anticipated the report would contain.

The report makes no reference to the nation's changing supply pattern, to growing international problems faced by major oil companies, to OPEC,* nor to other international events which will have major impacts on competition and the structure of the petroleum industry.

The report does not contain specific references to the legality of, or motivation behind any specific activities of companies and individuals which may have been factors in causing the current fuel shortages. In this respect, it must be assumed that the FTC staff has made recommendations to the Commission on these and other matters which may result in major law enforcement actions. Therefore, it is entirely proper not to include in this report specific allegations, facts, theories of law and other pertinent information contained in the more detailed report and staff recommendations now pending before the Commission.

3. NEED FOR CONGRESSIONAL INVESTIGATION AND ACTION

What clearly emerges from the report is that Congress must provide the leadership in the reform of the nation's fuel and energy policies.

I am convinced more than ever before of the necessity for a full-scale Senate investigation into the fuel shortage, an investigation that is fair, constructive and responsible, yet one that pulls no punches in assessing blame where it is deserved, and in laying the basis for legislative action.

*Organization of Petroleum Exporting Countries.

For this reason, the on-going inquiry into the causes of this current fuel crisis by the Senate Permanent Subcommittee on Investigations will continue to go forward utilizing all available resources.

At my direction, Subcommittee staff members are at the FTC offices this morning to begin a review of all information and documents that were gathered by the FTC preparatory to this report and the larger report on the petroleum industry which the Commission is now considering.

In seeking definitive answers to all questions and in attempting to pinpoint responsibility, the Subcommittee will receive all testimony under oath. This is consistent with the Subcommittee's rules and procedures. In addition, when appropriate and if necessary, subpoenas will be issued to obtain any documentation needed to develop all of the facts necessary to Congressional and public understanding.

Hearings by the Subcommittee will be announced later this week.

4. RELEASE OF FTC STAFF REPORT

As those who have followed this matter know, one of my major purposes in requesting this report was to obtain a detailed and objective judgment on the many issues, charges and allegations which have been raised in connection with the current fuels crisis. I had hoped that early public release of the report would make the facts known and clear the air of any charges and allegations of conspiracy, monopoly, price fixing and taking unfair advantage which are unfounded or which have no basis in fact. I had also hoped that the report would focus on those causes of the fuel shortage which are amenable to early and effective action by the Congress, the Administration and the industry and point the way to ending this critical shortage.

The American consumer has a very large stake in this matter and is entitled to know, at the earliest possible date, the causes of the shortages and the price increases which have hit at his pocketbook and caused great inconvenience.

Equally important, the Congress has both a right and a responsibility to know so that any needed remedial action which goes to the substance of the problem may be taken and the compelling temptation to engage in unproductive witch hunts for scapegoats may be resisted.

I regret to inform those of you here today that a request to me in Chairman Engman's letter of transmittal of last Friday makes release of the report at this time impractical. The last paragraph of the letter reads as follows:

"While the Commission recognizes its obligation to honor your Committee's request for information, I must emphasize that the Commission would not make this report public and therefore we ask that *care be taken to avoid unnecessary publicity which could jeopardize any future law enforcement action by the Commission in this area.*" (Emphasis added.)

I did not expect such a caveat would accompany the report at the time I requested its preparation. But in view of Chairman Engman's concern as expressed in his letter I feel that release at this time, without further clarification, would not be responsible. And I must make note here that there was a release by an unidentified source to one of the newsservices over the weekend.

At the same time, however, I must candidly acknowledge that my review of the report and the analysis provided to me by the Committee staff lawyers and economists *does not* disclose any specific information about identifiable companies, events or activities which could reasonably be construed to either jeopardize Commission law enforcement activities or to prejudice in any manner the rights or legal defenses of any company or individual against whom legal action might be taken in the future.

I have accordingly written Chairman Engman that I would appreciate being informed as to what particular information, if any, should be deleted from the report before release to the Congress, the media and the public to avoid any prejudice to the Government's case or cases and to the rights of any persons or companies that may be named as defendants in legal proceedings. I have asked for this information by 10:00 a.m. on Friday, July 13, 1973.

I will carefully consider Chairman Engman's suggestions in making my determination as Chairman of the Permanent Subcommittee on Investigations, as to whether all or only a portion of this report will be released by my office.

(Copies of Chairman Engman's July 6 letter of transmittal and my response of July 9 are attached.)

5. AMENDMENTS TO THE FEDERAL TRADE COMMISSION ACT

To facilitate the Federal Trade Commission's ongoing investigation into the structure and conduct of the energy industries, I will be offering an amendment on the Senate floor later in the week to greatly enlarge the Commission's powers.

This amendment will grant new authority to enable the Commission to carry out its mandate to protect the public interest through prompt and aggressive enforcement of the laws it administers.

The shortcomings in the Commission's present powers lie *first*, in the inordinate procedural delays which are caused by the Commission's lack of authority to enforce its own subpoenas; and *second*, in the fact that the Commission lacks authority to obtain preliminary injunctive relief to prohibit anti-competitive practices, deception and unfair methods of competition when they are found to be taking place.

The amendment I propose will grant to the Commission the legal authority to go directly to the Federal Courts to seek subpoena enforcement and to obtain preliminary injunctive relief. This authority will circumvent the delays experienced in the past when the Commission was required to request and persuade the Justice Department to go to Federal Court on the Commission's behalf.

FEDERAL TRADE COMMISSION,
Washington, D.C., July 6, 1973.

Hon. HENRY M. JACKSON,
Chairman, Interior and Insular Affairs Committee, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: As Chairman of the Senate Interior and Insular Affairs Committee and the Senate Permanent Subcommittee on Investigations of the Committee on Government Operations, you have requested a report on the relationship between the structure of the petroleum and related industries and the current shortage of petroleum products.

In response to that request, I am enclosing a copy of a preliminary staff report to the Commission prepared at my direction. This report is based upon the comprehensive investigation of the petroleum industry which the staff began in late 1971. This report has not been evaluated or approved by the Commission, and the findings and conclusions contained in the report do not necessarily reflect the views of the Commission.

While the Commission recognizes its obligation to honor your Committee's request for information, I must emphasize that the Commission would not make this report public and therefore we ask that care be taken to avoid unnecessary publicity which could jeopardize any future law enforcement action by the Commission in this area.

Sincerely yours,

LEWIS A. ENGMAN,
Chairman.

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

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

Mr. JACKSON. Mr. President, I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. JACKSON. Mr. President, I do not believe there are any further requests for time to debate this amendment.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 306 of the Senator from Washington (Mr. JACKSON).

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 Indiana (Mr. BAYH), the Senator from Idaho (Mr. CHURCH), and the Senator from Utah (Mr. Moss) are necessarily absent.

I further announce that the Senator from Washington (Mr. MAGNUSON), the Senator from Wyoming (Mr. McGEE), and the Senator from Alabama (Mr. SPARKMAN) are absent on official business.

I also announce that the Senator from Mississippi (Mr. STENNIS) is absent because of illness.

I further announce that, if present and voting, the Senator from Washington (Mr. MAGNUSON) would vote "yea."

Mr. SCOTT of Pennsylvania. I announce that the Senator from Massachusetts (Mr. BROOKE), the Senator from Arizona (Mr. GOLDWATER), and the Senator from New York (Mr. JAVITS) are necessarily absent.

The Senator from Michigan (Mr. GRIFFIN) is absent on official business.

If present and voting, the Senator from New York (Mr. JAVITS) would vote "yea."

The result was announced—yeas 78, nays 11, as follows:

[No. 274 Leg.]

YEAS—78

Abourezk	Fong	Montoya
Aiken	Fulbright	Muskie
Allen	Gravel	Nelson
Baker	Gurney	Nunn
Beall	Hart	Pastore
Bellmon	Hartke	Pearson
Bennett	Haskell	Pell
Bentsen	Hatfield	Percy
Bible	Hathaway	Proxmire
Biden	Helms	Randolph
Brock	Hollings	Ribicoff
Burdick	Huddleston	Roth
Byrd, Harry F., Jr.	Hughes	Saxbe
Byrd, Robert C.	Humphrey	Schweiker
Cannon	Inouye	Scott, Pa.
Case	Jackson	Stafford
Clark	Johnston	Stevens
Cook	Kennedy	Stevenson
Cotton	Long	Symington
Cranston	Mansfield	Talmadge
Dole	Mathias	Tower
Domenici	McClellan	Tunney
Eagleton	McClure	Weicker
Eastland	McGovern	Williams
Ervin	McIntyre	Young
Fannin	Metcalf	
	Mondale	

NAYS—11

Bartlett	Dominick	Scott, Va.
Buckley	Hansen	Taft
Chiles	Hruska	Thurmond
Curtis	Packwood	

NOT VOTING—11

Bayh	Griffin	Moss
Brooke	Javits	Sparkman
Church	Magnuson	Stennis
Goldwater	McGee	

So Mr. JACKSON's amendment (No. 306) was agreed to.

Mr. JACKSON. Mr. President, I move that the Senate reconsider the vote by which the amendment was agreed to.

Mr. HANSEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MONDALE. Mr. President, within the next few days, the Senate will take up consideration of the Mondale-Bayh amendment to the Federal rights-of-way bill, S. 1081.

When I submitted that amendment, I remarked on the need for intensive negotiations and an impartial study before Congress made a decision on the routing of Alaskan oil. In addition, I warned that there would not be two oil pipelines coming from Alaska's North Slope within the foreseeable future.

Subsequent events have merely redoubled the need for this amendment. Last week, the State Department released documents received from the government of Canada which clearly indicated that an earlier State Department letter stating that "there is no alternative to the proposed Alaskan pipeline at this time" was in error. While the Canadian documents frankly discussed the areas of difficulty for a Canadian pipeline, they also revealed a willingness to cooperate, if we in Congress give indications of real interest in such a route.

Second, contained in those Canadian documents—which the State Department revealed only after numerous requests to do so—was a clear indication that the Canadian Government would not negotiate with us for a second oil pipeline if we choose to route one oil pipeline through Alaska. Therefore, the choice which we must make is whether we in Congress will make a decision on the routing of Alaskan oil on the basis of adequate negotiations with the Canadian Government and adequate study of the economic, environmental, and national security factors involved. We will inevitably be choosing one pipeline or the other, with virtually no prospect of a second oil pipeline for years to come. We must make that choice carefully, and we can make that choice without delaying the delivery of Alaskan North Slope oil.

Mr. President, I ask unanimous consent that my remarks on introduction of amendment 240 to S. 1081 be reprinted at this point in the RECORD.

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

Mr. MONDALE. Mr. President, on behalf of myself and Senator Bayh, Mansfield, Haskell, Stevenson, Percy, Proxmire, McIntyre, Stafford, Nelson, Abourezk, Case, Clark, Hathaway, Hughes, Kennedy, Muskie, and Pell, I am introducing an amendment to S. 1081, as reported, to provide for a congressional decision—after a study and negotiations—on the means of transporting North Slope Alaskan oil which would be most in the national interest.

I, along with the Senator from Indiana (Mr. BAYH) and 15 other Senators, have previously introduced legislation dealing with this subject—S. 1565. The amendment which I am introducing today is basically similar to S. 1565.

Both this amendment and S. 1565 have attempted to obtain a speedy resolution of a problem which is now more than 4 years old—how the vast oil deposits on Alaska's North Slope can best be transported to meet the energy needs of the United States. Both have attempted to speed the resolution of the controversy surrounding the Alaska pipeline and bring oil to American markets in the shortest possible time.

I have previously stated that it is my belief that a pipeline delivery system through the MacKenzie Valley of Canada would be the most logical means of transporting this oil to American markets.

A Canadian route would deliver the bulk of North Slope oil resources where they are needed most—in the area east of the Rocky Mountains.

A Canadian route would deliver these resources over an environmentally sounder route than would an Alaskan route.

Costs to consumers for oil in the eastern two-thirds of the Nation would be substantially reduced by a Canadian route.

Finally, I believe the national security interests of the United States would be aided by a Canadian route.

PURPOSE OF AMENDMENT

However, the amendment which I am introducing today does not require that this route for delivery of North Slope oil be taken. All the amendment seeks to do is to give Congress the necessary information it needs to make a well-informed decision on Alaskan oil. Support of this amendment need not imply support for the ultimate feasibility of a trans-Canadian pipeline to transport this oil. All it need imply is a desire to see Congress exercise its responsibilities over national energy policy and over the Federal lands through which any Alaskan oil pipeline will run, and make a decision which will affect American energy policy for decades to come only on the basis of adequate information.

Indeed, if the case for a trans-Alaska pipeline is as compelling as advocates of that route maintain, this amendment will provide a mechanism by which a final decision can be made within 1 year to get construction underway. On the other hand, it gives the unbiased look at a Canadian alternative route which we have not had to date, a study which advocates of a trans-Alaska route seem reluctant to have undertaken.

Central to this effort is our desire to see these resources utilized as quickly as possible. But we must recognize that no pipeline from Alaska will keep our gas tanks full this summer or prevent possible fuel oil shortages this coming winter.

The 10 billion barrels of oil on the North Slope of Alaska are a precious national resource. By the mid-1980's, this field may be supplying up to 10 percent of our annual oil needs. But we must not waste that resource, and we in Congress must not make hasty decisions which may delay the ultimate delivery of North Slope oil.

TWO PIPELINES?

S. 1081, as reported, contains a provision which holds forth the prospect of two oil pipelines from Alaska's North Slope. It would allow the Secretary of the Interior to issue rights-of-way permits for a trans-Alaska pipeline, and seek negotiations with Canada

on the possibility of a second, trans-Canadian oil line at some indefinite date in the future.

This prospect must be seriously examined, however. Less than 1 year ago, the Joint Economic Committee in hearings conducted by the Senator from Wisconsin (Mr. PROXMIRE) heard very strong testimony on the likelihood—or lack thereof—of a second pipeline.

"One of the more elaborate arguments put forth by trans-Canada supporters is based upon the hypothesis that a second oil line will be built from Alaska's North Slope to transport additional crude oil to the lower 48. Such speculation borders on fantasy and reveals the absence of even a casual inquiry into the facts.

It is assumed that this phantom oil line will be required for basically three reasons: (1) Extensions to the Prudhoe Bay field; (2) Increases from secondary recovery in the Prudhoe Bay field; and (3) New finds through continued exploration."

To date, 75 developmental wells, excluding dry holes, have been drilled in the Prudhoe Bay field. The balance of the drilling required to fully develop the field will be within the perimeter of the field which has been well defined. The developmental program to date precludes any significant field extension and has substantiated the previously estimated 9.6 billion barrels of recoverable oil.

As to discovery of additional fields through continued exploration, it should be noted that to date no proven commercial oil fields other than Prudhoe Bay have been found, and exploration drilling has either eliminated or revised downward the potential of a number of once exciting projects.

The author of this statement was Edward L. Patton, president of the Alyeska consortium, which wishes to build the trans-Alaska pipeline. No new reserves have been discovered since the date of that statement.

In July of 1972, Secretary of the Interior Morton stated that:

It is uncertain that a second oil line will be needed at all, since additional reserves must be discovered by future drilling. Such a line, in any case, is many years away.

In an analysis prepared by the Department of the Interior and submitted to the Senate Interior Committee in April of this year, the Department clearly states that:

Resources to justify a second oil pipeline have not yet been demonstrated.

Mr. President, I believe the prospect of a second oil pipeline, as Mr. Patton indicated, is a "phantom." We cannot simply state that two pipelines can be built without further analysis of whether that statement bears any relationship to reality. And the strong testimony of supporters of a trans-Alaska pipeline indicates that there is no prospect of this happening in the near future. Indeed, any prospect of it occurring at all is at best a long shot which will not occur until 1990, if ever.

TIME OF DELIVERY

The central thrust of the amendment I am introducing today is to speed the decisionmaking process in delivering Alaskan oil. If S. 1081, as reported, is passed unamended, we face a substantial amount of time in the courts litigating environmental issues of real importance and also face the real possibility of lengthy construction time on an Alaska route.

There are now indications from highly placed sources that delays on a trans-Alaskan pipeline—both in the courts and in construction time—may be much more than proponents of such a line may thus far have been willing to admit.

On May 17, J. K. Jamieson, chairman of the board of Exxon Corp., the world's largest oil company, and one of the principal partners in the consortium seeking to build a trans-Alaska pipeline, stated that Exxon's most optimistic estimate on when a trans-Alaska pipeline could be completed was late 1978.

Prior to this statement, backers of a trans-Alaska pipeline had been optimistically estimating completion dates of 1976 or early 1977.

Now, there is a growing realization that as little time as possible should be spent in unending court litigation, provided that Congress has adequate information on which to base its decision. Yet this time in the courts would be the result of passage of S. 1081, as reported from the Interior Committee.

There are also some who would wish to see Congress go on record now as declaring the environmental impact statement completed thus far on the trans-Alaska pipeline as adequate, and remove the courts and the Congress from any further consideration of this issue.

This approach, I fear, would undo years of effort in making the National Environmental Policy Act into an effective means of providing adequate information on which to base crucial decisions. For there is much evidence that the environmental impact statement completed thus far did not adequately consider a trans-Canadian alternative, as required under section 102(2)(c) of NEPA. A variety of factors—including the projected gas pipeline from Prudhoe Bay in Alaska through the Mackenzie Valley of Canada to the Midwestern United States—were not adequately considered in that statement, and to declare this statement to be adopted by the Congress would virtually destroy the validity of NEPA.

THE AMENDMENT

There is an alternative approach, which the amendment I am introducing today exemplifies. That approach is to fill in the many information gaps now missing with regard to a trans-Canadian route by which to transport North Slope oil to the United States, and to build in a congressional decision at the end of this process. This I believe to be the only approach which complies with the spirit of the National Environmental Policy Act, and still offers supporters of both a trans-Alaska and a trans-Canadian pipeline the assurance that a congressional decision—not reviewable in the courts—will be made within approximately 1 year.

The amendment I am introducing today provides the following:

First, negotiations would be conducted by the Secretary of State with the Government of Canada to ascertain the answers to a variety of important questions to which we do not have definitive answers today. The Secretary of State would report the results of these negotiations within 8 months to the Interior Committees of the Senate and House. Points of negotiations would include estimate dates of completion of construction; quantity levels of oil from the North Slope of Alaska which the Canadian Government would guarantee through a Canadian pipeline; the ownership financing, and regulation of the Canadian sector of a trans-Alaska-Canada pipeline, and other questions of similar importance.

Second, the National Academy of Sciences would be directed to undertake a comparative 11-month study of the environmental, economic, and national security implications of both a trans-Alaska and a trans-Canadian pipeline alternative.

With regard to the environmental risks of the routes which would be studied, the language of the amendment exactly parallels the language of section 102(2)(c) of NEPA. This requires the National Academy to undertake the type of study which should have been undertaken by the Department of the Interior, but which has never been undertaken.

The economic and national security aspects of the study would include the relative effects of a trans-Alaska and a trans-Canadian pipeline on American national security; overall economic effects, including effects on consumers in various sections of the country; and effects on American balance of payments. This part of the study would encompass the particularly important questions of regional dependence on insecure foreign oil sources and the cost effects on consumers of routing the pipeline through Alaska or through Canada.

In preparing this study, the Academy would analyze and compare the relative advisability and feasibility of transporting North Slope Alaskan oil through either a trans-Alaskan or a trans-Canadian route.

In undertaking this task, the Academy would have much information at its disposal. In addition to the Department of the Interior's Environmental Impact Statement, which would be the basic document for description and analysis of the trans-Alaskan pipeline alternative, the Academy could make use of over 100 studies—including a $7 million study prepared by a consortium of 16 major oil companies—on a trans-Canadian route. What we need is an unbiased, professional analysis of this information before Congress makes its decision.

Third, this amendment provides for restrictions on exports of North Slope oil. Under provisions of the amendment, no exports could be made unless the President found an "imminent threat to national security" should such exports not be made. If such a finding were made, authority under it for the President to allow exports would expire at the end of 60 days, unless Congress approves of such action. I believe this provision is absolutely crucial whether Congress decides to opt for a trans-Alaskan or a trans-Canadian route. I also strongly believe that if we do choose a trans-Alaskan route—and fail to forbid exports—that a very substantial percentage of the production of an Alaskan line would be earmarked for Japanese consumption. In 1971, the President of the consortium seeking to build the trans-Alaskan pipeline, stated that one-quarter of the production of such a line was earmarked for sales beyond the west coast, most of which presumably would go to Japan.

Recently, University of Washington geology Prof. Eric Cheney, in an article in the Seattle Times, showed that if a trans-Alaskan line is built, the west coast will be unable to absorb the entire production from such a line until 1988.

I believe this provides one more strong reason for a trans-Canadian line. But no matter what decision is ultimately made on the routing of trans-Alaskan oil, we must provide that this oil will stay in the United States—and not fuel foreign industrial competition to American industry during years when American industry will need every gallon of oil it can get.

Fourth, the amendment builds in a procedure to insure a congressional decision within 90 days of receipt of the report of the National Academy.

This decision would not be reviewable in the courts, thereby assuring progress on whichever route Congress selects shortly after that congressional decision is made.

The amendment also prohibits the Secretary of the Interior from issuing rights-of-way permits for any delivery system for North Slope Alaskan oil until Congress has authorized and directed him to issue rights-of-way for a particular route. The amendment does not affect the bill's provisions regarding granting of rights-of-way for any pipeline system other than that from the North Slope of Alaska.

CANADIAN GOVERNMENT

Without doubt, no pipeline through Canada can be built without the cooperation of the Government of Canada. There is no debate on this point. Recently, some have ques-

tioned that willingness of the Government of Canada to cooperate in this undertaking. There is no hard negotiating data on this point, once again pointing out the need for negotiations at the earliest possible date.

Should these negotiations prove that the Canadians are not interested, we will have lost nothing, for a final nonreviewable congressional decision would still be made within little more than a year. This decision, while preserving the integrity of the National Environmental Policy Act, would allow construction of a trans-Alaskan pipeline to begin without further delay in the courts if the trans-Canadian route is proven to be unfeasible.

However, I believe that the Canadian Government will express interest in a trans-Canadian oil pipeline, inasmuch as it avoids dangerous tanker traffic off the west coast of Canada and spurs the development of potential oil reserves in the northwestern sections of Canada. As recently as May 14 of this year, Prime Minister Trudeau stated on the floor of Parliament that:

We do not favour the route from Alaska which would take oil tankers over the ocean into waters that are very narrowly confined between the United States and Canada. That is still our policy, and our policy is still to indicate that the Mackenzie route is one which we would be prepared to consider if there is application made in the proper form, and that we would be very happy to follow up on that.

And on June 8, speaking in the House of Commons, Minister of Energy, Mines and Natural Resources, Donald Macdonald stated again that:

Our distinct preference is to have a Mackenzie route. . . .

The United States administration, of course, insists on handling its own resources in a different way. We have made clear to the United States the possibilities of a Canadian route, but I do not think we are really in a position to direct them as to how they should dispose of their resources within their jurisdiction.

In sum, the Canadians are receptive—if we in Congress show that the attitude of the American administration is not the attitude of the American people.

Whatever the answer to Canadian willingness to cooperate, we should and must find out quickly. The amendment we are proposing today would enable us to do just that.

In sum, this amendment expresses the desires to proceed as rapidly as possible—consistent with the spirit of NEPA—to develop North Slope Alaskan oil. It will give the Congress the intensive negotiations and study of a Canadian alternative route that we need to make an informed decision. It will enable Congress to make the final decision on how this vast oil resource is best to be transported to the United States, thereby exercising the responsibility we must shoulder for framing national energy policy.

It offers backers of the trans-Alaskan pipeline the assurance that if negotiations with Canada prove unsuccessful, or if Congress for whatever reason decides that an Alaskan route is the wisest means to move North Slope Alaskan oil, that construction of such a pipeline could begin in little over 1 year. It offers backers of a trans-Canadian line the full and fair study that has not yet been done on this alternative, and the ability to get that information to the Congress.

Mr. MONDALE. Mr. President, there has been a great deal of talk regarding possible timetables for Alaskan versus Canadian delivery of gas and oil. In addition, much of the debate surrounding the question of the trans-Alaskan pipeline has centered on the attitude of the Government of Canada toward a trans-Canadian oil pipeline.

Recently, officials of the Wilderness Society, the Environmental Defense Fund, and Friends of the Earth prepared an exhaustive memorandum on these questions. In particular, they addressed the question of delay if a trans-Canadian route is chosen.

It has been consistently assumed, in the environmental impact statement on the TAPS proposal and elsewhere, that a pipeline to deliver North Slope natural gas would be built across Canada. Statements of TAPS proponents regarding the Canadian Government's attitude and the resolution of various practical problems concerning a trans-Canada gas pipeline, however, are radically different from their assertions regarding a trans-Canada oil pipeline.

The same persons who argue that a trans-Canada oil pipeline would be delayed for an unacceptably long time find slight prospect of delay posed by the same issues—native claims, approval procedures, financing, throughput and others—in connection with the expected development of a trans-Canada gas pipeline. For example, Senator STEVENS recently prophesied extreme delay in an oil pipleine because of such factors, yet, in the same statement, glossed over them in optimistic predictions regarding the gas pipeline—CONGRESSIONAL RECORD, June 5, 1973, pages 18038–18043. And while the administration has asserted in the State Department letter to the chairman presumably with reference to an oil pipeline, that—

[n]egotiation by the United States of a pipeline agreement with Canada does not appear possible at this time.

Secretary Morton has taken a markedly different view of development of a gas pipeline. In a press conference of September 13, 1972, for example, he said:

[W]e are going to . . . work and stimulate and motivate a consortium to get together and put the money up to build a cold gas pipeline, which through Canada is the logical way for it to go. Interior Department Transcript of Secretary Morton's Press Conference of September 13, 1972, at 38.

The difference between pessimism regarding an alternative trans-Canada oil pipeline and optimism regarding a trans-Canada gas pipeline is inexplicable. For the Canadian Government, as it has repeatedly indicated, has strong reasons to support both. A gas pipeline would provide a means for delivery to market of Canadian natural gas resources. While comparable oil resources in the Mackenzie Delta have not yet been proved, the Canadian Government has repeatedly stated that it favors the alternative trans-Canada oil pipeline because it would avert the threat of oil pollution of the marine environment on its west coast by the trans-Alaska pipeline-tanker plan.

A more consistent position is reflected in the Canadian Government's recent two-volume report, "An Energy Policy for Canada, Phase I." That report estimates a timetable for consecutive construction of gas and oil pipelines. A gas pipeline could begin construction in 1975 and natural gas could reach markets by 1978. An oil pipeline could be constructed in 1978–79 and reach markets by the end of the decade. "An Energy Policy for Canada, Phase I," volume 1, pages 210–211.

By contrast, the "most optimistic estimate" of the chairman of Exxon Corp. for completion of TAPS is "late 1978"—Wall Street Journal, May 18, 1973. TAPS proponents, moreover, have asserted that oil and gas pipelines cannot be constructed simultaneously because of lack of sufficient construction crews and materials. Although there is dispute on this point and TAPS proponents have failed to justify their assertion, if the assertion is true, a gas pipeline would not commence construction until 1979, a full year after gas would reach markets under the Canadian alternative plan.

The inconsistencies in the estimates by TAPS proponents concerning timing and resolution of practical problems with respect to trans-Canada gas and oil pipelines and the inconsistency between delay estimates of TAPS proponents for the alternative trans-Canada oil pipeline and the timetable officially estimated by the Canadian Government clearly should be resolved before a decision to proceed with TAPS based largely on the need for prompt delivery of North Slope petroleum resources to market.

Mr. President, their conclusion, based on statements in the public record, is that the best estimates of delivery for both gas and oil from Canadian pipelines is not substantially different from the best current estimates for a trans-Alaska route.

Second, they addressed the question of Canadian governmental interest—and lack of American Government interest—in a trans-Canadian pipeline, and the resulting information gap which we now confront.

Notwithstanding the repeated expressions by the Canadian Government of interest in trans-Canada pipelines, the U.S. Government sadly has failed to conduct serious discussions and negotiations with the Canadians regarding specific problems of implementation of trans-Canada pipelines.

I would like to note that the distinguished Senator from Washington (Mr. JACKSON) struck virtually the same note in his opening remarks on S. 1081 yesterday.

Public statements, testimony and exhibits from the industry and the Interior Department over the past 4 years have never taken the trans-Canada pipeline proposal as seriously as it deserves to be taken.

Both these comments point up the need for intensive negotiations with the Canadian Government before we in Congress decide on the routing of North Slope Alaskan oil. And, I would like to repeat that unless we in Congress indicate an open mind on the ultimate routing of this oil, there is virtually no possibility that any negotiations with the Canadians on an oil pipeline through Canada will be meaningful. The Canadian Government, in an official policy statement last week, made that abundantly clear.

If Alyeska is built, Canada would find little attraction in having a second oil pipeline built through Canada to serve U.S. Midwest markets *unless* and *until* sizeable commercial Canadian oil discoveries have been made in the north. Moreover, Canada is aware that the economic attraction of looping an

existing TAPS line would undoubtedly militate against construction of a line through Canada. Admittedly, other circumstances such as markets and security of supply might make it attractive to build such a second line through Canada. However, such circumstances are undoubtedly present even in respect of the first oil pipeline.

Third, this memorandum gives an exhaustive listing of the dozens of occasions over the past 3 years in which Canadian Government officials have expressed their willingness to actively discusss specific proposals with American Government and corporate officials.

In spite of this willingness, the stubborn attitude of this administration has prevented meaningful negotiations from taking place.

We must use the opportunity we now possess to tell this administration that we demand good-faith negotiations with Canada and insist that the views of the Canadian Government not be distorted through the filter of U.S. Government agency policies.

Under the amendment which I and Senator BAYH, along with 17 other Senators have introduced, these negotiations, along with a National Academy of Sciences study, could be completed within less than a year, and a binding, nonreviewable congressional decision made on the best means of routing Alaskan North Slope oil. This decision can be made in less time than would be taken up by the litigation which will inevitably occur should the committee bill pass unamended. But it will give us the information which we now lack, and without which we cannot hope to make a rational decision in the best overall interest of the Nation.

Mr. President, I ask unanimous consent that the text of the memoranda referred to above be printed at the conclusion of my remarks in the RECORD.

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

MEMORANDUM REGARDING ATTITUDE OF THE GOVERNMENT OF CANADA TOWARD OIL AND GAS PIPELINE DEVELOPMENT

The attitude of the government of Canada is obviously crucial to a proper consideration of the relative merits of Trans-Alaska and Trans-Canada pipelines. A favorable Canadian government attitude and a willingness to act expeditiously to deal with practical problems of implementation would minimize the amount of delay involved in the Trans-Canada alternative. On the other hand, a recalcitrant attitude on the part of the Canadian government would suggest that approval and implementation of a Trans-Canada pipeline might be significantly delayed.

Spokesmen for the Administration, the oil industry and the State of Alaska have asserted that the Canadian Government attitude toward pipeline development is at best uncertain. They have also argued that in view of uncertainty with respect to specific practical problems, such as native claims; hearings on environmental and other issues; financial and management control; and the share of the capacity of pipelines which would be reserved for transport of Canadian resources, development of a Trans-Canada oil pipeline could be delayed for as much as ten years.

The assertions by proponents of the Trans-Alaska pipeline regarding the attitude of the Canadian Government are entirely contradicted by the public position which the Canadian Government has consistently maintained from the time of the major oil and gas discoveries at Prudhoe Bay. A number of the more significant statements of officials of the government are discussed below. In addition, a compilation of official statements made prior to Secretary Morton's decision, which was prepared by the plaintiffs in the Trans-Alaska pipeline litigation and submitted to Secretary Morton among comments on the environmental impact statement, is attached at Tab A. An updating of those comments, to June 14, 1973, also prepared by plaintiffs, is attached at Tab M.[1]

The statements show, in short, that the Canadian Government has maintained a vigorous, continued and real interest in oil and gas pipelines across Canada for delivery of North Slope petroleum resources. Notwithstanding the repeated expressions by the Canadian Government of interest in Trans-Canada pipelines, the United States Government sadly has failed to conduct serious discussions and negotiations with the Canadians regarding specific problems of implementation of Trans-Canada pipelines. As a result, neither Congress nor the public has concrete information regarding them and much of the current debate on the feasibility of the Trans-Canada alternative has been based on needless speculation and vague assertions.[2]

One purpose of legislation we support, which would require a thorough and objective assessment of the alternative Trans-Canada oil pipeline, is to develop definite information on various questions regarding implementation of that alternative. We believe it is clear, in view of the documented interest of the Canadian Government and the progress the Canadian Government and private industry have made in study of oil and gas pipelines, that the Trans-Canada alternative warrants the careful study it has thus far not received, before a decision on the method of delivery of North Slope oil and gas.

TIMING AND PROBLEMS OF IMPLEMENTATION FOR TRANS-CANADA OIL AND GAS PIPELINES

Before discussing the specific public statements of the Canadian Government, one point deserves particular emphasis. It has been consistently assumed, in the Environmental Impact Statement on the TAPS proposal and elsewhere, that a pipeline to deliver North Slope natural gas would be built across Canada. Statements of TAPS proponents regarding the Canadian Government's attitude and the resolution of various practical problems concerning a Trans-Canada gas pipeline, however, are radically different from their assertions regarding a Trans-Canada oil pipeline.

The same persons who argue that a Trans-Canada oil pipeline would be delayed for an unacceptably long time find slight prospect of delay posed by the same issues—native claims, approval procedures, financing, throughput and others—in connection with the expected development of a Trans-Canada gas pipeline. For example, Senator Stevens recently prophesied extreme delay in an oil pipeline because of such factors, yet, in the same statement, glossed over them in optimistic predictions regarding the gas pipeline (Cong. Rec. June 5, 1973, pp. 18038–18043). And while the Administration has asserted in the State Department letter to the Chairman, presumably with reference to an oil pipeline, that "[n]egotiation by the United States of a pipeline agreement with Canada does not appear possible at this time," Secretary Morton has taken a markedly different view of development of a gas pipeline. In a press conference of September 13, 1972, for example, he said:

"[W]e are going to . . . work and stimulate and motivate a consortium to get together and put the money up to build a cold gas pipeline, which through Canada is the logical way for it to go. Interior Department Transcript of Secretary Morton's Press Conference of September 13, 1972, at 38.

The difference between pessimism regarding an alternative Trans-Canada oil pipeline and optimism regarding a Trans-Canada gas pipeline is inexplicable. For the Canadian Government, as it has repeatedly indicated, has strong reasons to support both. A gas pipeline would provide a means for delivery to market of Canadian natural gas resources. While comparable oil resources in the Mackenzie Delta have not yet been proved, the Canadian Government has repeatedly stated that it favors the alternative Trans-Canada oil pipeline because it would avert the threat of oil pollution of the marine environment on its west coast by the Trans-Alaska pipeline-tanker plan.

A more consistent position is reflected in the Canadian Government's recent two-volume report, An Energy Policy For Canada, Phase I. That report estimates a timetable for consecutive construction of gas and oil pipelines. A gas pipeline could begin construction in 1975 and natural gas could reach markets by 1978. An oil pipeline could be constructed in 1978–79 and reach markets by the end of the decade. An Energy Policy For Canada, Phase I, Vol. 1, pp. 210–211.

By contrast, the "most optimistic estimate" of the Chairman of Exxon Corporation for Completion of TAPS is "late 1978" (Wall Street Journal, May 18, 1973). TAPS proponents, moreover, have asserted that oil and gas pipelines cannot be constructed simultaneously because of lack of sufficient construction crews and materials. Although there is dispute on this point and TAPS proponents have failed to justify their assertion, if the assertion is true, a gas pipeline would not commence construction until 1979, a full year after gas would reach markets under the Canadian alternative plan.

The inconsistencies in the estimates by TAPS proponents concerning timing and resolution of practical problems with respect to Trans-Canada gas and oil pipelines and the inconsistency between delay estimates of TAPS proponents for the alternative Trans-Canada oil pipeline and the timetable officially estimated by the Canadian Government clearly should be resolved before a decision to proceed with TAPS based largely on the need for prompt delivery of North Slope petroleum resources to market.

CANADIAN EXPRESSIONS OF INTEREST IN AN OIL PIPELINE

As recently as June 7, 1973, Canadian Minister of Energy, Mines and Resources Donald Macdonald, discussing the result of a recent visit by members of Congress, set forth both the Canadian Government's position in favor of a Trans-Canada pipeline and the principal reason for the Canadians' interest. He stated [Tab B, Ex. 61]:

"I indicated to the American senators, as I have indicated to the House many times, that the preference obviously is to have a Mackenzie Valley route which would obviate the necessity for tankers at all on the West Coast."

Comparable statements encouraging the pipeline have been made during the past several years by various Canadian officials, including the Prime Minister, the Minister of Energy, Mines and Resources, the Minister of Indian Affairs and Northern Development, the Minister of the Environment, the President of the Treasury Board, and the Chairman of the National Energy Board—in short, every major government official who would be directly involved in the process of approving an application for a pipeline permit.

In March 1971, for example, then Minister of Energy, Mines and Resources Joe Greene told the House of Commons [Tab A, Ex. 4]:

"[T]he Prudhoe Bay oil discovery was disclosed in June of 1968. As early as within one month from the time of that declara-

Footnotes at end of article.

tion the Chairman of the National Energy Board met with the Presidents of the oil companies who own the oil—ARCO, Humble and BP—and pointed out to them that the Mackenzie Valley Line had advantages and should be considered by them."

The Canadians expressed their interest not only verbally, but with action. By January 25, 1972, A. Digby Hunt, Assistant Deputy Minister, Department of Indian Affairs and Northern Development, was able to tell the World Affairs Council in Boston [Tab. A, Ex. 17]:

"In anticipation that either an oil or a natural gas pipeline, or both, would be built through the Canadian north either from the Prudhoe Bay or from the Mackenzie Delta, or again, from both, the Canadian Government has undertaken a series of extensive research projects and studies to identify environmental sensitivities, to obtain baseline data so that actual impact on the environment can be measured, and, finally, to obtain the information necessary on which to base an assessment of any application that may be made. This work has been going on for some time with over 100 scientists and technical people involved and we expect that by the end of this current year we will have adequate information to deal with any application."

Just nine days later, on February 3, 1972, Robert Howland, Chairman of the National Energy Board, which would conduct hearings on approval of permits for a pipeline, told the Canadian Northern Pipeline Research Conference [Tab A, Ex. 19]:

"The government is on record as being desirous of allowing pipelines under appropriate conditions to be constructed in the North . . . . The progress of research, both in the public as well as the private sector has been such that the government has indicated on several occasions its willingness to examine and discuss any proposals relating to the transport of Alaskan petroleum resources through Canada to market in the United States."

After the issuance of the Final Impact Statement by the Department of the Interior in March, newly appointed Minister of Energy, Mines and Resources Donald Macdonald visited Secretary Morton in Washington to express Canadian interest in the pipeline [Tab A, Exs. 23, 24]. Minister Macdonald, reiterating the Canadian Government's interest in a letter to Secretary Morton on May 4, 1972, declared [Tab B, Ex. 28]:

"There would be many advantages arising from the use of a Canadian pipeline route. We believe it would enhance the energy security of your country by providing an overland route for your Alaska oil production, thereby serving the oil deficit areas of the mid-continent and also the Pacific North West."

As Macdonald clearly indicated, Canada expects to benefit from the pipeline too:

"The Mackenzie route would, of course, be advantageous to Canada in that it would give access to our potential oil resources in the northern Yukon and Mackenzie River areas. Within Canada, also, there would be benefits to the economy of these northern regions from this new activity and opportunities for employment and training of our Native peoples."

"In reciting some of the advantages to the United States and Canada of a co-operative relationship between us in the construction of an oil pipeline across Canada, I am mindful, too, that such a measure would avoid the considerable increase in tanker movements of oil on the Pacific Coast and particularly in the inland waters of Alaska, British Columbia and Washington State, and the resultant significant risk of serious environmental and economic damage. This is an area which, if not solved with reason and wisdom by us today, could produce difficult influences in Canada-United States relations.[3]"

On May 11, 1972, Secretary Morton announced his decision to approve the TAPS permits. On the same day, Macdonald issued a press release saying, "the government of Canada remains convinced that the alternative Canadian route through the Mackenzie Valley is the best from all aspects." [Tab B, Ex. 30]

CANADIAN POLICY REGARDING A COMMON CORRIDOR FOR OIL AND GAS PIPELINES

An important element in criticisms of the Interior Department's approach to comparison of the Trans-Alaska and Trans-Canada alternative pipeline routes is the failure of the Department, in its Environmental Impact Statement and otherwise, to consider that any Canadian oil line would be built in a common corridor with a natural gas pipeline. The Canadians, by contrast, have recognized the obviously significant advantages of such an approach. It has been incorporated in Official Guidelines for oil and gas pipeline construction since August 1970 when they were first issued [Tab A, Ex. 1]. On May 11, 1972, Indian Affairs and Northern Development Minister Chretien reiterated his Government's feeling [Tab B, Ex. 29]:

"There is still some doubt whether the first pipeline will carry oil through Alaska or whether it may come through Canada. The environmental advantages of the 'Canadian alternative' are obvious and well known. There is no doubt, however, that a gas pipeline will be built through Canada. Indeed, a gas pipeline from the Delta now seems a certainty. I can only repeat that the government is ready at any time to receive an application for an oil or a gas pipeline. By the end of the year environmental and social studies will be in our hands. (Emphasis in original)."

One month later, on June 13, 1972 Minister Macdonald again emphasized this point. Speaking in the House of Commons, he said [Tab B, Ex. 39]:

"Mr. Speaker, I tried on Friday to convey to the hon. member the fact that for some considerable time the government of Canada has tried to persuade the United States to ship not only gas but oil down through the Mackenzie delta system. However, the United States government has indicated through Secretary Morton, that it has decided otherwise. We would still be happy to make provision for this. The research we have carried out in respect of Arctic ecology and the Mackenzie Valley generally would apply in respect of both possible gas and oil pipelines."

On June 28, 1972 Canada issued proposed Expanded Guidelines for Northern Pipelines. These Guidelines affirmed Canada's dedication to the common corridor approach. [Tab B, Ex. 40].

"1. The Government of Canada is prepared to receive and review applications to construct one trunk oil pipeline and/or one trunk gas pipeline within the following broad 'corridors':

"(i) Along the Mackenzie Valley region (in a broad sense) from the Arctic coast to the provincial boundary;

"(ii) Across the northern part of the Yukon Territory either adjacent to the Arctic coast or through the northern interior region from the boundary of Alaska to the general vicinity of Fort MacPherson, and thus to join the Mackenzie "corridor";"

The Guidelines additionally require an applicant for an oil or a gas pipeline to demonstrate the suitability of the route for the other pipeline.

After Secretary Morton announced his intention to approve the Trans-Alaska pipeline, talk of an oil pipeline understandably died down, but Canada remained committed to a gas pipeline in the Mackenzie Valley.

Footnotes at end of article.

On January 24, 1973, Minister Macdonald again declared that pipeline development was in Canada's interest. Speaking at a public discussion of a Mackenzie Valley pipeline, he said [Tab B, Ex. 43]:

"In order to keep the cost of transmission, and therefore the ultimate cost of gas, as low as possible for Canadian consumers, it has been proposed that the American demand for gas should be exploited in two ways: by providing a market for some of the Canadian gas, i.e., gas surplus to the foreseeable Canadian needs; and by incorporating Prudhoe Bay gas in the pipeline transmission system so that the American gas consumer will end up paying a substantial part of the cost of construction of the pipeline."

Two days later, again referring to the need for a gas pipeline, Macdonald declared in Parliament, "Without such a pipeline Canadian needs in the future cannot be met." [Tab B, Ex. 44.]

RECENT STATEMENT REGARDING A TRANS-CANADA OIL PIPELINE

On February 9, 1973, the U.S. Court of Appeals for the D.C. Circuit rendered the decision enjoining construction of the Trans-Alaska pipeline until issues concerning right-of-way were resolved by Congress and leaving environmental and other issues for later resolution by the courts or Congress. This reawakened Canadian hopes for an oil pipeline. Speaking to the House of Commons' Standing Committee on Indian Affairs and Northern Development on March 1, Minister Chretien stated [Tab B, Ex. 47]:

"We as a government have said to the Americans many times that we oppose the shipping of oil along the British Columbia coast, and that we would prefer to have an oil line on the ground because there is much less danger of pollution with a pipeline than with a ship."

On April 3, Canada's Secretary of State for External Affairs, when asked at a press conference in Chicago about the Canadian position on TAPS, stressed that Canada was deeply concerned over possible oil spills while transporting the fuel to west coast markets. The Canadian government feels, he stated [Tab B, Ex. 50]:

"That those dangers can be better controlled [by a pipeline through Canada] than they can be on a tanker route down the Pacific coast particularly through these narrow waters. So if the oil companies concerned want to apply to build a pipeline through Canada, Canada is prepared to hear and to listen. We, under the laws of Canada cannot as a government approve or disapprove. Our procedures are rather like those of the United States, we have a National Energy Board. The application to build a pipeline must be made to the National Energy Board which looks at all factors that are involved and makes a decision."

In the last several months alone, there have beeen several reaffirmations of Canadian interest. On June 8, Minister Macdonald reiterated his statement of June 7, quoted above (Tab B Ex. 61). And on June 4 (Tab B, Ex. 59) he stated that he had advised visiting U.S. officials "that the government was prepared to consider a Mackenzie Valley route as an alternative to the Alyeska proposal as one way of protecting the west coast of Canada from the tanker risk." Moreover, on May 14, 1973, Prime Minister Trudeau asserted in answer to a question concerning the Government's attitude toward the TAPS tanker route [Tab B, Ex. 56]:

"I can say that government policy has not changed in this regard. It is that we do not favour the route from Alaska which would take oil tankers over the ocean into waters that are very narrowly confined between the United States and Canada. That is still our policy, and our policy is still to indicate

that the Mackenzie route is one which we would be prepared to consider if there is application made in the proper form, and that we would be very happy to follow up on that."

It is plain from the repeated statements of Cabinet ministers, including the Prime Minister, that Canada has consistently and unequivocally taken the position that an oil pipeline across the Mackenzie Valley is far more acceptable than the Trans-Alaska Pipeline with its dangerous marine leg. Clearly, the statements do not guarantee approval of any oil pipeline, nor do they manifest an intention to consider a pipeline with utter disregard of environmental consequences. No responsible government could do either. What they do show, however, is a government ready, willing and able to consider the alternative necessary to prevent serious degradation of Canada's western waters and shores.

SPECIFIC PROBLEMS IN IMPLEMENTING A TRANS-CANADA PIPELINE

Testimony before this Subcommittee has mentioned certain purported practical problems in implementing the Canadian alternative. These include financing and ownership of the pipeline and requirements for Canadian use of any facilities. Yet statements of Canadian officials indicate that these problems have received careful consideration and reflect the flexible approach of the government to resolution of the problems, which is understandable in view of the government's favorable attitude toward a pipeline. Similarly, the positive government attitude provides a basis for optimism that other factors, such as the native claims problem and the hearing and approval process, will not cause unacceptable delay for either an oil or a gas pipeline.

Financing, ownership and control. On September 28, 1972, in a reply to certain inquiries in a telegram sent by the Committee for an Independent Canada [Tab B, Ex. 41], Minister Macdonald stated that formal legal control of any pipeline would have to be in Canadian hands. Another condition would be that the pipeline be "designed, planned and executed by Canadian scientists engineers and construction companies." As to control of the corporation, Macdonald added that "[t]he government also is concerned that the corporate control of the enterprise should rest in Canadian hands and that Canadians should have the opportunity to hold a majority of the voting shares of the corporation."

The Committee for an Independent Canada sent a follow-up telegram to which Macdonald responded on October 12 [Tab B. Ex 42]. The Minister distinguished between Canadian management of the corporation, which he said "would be a condition of approval," and Canadian ownership of a majority of the equity, which he said would be an "objective" of the government.

On the issue of planning and construction of the pipeline, Macdonald said:

"Our position in this area is that we expect the engineering design team put together by the pipeline sponsors to have majority Canadian ownership and control, thereby providing the opportunity to increase significantly Canadian company competence in the field while, at the same time, being fair to Canadian subsidaries [of foreign corporations] who have operated as good corporate citizens in this country and who employ large numbers of Canadians. . . .

"With regard to pipeline construction companies, significant competence already exists with Canadian-owned and controlled groups. To set a condition which would automatically exclude other companies from bidding on all or parts of the project would, however, severely restrict the competitive nature of the bidding practice and thereby possibly result in unnecessary costs and perhaps unwarranted profits. We do not intend to do this but are expecting that at all times preference be given to Canadian-owned and controlled groups during the construction of the project and in the supplying of materials."

The above statements, made after Secretary Morton's decision, but before the Court of Appeals ruling, refer only to a gas pipeline. Whether the Canadians would ask for similar conditions for an oil pipeline or would be even more flexible if both oil and gas pipelines were involved in a question which presumably could be resolved by negotiations.

While the statements on financing and control of a gas pipeline certainly manifest an intent to maximize Canadian participation, they are tempered by the realization that foreign assistance will be needed. The Canadian approach to these issues has been consistently flexible and realistic. Financial problems have obviously received careful consideration and the Canadians still indicate their willingness to accept an oil pipeline.

On March 18, 1973, in a television interview, Minister Macdonald gave clear evidence of the realistic approach his government takes to these problems. Asked about a possibly adverse impact on the Canadian dollar from the financing of a pipeline, Macdonald replied [Tab B, Ex. 48]:

"If the Americans came back and said to us, "Look, we've had second thoughts on that Trans-Alaska Pipeline. We would like to take you up on your willingness to entertain an application about the oil line through the Mackenzie route," I think the interests of the west coast would dictate that the government of Canada should enable that kind of application to go ahead."

Throughput. It has been clear since the issuance of 1970 Northern Pipeline Guidelines that Canada would insist on any oil pipeline being available for Canadian throughput [Tab A, Ex. 1]. Yet, on February 12, 1971, then Minister of Energy, Mines and Resources Joe Greene, stated [Tab A, Ex. 2]:

"I cannot believe that any serious concern would be expressed in the United States with the reliability of an agreement between our two countries under which Canada, for its part of the bargain, would undertake to ensure the uninterruptibility of the flow of Alaskan oil down a Canadian 'land bridge' line equivalent in volume to any flow which could be put through the TAPS line."

The latest word on oil in Canada came from the March 18 television interview with Macdonald.

"To be quite specific about it there doesn't seem to be a prospect at the moment of—and further drilling could determine this—of bringing oil down from the Mackenzie Valley. The finds just haven't been there."

In an April 11, 1973 appearance before the House of Commons Standing Committee on Natural Resources and Public Works [Tab B, Ex. 53], Minister Macdonald stated that, if marketable oil were found in the Mackenzie Delta, "what very probably would occur would be a looping of an existing facility, rather than displacement of a facility already in place." At present, sharing of throughput of a gas pipeline is much more likely, since Canada does have proven natural gas reserves in the Arctic. In this same appearance, Macdonald had this to say on the question of guaranteed throughput:

"I would think the Americans would like to have some satisfaction that, if such a line is constructed, they could be assured of some minimum capacity, at least through the line."

It is clear that the Canadians appreciate our need for guaranteed throughput and would be willing to negotiate on this point. In the March 18 television interview, Macdonald summed up the security of supply argument most accurately.

"The two major pipelines supplying the eastern Canadian market both run through American territory, so if they feel there's an insecurity in the fact that they would have one crossing our territory, we've got one with regard to theirs, too. I don't think the insecurity argument is one that is a very serious one."

Other Causes of Delay. Further obstacles allegedly contributing to delay are such problems as resolution of native claims and the consideration of environmental and other issues in the hearing and approval process. Once again, it is apparent that the obstacles are far from insurmountable.[4] In a March 30, 1972 press conference [Tab A, Ex. 24], Macdonald estimated total delay at two years. As each day passes, Canadian environmental and economic research continues and the gap between knowledge regarding TAPS and that relevant to the Trans-Canada pipeline along the Mackenzie Valley grows smaller.

The Canadian government itself has conducted an extensive $15 million study program. Many reports have been published during the past year and others are scheduled for completion by the end of the summer.

On May 23, 1973 [Tab B, Ex. 59], Minister Macdonald told the House of Commons that the government will be in a position to assess the environmental impact of a pipeline by the end of this year.

In other words, the basic environmental studies will have been completed before an application is filed. This massive amount of data will enable the applicants, in consultation with Canadian authorities, to develop their applications in a much shorter time than was required for the applicants for the Trans-Alaska pipeline.

Private companies have also conducted comprehensive research. The Committee already has been furnished Mackenzie Valley Pipeline Research Ltd.'s feasibility study of the alternative Trans-Canada pipeline. The Environment Protection Board of Canadian Arctic Gas issued a five-volume study of environmental aspects of a gas pipeline last year which was not considered by the Department of the Interior in its impact statement. Recently, the Board issued an additional seven-volume study, which includes detailed maps dealing with geology and soil conditions along its proposed route. And, on June 27, Arctic Gas announced that routing studies for its pipeline system were complete and had been agreed upon by the parent firms participating in the consortium. The routing studies for the gas pipeline are particularly important since proposed Canadian Guidelines on common corridors require that a pipeline application for either an oil or gas pipeline demonstrate that the corridor for that pipeline route is suitable for subsequent pipelines for oil or gas.[5]

Considering that no application for an oil pipeline has been filed, the Canadians have done all they could to indicate that they are interested in an oil pipeline in the Mackenzie Valley. They have amassed considerable environmental data, and have indicated their desire and willingness to work out solutions to the problems seen by some Americans in a pipeline through Canada so that delay can be minimized. Their position has consistently been one of reasonableness and flexibility.

In view of the economic and environmental advantages of the common corridor approach and the positive attitude of the Canadian government, it is essential that Congress give the Canadian alternative to TAPS the most careful and serious consideration by ordering an independent assessment of oil and gas pipelines through Canada, which will include discussions with Canadians to obtain specific answers on

questions regarding attitude, expected delay, and other matters.

FOOTNOTES

[1] The compilation and updating contain summaries of the full statements, which frequently dealt with a number of issues, and quotations pertinent to issues regarding the pipeline. In several instances below, statements quoted which appear in the full text do not appear in the summaries. Copies of the full statements were submitted to the Departemnt of the Interior with the compilation. Copies of those statements, as well as the full text of the more recent statements, which are summarized in the updating, are available to the Committee or its staff, if they are desired.

[2] An excellent example is provided by the June 22, 1973 and June 27, 1973 letters from the State Department in response to the Chairman's request for information regarding Canadian Government attitude. Those letters fail to provide documentation for their broad assertions and even to name Canadian officials with whom the Department has discussed the issues.

[3] For other indications of increasing Canadian opposition to marine shipment of oil along her west coast. see Tab B, Ex. 31, 32, 34, 37, 38, 46, 47, 48, 49, 50, 52, 54, 56, 60, 61, 62.

[4] An excellent summary of the Canadian government's approach to these and other issues is contained in Congressman Anderson's report of his recent discussions with Minister Macdonald and others in Canada (Cong. Rec., June 18, 1973, pp. H4909–11). That Congressman Anderson and Senator Stevens (see Cong. Rec., June 5, 1973, pp. S10371–6) have such different recollections of what was said on the trip at meetings they both attended only underscores the need for detailed discussions on the various issues between the two governments.

[5] The information available from Canadian government and private industry is discussed in greater detail in the testimony of John F. Dienelt, counsel to plaintiffs in the litigation, before the House Interior and Insular Affairs Committee, Subcommittee on Public Lands, on May 17, 1973.

APPENDIX A

COMMENT UPON FINAL ENVIRONMENTAL IMPACT STATEMENT PROPOSED TRANS-ALASKA PIPELINE: THE ATTITUDE OF CANADIAN GOVERNMENT TOWARD CONSTRUCTION OF PIPELINES THROUGH CANADA FOR DELIVERY OF NORTH SLOPE OIL AND GAS

(By John F. Denelt, Washington Counsel, Environmental Defense Fund)

The chief asserted advantage of the Trans-Alaska Pipeline over a Canadian alternative route for transportation of North Slope oil is that the TAP can be constructed and put into operation sooner. Estimates of the amount of delay in construction of a pipeline and ultimate delivery of oil which would result from deciding, at this time, to employ a Canadian route range as high as five years (Impact Statement, Economic and Security Analysis, Vol. I, C–21), although lower estimates on the order of two years are considered most reasonable by the Canadian Government. (Exhibit 24, p. 12).

Some portion of the additional time necessary to develop a Canadian pipeline might be required simply because the route is longer.[1] There are, however, other possible reasons why delay would occur. One is the asserted lack of study and planning in connection with a pipeline through Canada. The question of the extent of preparation for an oil pipeline by the Canadian Government and private industry is dealt with primarily in another comment, *Comment Upon Final Environmental Impact Statement Proposed Trans-Alaska Pipeline: Environmental Information and Studies Developed by Canadian Sources.*

Another factor which may contribute to delay is the attitude of the Canadian Government toward permitting construction of a pipeline. If the Government of Canada is willing and able (on the basis of its knowledge of environmental and other aspects of an oil pipeline proposal) to expedite consideration of an application to build such a line, delay obviously would be lessened. On the other hand, if the Government has a negative or ambivalent attitude toward an oil pipeline through Canada, or otherwise expresses reluctance to expedite ultimate approval of a pipeline permit, the delay involved would be increased.

Additional reason for delay in development of a Canadian pipeline is the apparent failure of the United States Government and the applicant oil companies to treat the Canadian alternative as a realistic one early in the process of consideration of the Trans-Alaska Pipeline proposal. Effort was apparently focused almost exclusively on the TAP proposal, permitting accumulation of a body of knowledge, which is primarily pertinent to the Trans-Alaska route, even though it would be useful in construction of a Canadian alternative route. One apparent reason for this premature concentration on the Trans-Alaskan route was the opinion of the Department of Interior that it was required by the National Environmental Policy Act (NEPA) only to consider alternatives within its power. This legal opinion was, of course, entirely erroneous. See *National Resources Defense Council* v. *Morton,* 3 ERC 1558 (D.C. Cir. 1972).

Another factor contributing to the concentration on the Trans-Alaskan route, however, was apparently the U.S. Government's perception of the Canadian Government's attitude toward construction of an oil pipeline through Canada. United States officials have, on several occasions, indicated their view that the Canadian Government was ambivalent, at best, regarding an oil pipeline from the North Slope through Canada. For example, in October, 1971, a representative of the State Department, Mr. Aikens, was reported in the press to have stated that the United States had made a specific proposal for a trans-Canadian pipeline which the Canadians had rejected. (*Washington Daily News,* October 18, 1971, p. 10.) Secretary Morton, on several occasions, has similarly indicated that one difficulty with the Canadian alternative is the unwillingness or inability of the Canadian Government firmly to express its position on construction of pipelines through Canada. Thus, in his press conference of February 15, 1972, Secretary Morton (pp. 22–23) stated:

"[T]here have already been considerable interchanges between the oil companies, the applicants in this case, and the Canadian government. There have also been discussions on a government-to-government basis, and I don't believe we will have to discuss this in terms of presenting any more information or any further discussions that are going to be required as far as the court case is concerned . . . I don't see the need for any further conversation. We have never had an overt position expressed by the Canadian government, as far as—what they are willing or not willing to do, although there has been considerable talk."

It is thus important not only to consider the current attitude of the Canadian Government toward a pipeline in assessing the prospects of delay in development if serious efforts to employ a Canadian route were begun immediately, but also necessary to consider the Government's attitude during the past several years in order to evaluate whether the apparent impression of the U.S. Government that Canada was reluctant or ambivalent respecting approval of an oil pipeline was warranted. This review, in turn, will permit determination whether the premature concentration by the Department of Interior and the oil companies was reasonable.

In the following analysis, numerous statements by Canadian government officials regarding pipeline development in Canada, made in the House of Commons and other public forums, are discussed in chronological order.[2]

Two distinct conclusions emerge from consideration of these statements. First, the Canadian Government has maintained a clear, consistent and explicit attitude of encouraging construction of both an oil pipeline and a gas pipeline through Canada to transport North Slope oil and gas to the lower 48 United States. This position is confirmed in official Guidelines for pipeline development and by frequent statements of various officials, including the Prime Minister, two Ministers of the Department of Energy, Mines and Resources, the Minister of Indian Affairs and Northern Development, the Minister of the Environment, the President of the Treasury Board, and the Chairman of the National Energy Board. Thus, every major government official who would be directly involved in the process of approving an application for a pipeline permit has expressed the Government's position of favoring pipeline development.

The second conclusion is that the Canadian Government will have completed sufficient work on its extensive environmental studies by the end of this year to permit it to pass upon pipeline applications. It is willing, moreover, to expedite the approval process by conducting extensive pre-application discussions, which could take place at any time, to assist the applicant in anticipating environmental and other conditions which will be imposed upon the grant of a permit.

The Canadian Government has, in short, done literally everything it can to promote a pipeline application short of making the firm promise, in advance, that it will approve an application regardless of the applicant's willingness to abide by conditions respecting the environment or other matters which the Government considers necessary—a commitment that obviously neither the Canadian nor the United States Government could ever make. In these circumstances, the failure of the Department of the Interior to give satisfactory consideration to the Canadian alternative in the past on the ground of lack of Canadian Government interest was plainly erroneous. That error is seriously compounded by the Department's apparent continued refusal to devote adequate attention to this alternative.

1. The first significant statement by the Canadian government regarding its attitude toward northern pipeline development was contained in Guidelines issued on August 13, 1970. These Guidelines, published jointly by the Department of Energy, Mines and Resources and the Department of Indian Affairs and Northern Development, set forth the general policy of the government with respect to construction of oil and gas pipelines through the Canadian north. Significant aspects of the guidelines are the requirement that only one oil and one gas pipeline will be permitted within a specified corridor; that both will be required to provide common or contract carrier service; that means for a Canadian financial and other participation

[1] It is not clear, however, that the pipeline necessarily would, in fact, take longer to construct for this reason. The impact statement has not addressed itself to the question why use of additional men and equipment would not permit virtually the same construction schedule.

[2] The text of the statement is, in each case, attached as an exhibit to this Comment. The exhibit number corresponds to the discussion section number.

in ownership of the line must be provided; and that special programs for training and employment of the natives must be developed. The Guidelines also provide that:

"The National Energy Board will insure that any applicant for a certificate of public convenience and necessity must document the research conducted and submit a comprehensive report assessing the expected effects of the project upon the environment. Any certificate issued will be strictly conditioned in respect of preservation of the ecology and environment, prevention of pollution, prevention of thermal and other erosion, freedom of navigation, protection of the rights of northern residents, according to standards issued by the Governor-General in counsel on the advice of the Department of Indian Affairs and Northern Development." (Exhibit 1, p. 3).

Several documents were attached to the Guidelines as background materials. These included a section on environmental management which referred to the Northern Land Use Regulations, the Arctic Waters Pollution Prevention Act and generally to studies which were being or would be conducted of the northern environment.

2. On February 15, 1971, the Minister of Energy, Mines, and Resources, Joe Greene, spoke to the Vancouver (B.C.) Men's Canadian Club. Excerpts of the speech were issued by the Office of Information of the Canadian Embassy. In the speech, Minister Greene indicated that a Canadian oil pipeline would be favored by the Canadian government. He said that "[t]he Canadian government is not opposed to the construction of oil and gas lines from Alaska through Canada to the continental U.S.A." (Exhibit 2, p. 2). He further added that "failure of the U.S.A. to adequately consider the Canadian route for Alaska oil could render a signal disservice to the growth of the Western Canadian oil economy." (Exhibit 2, p. 30).

3. On March 9, 1971, Minister of Indian Affairs and Northern Development Jean Chretien spoke to the Society of Petroleum Engineers in Dallas. In this speech, which was officially released by the Department of Indian Affairs and Northern Development. Mr. Chretien stressed Canada's desire to develop the resources in its north. He explicitly stated that Canada would welcome a gas pipeline and that "[a]n oil pipeline would also be acceptable" (Exhibit 3, p. 11) although greater precautions would have to be taken with respect to it.

4. On March 12, 1971, the issue of the Trans-Alaska Pipeline was officially debated in the House of Commons.[3] The following motion was proposed, but no vote was taken, as the rule under which the debate took place provides:

"That this House opposes the Trans-Alaska Pipeline and tanker project because of the ecological dangers posed by this project to the people, towns, and cities of British Columbia and the natural resources of Canada's western seas and coasts and that this House therefore urges the government to immediately institute an independent, economic and ecological feasibility study of alternative routes." (Exhibit 4, p. 4212).

The debate covered twenty-six pages in the Hansard and included statements by both Minister Chretien and Minister Greene, generally reiterating their statements regarding the Canadian government's interest in discussions relating to a MacKenzie Valley oil pipeline.

Chretien stated:

"Of course, we have not solved all the problems. We need to know more about the ecology and about building pipelines on the permafrost. In my judgment, however, it was advisable to let Canadians and Americans know 'that the North is there'. Pipelines will be built. If the Americans do not build a pipeline from Alaska, I will not be too upset, because I know that we will find enough oil in the future in Canada to justify an oil pipeline. Perhaps it will take two or three years more, but there will be an oil pipeline.

"So far as gas is concerned, the Americans will have to use the Canadian route. . . . Since they will build a gas pipeline, perhaps factors of economy will prompt them to build an oil pipeline at the same time. We are not pushing the Americans; we are just putting before them the important fact that the North of Canada is opening and that great amounts of resources are there to be discovered. . . . We must make sure that these resources go to market, and pipelines are the safest way." (Exhibit 4, p. 4219).

Minister Greene, indicating the willingness of the Canadian government to discuss pipeline possibilities with the U.S. government and oil companies, stated:

"As I have said, the Prudhoe Bay oil discovery was disclosed in June of 1968. As early as within one month from the time of that declaration the Chairman of the National Energy Board met with the presidents of the oil companies who own the oil—ARCO, Humble and BP—and pointed out to them that the Mackenzie Valley Line had advantages and should be considered by them." (Exhibit 4, p. 4223):

Minister Greene also added:

"At the political level, when we saw that there might be a possibility for the oil line to be the first we did approach our United States colleagues and voice our concern about the ecology of the West Coast in respect of the marine route. We asked that this alternative Canadian route be considered. . . . I think we can assure the United States oil companies and the United States government, to the best of our ability and with the knowledge we have and the certainty we have achieved—and it is not complete yet in respect of the ecological factors—that there will be no unnecessary roadblocks at the Canadian end and Canadian governmental side. The key, as a United States official put it to me, is time. . . . Can it be built more quickly? Will it get through the barriers, if you like, the slow-up processes of regulatory authority; and will the oil be delivered to the market more quickly if it is to go via a Canadian route than if an effort is made to satisfy the various regulatory and environmental agencies and build it through the Valdez marine route?

"Therefore it is incumbent upon us, I believe, to expedite our procedures to the best of our ability, without rushing into something that is so important to Canada's future. . . . I think we are in a position to move with considerable expedition if it appears that the entrepreneurs, the oil companies, and the government of the United States are interested in having the Mackenzie Valley line as the primary line and if it appears to the Canadian interest that this is where we want the oil to flow rather than down the Coast of British Columbia." (Exhibit 4, p. 4226).

5. On March 16, 1971, there were a series of questions during the daily House of Commons question period regarding the government's policy with respect to approval of a Mackenzie Valley route. Prime Minister Trudeau, questioned with respect to Minister Chretien's Dallas speech (Exhibit 3) earlier in March, indicated, with respect to a Canadian oil pipeline, that "if it is desirable in terms of public policy and in terms of government decision-making, a way can be found to do it." (Exhibit 5, p. 4292). On this date also, Minister Chretien briefly discussed the status of government research regarding the pipeline, estimating that, in his opinion, it could be concluded by the end of 1971.

6. On March 19, 1971, in the question period, inquiries focused specifically upon newspaper reports that Ministers Greene and Chretien would shortly meet with oil company executives to discuss the Canadian alternative. Mr. Chretien indicated that such a meeting would take place in the next week for a "preliminary discussion of the alternative solution for routing Alaskan oil through the Mackenzie Valley." (Exhibit 6, p. 4414). He added that the government "does not intend to make a concrete proposal" regarding a Mackenzie Valley route at that time. *Ibid.* Minister Greene again discussed the government's position respecting consideration of an alternative Mackenzie Valley route. He stated that:

"This is an internal matter for the United States of America. The Secretary of State for External Affairs had made Canadian concerns known in regard to marine shipping off the British Columbia coast. I think all authorities in Washington are aware that we should like consideration to be given to the Mackenzie Valley route, subject to Canadian rules and Canadian decisions, before the Valdez decision is made, but certainly we cannot bind the United States government to await that decision." (Exhibit 6, p. 4415.)

7. On March 19, 1971, Fisheries Minister Jack Davis, later to become Minister of the Environment, in a speech to the annual convention of the British Columbia Labor Party, added his support to a Canadian corridor in the Mackenzie Valley for oil and gas pipelines and a general transportation system. Referring to what he considered the inevitability of movement of Alaskan oil to market in the lower United States, Mr. Davis indicated his view that it would be safer to move the oil by pipeline over land than by tankers on the high seas. Thus, he indicated that a land bridge down across Canada made sense. He stated:

"Why not build an oil line and a gas line side by side? Why not add a road, and possibly a rail line as well? Together they would all help to open up our great Northland.

"And put together in a single corridor we would be able to minimize the impact on our northern ecology as well." (Exhibit 7) [4]

Mr. Davis also stated that the Canadian Wildlife Service has been studying a route for two years and that the Fisheries Service and Canadian Geological Survey also were actively studying the ecological implications of pipelines.

8. On March 25, 1971, in the House of Commons question period, several questions were asked with respect to negotiations between the United States and Canadian governments and between the Canadian government and between the oil companies regarding a Mackenzie Valley route. The initial focus of the questions was a report to the effect that President Nixon, in February, 1970, had instructed the U.S. State Department to negotiate with the Canadian government regarding a Mackenzie Valley route. Both the Canadian Ministers for External Affairs and for the Department of Energy, Mines and Resources indicated that there had been no negotiations in 1970 although Minister Greene added that "inferentially in the oil discussions which we had with them in that period, from time to time a pipeline was talked about but no discussions vis-a-vis the pipeline itself were entered into." (Exhibit 8, p. 4567).

With respect to the discussions with the oil companies which had taken place that day, Minister Greene indicated that there had been "a very useful meeting" and that "[i]t

[3] Proceedings in the House of Commons are officially reported in *House of Commons Debates* (Hansard).

[4] The Exhibit will subsequently be supplied for the record.

would appear that the economics of delivery to the west coast are preferable by the Valdez line but the economics of delivery to the Chicago area may well be preferable by way of an all Canadian line." (Exhibit 8, p. 4568). He added, in response to another question in regard to "how long the representatives of the Alaska oil companies are prepared to wait before they feel it is necessary to make a choice with regard to the route" that:

"As I understand it, the position is that a decision was very clearly made by the oil companies to go by Valdez line and then by the marine line along the west coast, by reason of the delays caused by various governmental agencies in the U.S.A., by environmental groups and others, that decision has not been implemented. All we are doing is exploring the possibilities of a review of that decision and assuring that Canada proceeds as rapidly as possible to make its scientific, ecological, and economic surveys so that we are prepared in this regard." (Exhibit 8, pp. 4568–69).

9. On April 6, 1971, Jack Austin, Deputy Minister of Energy, Mines and Resources and Chairman of the Task Force on Northern Oil Development, spoke to the annual meeting of the Canadian Petroleum Association. In his speech, which covered a wide range of subjects dealing with energy policy, he specifically addressed the question of northern pipelines, discussing the earlier meeting with representatives of the oil companies which hold large oil reserves on the North Slope. He indicated that he recognized their preference was for the Trans-Alaskan route, but added that "while it is not the Canadian government's intention to try to persuade the companies to accept a Canadian route for an oil pipeline, there is, indeed, a willingness on the part of the government to explore the possibilities in the event that it may be found advantageous to Canada and to the Alaska producers." (Exhibit 9, p. 12).

10. On June 17, 1971, the House of Commons unanimously approved the report of the Special Committee on Environmental Pollution regarding the tanker traffic along Canada's southwestern coast and in the Puget Sound area which would result from the construction of the Trans-Alaska Pipeline. The Committee took testimony on the issue and concluded:

"That the establishment of the proposed oil tanker route would result in severe environmental damage and substantial economic loss to Canadians. The Committee notes with approval the current discussions between the United States and the Canadian government on the subject and urges the Canadian government to oppose vigorously the establishment of the proposed tanker route between Alaska and Washington State." (Exhibit 10).

The Canadian government officially expressed its concern regarding the proposed tanker traffic to the United States on several occasions in aides mémoires. On June 29, 1971, the Canadian Embassy proposed consultations between officials of the two governments on the environmental hazards of the tanker traffic. The United States Department of State replied, in an *aide mémoire* of July 9, 1971, by suggesting essentially that, instead of another meeting, there should be a continuing exchange of information of interest. The Canadian government thus was invited to submit "any pertinent additional information which has not already been conveyed to the United States Government . . . as expeditiously as possible." The Canadian Government responded, on August 20, 1971, with another *aide mémoire*, providing additional information, in several appendices, supporting its objections to the proposed tanker traffic. The Canadian government also stated:

"In the June 29 discussion, in the context of the expressed Canadian opposition to the proposed tanker movements in the inner coastal waters, the United States side enquired about alternative sources of oil supply for the States in the Pacific northwest. In order to explore this aspect of the question the competent Canadian authorities would be prepared to discuss the technical and other factors which might affect the continuing contribution to the oil needs of the region from Canadian sources."

11. On June 21, 1971, Minister Chretien responded in the Hansard to a written question regarding progress of pipeline research. He indicated the specific aspects of pipeline research being conducted under the Arctic Land Use Research (ALUR) Program, including classification of methods of construction; use of temporary winter roads constructed on soils of high ice content; geologic mapping and soil performance testing in the Mackenzie Basin; and investigations into the energy balance and the exchange properties of permafrost. He indicated that the ALUR budget for 1971–72 was $500,000 and preliminary reports were expected by the end of 1971 with final reports by the fall of 1972.

12. On June 23, 1971, Minister Chretien addressed the Executive Conference of the American Gas Association in Banff, Alberta. In this speech, Mr. Chretien outlined the categories of environmental studies currently being conducted by the government and also announced the publication of Arctic Land Use Regulations "which we believe will insure reasonable protection for the northern environment which industry can live with." (Exhibit 12, p. 7). He did not, in this speech, indicate when the studies, which were in progress, would produce sufficient data for the government to evaluate pipeline applications.

13. On September 21, 1971, Minister Greene was asked, in the House of Commons question period, "whether officials of his department are discussing with his American counterpart the setting up of a pipeline in Alberta to develop Prudhoe Bay oil fields?" Minister Greene replied that "there has been discussion for the last year or two in general vein, but there has not been any in the last few weeks." (Exhibit 13, p. 8035).

14. On September 28, 1971, in the House of Commons question period, the Prime Minister was asked, in light of a statement by Secretary Morton that a Canadian pipeline would be studied, "whether there have been any discussions between the Canadian government and the government of the United States regarding such a pipeline in recent weeks or months and, if so, by whom have these discussions been conducted?" Mr. Trudeau answered: "I am not aware of any discussions which have been held within recent weeks, or even in the last few months. I am not aware of any discussions having taken place since that which was last mentioned in the House, and I believe that was late in the spring or early in the summer." (Exhibit 14, p. 8230). A supplementary question with respect to Canada's providing data, studies, or access to Canadian soil to the U.S. government for gathering of data for their Pipeline Task Force was answered by Mr. Chretien: "I do not know whether there have been some official exchanged between the Canadian and American governments in that connection. I know that some studies are now being made by the Canadian government and private enterprise." *Ibid.*

Minister Chretien was also asked about the prospects for government approval of an oil and gas line and the timing for such. He replied: "We cannot at this time say whether we will accede to a request for the construction of a pipeline for oil and gas. We are studying the situation and, when applications have been received in regard to this, the government will make a decision. We cannot do so at the present time." (Exhibit 14 p. 8230–31).

15. On November 19, 1971, in the House of Commons, Minister Chretien made a very explicit statement regarding the willingness of the government to consider a Mackenzie Valley oil pipeline. An initial question regarding whether statements attributed to Secretary Morton to the effect that the Canadian alternative was not being considered because it did not have the support of the Canadian government was ruled out of order. The question was rephrased: "Can the Minister say whether the suggested alternative oil pipeline down the Mackenzie Valley still has the support of the Canadian government?" Chretien replied: "I should like to advise and confirm to the House the continuing interest and willingness of the government of Canada to examine and discuss any proposals relating to the transport of Alaskan petroleum resources through Canada to market in the United States. Together with the Minister of Energy, Mines and Resources, I announced guidelines to northern pipelines on August 13, 1970." After an interruption, Mr. Chretien continued: "Those guidelines make it clear that, in principle, oil and gas pipelines were acceptable to the government of Canada but on the conditions stated in the guidelines." He added, in response to a supplementary question regarding the environmental and social studies, that "the government has given the highest priority to environmental and social studies on which we have spent millions of dollars. We have made a lot of progress and are ready to entertain any application." (Exhibit 15, pp. 9715–15).

This colloquy was submitted officially to the United States by the Canadian Embassy in an aide memoire of November 29, 1971. (Note 354).

16. On December 22, 1971, the Government replied in the Hansard to a motion filed by Hon. David Anderson, M.P., requesting that "a copy of the United States communication of 1970 proposing the construction of an oil pipeline from Alaska to the southern forty-eight states via Canada referred to by Mr. James Aikens of the United States State Department as quoted on page 10 of the *Washington Daily News* of 18 October 1971. be tabled." (Exhibit 16, p. 10702). The Parliamentary Secretary (Mr. Gaston Isabelle) to the Secretary of State for External Affairs replied:

"[U]nhappily it is not possible to accept the request tabled by the honorable member from Esquimalt-Saanich [Mr. Anderson] since no communication of the kind requested exists. The United States has made no formal or specific proposal involving specific Arctic pipeline projects nor has there been any substantive discussion with the United States government on this subject although it was raised briefly at one meeting, between Canadian and United States officials, on the subject of bilateral trade and energy commodities. I therefore, with great regret, ask the honorable gentleman to withdraw the motion." (Exhibit 16, pp. 10702–03).

17. On January 25, 1972, A. Digby Hunt, Assistant Deputy Minister of the Department of Indian Affairs and Northern Development and a member of the Task Force on Northern Oil Development, addressed the World Affairs Council in Boston, Massachusetts. In his address, he noted that, on several occasions, Minister Chretien expressed the willingness of the Canadian government to examine and discuss proposals relating to the construction of an oil pipeline through Canada to the United States. He also discussed the status of Canadian Environmental studies indicating that "we expect that by the end of this current year we will have adequate information to deal with any application" for a pipeline. (Exhibit 17, p. 10).

18. On February 2, 1972, Mr. C. M. Drury, President of the Treasury Board, addressed the Canadian Northern Pipeline Research Conference in Ottawa. He specifically dis-

cussed the government's attitude toward pipelines and the expected timing which it should follow in acting upon an application. He said:

"There is a good expectation that by the end of 1972 the field work will have advanced to such a stage as to put the government in a position whereby it could appraise, from an ecological point of view, any applications that might be received by companies wishing to build pipelines in the north. There would then, of course, have to be very thorough hearing procedures. . . .

"I want to take this opportunity to restate our view that the Canadian Government would welcome applications to build oil or gas pipelines from Alaska through Canada in a "land bridge" to the continental United States. Any such applicatons would be reviewed in a hearing process subject to the guidelines mentioned earlier and in light of the mounting research brought to bear on these undertakings by private industry and the Government. . . .

"In the resource management of the North American land mass, all the alternatives need to be thoroughly investigated before any unilateral actions are taken. That much seems clear no matter what national strategies are to be pursued by Canada and the United States in satisfying their respective requirements for oil and gas.

"To us it appears that an oil line from Alaska through Canadian territory would have the advantage of ruling out a vulnerable tanker link to markets and would provide more economic transportation of oil to the U.S. Midwest.

"My colleague, the Minister of State for External Affairs has made clear in the House, and the Government in an aide-memoire sent to Washington last August, stated in the strongest possible terms, Canada's reservations with respect to the ecological and other hazards of movement of oil by tanker from Alaska, down the West Coast and through the Puget Sound to north western U.S. refineries. Let no one suppose that the opposition of Canadians—so effectively voiced by Members of Parliament like David Anderson—is not the genuine concern of this Government. We have made clear that full indemnity will be required for the ravages which oil spills could inflict on our coastlines.

"As far as we know, very little study has been given by the proponents of this route to the dangers of tanker movement in the restricted channels adjacent to the southern British Columbia Coast, and what little has been presented by the companies involved would only seem a first faltering step in defining the actual tonnage that would traverse this route and the precautions needed to safeguard our interests." (Emphasis in original) (Exhibit 18, pp. 12–14).

Excerpts from Mr. Drury's speech, including his estimate regarding the time when the government could appraise a pipeline application, were officially submitted to the United States government in an aide-memoire from the Canadian Embassy on February 27, 1972. (Note 49).

19. On February 3, 1972, Robert Howland, Chairman of the National Energy Board, also addressing the Canadian Northern Pipeline Research Conference, discussed requirements for northern pipelines. The National Energy Board is ultimately responsible for approval of permit applications to construct pipelines under the National Energy Board Act, although both the Department of Energy, Mines and Resources and the Department of Indian Affairs and Northern Development also have significant roles in the process. Mr. Howland discussed the August 1970 guidelines issued jointly by those Departments and the National Energy Board's current activity in revising them to provide more detailed guidance to industry in the form of specific regulations. He said:

"The Government announced its guidelines for northern pipelines because it was aware of the large potential benefits of northern development, including pipe lines, for the people of Canada. It wished to convey to industry its willingness to have such pipe lines built, provided that the hazards of developments are properly controlled." (Exhibit 18, p. 11).

Mr. Howland also indicated that the government was quite willing to cooperate with industry in expediting the approval process for a pipeline permit by informal conferences prior to formal application. He thus pointed out:

"Over the years the Board has found it useful to hold pre-hearing conferences with potential applicants for pipeline certificates. It may be that this practice is particularly appropriate in respect of large scale transmission lines from the north. In these instances, however, such conference might, initially at least, be with Federal agencies having specific responsibilities relating to applications for such projects. This procedure may offer a practicable method of ensuring that applications, when heard by the Board, are both complete and meaningful to industry and to government. How else can the Board be in a position to consider all aspects of the public interest in reaching its decision regarding any particular application.

"Such discussions could proceed to the point where the applicant is clearly aware of the concerns of each government agency. Against this background an applicant would be able to draft a particular section of its application and possibly review this with those directly concerned. Thus, before filing an application with the Board, the applicant would know, for example, the terms and conditions of acquiring a right-of-way for its pipeline, the requirements relating to financing both inside and outside of Canada, the nature of ownership requirements, the employment aspects for northerners, etc. Conversely, the agencies would know the nature and extent of the undertakings which the potential applicant was prepared to make and would have had opportunity to express their views as to the adequacy of the proposal.

"This does not suggest that the applicant will have entered into specific agreements with any agency but rather that the applicant will know fairly precisely what the requirements of the agencies will be. It is contemplated that their requirements will be of a detailed nature and they may also be specific to a particular applicant. Clearly, this procedure will require that government agencies have a precise understanding of the requirements which they consider representative of the public interest. Equally, they will also develop an appreciation of the practical problems which will have to be faced by a company building and operating a pipe line under the conditions of those requirements.

"Having obtained a clear assessment of the requirements of the various agencies of governments, the applicant could then proceed with its application with the Board with some confidence that it has understood and had met the detailed requirements. In other words, 'en pleine connaissance de cause.'" (Exhibit 19, pp. 17–19).

In concluding his speech, Mr. Howland stated that:

"The government is on record as being desirous of allowing pipelines, under appropriate conditions, to be constructed in the North . . . The progress of research, both in the public as well as the private sector has been such that the govervent has indicated on several occasions its willingness to examine and discuss any proposals relating to the transport of Alaskan petroleum resources through Canada to market in the United States. More specifically, the Minister of Indian Affairs and Northern Development stated in the House of Commons on November 19, 1971, "We have made a lot of progress and are ready to entertain any application." Last evening, the President of Treasury Board forcefully endorsed the government's position "(Exhibit 19, pp. 20–21).

20. On February 3, 1972, Mr. L. V. Brandon, Regional Manager, Department of Indian Affairs and Northern Development, Whitehorse Yukon, addressed the Canadian Northern Pipeline Research Conference in Ottawa of legislation and activities under control of his Department regarding land and water management in the North. He discussed three principal acts, as well as current research programs needed to assist in their implementation.

The Territorial Lands Act of 1950, placing lands in the Yukon and Northwest Territories under primary jurisdiction of the Department of Indian Affairs and Northern Development, provides authority to establish land management zones and issue regulations to control land use operations. Within the zones, existing regulations require an applicant for land use operations to apply for a permit. The application must describe the proposed operation and include information necessary to evaluate its environmental impact. For construction of pipelines, an easement across territorial lands must be obtained. Mr. Brandon commented:

"The Department of Indian Affairs and Northern Development requires full environmental impact reports prior to approving an easement or lease for a pipeline project as well as provision being made for employment and training of native peoples." (Exhibit 20, p. 4).

Under the Northern Inland Waters Act of 1972, the Department is given responsibility to administer water licenses and designate water quality standards in the Territories. A "company wishing to build and operate a pipeline would have to apply . . . for the right to alter any stream where a river crossing was carried out where such a crossing may change the regime of that stream." (Exhibit 20, p. 5). Environmental impact assessment, based in part upon the applicant's report, would take place in the approval process. The Arctic Waters Pollution Act of 1972 deals with waters adjacent to the Canadian Arctic and permits establishment of regulations to control navigation and related matters.

An ultimate objective of the Department's activities, according to Mr. Brandon, is establishment of a formalized land use code under the authority of existing legislation. He indicated that much of the background information currently being developed under the Department's Arctic Land Use Research (ALUR) Program was directed toward this objective.

21. On February 24, 1972, Mr. Donald Macdonald, newly appointed Minister of Energy, Mines and Resources, gave his maiden speech in the House of Commons and discussed, among other things, the question of an oil pipeline through Canada. He stated that:

"[O]ne of the most important issues that has been brought before the House in the recent past has been the question of the West Coast tanker route proposed by the United States [in connection with the Trans-Alaska Pipeline proposal]. My colleague, the Secretary of State for External Affairs (Mr. Sharp), has made clear in the House, and the government in an aide-memoire sent to Washington last August stated in the strongest possible terms Canada's reservations with respect to the ecological and other hazards of movement of oil by tanker from Alaska, down the West Coast and through the Puget Sound, to the northwestern United States refineries.

"The recent report of the United States Coast Guard dealing with potential dangers of such an adventure has only served to enforce the view that all possible alternatives

ought to be given serious study before any unilateral action is taken. In this regard, we have made clear, with the government's guidelines for northern pipelines in August 1970, that we welcome applications to build oil and gas pipelines from Alaska through Canada in a land bridge to the continental United States.

"I should here comment that a very effective program of co-operation between government and industry is one reason studies have proceeded to a point where we feel that we will be in a position within a year to receive and consider applications for northern pipeline construction. This cooperation should serve as a model for other government-industry relationships." (Exhibit 21, pp. 224–225.)

Later, in response to a question concerning the status of environmental studies, Mr. Macdonald elaborated that

"[W]e expect to make great progress in the coming field year this summer for the various studies that will be conducted. We hope then to be in a position, particularly from the standpoint of the National Energy Board, to entertain applications and to assess their sufficiency, particularly from the standpoint of economic and ecological considerations." (Exhibit 2, pp. 225–226).

22. On March 21, 1972, Minister Macdonald addressed the Independent Petroleum Association of Canada in Calgary, Alberta. Notes for his address were released by his Department. Mr. Macdonald discussed the oil and gas industry and relationships with the United States. Referring to his forthcoming trip to the United States to meet with Secretary Morton, he stated:

"One item you can be sure will be raised, will relate to the report released on March 20th by the Department of the Interior on the environmental effects of pipelining Alaska oil either by the trans Alaska and tanker route or overland through Canada. Various Ministers in the Canadian Government have made it abundantly clear in the past two years that Canada favors the development of a main oil trunkline on a north-south basis from the Arctic ocean provided it can be constructed in a manner that will stimulate the exploration for the development of our own oil potential; that it can be built to standards which will safely protect the Arctic environment; that it will bring solid benefits to the people of the North and that it is consistent with the sound management of the Canadian dollar and the national economy.

"In order to ready ourselves for the possibility of having to judge any specific applications the Government of Canada has conducted extensive field programs in the past two years and will mount a further program this year. In all we have spent about $15 million with the objective of having in hand the capability of acting on applications made any time after the end of this year.

"None of the work done by Government of Canada was requested by the U.S. authorities in completing their report. We will have to compare their conclusions with our own so that it will take some time before we can make any substantive comment on the detailed facts which they are presenting.

"One of my purposes in talking to Secretary Morton will be to learn more of the thinking of the U.S. Government with respect to their own national policies for the development and transportation of Alaska oil and gas. Will they encourage Alaska producers to make applications for a pipeline through Canada and if so, under what conditions? I will bear in mind that this subject is of fundamental importance to us all." (Exhibit 22, pp. 10–11).

23. On March 28, 1972, Minister Macdonald wrote a letter to Secretary Morton, which he delivered to him personally when he met him in Washington on March 30. He discussed the progress of both the government and industry in planning for Northern pipeline development. He described the $15 million government research program in detail and noted:

"As has been stated publicly on several occasions, we expect to be in a position by the end of this year to be able to appraise any applicaitons that might be received from companies wishing to build pipelines in the north." (Exhibit 23, p. 1).

He added that:

"The progress being made by industry is such that I would anticipate our being able to act early in 1973 to process expeditiously one or more applications to build an oil and/or a gas pipeline originating at Prudhoe Bay and traversing Canadian territory to southern markets." (Exhibit 23, p. 2).

Finally, he explicitly offered to provide information in Canadian studies to the Secretary. He said:

"As the Minister responsible for the coordination of energy policy matters, I will be pleased to keep you informed of progress in exploration and pipeline appraisals in Canada." (Exhibit 23, p. 3).

24. On March 30, 1972, Minister Macdonald held a press conference following his meeting with Secretary Morton. He discussed issues regarding oil and gas pipelines through Canada extensively. He stated:

"The principal purpose in meeting Secretary Morton was to talk to him about what is, of course, an issue of great interest in the United States, but also in Canada, and that was the proposal which has been before the American courts and the American body politic with respect to the construction of a Trans-Alaska pipeline. From the Canadian standpoint, there are two issues which it was useful to make and which I took the opportunity of referring to today. The first was the continuing concern of the Canadian Parliament, the Canadian government, and particularly of Canadians on the West Coast about the prospect of a very massive movement of oil down the West Coast, as a result of a trans-Alaska pipeline and, particularly, into the more confined waters of Puget Sound. The Secretary, I think, recognized the concern which is felt by Canadians on that particular one.

"The second purpose was to make it clear to him that the Canadian government is, and has been for some time, interested in preparing for an application which undoubtedly will be coming sometime towards the end of this year, perhaps early next, for the construction of Mackenzie Valley pipeline. And because there seems to have been a little uncertainty in the past about the government's intentions and what, in fact, it was doing, I left with the Secretary today a brief resume of the programs that we have underway, also with a prognosis as to when we'd be in a position to consider this question." (Exhibit 24, p. 1).

Despite the Canadian expression of interest, Minister Macdonald stated, regarding the attitude of the United States:

"I had the impression that, with so much effort and study invested in the Trans-Alaska pipeline, that it rather looks as though they would be giving that priority in their consideration.

"We, of course, are interested in meeting any further questions they might have about the Mackenzie Valley possibility. But I think that we'd have to face the fact that they're primarily looking at the moment at the Trans-Alaskan pipeline." (Exhibit 24, p. 2).

Mr. Macdonald indicated that the chief apparent basis for the United States government's preference for the Alaska route was that it would permit earlier delivery of oil to market. His best current estimate of the length of delay was two years. (Exhibit 24, p. 12). Discussing the question of the amount of additional imports of oil Canada could supply if restrictions were raised, Mr. Macdonald asserted (Exhibit 24, pp. 5–6):

"Well, I suppose there is an upper limit, both in terms of pipeline capacity and also reserves, beyond which we couldn't go. I think our position would be we'd like to be tested in that regard and find out what the consequences are."

25. On April 18, 1972, Prime Minister Trudeau addressed the National Newspaper Awards Dinner in Toronto. Notes for his remarks were officially released by his office. The Prime Minister, reviewing past major Canadian projects such as the construction of a transcontinental rail line and the St. Lawrence Seaway, announced a "new proposal . . . a transportation system designed to cope with the sparce population scattered resource deposits and peculiar archipelago geography of the Arctic." (Exhibit 25, p. 9). He elaborated:

"I don't know at this time the precise nature of that system. I do know, however, that it will be many-faceted, that it will be expensive, that it will bring immense benefits to Canadians in all parts of the country, and that it will be a reality in a decade.

"Part of that system, without question, will include a Mackenzie Valley corridor incorporating both oil and gas pipeline s and an all-weather highway—the first highway to join southern Canada with our third ocean coast. The cost of construction of that part of the northern transportation system will be in the neighborhood of 10 billion dollars." (Exhibits 25, pp. 9–10).

26. On April 19, 1972, in the House of Commons question period, Minister Macdonald was asked:

". . . In light of American concern over their supply of oil during the two-year period required to evaluate alternative transportation routes to the trans-Alaska pipeline system . . . whether he has made clear to his United States counterpart Canada's willingness to make oil available to the United States during this period so that a proper evaluation of a route can be undertaken free of short-term security considerations?"

He replied that:

"Both in my discussions with Secretary Morton and other officials of the United States administration in Washington and recently with Secretary Rogers last week, I made it perfectly clear that Canada was prepared to supply additional quantities of oil to the United States not only for a two-year period but a longer period and that this would be facilitated by their lifting their quota system." (Exhibit 26, p. 1440).

Appendix B

The Attitude of the Canadian Government Toward Construction of Pipelines Through Canada for Delivery of North Slope Oil and Gas (Supplement)

(By John F. Dienelt, Washington Counsel, Environmental Defense Fund and Alan G. Krams, Research Assistant, The Wilderness Society)

An earlier paper, submitted as a comment on the Final Environmental Impact Statement, Proposed Trans-Alaska Pipeline, reviewed public statements and other expressions of governmental policy by Canadian Cabinet Members and other key officials from the discovery of oil and natural gas on the North Slope to May 1972. Comments, Vol. IV, Tab I. This paper updates the earlier comment, reviewing pertinent government statements from May 1972 to July 1973.

On the basis of analysis of Canadian Government policy statements between 1968 and May 1972, the earlier comment reached two principal conclusions: (1) Canada has maintained a clear, consistent and explicit attitude of encouraging construction of both an oil pipeline and a gas pipeline through Canada to transport North Slope oil and gas to the lower 48 United States; and (2) government procedures for considering and approv-

ing an application to construct a pipeline would cause insignificant delay, if any. The statements of the Canadian Government in the past year, analyzed chronologically below, fully reinforce those conclusions.[1]

27. In remarks to a public meeting in Edmonton, Alberta on April 28, 1972, Prime Minister Trudeau, noting "the desire of Canadians to preserve their environment" said (p. 7) that "[t]here is not the slightest doubt that we will soon be able to overcome all of the physical difficulties associated with the construction of all-weather highway and transmission lines for oil and natural gsa from the Arctic slope to the centers of population of this continent. Before we build them, however, we must be equally certain that these facilities will not lead to ecological devastation or disregard for the life-style and the treaty claims of the original inhabitants of the north." Citing the Mackenzie Valley as "the first all-purpose northern transportation corridor" he reminded the people of Edmonton of the economic benefits that will accrue to them from the development of this area.

Trudeau promised that the Canadian government will continue its heavy investments for development of the Northwest Territories. As an example he mentioned Canada's 45% interest in Panarctic, which has made "recent dramatic oil strikes on Ellesmere Island."

The first step is to be construction of an all-weather highway up the Mackenzie Valley, now justified by obvious benefits. Trudeau declared construction would begin in the summer of 1972. "The route will be carefully selected so that it will be of use should oil or gas pipelines be built along the Mackenzie Valley. It will be built ahead of any pipelines and will therefore offer considerable cost savings to them during the construction period. For this reason, the government intends to recover some of the highway construction costs from the pipeline companies."

28. On May 4, 1972, Minister Macdonald wrote a letter to Secretary Morton, discussing the Canadian alternative in some detail In it he said (pp. 2–3):

"There would be many advantages arising from the use of a Canadian pipeline route. We believe it would enhance the energy security of your country by providing an overland route for your Alaska oil production, thereby servicing the oil deficit areas of the mid-continent and also the Pacific North West. Although cost comparisons of the trans-Canadian and trans-Alaska routes are interesting, they will, of course, not in the strictest sense be subject to direct comparison since the Canadian costs provide for placing Alaska North Slope oil directly into the mid-continent and Puget Sound markets. Canada has an interest in the energy security of your country, and this land route for Alaska crude oil would enhance that security of supply to deficit areas in the United States. Furthermore, this security of supply could be further enhanced during the interim period of northern pipeline construction by *extra Canadian* crude, as I indicated in my remarks in the House of Commons on April 19th.

"The Mackenzie route would, of course, be advantageous to Canada in that it would give access to our potential oil resources in the northern Yukon and Mackenzie River areas. Within Canada, also, there would be benefits to the economy of these northern regions from this new activity and opportunities for the employment and training of our Native peoples.

"In reciting some of the advantages to the United States and aCnada of a co-operative relationship between us in the construction of an oil pipeline across Canada, I am mindful, too, that such a measure would avoid the considerable increase in tanker movements of oil on the Pacific Coast and particularly in the inland waters of Alaska, British Columbia and Washington State, and the resultant significant risk of serious environmental and economic damage. This is an area which if not solved with reason and wisdom by us today, could produce difficult influences in Canada-United States relations.

"In considering the environmental impact of oil pipelining in northern Canada, it should not be overlooked that there are current proposals being studied by gas transmission and distribution companies for a gas pipeline from Alaska through Canada to the continental United States. If these proposals are successful, there will be environmental disturbance in any event."

On the matter of environmental studies, Macdonald wrote (pp. 3–4):

"As you are well aware, the comments made in the Report (the FIS) on the so-called Canadian alternative are based on data in the public sector, some of which have become out of date and very little of which was produced in the last two years. Your officials did not ask for any technical assistance from Departments of the Government of Canada in connection with the environmental aspects of this study. I brought to your attention during our meeting, and by way of a letter dated March 28, 1972, the substantial program of work in the environmental field which my Government has been undertaking with the commencement of the 1970 field season. In addition, we have recently made public and have provided to your State Department a list of the thirty environmental and social studies under way at this time and scheduled for completion later this year.

"We are of the view that your consideration of the Canadian alternative could benefit substantially from a knowledge of the work which has been done by both industry and government and which is to be completed this year. A result of detailed consideration would lead, in our view, to an improved appreciation of the advantages in an environmental sense of the Canadian alternative."

Macdonaldc oncluded (p. 4):

"I would confirm to you my comments in Washington on March 30th last that, in the opinion of our technical advisers, there should be no reason why regulatory and governmental consideration could not be given in an expeditious manner commencing with an application filed by the end of this year."

29. In a May 11, 1972 address to the Pipe Line Contractors Association of Canada Jean Chretien, Minister of Indian Affairs and Northern Development told his audience (p. 2–3) that "[T]here is still some doubt whether the first pipeline will carry oil through Alaska or whether it may come through Canada. The environmental advantages of the 'Canadian alternative' are obvious and well known. There is no doubt, however, that a gas pipeline *will* be built through Canada. Indeed, a gas pipeline from the Delta now seems a certainty. I can only repeat that the government is ready at any time to receive an application for an oil or a gas pipeline. By the end of the year environmental and social studies will be in our hand." Then the normal permit process can begin. The money going into the Mackenzie Highway is "a clear indication of the present government's commitment to northern development." (p. 5). The pipeline companies are being consulted to assure that highway construction takes account of the latest thinking on pipeline routes, so that it can be of maximum advantage when pipeline construction begins. Chretien reiterated the government's desire for the pipeline companies to share the cost of the road.

In addition to highway construction Chretien said that at least $15 million is being expended on environmental and social studies in preparation for the pipeline.

30. In a press release issued on May 11, 1972, the day that Secretary Morton indicated his intent to approve TAPS, Minister Macdonald said (p. 1), "the government of Canada remains convinced that the alternative Canadian route through the Mackenzie Valley is the best from all aspects." Citing a letter written to Secretary Morton just days before, the release stated (p. 1). "The letter repeated that the U.S. government had not availed itself of the extensive Canadian studies which have been carried out on the north by the Canadian government and industry on ecological and environmental aspects of the pipeline construction."

The Minister was troubled by the Secretary's apparent requirement that any pipeline would have to be totally under U.S. control and totally for U.S. use. He pointed out that any pipeline in Canada would have to be a common carrier.

31. In the May 15, 1972 Question Period, Mitchell Sharp, Secretary of State for External Affairs was asked if he had received a response from the United States to his April 26 request to Secretary Rogers that the issue of west coast water pollution be considered by the International Joint Commission.

Mr. Sharp indicated (p. H. 2254) that no response was received, either before or after Secretary Morton approved TAPS. Sharp also said he had received no reply to his representations that tankers should not move through the Strait of Juan de Fuca and Georgia Strait.

32. On May 15, 1972, the House of Commons passed a motion that the U.S. be advised of the view of the House that the tanker shipments required by TAPS pose an environmental hazard to the west coast of Canada.

33. According to a letter dated May 15, 1972 from A. B. Yates, Chairman of the Interdepartmental Committee on Northern Roads to the Chairman of the Task Force on Northern Oil Development, reporting progress on the Mackenzie Valley Highway, the Cabinet approved allotting $4 million to Minister Chretien's proposal to accelerate building of the Mackenzie Highway, and asked the Minister to report back with a detailed plan relating the schedule of construction and financing of Mackenzie Highway to the Northern Roads Program as a whole.

Yates also points out (p. 2) "that the principal reason for accelerating the completion of the Mackenzie Highway was to ensure optimum benefits to potential pipelines . . ." A meeting was held with the Pipeline Consortia on May 5, 1972. "Items discussed were route proposals, the corridor, construction, scheduling, access roads, and the location of a pipeline relative to the highway. All Consortia appeared pleased with the Government's decision and were not unduly dismayed by the Government's announced intention to recover part of the cost of the highway from the Pipeline Authority" (p. 2). The Consortia agreed to present their views on a highway route by May 15, 1972.

34. On May 19, 1972, Minister Macdonald delivered an address to the 1972 Western Area Conference of the Financial Executives Institute in Victoria. In his notes for this address, the Minister said (p. 9) that, "[i]n my view Canada has and will continue to be a secure supplier of petroleum products to U.S. markets." Mentioning Secretary Morton's apparent concern that the U.S. have total control over shipments through

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[1] Summaries of the various public statements and other expressions of policy are numbered consecutively from the last number of the original comment. The full text of the statements appear as Exhibits with the same number in the Appendix to the supplemental paper.

any North Slope pipeline, Macdonald said (p. 9), "A condition that Canada could not benefit by the transport of Canadian oil or gas in a pipeline crossing near major Canadian reserves would never be acceptable for either gas or oil pipelines through Canada to the U.S." Macdonald pledged to continue to convey to the U.S. the Canadian concern over pollution of its west coast by oil tankers from Valdez.

35. Minister of Indian Affairs and Northern Development, Jean Chretien, delivered an address to the First Conference of the Canadian Arctic Resources Committee on May 24, 1972. In that address he stated (p. 17) that there would soon be available "a progress report on all environmental projects connected with future pipeline routes." Chretien criticized those who wish further delay in Arctic development to give more time for study. "This approach is no more realistic than that of the exploiter who wants unrestricted freedom to extract minerals without regard to social or environmental consequences" (p. 18).

36. Minister Macdonald spoke to the Canadian Gas Association in Toronto on May 29, 1972. In notes prepared for the address, the Minister said (p. 5) that he was disappointed with the approval of TAPS "because cooperative action would, we believe, have helped reduce the costs of bringing both Alaskan and Canadian hydrocarbons to market."

The Minister emphasized that any pipelines through Canada, either gas or oil, will be required to carry Canadian as well as American throughput.

37. On June 9, 1972, speaking in debates in the House of Commons, Minister Macdonald stated that feasibility studies for a Mackenzie Valley pipeline had been underway for about three years and were expected to be completed by the end of the summer of 1972. The government spent $15 million on this research. In response to opposition charges, the Minister indicated that at least as early as July 1968 the Canadian government had communicated its interest in a Mackenzie Valley pipeline to the oil industry.

The Minister pointed out that the U.S. has been made fully aware of Canada's fears of pollution from oil spills on the west coast. He specifically mentioned a meeting between Canada's SSEA and Secretary of State Rogers on June 10, 1971, and *aides-memoire* from Canada on June 29 and August 20, 1971.

38. On June 9, 1972, the House of Commons unanimously adopted the following resolution (H. 2995):

"That in the light of the damage in Canada and the United States of America arising from the recent oil spill at the Cherry Point refinery, this House supports the urgency of a reference to the International Joint Commission of the environmental consequences of the movement of oil in the narrow waters of the Straits of Juan de Fuca, Georgia Strait, and Puget Sound both now and in the future and of the measures necessary to minimize the hazards, and requests the Secretary of State for External Affairs to immediately convey the terms of this Motion to the Government of the United States of America, and that the International Joint Commission have a mandate to utilize and requisition such financial and other resources of Canada and the United States of America as will best and soonest restore the ecology and environment on the West Coast to pre-spill conditions."

39. On June 13, 1972, Minister Macdonald indicated, in response to questions in the House of Commons, that unofficial information was that two consortiums had agreed to build a gas pipeline down the Mackenzie Valley.

He reiterated the point he made on June 9, 1972, saying (p. H. 3086), "Mr. Speaker, I tried on Friday to convey to the hon. member the fact that for some considerable time the government of Canada has tried to persuade the United States to ship not only gas but oil down through the Mackenzie delta system. However, the United States government has indicated through Secretary Morton, that it has decided otherwise. We would still be happy to make provision for this. The research we have carried out in respect of Arctic ecology and the Mackenzie Valley generally would apply in respect of both possible gas and oil pipelines."

40. On June 28, 1972, the Canadian Government issued a draft of "Expanded Guidelines for Northern Pipelines" which reaffirmed the Canadian Government's desire for a "common corridor" although recognizing the need for flexibility in the application of the concept. The Guidelines show considerable foresight by requiring the applicant for the first pipeline (whether oil or gas) to demonstrate the suitability of the route selected for the other pipeline.

41. On September 28, 1972, Minister Macdonald replied to a telegram sent by the Committee for an Independent Canada. Discussing a possible gas pipeline in the Mackenzie Valley, Macdonald said (pp. 1–2), "From the standpoint of Canadian gas consumers, a pipeline which would also accommodate Alaskan gas for sale in the United States would be advantageous since it would mean that part of the heavy cost for creating a pipeline would be borne by the American consumers."

Macdonald went on to say that formal legal control of any pipeline * * * in Canadian hands. Additionally, he stated (p. 2) "that [t]he government also is concerned that the corporate control of the enterprise should rest in Canadian hands and that Canadians *should have the opportunity* to hold a majority of the voting shares of the corporation." (Emphasis added.) He also stated that a government condition for any pipeline would have to be "designed, planned and executed by Canadian scientists, engineers and construction companies" (p. 2).

Macdonald noted that government approval of a pipeline cannot be given until an application is approved by the National Energy Board.

42. On October 12, 1972 Minister Macdonald replied to another telegram from the Committee for an Independent Canada, written as a follow-up of Macdonald's September 28 reply.

Macdonald was pressed for firmer assurances that majority ownership in any pipeline will be Canadian. Macdonald replied (p. 1), "The objective is to have majority Canadian equity ownership of the company." (Emphasis added). He reiterated (p. 1) that "Canadian management would be a condition of approval."

Elaborating on the question of Canadian ownership of the planning, designing and construction companies, the Minister asserted (pp. 1–2):

"Our position in this area is that we expect the engineering design team put together by the pipeline sponsors to have majority Canadian ownership and control, thereby providing the opportunity to increase significantly Canadian company competence in this field while, at the same time, being fair to Canadian subsidiaries who have operated as good corporate citizens in this country and who employ large numbers of Canadians. . . .

With regard to pipeline construction companies, significant competence already exists within Canadian-owned and controlled groups. To set a condition which would automatically exclude other companies [meaning companies doing business in Canada] from bidding on all or parts of the project would, however, severely restrict the competitive nature of the bidding practice and thereby possibly result in unnecessary costs and perhaps unwarranted profits. We do not intend to do this but are expecting that at all times preference be given to Canadian-owned and controlled groups during the construction of the project and in the supplying of materials."

Macdonald noted that while the government has no prior commitment to a pipeline, its environmental studies are being undertaken to put it in a position to evaluate any applicant (p. 3). "There seems little doubt that a pipeline will at some time be constructed in view of the indications of a successful exploration program in the region of the Mackenzie delta."

43. On January 24, 1973, Minister Macdonald attended a discussion of the Mackenzie Valley pipeline, held in Toronto. In his notes prepared for this discussion he pointed out (p. 3) that [i]n order to keep the cost of transmission, and therefore the ultimate cost of gas, as low as possible for Canadian consumers, it has been proposed that the American demand for gas should be exploited in two ways: by providing a market for some of the Canadian gas, i.e., gas surplus to the foreseeable Canadian needs; and by incorporating Prudhoe Bay gas in the pipeline transmission system so that the American gas consumer will wind up paying a substantial part of the cost of construction of the pipeline."

On the subject of environment, Macdonald had this to say (p. 5):

"Because of the potential impact of such development on the north, the Federal Government has instituted a research program aggregating up to $19.5 million covering a whole range of questions related to a pipeline, from the impact on fish and animal life, water flows, vegetation and permafrost right through to the sociological and archaeological impact of the pipeline. Many of those studies are now completed, or will be completed in the near future. Their primary purpose is to put government in a position so that it can judge a pipeline application when it comes before it, but there will also be a value to all of those interested in a pipeline, whether the applicant or those putting other viewpoints before the federal agency.

"In addition to these, of course, there have been substantial studies by industry, by the two groups now amalgamated in Canadian Arctic Gas Study Limited, as well as by Mackenzie Valley Pipeline Research Limited, into the question of a possible northern oil pipeline. Unlike the situation in Alaska with relation to the Trans-Alaska Pipeline, a great deal of study and research has gone into resolving these environmental problems before a pipeline proposal has been put forward, rather than contemporaneously with it."

Macdonald added that a National Advisory Committee on Northern Pipeline Financing was being established to study the economic implications of a Mackenzie Valley pipeline. He stated that Canada would desire formal legal control over the pipeline as well as management by Canadians. On the issue of ownership, he remarked (p. 7), "We have made it clear that we would expect that a majority of the equity *would be made available* for Canadians and that the management would be Canadian." (Emphasis added.)

44. Responding to questions, Minister Macdonald indicated in Parliament on January 26, 1973, that the Canadian government considers a Mackenzie Valley gas pipeline essential. "Without such a pipeline Canadian needs in the future cannot be met" (p. H. 684).

With regard to the commingling of Prudhoe Bay and Canadian gas, Macdonald said (p. H. 684):

"The intention would be in the early stages to have a substantial portion of the capacity devoted probably to the transit of Alaskan gas through to the central Amer-

ican market. Of course, the reserves available in the Mackenzie Delta would not be available to Canadian markets without the construction of a pipeline. So at the initial stage no doubt Alaskan gas will form a large part of the throughput, but as Canadian demand rises, as we expect it will, to meet the level of the pipeline, Canadian gas will form a larger portion."

Macdonald expects the throughput of the pipeline, in its early years, to be about 1 billion cubic feet per day above current Canadian needs.

45. In answering questions in Parliament, Minister Macdonald stated on February 14, 1973, (p. H. 1281), that his government was still interested in hearing from the United States with regard to an oil pipeline down the Mackenzie Valley, but that no further representations had been made.

46. On February 16, 1973, during Question Period, Prime Minister Trudeau said that he indicated Canada's displeasure over marine transportation of oil along its coasts directly to President Nixon last spring. He also noted the many expressions of displeasure by various officials in the Canadian government, "which have been made known very strongly at all levels in the U.S.A." (p. 2).

47. On March 1, 1973 Minister Chretien appeared before the House of Commons' Standing Committee on Indian Affairs and Northern Development.

In response to a question about using a railway to bring Arctic resources down the Minister said that the government has an open mind on alternatives:

"But probably those who want to get the resources out will bring some proposition to the government in order to get out the resources they have discovered in the North . . . As a government we are sitting here and we say to those who would like to have the resources out, come to us with some proposition.

"In my judgment, it is quite evident that the gas can be much more easily transported by pipeline . . . The cheapest form of transportation for gas is, at this time in the development of technology, a gas line." (pp. 20–21)

The Minister indicated he is unsure of when or whether an oil pipeline will be applied for because of the TAPS controversy in the United States:

"We as a government have said to the Americans many times that we oppose the shipping of oil along the British Columbia coast, and that we would prefer to have an oil line on the ground because there is much less danger of pollution with a pipeline than with a ship." (p. 21)

48. In a television interview aired on March 18, 1973, Minister Macdonald was asked, "Do you think that they would ever agree to shipping their oil over Canadian territory?"

Macdonald replied (p. 3):

"Oh, yes. From time to time some of the oil companies that are opposed to a Canadian route have suggested there's an insecurity problem but in fact it's not as though there aren't some Canadian hostages to fortune. The two major pipelines supplying the eastern Canadian market both run through American territory, so if they feel there's an insecurity in the fact that they would have one crossing our territory, we've got one with regard to theirs, too. I don't think the insecurity argument is one that is a very serious one."

Later in the interview, Macdonald added (p. 3–4):

"I think there is a basis for very legitimate concern on the west coast about the risk of a tanker spill which the Trans-Alaska route involves. I don't think prima facie the Canadian government would rush into a Mackenzie route as a possible corridor to bring American products down, but faced with the fact that we may be threatened by an oil spill on the west coast, this seemed like a good and more positive approach to offer it to them. The advantage, I suppose, of having American involvement in shipping Alaska products through this kind of a system is that over the long run we can get a transmission system, either a railway or a pipeline, constructed basically at the expense of the American consumer, American producer and consumer. It's clear that in the early years Canada and Canadian needs won't require this kind of shipment of either oil or natural gas down the Mackenzie Valley but if we did construct this kind of a pipeline system basically for their needs in the early stages then we could, of course, phase our own (Voice overlap)—"

When asked how far ahead Canada has no need of Arctic resources, Macdonald said (p. 4):

"To be quite specific about it there doesn't seem to be a prospect at the moment of—and further drilling could determine this—of bringing oil down from the Mackenzie Valley. The finds just haven't been there. The gas finds are substantial and from a Canadian standpoint we can rely with the protection through the National Energy Board, we can rely on western Canadian gas well into the 1980's for our needs."

With reference to his May 4, 1972 letter to Secretary Morton, Macdonald was asked, "Does your first statement still stand that said (1) we are willing to entertain applications for a Mackenzie line and (2) supply them [the U.S.] with oil in the interim if they choose a Canadian line?"

Macdonald replied (p. 4):

"One, yes, and I think that we can meet two, the second objective, as well. Basically the—we are now supplying the Puget Sound refineries on the American west coast through the Canadian Trans-Mountain system. They are starting to get some tanker shipments from overseas. But I think that we would make every effort to try and meet the increased demand of the Puget Sound system in that period of years before the whole system, the whole Alaskan system could come into operation."

Asked about financing of a pipeline adversely affecting the Canadian dollar, Macdonald said (p. 5):

"If the Americans came back and said to us, "Look, we've had second thoughts on that Trans-Alaska Pipeline. We would like to take you up on your willingness to entertain an application about the oil line through the Mackenzie route," I think the interests of the west coast would dictate that the government of Canada should enable that kind of application to go ahead."

49. On March 19, 1973, Minister Macdonald indicated in the House of Commons that the danger of West Coast spills inclined the Canadian Government to be favorably disposed toward a trans-Canada route for North Slope oil even if it did not appear that there were sufficient oil reserves in the Mackenzie Delta to utilize such a system. However, in response to a remark that "the government seems to have pretty well made up its minds . . . to proceed with the Mackenzie Valley project," Minister Macdonald asserted: "In my remarks on television I said that the government would be prepared to entertain an application. Since the jurisdiction rests with the [National Energy Board] it would, of course, have to decide in the first instance whether an application could go ahead." (2341). When pressed further he adhered to his Government's consistent position of not giving advance approval for a Canadian pipeline:

"I repeated on the weekend . . . to all Canadians, as I have repeatedly said in the last year or so, that we would indeed entertain such an application. However, because of the National Energy Board Act and the jurisdiction of the board, of course no government of Canada is in the position to give an advance commitment that such pipeline may be built. We would, however, entertain such an application." (2342)

50. On April 3, 1973, the Canadian Secretary of State for External Affairs, Hon. Mitchell Sharp, held a press conference in Chicago. When asked for the Canadian position on TAPS, he said that Canada was deeply concerned over possible oil spills while transporting the fuel to west coast markets. The Canadian government feels, he stated (p. 1):

"That those dangers can be better controlled (by a pipeline through Canada) than they can on a tanker route down the Pacific coast particularly through these narrow waters. So if the oil companies concerned want to apply to build a pipeline through Canada, Canada is prepared to hear and to listen. We, under the laws of Canada cannot as a government approve or disapprove. Our procedures are rather like those of the United States, we have a National Energy Board. The application to build a pipeline must be made to the National Energy Board which looks at all factors that are involved and makes a decision."

51. In a letter which appeared in The Economist, on April 7, 1973, Minister Macdonald said (p. 2):

"As far as a possible alternative through Canada is concerned, the Canadian government is on record as being willing to consider the movement of oil from Prudhoe Bay by a pipeline up the Mackenzie River Valley, provided the detailed environmental and social studies now being completed indicate that this project could be undertaken and operated without serious environmental or social consequences."

52. On April 9, 1973, Minister of Environment, Hon. Jack Davis, met with CEQ Chairman Russell Train. As reported by Mr. Davis to Parliament, on April 10, Mr. Train was made aware of "the impressive list of studies being carried out by the Canadian government and industry to ensure the protection of our nothern environment, especially in respect to the Mackenzie Valley corridor" (p. H. 3127). Again, Canadian concern over tanker spills was voiced to the United States, and an agreement was reached to jointly study the pollution hazard in the Georgia Strait-Puget Sound-Juan de Fuca Straits area.

53. Minister Macdonald made an appearance before the House of Commons' Standing Committee on Natural Resources and Public Works on April 11, 1973. In response to questions he stated that environmental studies of the Mackenzie Corridor already completed are "very extensive," and Mr. Train, Chairman of CEQ, was given this material in his meeting with Minister Chretien.

"On the last list I saw, I think there were more than 50 studies already published. We are expecting that as many again, if not more, will be available midway in this year, and of course many more will be available a little later in the year." (p. 18)

Noting that Secretary Morton was concerned about the security of the U.S. supply of oil through a Canadian pipeline once Canada develops its own oil in the Mackenzie Delta, Macdonald stated (p. 22):

"Personally, I do not see it as a major deterrent because what very probably would occur would be a looping of an existing facility, rather than displacement of a facility already in place."

The Minister also indicated his belief that there will be an application for a gas pipeline in the last quarter of 1973.

Macdonald reported suggesting to the U.S., in 1972, that oil shipments to Puget Sound refineries be made via pipeline instead of ship to avoid spills in that area. As to American reaction, Macdonald said (p. 20):

"I think it is fair to say that, in the United States administration's enthusiasm for the

Trans-Alaska Pipe Line System and the tanker route, that suggestion was rather brusquely rejected."

Reiterating the Canadian position that they expect to share in throughput capacity of any pipeline, Macdonald said, referring to a gas pipeline (p. 22):

"This will represent a novelty in arrangement and I think it is clear that there may be the necessity for some kind of operating agreement. I would think the Americans would like to have some satisfaction that, if such a line is constructed, they could be assured of some minimum capacity, at least through the line."

54. On April 12, 1973, Minister Chretien appeared before the House of Commons' Standing Committee on Indian Affairs and Northern Development. In a statement to the Committee, Chretien stated (p. 5):

"The decision taken in April (to accelerate building of the Mackenzie Highway) was based on the oil and gas discoveries at Prudhoe Bay and in the Mackenzie Delta; the possibility of a gas or oil pipeline being constructed in the relatively near future to transport the natural gas reserves to market; and the value that an all-weather road alongside a potential pipeline route would have for the construction of that pipeline."

Construction is expected to begin in 1974 on the section from Camsell Bend to Ft. Good Hope. A completion date has not been set. Considerable environmental research has been, and is being done.

In response to questions, Mr. Chretien indicated that a study of environmental problems associated with a pipeline had been completed. A list of people engaged in studies was given to the Committee on March 1.

Chretien indicated that environmental considerations were receiving careful attention in the government. Work was stopped last December to permit more time to gather environmental information and, "[w]e have not yet decided to build the road above the Camsell Bend because we do not have all the information as yet" (p. 13). Chretien says that the pipeline companies are now claiming that they do not need the road, because they do not wish to pay for it. When asked if the pipeline companies will contribute to the road if a pipeline is built, Chretien replied, "If I am the minister, yes . . ." (p. 15).

Chretien again reiterated that Canada had made its view on TAPS very clear and that it was ready to receive applications for a pipeline through Canada, because "[w]e have to be realists and we have to offer an alternative" (p. 16). Chretien added (p. 16) that, in spite of the problems:

"[T]herefore, there are many question marks, but it is the desire of the government to have a pipeline eventually or perhaps other means to get those resources for the benefit of the Canadian people."

When asked how the people in the Mackenzie Valley feel about the highway, Chretien replied (p. 18):

"There will always be a certain number of people who will not be in agreement, however, I believe that the great majority of the inhabitants in the Mackenzie Region are in favour of the construction of the highway."

55. On May 9, 1973, Minister Chretien addressed the Petroleum Society of the Canadian Institute of Mining and Metallurgy in Edmonton, Alberta. In notes for that address, he said (pp. 8–10):

"As I have announced in Ottawa, public hearings will be held under the Territorial Lands Act after the Department receives an application for a pipeline right-of-way covering Crown lands which are within the Territories and under the administration of my Department. The purpose of these hearings, which will be in addition to those to be held by the National Energy Board, will be to assess the regional, socio-economic and environmental implications of the construction and operation of a major pipeline in the Territories.

"Any application to my Department for a pipeline right-of-way must be based on a viable project proposal and must be accompanied by detailed documentation of research pertaining to those areas of social and environmental concern enunciated in the Government's Guidelines for Northern Pipelines. Industry in making its application under the Territorial Lands Act must, by way of environmental and social impact statements resolve these potential problems to the Government's satisfaction, before right-of-way is granted.

"A 'viable project proposal' in this context will be one which in its essentials meets the requirements set down in the National Energy Board Act for inclusion in an application for a Certificate of Public Convenience and Necessity. Of particular concern to us will be evidence as to the availability of oil or gas to the pipeline."

56. In the May 14, 1973 Question Period, Prime Minister Trudeau was asked, "whether it is government policy to give the Alaskan oil tanker route the green light, as published on Thursday?" Trudeau replied (p. H. 3713):

"Mr. Speaker, I am not aware of the publication on Thursday that the hon. member refers to. I can say that government policy has not changed in this regard. It is that we do not favour the route from Alaska which would take oil tankers over the ocean into waters that are very narrowly confined between the United States and Canada. That is still our policy, and our policy is still to indicate that the Mackenzie route is one which we would be prepared to consider if there is application made in the proper form, and that we would be very happy to follow up on that."

57. In the House of Commons on May 16, Minister Macdonald was asked whether a study of a proposed route for oil from Alaska, through the Yukon to British Columbia, indicated a change in Canadian feelings towards the Mackenzie route. Macdonald said (p. H. 3838):

"No, Mr. Speaker. The view we take continues to be that the Mackenzie Valley would be the best route for bringing Prudhoe Bay oil to southern markets. However, in the case of a serious proposal, such as we believe Premier Barrett's was intended to be, the government does feel an obligation to have an investigation of this alternative route to determine whether or not it is feasible and, in general, whether it would be in the national interest to promote it further."

Macdonald also made mention of the fact that Canada had spent $20 million studying ecological problems associated with oil and gas pipelines.

58. On May 22, 1973, in the House of Commons, debate developed around a draft report of the economic impact committee of the task force on northern development. The report supposedly stated that a Mackenzie Valley gas pipeline would have serious unfavorable effects on the Canadian economy as a whole. Minister Macdonald acknowledged the existence of the report, but called it an "internal discussion document" (p. H. 3949) for government use only. While some members of the House called for consideration of any pipeline application by Parliament, Macdonald said the procedure would remain that an application goes first to the National Energy Board and, if approved, to the government for a final decision. The Minister also pointed out that by the end of 1973, he hopes to have available a study on the use of a railway as an alternative to a pipeline.

The discussion turned again to the draft report, with Prime Minister Trudeau commenting (p. H. 3950):

"I am informed that the report to which reference was made is an earlier draft of a report which was part of a series of studies that form the basis of recommendations to the various ministers and, by them, to cabinet. . . . There was a decision made by government. The hon. member has referred to statements by ministers. We cannot, of course, be bound by working papers of officials, especially earlier drafts of working papers by officials. If we want officials to give their unbiased opinions, it is clear that in some cases there will be elements of these things which will be contradictory of the final decision reached by the Government."

Once again, the issue of Canadian ownership was raised. Minister Macdonald said (p. H. 3951):

"Mr. Speaker, I have indicated that the objective of the government would be to give an opportunity to Canadians to acquire 51 per cent of ownership in any such pipeline and the expectation that it would remain under Canadian control."

59. On May 23, 1973, Minister Macdonald indicated in response to questions in the House of Commons, that by the end of the year, the government will have completed the studies necessary for it to assess any application for a Mackenzie Corridor pipeline. Once a specific proposal is before the government, it can render its decision.

60. On June 4, 1973, Minister Macdonald received questions in Parliament about conversations with various U.S. Senators and other officials. Mr. Macdonald stated (p. H. 4383) that he informed the Senators "that the government was prepared to consider a Mackenzie Valley route as an alternative to the Alyeska proposal as one way of protecting the west coast of Canada from the tanker risk."

61. At question period on June 7, 1973, Minister Macdonald referred (p. H. 4529) to discussions recently had with U.S. Senators:

"I indicated to the American senators, as I have indicated to the House many times, that the preference obviously is to have a Mackenzie Valley route which would obviate the necessity for tankers at all on the west coast, but that a second alternative would be, if that were not achievable, to repeat the offer made last year that we would continue to supply the Puget Sound refineries through the transmountain oil pipelines."

62. In the House of Commons Question Period on June 8, 1973, Minister Macdonald received a question about Canadian action to prevent pollution of its west coast because of TAPS.

Macdonald replied (p. H. 4570):

"Our distinct preference is to have a Mackenzie route, subject, however, to an application being made under the law which has been passed by this parliament. The United States administration, of course, insists on handling its own resources in a different way. We have made clear to the United States the possibilities of a Canadian route, but I do not think we are really in a position to direct them as to how they should dispose of their resources within their jurisdiction."

63. On June 14, 1973, Minister Macdonald announced the immediate imposition of temporary controls on oil exports. Speaking to Parliament, Macdonald said (p. H. 4744):

"Because of the very substantial differences which exist between American and Canadian prices, there was no assurance that exports of these products could be voluntarily limited at this time. . . . The duration of the temporary period will be related to improvement in international supplies of refined oil products and also to the expansion of refinery capacity in eastern Canada."

Mr. STEVENS. Mr. President, the Conference of Western Attorneys General adopted a resolution at their 1973 annual meeting urging the earliest possible action by Congress on legislation to permit immediate construction of the trans-

Alaska pipeline with adequate environmental safeguards. Such legislation would include S. 1081, Senator JACKSON'S bill to permit wider rights-of-way for oil and gas pipelines in Alaska and elsewhere.

As all of us in Congress are aware, section 28 of the Mineral Leasing Act of 1920 imposes an arbitrarily narrow right-of-way limitation—25 feet on either side of the pipeline—on oil and gas pipeline crossing Federal public lands. This limitation formed the basis for the Court of Appeals' holding that the proposed trans-Alaska pipeline violated Federal law and must be enjoined.

It is imperative that at the very least Congress amend this statute to permit oil and gas pipelines in Alaska and elsewhere throughout the United States to be built. Discretion must rest with the Department of the Interior, the agency with jurisdiction over Federal public lands, to permit wider rights-of-way if necessary because of the size of the pipeline and equipment servicing it, and if the construction company and owner can provide assurance that adequate safety and environmental protection features will be incorporated in the line.

Congress will soon be faced with this legislation, which is also being considered in the House Interior Committee at the present time. Many States, including Alaska, in all parts of the country urgently need this legislation.

The resolution of the western attorneys general is but one of a number of such resolutions I have received on the subject. It is indicative of the growing concern throughout the Western United States and other parts of the country.

The trans-Alaska pipeline must be built. We need energy critically at this time throughout our country.

I request unanimous consent that the resolution be printed in its entirety in the RECORD at this point.

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

CONSTRUCTION OF THE TRANS-ALASKA PIPELINE

Whereas our nation is facing an energy shortage of increasingly serious proportions, and

Whereas the development of the oil and gas resources of Northern Alaska, among other potential fuel development initiatives, offers the prospect of significant relief from the deepening energy crisis; and

Whereas the Congress has before it various measures which would expedite the completion of an environmentally sound transportation system bringing this resource to the nation;

Now therefore be it resolved by the Conference of Western Attorneys General in annual meeting assembled on May 16, 1973 at Scottsdale, Arizona, that the Congress is urged to take action to allow the commencement of construction of the trans-Alaska pipeline, under adequate environmental safeguards, at the earliest time possible.

FURTHER EVIDENCE IN SUPPORT OF THE MONDALE-BAYH AMENDMENT

Mr. McGOVERN. Mr. President, as we debate and consider S. 1081, the so-called Alaska pipeline bill, a factual grey area is clearly emerging on whether the Alaskan route would better serve the needs of this country than the Canadian route.

The critical questions are: which pipeline would deliver oil the soonest; which poses the smaller environmental risk; which will cost the consumer the least; and which will provide us with oil and gas where it is needed—in Midwestern and Eastern markets.

The National Journal recently published an excellent article by Richard Corrigan which sheds a good deal of light on those questions.

Among the facts which Mr. Corrigan points out are:

Edward L. Patton, president of the Alyeska Consortium which wants to build the Alaska pipeline, estimates that 25 percent of North Slope oil would be exported to foreign markets commencing in 1980.

Knowlegable experts estimate that the Alaska pipeline would produce a surplus of oil on the west coast of between 600,000 to 1,000,000 barrels per day by 1980.

The oil industry plans to use foreign tankers to circumvent the provisions of the Jones Act.

While oil interests pay lip service to transporting Alaskan oil to the Midwestern and Eastern regions of the United States, they have no realistic plan for actually doing this.

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

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

[From the National Journal, July 31, 1971]

RESOURCES REPORT/JAPAN MAY GET SOME ALASKAN OIL; FOREIGN-FLAG SHIPPING OF EXPORTS IS LIKELY

(By Richard Corrigan)

A growing Japanese presence in Alaska is adding new dimensions to the controversial trans-Alaska oil pipeline project.

If and when the oil beneath the state's North Slope is pumped to market, it will travel across the state in 48-inch steel pipe made in Japan.

And, once the oil reaches the Gulf of Alaska port of Valdez, some of it is likely to be carried in Japanese tankers—to Japan.

"Japan is a natural market" for Alaskan oil, said Hideo Yoshizaki, commercial counselor at the Japanese Embassy in Washington. "We are so much reliant on the Middle East," he said. "We are very hungry for low-sulfur oil. We are expecting a lot from Alaskan oil. I think the majors (the major oil companies) can sell us a substantial amount."

In the past, advocates of the controversial pipeline project have emphasized the rationale that development of Alaska's oil reserves is necessary now to reduce this nation's dependence on foreign sources of petroleum, particularly in the Middle East and Africa.

A $4-million nationwide advertising campaign of the American Petroleum Institute expresses this theme: "A country that runs on oil can't afford to run short."

The Department of the Interior, in its January environmental impact statement on the pipeline, said there is a "compelling" and "unequivocal" need for speedy delivery of North Slope oil to United States markets.

"The prospect of importing increasing amounts of petroleum from Eastern Hemisphere nations," the report said, "contains important implications for United States foreign affairs and national security." The statement said that the United States could find itself in a "vulnerable diplomatic and economic position" if the North Slope were not exploited.

None of the arguments for the pipeline has mentioned possible exportation of the oil.

Yet, there are strong indications that a sizeable percentage of the oil would be consumed in Japan rather than the United States, and that the opportunity to reach the burgeoning Japanese market was a factor in the oil companies' decision to route the pipeline to the Pacific coast—where tankers could reach it—rather than across Canada to the U.S. Midwest.

Judging from *National Journal* interviews with Washington officials, there has not been much discussion at the policy level of the long-run implications of exporting North Slope oil to Japan.

JAPAN'S INTEREST

The Japanese have expressed interest in Alaskan oil to help meet their country's spiraling demand for energy.

The prospects are excellent for sales of Alaskan oil to Japan, said one specialist in Japanese affairs at the State Department.

"Japan wants all the oil it can get, and I certainly wouldn't rule this out," said Hollis M. Dole, assistant secretary (mineral resources) of the Interior Department, when asked about the prospects of marketing Alaskan oil in Japan.

Dole said, however, that 'we're going to need all the oil we can get" by 1985, judging from current projections of U.S. demand.

Administration

The level of oil imports has been a high-priority issue, but the federal government has had little occasion in recent years to consider the question of U.S. oil exports.

Elmer F. Bennett, special assistant to the director of the Office of Emergency Preparedness and adviser to the White House Oil Policy Committee, said: "The policy committee has not had this matter before it. If there were any West Coast surplus, it would be a mighty short-term proposition. We don't see it as any problem of any consequence whatsoever."

Later in the same interview—after a review of plans already under way regarding a fleet of supertankers capable of carrying North Slope oil to Japan—Bennett said that any sale of U.S. oil to Japan "would be an important policy question which would be resolved at the time it came up."

The transaction, he said, could not be made without "a lot of questioning" from the Administration and Congress.

"This is certainly an issue that will be raised and examined very closely," said Jack O. Horton, deputy under secretary of interior and coordinator of Alaska pipeline studies.

These questions have not been raised before publicly, Horton said, although department officials have considered them in private.

"We're going to have to wait and see what they (the oil companies) come up with" in formal submissions of projected foreign traffic. Horton said.

A Commerce Department official said that "there are certainly no export controls" governing possible sales of U.S. oil abroad.

"What you're dealing with here is a question of economics," the Commerce official said. The likelihood is that Alaskan oil would not be competitive with Middle East oil, he said, and that would take care of the national-security aspect.

If shipping a small amount of oil to Japan helps U.S. oil firms develop capital to seek still more oil, he said he could see nothing wrong in that.

He also said that traditionally there are "absolutely no restrictions on any foreign investment in the United States" that would apply to Japanese investments in Alaskan resources.

A White House staff assistant said the Administration is aware of the possibility that Alaskan oil might go to the Far East.

"There is no formulated policy, positive or negative, that I know of," he said.

One proposal for selling oil to Japan would involve shipping North Slope oil to the Japanese and permitting an equal amount of oil to be imported from other parts of the world.

Asked about this arrangement, Edward Mitchell, staff assistant on energy policy for the Council of Economic Advisers said: "There is some logic to that."

But, he said, the proposal does raise some serious questions of national security.

"I don't see that it's gotten much response," he said, "but I think it's interesting."

EXPORT POTENTIAL

Edward L. Patton, president of Alyeska Pipeline Service Co., the consortium seeking permission to build the trans-Alaska pipeline, discussed the prospects for foreign sales during a July 20 interview with *National Journal*.

Targets for 1980

Patton said that, according to confidential estimates recently submitted to the Interior Department by the companies participating in Alyeska, 25 per cent of North Slope oil is targeted for sale beyond the U.S. West Coast by 1980, when North Slope production is expected to reach two million barrels a day.

Patton said the 500,000 barrels a day are lumped under the heading "Panama," a reference to possible movement of the oil by pipeline or tanker through Panama to the East Coast.

The "Panama" total is a catchall listing for oil to be marketed outside the West Coast Patton explained; it could include direct sales to Japan.

Patton estimated that sales to Japan might amount to 100,000 barrels a day in 1980. By 1985, he said, the West Coast will be able to absorb a full two million barrels a day of North Slope oil, according to present forecasts.

Import levels

A 100,000-barrel-a-day business with Japan would account for only 5 per cent of North Slope production, Patton noted.

And the Interior Department's Office of Oil and Gas has estimated that if North Slope oil is not available to the West Coast, overseas imports to that area alone would rise to 2.3 million barrels a day by 1980.

Compared with statistics on current U.S. oil imports, however, the 100,000-barrel-a-day figure takes on some significance.

No single nation in the Middle East or Africa sold more than 50,000 barrels a day to the United States during 1970, according to compilations by the Interior Department's Oil Import Administration.

Total imports from 12 Middle Eastern and African nations averaged about 300,000 barrels a day. Imports from all nations totaled 3.3 million barrels a day—more than half of it from Venezuela and Canada, and four-fifths of the imports coming from the Western Hemisphere.

Imports represented about 23 per cent of the total U.S. demand of nearly 15 million barrels a day.

(These figures contradict a statement in an Alyeska Pipeline Service Co. brochure: "Why do we need Alaskan oil? . . . We import crude oil from overseas sources—primarily the Middle East. We have the choice of increasing our dependency on other nations or developing our domestic reserves.")

Projections

Thus, warnings of U.S. dependence on Middle Eastern and African oil derive from projections of future U.S. production and demand rather than from current import levels.

Patton's estimate of a possible temporary 100,000-barrel-a-day trade with Japan likewise is based on individual oil company projections.

As a common carrier pipeline, Alyeska would have no voice in the ultimate destination of North Slope oil; the amount of oil that might be sold to Japan could be greater than or less than that figure, depending on the marketing policies of the companies.

JAPAN

Japanese interests already have entered the Alaska scene—to such an extent that one federal planning official in Anchorage privately voiced fears that the state could become a "second Manchuria."

Presence

The Japanese presence is widespread. The Japanese own a large timber mill in Sitka, buy salmon eggs from Cordova canners, market Toyotas and Datsuns in the state, and have surveyed Alaska's substantial reserves in coal, iron ore and minerals.

Several major Japanese businesses have established offices in Anchorage, where the Japanese government maintains a consulate and where Japan Air Lines jets are a significant part of the traffic at the Anchorage airport.

Energy interests

Asked about Japanese interest in Alaskan oil, Homer L. Burrell, director of the state's oil and gas division, produced a handful of calling cards from Japanese businessmen.

Natural gas.—Under a 15-year, $375-million contract with Phillips Petroleum Co. and Marathon Oil Co., Japanese utilities are buying 50 billion cubic feet of natural gas a year from the Cook Inlet region of southern Alaska.

The gas is liquefied in Alaska and transported in two new Swedish-built, Panamanian-registered tankers.

Oil exploration.—Japanese oil companies are joining with major oil firms in exploring for new petroleum reserves. They have drilled for oil (unsuccessfully, thus far) on their own, are negotiating for interests in other companies' leases and are awaiting future federal and state lease auctions. (The Interior Department plans to auction offshore leases in the Gulf of Alaska by 1976.)

These ventures are backed by Alaskan Petroleum Development Co. Ltd. of Tokyo, a consortium, North Oil Inc., the Anchorage subsidiary of North Slope Oil Co. Ltd. of Tokyo, operates north of Alaska's Brooks Range; its sister company, Alaskco U.S.A. Ltd., covers the remainder of the state.

Alaskco has teamed with Gulf Oil Corp. to gain rights on several leases; North Oil has been conducting Arctic explorations with three other companies (Cities Service Co., Getty Oil Co. and Skelly Oil Co.) and has been negotiating for North Slope leases, according to Takao Ogino, Anchorage representative of Alaskco.

Pipeline contract

Japanese steel mills furnished the pipe for the Alaska project after the Trans-Alaska Pipeline System (TAPS), predecessor to the Alyeska firm, rejected offers to bid for the project from U.S. Steel Corp. and Kaiser Industries Corp. in early 1969.

At that time, TAPS said it needed the pipe quickly because it expected the project to get speedy approval from the federal government; only the Japanese mills were able to meet the timetable and specifications for the pipe, TAPS said.

In the course of their worldwide trading operations, Japanese firms sometimes provide oil pipeline in exchange for a portion of future oil production, under a "product-sharing" arrangement.

Alyeska's Patton told *National Journal* that the trans-Alaska pipe was purchased under a straight-cash contract for $100 million.

The estimated cost of the construction project, originally placed at $900 million, now is in the $2-billion range.

Petroleum purchases

Japan already buys a limited amount of petroleum products in the United States, such as residual fuel oil and lubricants from refineries throughout the country.

According to the United States-Japan Trade Council, an association sponsored by the Japanese government, U.S. exports of petroleum products to Japan in 1970 were valued at $87 million.

The Interior Department's Bureau of Mines said that Japan bought one million barrels of residual fuel oil from the United States during the first three months of 1971.

Market

Takao Ogino said in Anchorage that Japan's demand for oil by 1985 is projected at 4.5 billion barrels a year—nearly five times the current consumption.

The Japanese government's Oil Industry Council has projected a two-billion-barrel demand by 1975, double the current figure. Japan now relies on the Middle East for about 90 percent of its supply.

Strategy

"Until now, we didn't think that there was any possibility of bringing North Slope oil to Japan," said Katsuyuki Matsumura, a Washington representative for Japanese engineering firms who is returning to his country to deal with oil policy in the government's Ministry of International Trade and Industry.

The old policy was based on the traditionally high price differential between Middle Eastern and U.S. crude oil.

Two factors have changed that, according to Matsumura: recent price increases by the oil-exporting nations of the Middle East and ever-stiffening air-pollution-control programs in Japan that necessitate the use of low-sulfur oil.

The sulfur content of North Slope oil ranges from .9 per cent to 1.5 per cent by weight, according to one industry study submitted to the American Petroleum Institute. This is considered relatively "sweet" or clean, although some desulfurization treatment might be required to meet U.S. and Japanese pollution standards.

"Japanese companies don't like to pay high prices, but they might have to," Matsumura said.

The prime concern of the Japanese government, said Kazuo Nukazawa, research consultant at the United States-Japan Trade Coun cil, is to diversify its source of supply. "That is the main strategy."

INDUSTRY PLANS

Oil companies operating in Alaska generally say that the West Coast will be the prime market for Alaskan oil and that any surplus production might be sent to the Midwest or to the East Coast via additional pipelines or by tanker.

Otto N. Miller, chairman of the board of Standard Oil Co of California, said, "Obviously, a sizeable part will go to the West Coast."

But he said that it was "a little bit difficult to speculate at this time" about other markets because of questions involving the timing and rate of North Slope production.

But there have been scattered references to the possibility of sales to Japan in state ments that cast doubt on the idea without rejecting it.

British Petroleum

British Petroleum Co. Ltd. of London (BP), through its subsidiaries and associated com-

panies, controls the major share of known reserves on the North Slope's Prudhoe Bay field—some five billion barrels, or about half the estimated discoveries thus far.

BP has no refining or retail sales outlets on the West Coast, which means that the company would have to sell its crude to other companies until it could operate as a fully integrated firm in that region.

On Sept. 30, 1970, Eric Drake, chairman of BP, signed an agreement in Tokyo with a group of Japanese oil firms that included North Slope Oil Co. and Alaskan Petroleum Development Co. The agreement provided for joint exploration projects in the Middle East and the marketing of BP crude oil in Japan.

Speaking of BP's sources of crude oil in connection with future marketing arrangements in Japan, Drake said:

"There was also Alaska where BP has sizeable potential producion; but here I am afraid there does not appear to be much interest for Japan, since, on the basis of statistics I have seen, this oil will almost certainly be completely absorbed in the fast-growing markets of the U.S.A."

Atlantic Richfield

Atlantic Richfield Co., which, along with Humble Oil and Refining Co., a subsidiary of Standard Oil Co. (New Jersey), controls most of the remaining proved Prudhoe Bay reserves, likewise has mentioned the possibility of selling oil to Japan.

In a presentation to the Alaska Science Conference in August 1969, Rollin Eckis, vice chairman of the board of Atlantic Richfield, said:

"Assuming the continuation of import controls . . . , there is little possibility that Alaska oil would move into foreign markets."

However, he said, Japan is a possibility. Japan would be in a "highly sensitive position" in the event of a crisis in the Middle East, he said, and "it is possible that she would be willing to pay a premium for a secure source for a portion of her needs."

Phillips Petroleum

Phillips, which has a relatively small interest in North Slope reserves, has proposed an "import-for-export" program involving Japan.

Under this proposal, which has been submitted to Administration officials and to the House Interior Committee, North Slope oil could be sent to Japan. In exchange, the exporting company would be allowed to import an equal amount of oil from the Middle East or Venezuela to the U.S. East Coast under an exception to present limits on oil imports.

John M. Houchin, president of Phillips, said in a lengthy statement to the House committee in the spring of 1970 that one advantage of this arrangement would be great savings in transportation costs, because U.S.-flag vessels would not have to be used.

"It's just a question of trying to save investments," said one industry executive familiar with the proposal. The plan would allow oil to be brought to the big East Coast market without the necessity of building more pipelines or using U.S.-flag tankers, he said.

"One of the rationales behind this thing, quite frankly, was that we could use foreign-flag ships," he said. This would permit industry to "pull an end run" on the Jones Act, he said.

(The Jones Act or Merchant Marine Act of 1920 (41 Stat. 988) requires the use of U.S.-built, U.S.-manned ships in coastwise trade. It would apply to tankers runnin from Alaska to the West Coast, but not to tankers operating between Alaska and Japan or between other nations and the East Coast.)

This source said the import-for-export idea has attracted little interest from the major companies thus far.

"We've had so much controversy over the trans-Alaska pipeline already," he said, "that this idea would just muddy the water more."

"I'm telling you, everybody's scared to death to even talk about methods to avert the Jones Act's provisions," he said. "Those sailors are going to be the best-paid sailors the world has ever seen."

Alaskan views

An oil lobbyist in Anchorage, speaking privately of the prospects for oil trade with Japan, said Alaskan oil probably would bring a far higher price in the United States than the Japanese now pay elsewhere.

But, he said, "If the Japanese are willing to pay it, who knows what might happen 10 years from now?"

Thomas E. Kelly Jr., former state commissioner of natural resources and at present an Anchorage oil consultant, said in an interview that Japanese interests could make a profit by selling any oil they might develop in Alaska to U.S. markets, or could exchange their oil for oil from other regions.

Kelly expressed interest in the import-for-export plan: "I was hot as a pistol on it for a while." But he said it does not have much acceptance.

Gregg K. Erickson, an economist and aide to a joint legislative committee on oil policy, also speculated that the Japanese could develop oil in Alaska and sell it in U.S. markets in exchange for surplus Middle Eastern oil controlled by major companies.

U.S. DEMAND

The question of where Alaskan oil will be marketed revolves around various projections of how much oil the United States—particularly the West Coast—is going to need and how much oil Alaska can produce.

Rising estimates

Projections of U.S. oil demand have risen sharply in recent years.

In a 1968 report ("United States Petroleum Through 1980"), the Interior Department predicted that the United States would need 18.2 million barrels a day in 1980.

In February 1970, the Nixon Administration's Cabinet Task Force on Oil Import Control adopted a figure of 18.6 million barrels a day for 1980. (*For a report on the task force recommendations, see Vol. 2, No. 10, p. 494.*)

The task force report included comparable estimates from three other sources. Mobile Oil Corp. (17.7 million barrels), Interior Department staff (18.8 million barrels), and Standard Oil Co. (New Jersey) (19.3 million barrels).

The Interior Department, in a January 1971 statement on the Alaska pipeline, forecast the 1980 demand at 22.3 million barrels a day and the 1985 demand at 27.1 million.

The department's 1980 estimate was 20 per cent higher than the Administration's task force estimate one year earlier.

The National Petroleum Council, an Interior Department advisory board composed of top oil industry executives, on July 15 released its interim forecast of future petroleum needs: 22.5 million barrels a day for 1980, 26 million for 1985.

This report said that the United States would become heavily dependent on Middle Eastern and African oil unless government policies became more conducive to domestic U.S. oil investments.

Council meetings

Transcripts of the National Petroleum Council's private committee meetings provide a glimpse into the preparation of these forecasts.

At a March 29 meeting in Houston of the council's coordinating subcommittee on the U.S. energy outlook, a research consultant from Battelle Memorial Institute said that, in confidential projections from various energy industries, the total energy demand was generally agreed upon, but the forecasts varied widely on future consumption of individual fuels.

"I don't find that either surprising or too disconcerting," said Warren B. Davis, director of economics for Gulf Oil Corp. and chairman of the panel.

Vincent M. Brown, executive director of the council, said during that session, "I would guess right now it's about 50-50 in Washington in government circles" between those who are seriously concerned about the nation's energy needs and those who believe the "energy crisis" is being "whipped up" by the industry.

"All this is evolving so rapidly that the need for an interim report becomes acute, both from I think our point of view and from the Department of the Interior," Brown said.

At another point during the two-day meeting, on March 30, N. G. Dumbros, vice president (industry and public affairs) of Marathon Oil Co. and chairman of the council's government policies subcommittee, said of the Washington climate:

"Christ, they are talking about everything. I mean, you can get—if you just wander around and talk with the policy makers, you can come up with an encyclopedia."

W. T. Slick Jr., assistant manager of Humble Oil's corporate planning department, told the group that "one of the sticky problems to work in this thing is the Alaska problem." He said that, in trying to coordinate various companies' estimates on Alaska's oil reserves, "the people who want to go into the most detail are ones that have the least information."

At a May 26 committee meeting in New York, Harry Gevertz, special projects manager of El Paso Natural Gas Co., said, "It is very difficult, I think, to urge government to change major policy—if you don't see a sense of urgency—I think if you come out with a report that says, well, you know, we are going to find all we can get and if we can't find it, we can import it—that sounds more like some of my Harvard friends than a report out of the National Petroleum Council."

Slick said at that meeting that his panel was reviewing figures from two different subcommittees, one on demand and the other on supply, "and there was next to no chance at all that you could add them all up and get the same answer."

John M. Kelly, an independent Washington oil entrepreneur, said, "When you have the NPC come out and tell the public that by 1985, under present policies, they are going to have to depend on 55 per cent of their oil supplies by imports and 28 per cent of their gas supply by imports, don't you think this is going to have an impact on the Hill and in the executive branch?"

"I hope it does," said Slick.

Interior Department representatives attended these committee meetings, serving as "government cochairmen" of all council panels.

Morton speech

In a speech to the National Petroleum Council on July 15, Interior Secretary Rogers C. B. Morton said, "Even with the North Slope producing two million barrels a day by 1980, the gap between domestic supply and demand would approach eight million barrels a day, equal to 35 per cent of total supply.

"Our central problem is national security. All the experience of the past 20 years, plus what we can infer from the bargaining actions of the O.P.E.C. (Organization of Petroleum Exporting Countries) nations during the past year and the actions of the Soviet Union in the Middle East and the Mediterranean, lead us to conclude that we had better not become overly dependent on our energy supplies from that part of the world."

To lessen that danger, Morton said, one of the things the Interior Department can do is "expedite the safe movement of North Slope oil and gas to market."

WEST COAST OUTLOOK

In a recent submission to the Interior Department, Alyeska said that when the pipeline reaches a two-million-barrels-a-day capacity, 1.5 million barrels would be delivered to the West Coast and 500,000 to "Panama."

Alyeska said 190,000 barrels a day would be delivered to the Puget Sound (Seattle) area, 540,000 barrels to San Francisco and 770,000 to the Los Angeles area.

(Atlantic Richfield has built a 100,000-barrel-a-day refinery at Bellingham, Wash., to receive Alaskan crude. California had a total refining capacity of 1.8 million barrels a day as of Jan. 1, according to the *Oil and Gas Journal*, ranking that state second in refining capacity after Texas.)

"By 1985 the West Coast can take all of it," Patton said. "There's no point in hauling this oil any further than you have to. Common sense says you drop it at the first available market."

Interior projections.—In Interior Department projections, District V includes the states of Washington, Oregon, California, Arizona, Nevada, Hawaii and Alaska.

District V consumed some two million barrels a day in 1970, according to Interior figures. District V produced about two-thirds of that amount and got the remainder from Canada, other foreign sources and other parts of the United States.

In a June 2 speech to the Pacific Coast Electric Association at San Diego, Gene P. Morrell, deputy assistant interior secretary (mineral resources), said that District V demand is projected at 3.2 million barrels a day by 1980.

District V demand is expected to grow at a yearly rate of 4.5 per cent, Morrell said, in contrast with the department's nationwide growth figure of 4 per cent. District V production (excluding the North Slope potential) has been declining at a 10-per cent annual rate.

Other projections.—Others have offered different projections.

Herbert S. Winokur Jr., a management consultant who served on the staff of the Cabinet task force, has projected District V demand at 2.7 million barrels a day by 1980.

"Every projection of North Slope production indicates that it will far exceed the petroleum demands of the West Coast," Winokur said in a statement to the Interior Department, in which he cited advantages of an alternate pipeline route across Canada.

"I estimate that in 1980, the North Slope will produce at least 600,000 barrels per day more than the West Coast can absorb, even assuming the West Coast gives up all its non-Canadian imports," Winokur said.

John H. Lichtblau, director of the Petroleum Industry Research Foundation in New York, told *National Journal* there might be "a million barrels left over" once North Slope oil reached substantial amounts.

"I don't think that they (the West Coast) can absorb a full two million barrels by 1980." The excess North Slope oil would be sent elsewhere, he said.

"They could export some of the oil to Japan," Lichtblau said. But in that case, he said, Japan might pay a far lower price for North Slope oil than the U.S. consumer would pay, since North Slope oil would be competing with low-priced Middle Eastern oil.

An import-for-export plan makes "some sense," he said, but would require "a fairly radical change in our import policy."

Alaskan production

Lichtblau said some companies have estimated that North Slope production might reach three million barrels a day or more. W. J. Levy Consultants Corp., a major New York oil consulting firm that advises the Alaska legislature on state oil policy, has cast North Slope production at three million barrels a day by 1980.

In a December 1970 report to the legislature, the Levy firm said, "It is clear that the West Coast will be able to absorb substantial volumes of North Slope crude. However, indications are that when North Slope production builds up to a large volume, by 1975 or thereabouts, substantial movements beyond District V will be required to absorb the prospective production."

And, at a July 15 press conference at the Interior Department, National Petroleum Council officials said North Slope production—which they had listed at two million barrels in their energy report—might well amount to three million or even four million barrels a day.

TANKERS

In a June 22 tabulation of projected tanker traffic, Alyeska said 41 tankers would carry oil out of Valdez, Alaska, when the pipeline reaches a rate of two million barrels a day.

Of the 41 tankers, Alyeska said, eight would be in the 250,000-dead-weight-ton supertanker class, and 16 would be in the 120,000-DWT class.

There are no U.S.-flag tankers of either of these sizes in operation now, although the Japanese and some international oil firms such as BP have them.

Alyeska said in the tabulation, which was submitted to the Interior Department among stacks of data, that all of the supertankers and some of the 120,000-DWT vessels would be involved in the "Panama" trade, handling an average cargo of 500,000 barrels a day.

None of the supertankers was destined for U.S. West Coast ports, which are not now able to receive vessels of that size.

The Panama Canal cannot handle tankers larger than 65,000 DWT, which suggests that the companies intend to take one of three alternative actions:

Transport oil by supertanker to the Central American Pacific coast and pipe the oil to the Atlantic coast, where other tankers would pick it up, or send it through the canal in smaller tankers.

Send the oil around Cape Horn and up to East Coast markets.

Send the oil to Japan.

The Jones Act might not apply to any of these three alternatives, despite Commerce Department claims that the Alaskan oil trade will bring a boom to America's maritime industry.

COMMERCE CAMPAIGN

Commerce Secretary Maurice H. Stans has been in the forefront of Nixon Admnistration officials in advocating approval of the trans-Alaska pipeline.

Stans spoke before a Washington convention of the Seafarers International Union of North America (AFL–CIO) on June 21 and said that the Alaska oil discovery would help revive U.S. maritime strength.

Advocating a trans-Alaska instead of a trans-Canada pipeline, Stans told the Seafarers the Canadian line would "eliminate all the great maritime opportunities" that the Alaska line would provide.

The Seafarers, agreeing with Stans, adopted a resolution endorsing the pipeline and re-endorsing the Jones Act.

Andrew E. Gibson, assistant secretary of commerce (maritime affairs), told the Portland, Ore., Propeller Club on May 21:

"We have estimated that with the completion of the Alaska pipeline a fleet of approximately 30 new U.S. tankers would be added to the American merchant marine to transport the oil from southern Alaska to the West Coast.

"The construction of these vessels at an estimated cost of $1 billion would give an added stimulus to our shipbuilding industry and would provide approximately 48,000 man-years of work in U.S. shipyards and allied industries.

"Manning and maintaining these vessels would create many additional permanent maritime jobs, while the estimated annual operating and maintenance cost of $30 million would provide added employment in the related service industries.

"It should be obvious that much, if not most, of this increased maritime activity would be of direct benefit to the Pacific Northwest." (*For a report on the progress in the Administration's program to revive the nation's merchant marine, see No. 30, p. 1565.*)

Construction

In 1969, Atlantic Richfield ordered three 120,000-DWT tankers from Bethlehem Steel Corp. for the Alaska oil trade. The oil firm said these were the largest commercial vessels ever to be built in U.S. shipyards.

A spokesman for the Shipbuilders Council of America said that 17 tankers were under construction or on order in U.S. shipyards as of June 1.

In addition to the three Atlantic Richfield vessels, only three were in the 120,000-DWT range or above, and none was necessarily destined for Alaskan traffic. None was as large as 250,000 DWT, he said.

A spokesman for the Maritime Administration said tanker construction orders probably are being delayed pending approval of the Alaska pipeline.

A spokesman for Alyeska, asked where the supertankers would be coming from, said the oil companies have been holding preliminary talks with U.S. shipbuilders about future supertanker contracts.

Levy Consultants Corp., in a report to the Alaska legislature, estimated that construction costs in foreign shipyards are about one-half those in U.S. yards. "The per-barrel cost of moving oil in a foreign built and registered vessel is approximately one-third less than in a U.S. tanker," he said.

Virgin Islands

Oil companies might be able to avert the Jones Act by taking oil from Alaska to the Virgin Islands for refining before moving it to the East Coast market.

The Virgin Islands has been regarded as outside the scope of the Jones Act; but it remains to be decided whether Alaskan oil would be exempt in this situation.

Amerada Hess Corp., an oil firm with lease interests on the North Slope, has expanded its Virgin Islands refinery complex to handle 450,000 barrels a day. Leon Hess, chairman of the company, reported to stockholedrs this spring that the company plans to obtain tankers in expectation of refining oil from the North Slope.

Tankers could dock at the Virgin Islands after picking up oil from a Central American pipeline or after rounding Cape Horn.

Tankers plying the Valdez-to-Japan route would be outside the Act.

OUTLOOK

A well-established oil consultant, speaking on a not-for-attribution basis, said of the Alaska pipeline system, "I say the god-damned line should go down through Canada anyway."

The spokesmen for environmental causes are "an emotional, dishonest bunch of bastards, in the main," he said, but "they're right in this instance" in opposing the trans-Alaska line.

The key to the situation, he said, is that the companies backing the project need to get a cash return for their North Slope investments as quickly as possible, and the trans-Alaska route offers the speediest opportunity.

"Japan will buy it," he said of the North Slope oil, and the amount will be determined in part by the sulfur content of the oil and

perhaps by Japanese willingness to provide tankers.

An authoritative Canadian source offered this general appraisal:

Originally, the oil companies figured on supplying the West Coast with oil from the North Slope, building another pipeline from Puget Sound to the Midwest for transshipment of additional oil and selling any surplus to the Japanese.

The idea of a trans-Canada pipeline from the North Slope directly to the Chicago market has been a less-favored plan that the companies have kept alive for the sake of prudence.

Now, the drawing-board proposal for a trans-United States pipeline is losing its attractiveness, in part because "any major oil pipeline system through scenic territory is going to run into a hell of a lot of trouble."

Without a pipeline into the Midwest, "Japan would be the logical market."

The import-for-export proposal was mentioned by Washington economists Charles J. Cicchetti and John V. Krutilla in a critique of the trans-Alaska plan they gave to the Interior Department in March.

The Cicchetti-Krutilla report said: "The most attractive alternative for the oil producers would be the use of North Slope oil for export at world market prices to Japan, while importing a similar amount from Venezuela, selling same at the support price in the United States.

"Since the beneficiaries of the low-cost North Slope oil would be Japanese consumers, while the environmental costs would be borne by the United States, there is an issue of equity and propriety associated with this proposal. . . ."

TAKING INDUSTRY'S CASE TO THE PEOPLE

"(Heartbeat) *The United States of America.* (Heartbeat) *Sometimes it doesn't run the way we'd like it to.*

"(Heartbeat) *But it keeps on running. That's our job.* (Heartbeat)

"We're the oil companies of America . . . working to keep this country working.

"Because a country that runs on oil . . . "Can't afford to run short."

This message and variations on the same theme are being delivered to the U.S. public in a $4-million (for 1971) advertising campaign sponsored by the American Petroleum Institute, chief trade association and lobbying arm of the oil industry.

The campaign got underway on April 26 and is scheduled for a long run, according to James C. Shelby, advertising manager of API.

"We are using nighttime network television . . . plus the Today Show on NBC. Also, about 180 newspapers and petroleum trade magazines. The newspaper offer of the 'Energy Gap' booklet has drawn excellent response from over 500 cities in 47 states," Shelby said.

COUNTERATTACK

The campaign clearly represents a counterattack by the industry against its critics in government, the news media and the public.

Taking its case to the people, the industry is not adopting a defensive posture of emphasizing its expenditures on pollution-control programs or explaining the intricacies of oil tax laws.

Instead, the industry campaign stresses this theme: "75 per cent of the power and energy this country needs comes from oil and natural gas."

The campaign literature includes statements stressing the need for development of Alaskan oil to lessen U.S. dependence on foreign suppliers.

API President Frank N. Ikard, a former Member of the House (D-Tex., 1951–61), said in a statement announcing the campaign,

"Energy, in ample supply and reasonably priced, is essential to the public's comfort, economic progress, industrial expansion and national security. We believe this program will contribute to a greater understanding of the complexities involved in maintaining an uninterrupted flow of energy for the consumers of this nation."

ORIGIN OF CAMPAIGN

Shelby said that a private survey of the U.S. public taken in 1970 for the oil industry led to the advertising campaign.

Without going into detail, Shelby indicated that the poll showed the general public had little understanding of the industry or sympathy for it.

"I guess when you take a survey you find out what people think about you," he said. The survey showed the need for an "educational" campaign.

TV SPOTS

The television advertisements, which are scheduled for prime-time evening shows and weekend sports programs and news-interview broadcasts, were produced by Leo Burnett Co. Inc. of Chicago.

Shelby said he particularly likes the "heartbeat" commercial.

This advertisement was taped in Grinnel, Iowa (pop. 8,402), a farmland community 55 miles northeast of Des Moines.

The ad shows some of the uses of oil and gas: a housewife making a cup of coffee, a doctor with a hypodermic needle ("Doc Evans may never stop to think that some of his medicines begin with oil"), a grandmother at her sewing machine and lights glowing in comfortable frame houses along quiet, tree-lined streets.

Shelby was asked why no automobiles appear in this ad, since nearly half the petroleum consumed in this nation is used for gasoline.

"I think people are pretty used to the fact" that petroleum is used to power cars, he said. This spot was designed to show people in their homes rather than outside, he said, although consideration had been given to featuring a farmer riding his tractor.

(On June 30, in a unanimous opinion, the Federal Communications Commission ruled that an ad on NBC–TV, in which Standard Oil Co. (New Jersey) described its Arctic Alaska operations, violated the "fairness doctrine" because the ads, in effect, constituted an endorsement of the contested trans-Alaska pipeline system. *See No. 28, p. 1481.*)

FLATTENING THE ENERGY-CONSUMPTION CURVE

One of the few Nixon Administration officials to call for a slowdown in U.S. energy consumption is S. David Freeman, who is leaving government service.

Freeman, assistant director of the Office of Science and Technology and director of the office's energy policy staff, said he worries about the way this nation eats up its natural resources. Privately and publicly, Freeman has suggested ways in which the government could seek to restrict energy consumption.

He also has been involved in devising government policies that seek to encourage development of new and cleaner sources of energy.

"I think there's a big question mark about what the demand (for oil) will be in 1980," he said in an interview. "If we really got serious about it, we could cut down . . . flatten out some of those growth curves."

But, he said, "It's not happening yet. . . . We're hooked on the stuff."

(Projections of future U.S. demand for oil have been cited by proponents of the Alaska pipeline as a justification for developing North Slope oil.)

"It seems to me almost inevitable that one of these days congestion is going to call a halt to it. It makes a hell of a lot of sense to me to ban the internal combustion engine in downtowns of major cities."

Freeman said "there's no reason that I can see" why an urban automobile needs more than 100 horsepower.

Yet, he said, with a trace of irony in his Tennessee drawl, congressional adoption of emission-control standards for automobiles is leading to more consumption of gasoline, rather than less—because the control devices cause a 10- to 15-percent increase in the engine's gasoline consumption.

On the subject of development of Alaskan oil, Freeman said, "The (natural) gas is a more pressing need for the national economy than the oil. It may be that the strongest justification for proceeding with the marketing of the oil is the need for the gas."

(North Slope natural gas is associated with the crude oil reserves, and the gas cannot be brought out until the oil is produced.)

"It's a cold hard fact that there's a shortage of natural gas," Freeman said. "It's much more acute than any supply problem with oil."

Asked about a proposal to market Alaskan oil in Japan in exchange for crude oil from other sources, Freeman said, "I have some question about whether that makes much sense from a national security point of view."

Freeman, 44, holds degrees in law (University of Tennessee) and civil engineering (Georgia Tech). A former Tennessee Valley Authority engineer, he served from 1961 to 1965 as assistant to the chairman of the Federal Power Commission and has been at the Office of Science and Technology since 1967.

Freeman is a strong supporter of President Nixon's proposal to establish a Department of Natural Resources to coordinate federal energy policies.

"The energy problems have reached the point where you need an agency in charge," he said. Until the government establishes an agency to look after energy matters, he said, "I think we'll kind of limp along with paste-together solutions."

Freeman is leaving government to help the University of Pittsburgh establish a degree program in energy resources development and management. He expects to remain based in Washington.

SON OF SANSINENA

In a much-publicized attempt to gain an exemption to the Jones Act, Union Oil Co. of California sought approval from the Nixon Administration in 1970 to use the oil tanker *Sansinena* to transport Alaskan oil.

The *Sansinena,* a U.S.-built, Liberian-registered vessel, was owned by Barracuda Tanker Corp. of Bermuda, a firm that Peter M. Flanigan, assistant to the President, helped organize.

The Treasury Department granted a waiver in March 1970 that would have allowed the vessel to be used in U.S. coastal trade—an extraordinary exemption from a provision of the Jones Act (41 Stat. 988) that requires shipping in U.S. coastal trade to be on vessels built and registered in the United States.

The waiver touched off a political controversy, and the Treasury Department quickly withdrew the exemption. (*See Vol. 2, No. 11, p. 542.*)

Union Oil, which was using the 67,000-deadweight-ton vessel under long-term charter, recently took delivery of a new, similar-sized vessel built in the United States by Bethlehem Steel Corp. for use in the Alaska trade.

Union Oil President Fred L. Hartley christened the new tanker the *Sansinena II.*

Mr. CASE. Mr. President, the friends of the Earth and the Wilderness Society have brought to my attention a statement made this past weekend by Mr. Richard J. Sullivan, New Jersey Commissioner of Environmental Protection,

in support of the Mondale-Bayh amendment to S. 1081, the "Alaskan Pipeline" bill.

For the information of my colleagues, I ask unanimous consent that Mr. Sullivan's statement be printed in the RECORD.

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

STATEMENT BY RICHARD J. SULLIVAN

New Jersey Commissioner of Environmental Protection Richard J. Sullivan today issued the following statement on the Alaska pipeline and its relationship to New Jersey and other eastern states:

New Jersey and the rest of the eastern United States have a vital interest in a vote scheduled by the U.S. Senate this week on S-1081, which would remove legal blocks to construction of the Alaska pipeline from the North Slope of Alaska to the seaport of Valdez.

Much recent advertising by the oil industry implies that present and future oil shortages in the east would be offset by building this pipeline. It might be so, but not under the present plan. Actually, piping oil south to Valdez for loading onto oil tankers would provide oil for the west coast—more than it needs. Economies would then dictate that much of that Alaska oil could be shipped overseas by tanker.

"There is no adequate pipeline from the west coast to the eastern U.S. You can't get a tanker through the Panama Canal and I have heard no-one propose to sail them around Cape Horn," commented Sullivan.

There has been spirited discussion about the dangers of the proposed Alaska pipeline passage through highly active earthquake zones in the state. In total the Alaska pipeline now threatens ecological disaster minus any important benefits to the eastern U.S. where much of the oil is consumed.

The answer to this illogical situation may reside in amendments proposed for S-1081 by Senators Birch Bayh and Walter Mondale. They would require our government to open talks with Canada about using an alternate pipeline route from the Alaska North Slope fields southeast along the Mackenzie River in Canada. This route, while requiring an extra 1,000 miles of pipeline, would be less damaging ecologically and would connect in Alberta with the trans-Canada pipeline, which is already built and is capable of delivering great quantities of oil to the eastern U.S.

The Bayh-Mondale amendment would also require an environmental assessment of the Canadian route by the National Academy of Sciences. Thirdly, and perhaps in the long run most important, they would transfer to Congress powers which S-1081 would give the Secretary of the Interior.

The purpose of S-1081 is to bypass restrictions in the Mineral Leasing Act of 1920 which allow the government to permit only a 50-foot right of way on federal lands for such projects. As introduced, this bill would let the Secretary of the Interior grant any size right of way he sees fit on any federal lands for as yet undetermined projects. Such sweeping rights to consume federal lands should only reside in the hands of Congress.

NORTH SLOPE OIL

Mr. TUNNEY. Mr. President, legislation, essentially, is a balancing of the claims of progress with those of justice so that in moving into the future we do not trample our heritage. S. 1081, the Federal Lands Right-of-Way Act of 1973, achieves such a balance in the development of North Slope oil. It balances both the claims of consumers for economical supplies of domestic petroleum and the claims of environmentalists for strict safeguards against spills, slicks and other hazards.

It is a sound bill, and it will assure orderly procedures to provide a full-range of environmental protection before production begins.

My support of S. 1081 is based on several fundamental considerations:

First. It sets forth rigid specifications by which the Alaskan pipeline could be constructed and could offset growing dependence on costlier Middle East supplies.

Second. It will enable the Department of Interior to approve a construction schedule that, for the Alaskan pipeline, could be completed in 4 years, or, for the Canadian pipeline, in 2 to 3 years longer.

The law itself does not give congressional authorization to either the Alaskan or the Canadian pipelines. Specifically, as stated in section 205, the bill—

Shall not be construed to reflect a determination of the Congress regarding the relative merits of alternative transportation systems for North Slope crude oil or regarding the merits of legality of a grant by the Secretary of a right-of-way to construct a crude oil pipeline within Alaska from the vicinity of Prudhoe Bay to Valdez, nor to prohibit such a grant.

In other words, S. 1081 creates a mechanism whereby the Secretary of the Interior could grant a right-of-way to build the pipeline from Prudhoe Bay to Valdez, but only after certain criteria are met: First, the owners agree to meet obligations as a common carrier, second, the Attorney General advises on the antitrust impact of the proposed grant, third, the right-of-way corridor is reviewed in connection with the needs of a national transportation system, fourth, prior to granting the right-of-way for a new project, the applicant stipulates that it will not violate existing environmental laws, and will comply with Interior Department regulations concerning damage to property and wildlife, as well as hazards to public health and persons in the area, fifth, fair market value is paid for grants, and sixth, the owner agrees to be liable to the United States for damages.

In addition to these specific burdens on applicants, section 113 specifies that—

Nothing in this act shall be construed to amend, repeal, modify, or change in any way the requirements to Section 102(2)(c) or any other provision of the National Environmental Policy Act.

S. 1081 in no way dilutes or diminishes—in fact, it specifically affirms—the applicability of NEPA.

Beyond the ironclad environmental safeguards, the bill brings into balance grave concerns of national security. Clearly, the potential of blackmail against our Nation increases as our production dwindles and our dependence on overseas sources increases. As we seek more from Arab producers, the more they might seek from us by applying pressures on our foreign policy, particularly our commitments to Israel, by threatening to cut off supplies or to escalate prices.

Other serious implications arise from increased reliance on overseas oil. It prolongs the deficiencies in our balance of payments and further weakens the dollar, and, in the final analysis, it is the American consumer who gets it in the neck. The economic factors may be complex, but it all winds up in simple subtraction in the buying power of American men and women. Let us take a look at the economic data:

In 1972, 60 percent of our $6.1 billion balance-of-trade deficit was due to imports of petroleum products. This year, such imports will be 20 percent higher than last. If present trends continue, that is, barring the development of North Slope by 1979 we will be spending almost two and one-half times as much money abroad for petroleum products.

The balance of trade is a complicated issue, but one that can be reduced to reasonably simple terms. Given current domestic oil sources, petroleum imports will rise from $4 billion in 1972 to $10 billion in 1979. How can we pay for these imports? Fundamentally, we pay, not with dollars, but with the export of American products. To be more specific, we will be financing the expansion of petroleum products mostly through a vast expansion in the sale of American grain and other agricultural products.

We live in a hungry world and we are the world's most efficient agricultural economy. We should welcome the opportunity to sell some of our food products abroad. At the same time, we ought to be fully aware of the consequences.

If the unprecedented explosion of food prices this year has one lesson, it is that the American housewife has moved into competition with housewives around the world. The cost of eating has gone up and it will rise even faster the more we must export agricultural products to pay for mounting petroleum imports.

To the extent we can ease the burden of buying our petroleum abroad, the pressures on food prices can be relieved and American families will be able to eat well once again.

The connection between rapid development of North Slope oil reserves and food prices may sometimes seem remote. Consider, however, that the potential Alaskan production of millions of barrels per day could save several billion a year in U.S. goods that would otherwise have to be shipped abroad. Most of the goods would be food ingredients and products that will end up in American rather than foreign households, and at American rather than the higher foreign prices.

Hopefully, in the long run, we may curb our Nation's insatiable appetite for petroleum by substituting other means of power. This will mean development of other energy sources such as geothermal and solar energy and of an economical and mass produced alternative to the internal combustion engine.

These remedies will not apply soon enough to decrease our need for Alaska's oil. Consequently, we must not only assure we can produce the oil safety, but we can transport it safely.

If the pipeline route is built in the vicinity of Prudhoe Bay to Valdez, then drastically increased tanker traffic can be expected along the west coast of the United States. Already on the books is

the Ports and Waterways Safety Act of 1972, which requires the Coast Guard to develop regulations for supertankers. These safeguards must cover a variety of designs and construction features.

In addition to segregated ballast and double bottoms, a sophisticated tank cleaning equipment utilizing high capacity fixed nozzle sprays may reduce oil pollution from daily tanker operations, while oil-water separators, used to extract oil from cleaning residues, may further reduce operation pollution. Requiring that cargo tanks be limited in size may reduce any oil outflow which would result from a collision, grounding or other accident. Maneuvering devices such as lateral thrusters, controllable pitch propellers and twin screw propulsion systems, and auxiliary braking devices, such as brake flaps, parachute drogues, and passive duct systems, which may substantially improve a vessel's ability to change direction or stop quickly, may help reduce the risk of accidents. Collision avoidance aids, utilizing digital computers to automatically process radar data and display encounter situations in a form enabling the vessel to be steered to avoid possible collisions and groundings, further reduce these risks.

Sound Coast Guard regulations must deal with all of these issues. If adequate regulations are not forthcoming, then I am prepared to offer legislation to make these safeguards mandatory.

We need Alaskan oil. We need it for the consumer, for national security and economic stability. Also, we need our wilderness, our wildlife, and our beaches. S. 1081 gives us the means of balancing all these elements.

NEIGHBORHOOD YOUTH CORPS SUMMER JOB PROGRAM

Mr. JAVITS. Mr. President, I wish to call to the attention of the Senate a situation which, to me, seems intolerable and unendurable. The big cities in this country have enough trouble without adding this one. It relates to the Neighborhood Youth Corps, for which I have fought for years. Here is the situation:

The Senate and House made it very clear that they wanted at least $239 million spent for the Neighborhood Youth Corps this summer to provide 600,000 jobs for disadvantaged youth. They made that clear in the conference report when we enacted it. It was made clear in the Senate by voting an additional $44.5 million. But the conferees struck it out reiterating that at the least they wanted a basic appropriation—to wit, $239 million spent.

The administration is engaged in a tug-of-war with young people, teenagers, who have no defenders except us and the mayors of the American cities who have been a strong factor in this matter.

Here it is, July 10, 1973, and, notwithstanding the action of Congress and the action of the U.S. district court in Newark, ordering the Labor Department to release the funds, which took place on June 29, and the refusal of the circuit court of appeals to overturn that district court determination, at this hour the Labor Department still has not released the money. It is hiding behind all kinds of excuses. I am not taking on the Secretary of Labor. He is an administrative official and he is taking orders from the Director of the Office of Management and Budget in the White House. This is the President's responsibility and no one else's. It should be directly laid at his door.

It seems to me the most obdurate kind of stubbornness I have ever seen—notwithstanding the express will of Congress and the decision of the courts—to let time slip through our fingers, with lots of kids throughout the country being denied an opportunity for summer employment, just because the White House is stubborn, and for no other reason.

Mr. President, I ask unanimous consent that an article published in yesterday's New York Times, describing the situation, be printed in the RECORD.

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

OFFICIALS AND STUDENTS IN EIGHT MAJOR CITIES DESCRIBE TEENAGERS' SEARCH FOR SUMMER JOBS AS GRIM

WASHINGTON, July 7.—More teen-agers are employed this summer than last summer, the Department of Labor says, but leaders in eight cities around the country say the search for summer jobs is grim.

The unemployment rate for those between the ages of 16 and 19 dropped from 14.9 per cent in June of last year to 13.3 per cent last month, the Labor Department said in a report yesterday.

However, mayors, other city officials, and high school and college students in eight cities surveyed by The New York Times—San Jose, Calif.; Pittsburgh, New Orleans, Atlanta, Los Angeles, Houston, Baltimore and New York—contend that summer jobs for youths are scarce this year.

"It's just a sorry thing to me," said Mayor Norman Mineta of San Jose, "because kids who depend on this money to continue their education or help their families won't have that opportunity for income."

NEW LEARNING EXPERIENCE

"They won't have a chance," he said, "to have a new learning experience and earning opportunity."

Louis Perez, 14, began his search for a job at the Neighborhood Youth Corps in New York, but he said that officials there would not give him an application.

"They told me they don't need people any more," Louis said. Now he just "hangs around and plays stickball" on 104th Street, he said.

Robert Carruth of New Orleans also has not been able to find work. He said that he had applied at a McDonald's Hamburger stand and was told they would not hire 16-year-olds. At a gas station he was told he was too young. Five grocery stores and a car wash would not take his application because they already had too many applications, he said.

Marianne Marches, 20, a junior at West Virginia Wesleyan College, tried "all the department stores, a health spa, drug stores and supermarkets," in her home town, a suburb of Pittsburgh, and could not find a job.

GOING TO SUMMER SCHOOL

"A lot of kids I know are going to summer school because they can't get a job," she said.

City officials interviewed by The New York Times complained that there were fewer summer jobs this year.

However, statistics representative of the total problem are difficult to find. New York, for example, has only one-third of the Federal funds for summer jobs this year that it had last year. In 1972 the city received $22 million for the Neighborhood Youth Corps program. This year, instead of Neighborhood Youth Corps money, the city has only $8 million from surplus funds of the Emergency Employment Assistance Act.

While the figures on jobs and programs supported by Federal money are easily available to city officials, the number of youths employed by private business is unclear.

Estimates by The New York State Department of Labor indicate there are 450,000 to 500,000 young people looking for work this summer in the city. Only about half of these will find work, officials said.

ACCURATE MEASURE

The only accurate measure of teen-age employment in the private sector is from the Labor Department's unemployment statistics. But they do not account for the 14- and 15-year-olds who are looking for jobs, nor do they measure the number of youths, such as Marianne Marches' friends, who attend summer school and stop actively searching for a job. And they do not break down the problem of unemployment among the disadvantaged—the primary concern of many mayors.

One expert on the Neighborhood Youth Corps program at the National League of Cities said some experts believed that unemployment among the disadvantaged youth would run as high as 40 per cent this year.

Many disadvantaged teen-agers depend on Federal programs to lead them to summer jobs, because they do not have the "connections" to land a job such as a tennis instructor, as did Jeff P. Cardoux of Westport, Conn., a wealthy community.

The bulk of Federal funds the cities need to provide summer jobs for disadvantaged teen-agers this summer is now held up in court. The issue is whether the Administration must release $239 million in funds for the Neighborhood Youth Corps, which would provide about 600,000 jobs for disadvantaged youths.

The suit was brought by 22 community action program directors in New Jersey and two girls who had been promised summer jobs. The battle over the Youth Corps money has been going on for months between Congress and the Administration.

President Nixon asked Congress last year to allocate the money for the Youth Corps and Congress appropriated it. However, the President later imposed a spending ceiling to control inflation, and one of the allocations held up, but not impounded, was the Youth Corps funding.

A United States District Court judge in Newark ordered the Labor Department to release the funds on June 29. The case is on appeal in the United States Court of Appeals for the Third Circuit in Philadelphia.

Robert L. Hawkins, director of Pennsylvania's Allegheny County (Pittsburgh) Office of Manpower, has only 621 federally funded summer jobs to fill this year, compared with 1,000 last year.

"How do you choose 621 kids out of the 8,000 who applied," said Mr. Hawkins. "It's ridiculous."

This year, San Jose has no money from Neighborhood Youth Corps funds. Last year it had $800,000. The city was able to come up with $300,000 in local funds to employ 900 youths.

Los Angeles attempted to take up the slack from the loss of Youth Corps money, which was $10 million in 1972, by appropriating $3.1 million from city funds.

"We will come close to meeting the original need of the cities," if the court releases the funds, said Senator Jacob K. Javits, Republican of New York, who has been a leader in the fight for Youth Corps funding. However, he said, even that will leave thousands of poor youths without meaningful opportunities this summer.

Mr. JAVITS. Mr. President, nobody is anxious to defy anybody about this matter. We fought long and hard. We thought we had worked out some kind of feasible solution—to wit, to use the money already appropriated, not to rescind the appropriation. Congress made it clear that that was what was directed. The courts have made it clear that that is what we directed. Now, the matter is still stalled on dead center. It is most unfair to hundreds of thousands of young people, because the administration now is trying to go to the U.S. Supreme Court.

As I say, we have to call them as we see them, and this is one where it seems to me downright inhuman to continue to hang onto this money despite everything that has happened and while time prejudices hundreds of thousands of kids in the United States.

I appeal to the President, personally and publicly, to put a stop to this charade and to use the money for the purpose for which Congress said it should be used, and for which the courts have now certified and confirmed, and to do it immediately.

FEDERAL LANDS RIGHT-OF-WAY ACT OF 1973

The Senate continued with the consideration of the bill (S. 1081) to authorize the Secretary of the Interior to grant rights-of-way across Federal lands where the use of such rights-of-way is in the public interest and the applicant for the right-of-way demonstrates the financial and technical capability to use the right-of-way in a manner which will protect the environment.

Mr. PASTORE. Mr. President, I listened with a great deal of interest to the opening remarks made by the distinguished Senator from Washington with relation to why we should not delay in building the so-called Alaskan line, waiting for the so-called Canadian line. I think he was very explicit and very clear. But the argument has been made that in making a choice between these two avenues of approach, for some reason the Canadian line is closer to the Midwest and therefore the Midwest is amenable to the Canadian line, and the so-called Alaskan line would be more amenable to Senators who come from the western coast.

I come from the eastern coast. Naturally, the Midwest is closer to me, although it is not that close. But the fact still remains that we in New England, over the years, have had very serious problems with relation to the paucity of heating oil and residual oil, and we have also had tremendous problems with soaring costs. As a matter of fact, the price has not only doubled, but it has tripled and quadrupled, and I could go on and on and on.

I would like to know from the distinguished Senator from Washington whether or not, in the building of the Alaskan pipeline, if we see fit to do so, arrangements are being made that all of the States will be treated fairly, and that the oil will not be concentrated only in the West and the Midwest and to accommodate it to people who are closer to the spigot.

Mr. JACKSON. Mr. President, the immediate answer to the Senator's question lies in the legislation approved by the Senate in connection with the adoption of a bill on mandatory allocations of energy. Under the bill approved by the Senate, which is now pending in the House, the President is directed to move oil on an equitable basis to the various areas of the country so that there is no discrimination on a geographic basis, so that there is not a surplus in one area and a shortage in another. That legislation, Mr. President, is absolutely essential in order to deal with the problem we are going to face at least for the next 3 years.

The proposition that the Senate must face up to is, How do we get the oil to the other 49 States the fastest? There is not any dispute that the line from Prudhoe Bay to Valdez and then by tanker is clearly the fastest way to do it. The Canadian route is fraught with much trouble, both economically and politically, within Canada.

I would point out to my good friend from Rhode Island that just a short time ago the Canadians cut off finished products and now require licensing of exports to the eastern part of the United States. I refer to the export of gasoline and fuel oil. So there is a serious political problem on this issue in Canada.

The Canadians, in connection with any pipeline through Canada, would require 51 percent Canadian ownership. I believe that if we are going to get an effective agreement, we will have to have a treaty with Canada, and that takes time. We need a treaty in order to safeguard and protect the rights of our country.

Specifically, oil that is delivered to the west coast, of course, can be rerouted from there by trades, so that the east coast can be taken care of directly. For example, we have directed in this bill that there cannot be any exports of oil from Alaska to a foreign country except where the President makes an appropriate finding. I will have an amendment which will stipulate that those exports can be made where the net effect will be to give to another part of the United States an amount equal, in effect, in quantity and quality to that which is exported.

For example, it might be in our interest to sell to Japan x amount of crude oil, and Japan in turn to supply the east coast, from its sources in the Middle East and elsewhere, a quantity of crude equal to the amount that would be exported to Japan and crude that would not otherwise come to the United States because Japan, by contract, has access to it. In sum, the distance from Alaska to Japan is much shorter than it is from the Middle East all the way around to Japan, and the distance from the Middle East to the east coast would be shorter.

I cite this as an illustration of how we would take care of the east coast.

The logistics of the oil business is very complicated. I would point out that in order to get the supply working effectively with demand, we need this kind of flexibility.

I do not want to see a drop of oil exported—and the bill protects that—from Alaska that is not fully covered by another source for the recipient of that oil. There are proposals that we cut it all off from export. I just pointed out that this could be against our own national interest and in the interest of supplying the remote areas of the United States, and it can be done as in the example I have cited.

Mr. PASTORE. Mr. President, if the Senator will yield further, that is not quite the answer to my particular problem. I agree with the example the Senator gives with reference to balancing off of exports and imports, but my immediate problem is this: I realize that we did pass a very strong distribution bill, but it passed only the Senate. It has not been considered by the House, and we do not know whether it is going to be passed by the House at all. I would hope that, if it is considered and passed by the House, it will be signed by the President. Then, of course, all our fears would be allayed.

In the meantime could not there be something written into this bill which would give us the assurance that every State, no matter where geographically it lies, will be treated equally with respect to oil that comes from the pipeline in Alaska, if Congress should pass this bill?

I realize the crisis. I realize that day by day it gets worse rather than better and that, unless we do something, in a short time we are going to be in trouble, and that even now in the corridors we are dimming the lights so that the Capitol Building looks more like a nightclub than the Congress of the United States.

But the fact still remains that if we are going to have a congressional act in order to get the delivery of that oil, no preference should be given to any region, and that we should write a declaration of purpose in this law to the effect that every State will be treated equally.

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

Mr. PASTORE. I yield.

Mr. JACKSON. First of all, I must say the Senator has made a very telling point. The intent is to do exactly what the Senator has said. I will be glad to draft, and will clear with him, an amendment which will lay down as a matter of policy the very statement the Senator has made.

I did not properly finish my earlier statement. I touched on the east coast. May I conclude, on the handling of oil to the Midwest or middle part of the country?

I would point out that the oil coming down directly by boat from Valdez to the west coast, and primarily to California, would relieve the movement of the oil that is now coming into the Northwest and down the west coast from Canada. Oil is now coming from the Prairie Provinces, Alberta primarily, into the Northwest and down to the west coast. I would point out that the oil coming down from Alaska, and particularly that which is now coming from the Prairie Provinces of Canada, would move into the Midwest.

There is also a pipeline from the Four Corners area to southern California. Since Alaskan oil can meet California's needs, the oil that now travels the Four Corners pipelines can be redirected over existing pipelines to the Midwest or East. Also, if North Slope oil is excess to west coast needs, the flow in the Four Corners pipeline can be reversed, and it can carry Alaska crude oil to Texas, and then to other parts of the country.

What I am suggesting is that we can move oil around the United States on an equitable basis without building pipelines everywhere.

Mr. PASTORE. That is, provided we put it into law.

Mr. JACKSON. Mr. President, I will be glad to accept an amendment embodying the basic declaration of policy offered by the Senator from Rhode Island. I will be glad to accept such an amendment, and we will work it out.

Mr. GRAVEL. Mr. President, will the Senator yield at that point?

Mr. JACKSON. Mr. President, I am happy to yield to the Senator from Alaska.

Mr. GRAVEL. Mr. President, the Senator from Rhode Island raises an excellent point. I think that what the chairman of the committee is referring to is a statement of policy. I hope that satisfies the Senator from Rhode Island. The problem is there. I know of no other way in which to solve it except with a statement of policy.

Oil is located in various parts of the world, and it gets to some places sooner than to others.

Mr. PASTORE. Mr. President, when we passed the Distribution Act several days ago we went beyond policy. We dictated by legislative fiat that there had to be a legislative distribution of oil, so much so that the Senator from Massachusetts suggested an amendment which was agreed to and which gave preferential treatment in a way to independent dealers so that they would not be eliminated completely by the big four or five companies.

I am satisfied with a statement of policy on this bill, because we have the Distribution Act. And if we did not have the Distribution Act, I would expect it to be written into this bill.

We did the same thing with atomic energy, because this is within the national domain. And when we get into the national domain, we have to treat all sections of the country and all people alike.

Mr. STEVENS. Mr. President, if the Senator would yield, I appreciate the comments of the distinguished Senator from Rhode Island. I hope that the Senator keeps in mind on this declaration of policy that the North Slope reserve includes not only oil, but also natural gas, and under the distribution plan the northeastern and middle part of the United States will receive all of the natural gas.

The shortages faced in New England were triggered by the shortage of natural gas. As the natural gas distribution declines and as we look at the distribution of oil, if we have a statement of policy for the national distribution of Alaskan crude oil wells, I assume that we would want to have a national distribution of our national oil wells.

I want to be sure that the Senator from Rhode Island keeps in mind that under the distribution pattern now established the northeastern and midwestern parts of our Nation will get all of that essential gas, and that gas has a bigger volume, particularly with the Mackenzie River production.

That is a major reason we argue the matter the way it is now. I would not want to have to be convinced to the point where we say that the oil will be spread all over the United States and the gas would be confined to one area.

Mr. PASTORE. Mr. President, any time the Senator from Alaska pleads and advocates equity and justice, he will have an ally in the Senator from Rhode Island.

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

Mr. JACKSON. Mr. President, I yield to the Senator from Alaska.

Mr. GRAVEL. Mr. President, there would be a projection based upon the short falls of this Nation with respect to oil and gas. And I know that the Senator from Rhode Island is as knowledgeable in this field, if not more so, than any other Member of Congress.

In order to avoid the problem of the hemorrhaging of the balance of payments, the only answer is balanced production. And we would have to maximize the production out of Alaska at an accelerated rate.

The Alaskan pipeline addresses itself only to 2 million barrels a day through the pipeline. Obviously, the gas line that will come down from the Mackenzie area will equate about 1 million barrels of gas a day.

That makes only 3 million barrels. If we are to help the Nation, we will have to come down with another line through Alaska and through the Northwest Passage that will satisfy all sections of the United States, except for the gulf area.

Mr. PASTORE. Mr. President, the only reason I rose is because I think that we ought to settle these sticky problems so that every Senator will understand when he votes his conscience and will know that he is voting correctly.

We have to get on with the job. The situation is critical. Something has to be done right away.

There has been a contrast between the Alaskan pipeline and the so-called Canadian pipeline. Some people argue that if this goes through Canada it will be better for the East. Other people say that if this goes from Alaska to the United States that it will be better for the West. I think that it ought to be better for the country. That is what I am pleading for, equity and justice for all.

Mr. GRAVEL. The Senator from Rhode Island has rendered a great service. The Senator from Washington will offer such an amendment.

Mr. JACKSON. Mr. President, the Senator from Rhode Island will offer the amendment tomorrow. I am sure that we can work it out. But the Senator from Rhode Island will be offering that amendment.

Mr. GRAVEL. Mr. President, I would be glad to cosponsor the amendment with him.

Mr. JACKSON. Mr. President, I have an idea that 99 Senators will join the Senator from Rhode Island in that proposal, two from each State.

Mr. GRAVEL. Mr. President, I hope that the Senator from Rhode Island will join in having a leadership role.

Mr. PASTORE. Mr. President, if I may have the last word, I think that when the Senator from Rhode Island rises, he is not performing an exercise in futility. He means what he says and he wants what he says.

Mr. JACKSON. Mr. President, I would observe that that is an unrebuttable presumption.

Mr. President, I yield now to the able and distinguished Senator from Colorado (Mr. HASKELL), a very active and effective participant in the committee work. The Senator has done a lot of work on this subject.

Mr. HASKELL. Mr. President, I thank the distinguished chairman of the Committee on Interior and Insular Affairs.

Mr. President, I rise to submit an amendment—but not to call it up—to S. 1081, the Federal Lands Right-Of-Way Act of 1973. My amendment would make it unlawful for an oil pipeline company or its affiliates to ship their own oil through a pipeline which crosses Federal lands. The amendment is modeled after the railroad commodities clause of the Interstate Commerce Act. That clause prohibits railroads from having an interest in the goods they haul.

I propose to make the same prohibition applicable to pipelines. The idea is not new. Congressional enactment of this legislation is long overdue.

In 1906 the Congress was faced with a situation in which the railroads virtually controlled the coal industry in this country. The situation was deemed to be extremely anticompetitive by the Congress and legislation was enacted to curb the abuses of railroads offering their affiliates free transportation for goods being transported to market. The legislation was in the form of an amendment to the Interstate Commerce Act which forced the railroads to divest themselves of coal companies. That legislation is now known as the Hepburn Act and appears in title 42 of the United States Code, section 1(8).

The Hepburn Act forced the railroads to divest themselves of their coal holdings.

The Senate, in discussing this particular piece of legislation, originally intended to preclude oil pipeline companies from having an interest in the oil transported through their lines. An amendment to do this was offered by Senator Elkins, passed the Senate, and eventually lost in conference. That amendment, originally stated:

> From and after May 1, 1908, it shall be unlawful for any common carrier to transport from any State, Territory, or District of the United States or to any foreign country, any article or commodity, other than timber and the manufactured products thereof manufactured, mined or protected by it . . .

Senate sponsors of the original commodities clause—which included oil pipelines and not just railroad companies—agreed to compromise that so long as pipelines were declared to be common

carriers and subject to vigorous regulation by the Interstate Commerce Commission, this was all that would be necessary. The common carrier amendment was offered by Senator Lodge of Massachusetts. It passed the Senate unanimously, survived conference, and was eventually enacted into law. That amendment provided:

> Any corporation or any person or persons engaged in the transportation of oil or other commodity except water and except natural or artificial gas by means of pipelines and partly by water at any place within the jurisdiction or within the governmental authority of the United States, who shall be considered and held to be common carriers with the meaning and purpose of this act.

Those who supported the amendment declared that vigorous enforcement of the common carrier provision by the Interstate Commerce Commission would result in a truly competitive oil pipeline transportation system.

Senator Lodge in 1903 eloquently described the situation which existed then. That situation still exists today:

> Those well owners are absolutely at the mercy of the pipe lines. I have had cases brought to me, which in this fifteen minute debate I can not enlarge upon, where an independent refinery has been deprived of its supply of oil because it would not agree to the prices of the pipelines. A small well owner is compelled to take the price that is offered by the controller of the trunk line.

Congressman Gillespie, a Representative from Texas those decades ago, contended:

> The large oil concern which can pipe its product to distant markets will always enjoy a monopoly, because it can fix the price so low as to destroy a competitor.

The fact that interstate pipelines are by statute deemed to be common carriers is simply not sufficient to force a true spirit of competition in the oil pipeline industry. As evidence of this, I point to the fact that the Interstate Commerce Commission has not brought a single case against a pipeline company in the past 67 years which has challenged its operation as a common carrier.

The confidence of our predecessors that common carrier status would bring about that vigorous competitive spirit within the industry was, unfortunately, sadly mistaken.

Where an oil company owns the line, as is virtually always the case, the pipeline is only theoretically a common carrier. Circumstances and devices can be used by the owner of the pipeline, which in reality is owned by the oil company, to make it virtually impossible for an independent to have his oil carried to market. This in effect makes the independent sell his oil, usually, to the major company that owns the line.

For example, the ICC does not require pipeline companies to put in storage tank or other facilities to hold an outsider's product if the line is full when the outsider wishes to ship his product. The pipeline owners and major companies routinely have storage tanks available for their own use. Furthermore, there is no requirement that a pipeline company shall be forced to make a connection except where it wants to do so. Connections are obviously made for the convenience of the owners and not those smaller producers who simply want to ship through the lines.

The anticompetitive nature of this situation was recognized again just prior to World War II. The Justice Department filed suit against the American Petroleum Institute and most major oil companies. That suit included allegations of a vast array of anticompetitive conduct. The suit was so comprehensive that it became known as the Mother Hubbard case.

The suit was put on the back burner when World War II came along so as not to interfere with the needed oil production for the American war effort. The Department's conclusion after the war was that the suit was so comprehensive and multifaceted that it was deemed to be "untriable" and was dismissed on the Justice Department's own motion. One portion of that suit sought divestiture of oil company ownership of pipelines. Again, the lack of competition has been further documented recently in reports made by Attorneys General William P. Rogers and Ramsey Clark. Their reports, portions of which I will submit for the RECORD at the conclusion of my remarks, have concluded that these supposed common carriers operate according to the wishes and desires of their owners and other major integrated oil interests.

These reports, made pursuant to two joint resolutions consenting to an interstate compact to conserve oil and gas, have both recognized the need for a legislative solution to the problem.

If a pipeline is owned by producing companies it is very unlikely that there will be challenges even as to tariffs set by the pipeline owner. In fact, current Interstate Commerce Commission reports indicate that only three tariff challenges were filed during all of fiscal year 1973. Only two pipelines were involved. All three cases concerned proposed increases and two cases are awaiting report of the Commission. In short only one tariff challenge was successfully concluded in the past year and went to final decision.

Furthermore, if a pipeline is full and an outsider wishes to ship oil he must "tender" his oil for shipment. That is, he must in effect say to the owner or part-owner of the line that he would like to use a portion of the line for shipment of his oil. Thus he would deny owner partial access to the line for a period of time.

The formula for determining the amount of oil an outsider is entitled to ship is extremely complicated. Say, for example, the owner has 100,000 barrels per day he wishes to ship through a 100,000 barrel per day capacity pipeline. The outsider comes in desirous of shipping 10,000 barrels per day. He has roughly one-tenth of the amount of the owner. In theory the owner would be compelled to cut down the amount of oil he ships through his own pipeline in order to guarantee the outsider access for a portion of his oil. In practice it is not quite that simple.

The already complicated situation is compounded even further by the owner setting what is called a "minimum tender" requirement. This minimum tender is the least amount a common carrier can be forced to accept for shipment.

For example, a crude pipeline may have a minimum tender requirement of 10,000 barrels for a single shipment to one consignee or destination. This minimum tender would be a reasonably small amount in terms of regulatory agency requirements.

Then, just for added confusion and protection of the owner, the oil tendered must be of a type that "will not materially affect the quality of other shipments or cause disadvantage to other shippers and/or carriers." Further, it must also be tendered or offered at points established by the owner—by definition the points most convenient to the owner and not to the competitor. The competitor must have his own storage tanks at the point and, usually, connecting facilities for access to the pipeline.

To complicate matters further the outsider wishing to have his own oil shipped must cope with the difficulties of scheduling requirements. The entire scheduling of the oil is precisely calculated by the owner to take advantage of the various companies he wishes to accommodate. Generally these "desirables" are a part of the owner's own company or are a part of another major integrated own company with whom the owner's company has worked out agreements for other pipelines. The intrusion of additional outsider shipments can easily be resisted without direct refusal by using any one or more of these methods.

Attorney General Ramsey Clark also reached this same conclusion in his 1967 report.

The entire regulatory situation results in what I might term a ring-around-a-rosie. The outsider never knows what he can ship or when he can ship. The owners can increase or decrease the amount the outsider is allowed to put through the pipeline by changing their own tenders.

The outsider never knows what is up. In order to do any planning, he is forced to sell his oil to the major integrated company or make some type of deal or arrangement which is satisfactory to the major. This is not what I call a highly competitive system, or a situation designed to encourage competition.

Under the situation existing today, would anyone make the investment to acquire leases, drill, put in a gathering system and tanks, if he knew that the only way to get his oil to market was to go through this type of procedure? Obviously not, unless he could negotiate ahead of time with all the pipeline owners. And who holds all the cards in these negotations?

The preceding explanation is a rather long introduction which explains the complicated history and rationale of my amendment. Now let us apply this amendment to a situation all of us are familiar with—the problem of transporting oil resources from the North Slope of Alaska to the lower 48 States.

According to the estimates of the U.S. Geological Survey, Alaska's North Slope potential represents 9.6 billion barrels of proved reserves. Other estimates range as high as 16 billion barrels. By comparison, the total U.S. proved reserve at the end of 1971 was calculated to be an additional 38 billion barrels.

The North Slope oil, then, represents approximately one-fifth of the Nation's proved reserves. That figures does not include recent Navy estimates which indicate there are an additional 14 to 15 billion barrels of recoverable oil reserves in petroleum reserve No. 4, administered by the Navy, which adjoins the North Slope oil discoveries.

Unless this amendment which I propose is adopted, we in the Senate, by giving this consortium of major companies the right-of-way for a pipeline from the North Slope will have given this consortium of companies not only the right to transport their own oil to the lower 48 States, but we would also be giving them the right to all the unknown reserves on the Alaskan North Slope.

The Alyeska Pipeline Service Co. is the consortium of major oil companies which propose to build the pipeline. It is owned by Amerada-Hess Corp., ArCo Pipeline Co., British Petroleum Pipeline Corp., Humble Pipeline Co.—which is now Exxon, Mobil Pipeline Co., Phillips Petroleum Co., and Union Oil Co. of California.

The acknowledged major ownership is in the control of three parent companies which have found the most North Slope oil: Arco, BP, and Exxon.

Do we wish to add to this control? What would be the effect of further control by these companies on the pricing of petroleum products? How much would it cost the American consumer? Do we wish to eliminate competition in exploring for further reserves on the North Slope?

Some may oppose this amendment by contending that the pipeline could not be built without the tremendous financial resources of the major oil companies. This is not true.

We have a known, insatiable demand for oil in the lower 48 States. We have a known supply on the North Slope. When we have a known supply and only one way to get that supply to an insatiable market, there is no doubt that the financing will be available. The banks, insurance companies, pension funds, and investment bankers would all be competing for a piece of the action.

As a matter of fact, as an aside, I would be ashamed if my Labrador retriever were unable to finance a pipeline under these circumstances.

As long as integrated oil companies are permitted to own and operate their own lines—with all their attractive anticompetitive features and opportunities for attractive profits—no independent pipeline will ever receive the commitment by the oil companies that they will ship their oil along an independent's line.

The major integrated oil companies would simply rather build the line themselves and insure an even greater profit.

If and when oil companies are barred from pipeline ownership that situation will change. They will have no choice but to use independent lines.

I intend to expand this present amendment in the very near future with comprehensive legislation for referral to the appropriate committee. That legislation would make the same prohibition applicable to all pipelines affecting interstate commerce whether or not they cross Federal land.

This legislation is timely. Just last week the staff of the Federal Trade Commission concluded a report on the relationship between the structure of the petroleum industry and the critical fuel shortages. That report allegedly recognizes the need to provide for independent oil transportation systems. I am unable to quote directly from that report because the chairman's office has refused my office's request for a copy of it.

Evidently it indicates that major oil company ownership of pipelines gives the companies an important weapon to control the crude oil produced by independent oil producers and raw material supply to independent refiners.

This amendment is necessary to protect the American consumer.

This amendment is necessary to help alleviate our energy shortages.

This amendment is necessary to promote vigorous competitive drilling and development of North Slope oil resources.

I ask for the support of my colleagues.

Mr. GRAVEL. Mr. President, will the Senator from Colorado yield?

Mr. HASKELL. I yield briefly.

Mr. GRAVEL. Obviously, the amount of return on the invested capital would be regulated——

Mr. HASKELL. No, that is not what these reports bring out at all. As a matter of fact, what the attempt is, is to take profits from the pipeline and put them back into the oil fields, because when we put the profits back in the oil fields, we have a higher base percentage depletion.

Mr. GRAVEL. I am not questioning what may be going on right now. What I am talking about is, under the Senator's proposal, if we deny the ability of the companies that have oil-producing sites to finance the removal of oil from one place to another, if we do that, and then turn around and say that somebody will finance it, I only know one reason why people finance things and that is because they can make money. So if the pipeline is going to be regulated, which, undoubtedly, under the Senator's proposal it would have to be——

Mr. HASKELL. The Senator is correct.

Mr. GRAVEL. We have the situation of a public utility.

Mr. HASKELL. The Senator is again correct.

Mr. GRAVEL. I do not know of anyone in Alaska who could bring together a combine other than the State of Alaska itself to bring about the construction; yet under the proposed legislation Alaska would be precluded from owning a piece of the pipeline under its own leadership because we have oil to ship through the line. We would be excluded from that proposition. So who under a regulated return would put together the investment?

Mr. HASKELL. Mr. President, I would suggest to the Senator from Alaska—I shall probably use the wrong percentage—but I believe the percentage of total invested capital allowed is somewhere in the neighborhood of 7 to 8 percent. If that is heavily leveraged by the high debt equity ratio, which is usually the case, and if in fact, the interest rate can be lower than that figure because of the certainty of the proposition, the return on the equity can be as high as 20 to 25 percent. It seems to me, if I may suggest it to the Senator from Alaska, that insurance companies, banks, pension funds, investment bankers would be leaping at the chance to finance this venture. I say to my friend from Alaska that this has nothing to do with where the pipeline goes, whether it goes through Valdez or——

Mr. GRAVEL. I appreciate that. The only concern I have is that, precluding the oil companies who presently have a stake in getting the oil out, some magic route will come into being in a fashion that will fill the breech in this regard and I do not know of any situation where this has occurred anywhere else in the country. If we are going to permit inside deals where I can, in an insurance company or a pension fund, turn around and get a little bit of equity out of it, and come out with a 25-percent return on my money, I suspect that the machinations the Senator will have brought about will not have advanced the consumer one step further ahead than he was at the disposal of producing companies which now are regulated.

Mr. HASKELL. All I was pointing out is that it would be an attractive investment opportunity that, for example, a pipeline can easily spin off to its stockholders.

I have here, if I may say to the Senator from Alaska, a report from the Subcommittee on Special Small Business Problems of the House Select Committee on Small Business dated October 1972. It is a House committee report, 92–1617—and I refer the distinguished Senator to page 28 which, at the bottom of shows the attractiveness of such a venture when referring to a pipeline——

Mr. GRAVEL. Who is making this statement?

Mr. HASKELL. This is a report by the House Committee on—the Select Committee on Small Business——

Mr. GRAVEL. My colleague knows as well as I do that the reports are done by staff members and that if one staff member will corroborate the Senator from Colorado, that is fine, that may well be right, except that my local business community is such that no one can get equity capital unless there is a substantial return. When we are talking about a regulated type of business, we do not get equity capital, and essentially they are cooperatives, other than the ones that developed historically prior to regulation. Now even widows and pension funds are investing in them, because it is a very safe type of return. But we are not going to get the entrepreneurial talent to come

forward and organize and put this together if there is not going to be a big return or a substantial return.

Perhaps the Senator is correct. Perhaps for the present someone who puts up a dollar is going to get the 25 or 30 percent return. If so, perhaps that is not in the best interest of this Nation.

Mr. HASKELL. I merely suggest that this is the pattern of oil pipelines, with few independent lines. I think there are just a few. This is a pattern they follow. I merely say that where you have a known supply and you have a demand that exceeds the possible supply, it should be a cinch to finance getting the two together. I say to the Senator that I think it would help the competition in exploring for reserves in Alaska. I think it would be helpful to Alaska.

Mr. GRAVEL. I have no argument on that score, and I have no argument with the Senator on his concept that the fractionalization of our economy may not be a benefit to the country. In fact, I think I can agree with the Senator on a philosophical basis, but what we are talking about is a specific course of action that exists with respect to the Alaska problem. Were his amendment removed and brought to us under a different garb, and that is to address itself without involving first our pipeline, I might take a different view. But right now, tomorrow, if his amendment is adopted, we have to find somebody to bring together the construction of this pipeline. I do not know of anybody in this country who is in a position to do that now except the oil companies, who have the incentive, not so much to make money but to get the money they already have locked up, in the ground, out. They count their stars lucky if they can break even with the pipeline and move the oil out. I do not know anybody in this country who is willing to do that on that basis.

Mr. HASKELL. I think our viewpoints differ. I believe oil companies undoubtedly have a double incentive: to make money on the line and get the oil out. Then, how are they going to produce the oil? They already have a monopoly on one-fifth of the oil.

Mr. GRAVEL. It is already regulated as a common carrier.

Mr. HASKELL. As I have pointed out, this regulation is in effect. I should point out that last week the Federal Trade Commission concluded a report on the structure of the petroleum industry. I have not seen the report as yet, except for excerpts. As I understand, they have come to the same conclusion I come to—the same conclusion that Attorney General Ramsey Clark and Attorney General William P. Rogers came to, as others did earlier. I suggest that it is in the best interests of the country and the best interests of Alaska.

Mr. GRAVEL. Would not this be a better proposal? Since the people are trapped there, with an incentive to bring this about, and since the most vital part of any enterprise is the entrepreneurial talent that goes in at the beginning to build it—once it is all built, pushing the oil through the pipe becomes automatic—why not require a divestiture, say, 3 or 4 years after this talent has brought this great act about? Then we would not be stuck in a situation where we would be waiting for some third party to come forward and bring about this development, where we have people who want to bring it about, but the Senator, by his law, says they cannot. Why not let them do their thing? They have the pipe; require the divestiture; and the Senator accomplishes what he seeks to accomplish.

Mr. HASKELL. I would be glad to consider that proposal, and perhaps, under the circumstances, that amendment to my amendment might be a very good idea. Obviously, I would like to think it over until I call up my amendment.

Mr. President, I ask unanimous consent to have printed in the RECORD excerpts from the reports of Attorney General Rogers and Attorney General Clark.

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

EXCERPTS FROM THE REPORT OF THE ATTORNEY GENERAL WILLIAM P. ROGERS, SEPTEMBER 1, 1958, AND SEPTEMBER 1, 1959, PURSUANT TO SECTION 2 OF THE JOINT RESOLUTION OF JULY 28, 1955, CONSENTING TO AN INTERSTATE COMPACT TO CONSERVE OIL AND GAS

1958 Report:

"The anticompetitive possibilities inherent in the control of transport facilities by major components of an industry have long been recognized. The peculiar conditions surrounding pipeline operation a half century ago were the justification for excepting these carriers from the operations of prohibitions against carriers dealing in the goods they transported. Recurrently since that time, proposals have been made to impose on pipelines the same prohibition. There are at least some indications that pipeline operation has since developed true common carrier capabilities, perhaps sufficient to permit independent operation. However, any recommendation in this respect must await full and careful investigation."

1959 Report:

"A different problem, however, is posed by the present pattern of pipeline ownership and operation. Only one possible pipeline connection is usually available to a well, and, considering its cost, is likely to endure for the life of the well. The economies of size and trunk-line operation logically impel building one large diameter line to a field or area, sufficient to carry anticipated production and therefore preclusive of economical operation of other lines.

"The position of each pipeline owner is greatly magnified by reciprocal use of pipelines among the select group of integrated companies owning pipelines. Logical and efficient operation of pipelines as a transportation system urges cooperation between lines and avoidance of duplication and cross-hauling. But the pipeline system is more than a transport agency, it is the crude oil market. *And cooperative use of pipelines has a grave potential for control of crude oil markets.* (Emphasis added.)

"Antitrust litigation can perhaps deal with particular cases of pipeline abuse. But the problem is more far-reaching, covering the broad spectrum of this industry's transportation and buying operations, and *singularly suited to legislative action.* Precise definition of the problem requires compulsory process to insure complete information; and *any policy decision on the appropriate solution seems best suited to legislative determination.*" (Emphasis added.)

EXCERPTS FROM THE REPORT OF ATTORNEY GENERAL RAMSEY CLARK, JULY 1967, PURSUANT TO SECTION 2 OF THE JOINT RESOLUTION OF SEPTEMBER 6, 1963, CONSENTING TO AN INTERSTATE COMPACT TO CONSERVE OIL AND GAS

Clearly an outsider could conceivably induce or force a line operating under such rules to accept its oil for shipment on a regular basis, if enough time were available for a regulatory agency proceeding. Even so, it would take considerable time and substantial investment in facilities to connect with established origin points. Moreover, after this investment, there is no assurance that such an 'origin station' would not be changed in the future, a portion of the line itself changed or discontinued, or the shipping convenience of the other shippers might change. Consequently, it is in most instances far less costly and more convenient for the outsider simply to sell to the line's owner and purchase equivalent oil on a delivered basis.

As a result, virtually all crude oil passing through a pipeline carrier system is oil owned by the carrier's refining affiliate. Some exception is made where the 'outsider' is also an integrated company whose lines elsewhere the carrier's refining affiliate may wish to use. Even in this situation, however, the appearance of discrimination is avoided by the exchange or re-exchange of the oil involved, or its 'sale' and 'repurchase'."

The entire crude oil pipeline system is so dominated by the integrated companies that virtually all shipments even if handled at origin or near destination by one of the few independent lines, must have intermediate access to an integrated company line. And outsiders simply are unable to use these lines as they could other types of common carriers. This is probably due less to direct refusal to accept outside shipment as to the multiple inconveniences which an outsider would encounter in attempting shipment over a line designed and geared almost entirely to handle the refiner-owner's own shipments.

Mr. HASKELL. I thank the distinguished Senator from Washington.

Mr. JACKSON. Mr. President, I followed with interest the statement by the able Senator from Colorado on the question of the pipeline problem.

My view is that there should be an independence of ownership of the pipelines from the actual production of crude oil and petroleum products. My concern relates to a delay that could take place if the pending amendment were to be effective immediately. It would mean that, in order to proceed with the divestiture, a new company would have to be formed, with all the problems that are related to the requirements of the Securities and Exchange Commission Act and other Federal acts that are applicable. It would mean considerable delay, according to the information I have received.

I believe that if this approach were to be followed, there would be a need, first, for a reasonable time for divestiture. Looking at it equitably, we are talking about all pipelines. I do not believe we can apply it just to pipelines that cross the public domain. If the problem is serious—and I believe there is a serious problem here—it should apply to pipeline operations that do not traverse the public domain as well as those which do traverse the public domain. If it is to be fair and equitable, it should be retroac-

tive as well as prospective. I believe there is a need—and there will be a need—for an appropriate time period to enable divestiture and reorganization to take place.

I am in general accord with the history here, which the Senator has outlined so well, of the Hepburn amendment to the Interstate Commerce Act which was passed, I believe, in 1906. I do think the Senator from Colorado has put his finger on a very important problem in this area as it relates to the need to bring about further competition in the industry, to make it possible for the independent operator, in particular, to be in a stronger position to move his product to the marketplace, to make it possible for the independent to be in a position to develop new sources of crude and to move it to the marketplace.

I could make a number of additions to support the validity of this general concept. I would only observe, in conclusion, that one must provide for the kind of adjustment and transition that will not disrupt the operation of an industry that is needed, a business which is involved with the public interest and which is important to the economic and national security of the Nation.

Mr. HASKELL. I thank the Senator from Washington. I think the Senator's suggestion that the provision cover all pipelines irrespective of whether they cross Federal or non-Federal lands is most constructive and a most welcome addition. I also feel the Senator's suggestion of a period of time for divestiture is extremely constructive. I hope it is possible for the Senator from Washington, the chairman of the committee, and others who are interested, to sit down to see if we can work out something.

Mr. JACKSON. I will be happy to do that and I look forward to discussing this tomorrow with the able Senator from Colorado so that we would be in a position to discuss it further on the floor when the amendment is formally called up.

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

Mr. JACKSON. I am happy to yield to the Senator from Alaska.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. STEVENS. I would like to address a question or two to the Senator from Colorado, because I am in accord primarily with what the Senator from Washington said, as a general proposition. But I would like to inquire why this amendment, which obviously has a great history, and has been faced by Congress before, should come before us right now. If the Senator from Colorado is addressing his remarks to the area of the North Slope—the primary area of oil and gas deposits we are discussing relative to the bill now before us he is inaccurate. This is not a place for independents. We are not talking about an area which you can go out and for several hundred thousand dollars drill a hole into the ground. We are talking about an area where the cost of operation is millions of dollars a day.

I do not see how we can change the law which the Senator mentions without having the effect of blocking the Alaskan oil development.

Would the Senator from Colorado express any opinion whether or not the amendment is of sufficient importance to take it to the Committee on the Judiciary and hold hearings on it and make certain that it is now in the proper form to be approved by both Houses of Congress.

This has far reaching implications with respect to the development of resources in Alaska. I say again that in general I am in agreement with the principles the Senator has stated, but I am not convinced that this is the appropriate vehicle for its consideration, when the primary result of the amendment would be to delay construction of the trans-Alaskan pipeline or the trans-Canadian pipeline for a substantial period of time. It would cause such a change in the equity position of those presently entitled to the North Slope reserve that the financial delay would be longer than the judicial delay. I do not think the Senator from Colorado wants to delay development of this North Slope reserve.

I believe we disagree about the route to be used, but I have been under the impression that he is sincere in wanting to see the development of the North Slope reserve. This may be the greatest single delay factor we have encountered so far, by requiring in connection with the largest pipeline ever to be constructed, a principle Congress abandoned 50 years ago.

Mr. HASKELL. Mr. President, in response to the Senator from Alaska, first let me say how I got interested in the subject. The oil reserves in the State of the Senator from Alaska are at least one-fifth of the known reserves in this country, perhaps more. My interest was prompted by thinking that if these are discovered reserves, what are the undiscovered reserves? What immense reserves there must be up there in addition to those now proven.

Then I started to analyze the position of the group that wanted to build a pipeline, and they happen to be the owners of the field. That led me into other research. I came to the conclusion that if this consortium of major companies builds that line, we will be giving that consortium not only what they now have and are legally entitled to, but for all practical purposes, we will also be giving them the exclusive right to explore for all undiscovered oil. I framed my amendment so that it would merely affect pipelines going across the public lands. However, I think the Senator from Washington (Mr. JACKSON) has an excellent point in that it should be broadened to include all pipelines.

The colleague of the Senator from Alaska thought that a period of time should elapse before this proposal would go into effect, and that it apply to all pipeline companies. I think this is reasonable.

I say to the Senator from Alaska that this proposal will not delay the building of the pipeline; it will be beneficial to Alaska, in that many more companies will now feel that this is an offer to do exploration on the North Slope.

Mr. STEVENS. Mr. President, let me make certain that the Senate knows, as I am sure my good friend from Colorado remembers, that the oil we are speaking about is owned by the State of Alaska; it is not owned by any of the companies. It is under Alaska State land, on the North Slope. The oil that has been discovered belongs to Alaska under our constitution.

We have granted leases to the people in the oil industry to produce the oil. It does not give them ownership until they have produced it. I am sure the Senator would agree with that. Alaska does not have exclusive rights to the North Slope oil. There is a balance of great potential. There are nearly 300 billion barrels of oil in Alaska. The balance of that oil will be developed, so far as it is on State land, in accordance with State law. It will be produced after full competitive bidding when our director of the department of natural resources sees fit to require it. If it is on Federal land, it will require competitive bidding when the geological structure becomes known.

I think my friend will agree that when we get into that situation, there will be a challenge concerning additional development.

Unless someone is willing to build that first pipeline and demonstrate the capability to transport the oil from the North Slope, no one is going to put money into leases. The first leases amounted to about $900 million, because of the expectation that existed in American industry. Firms bid competitively and consequently to our State's advantage. If those leases were put up today, they would not bring $900 million, because no one would put up the money, having seen the delay in pipeline construction we have had since 1969.

The Senator should take into consideration the development of the North Slope—the millions of dollars for the cost of the pipe; the millions of dollars to build tankers. More than $5 billion are required by the people who are already committed. More than a billion and a half dollars have been invested in that development already. It is to their advantage to have the pipeline built promptly. Their stockholders will demand that they put up the money.

They have not put up the money to build Prudhoe Bay. They have not put up the money to build the Valdez dock. They have not put up the money for the drilling that has proved to be productive.

I would like to cooperate with the Senator. I would cosponsor his bill as a separate measure, and I would help him get it considered. However, that would be looking toward the future. It is not an issue that should be involved with this bill which means so much for the development of my State. This would produce a damaging delaying effect at this time.

Mr. HASKELL. I can only say to the Senator from Alaska that, as far as future development goes, it seems to me that without such a provision, the State of Alaska, the Federal Government, and the Natives who are going to get land under the Native Claims Act, really are going to have to look at possible customers for leasing those lands. This will be due to the simple reason that other companies will now be interested, if the history of the industry is correctly analyzed by many different sources. So I think this opens up competition to the great State of Alaska.

I would also suggest that the companies that have these gigantic reserves certainly want to sell them and, therefore, they would pay a tariff to go through an independent line and sell it to the lower 48.

I would certainly feel that if a reasonable time period for this to take effect is desirable, as suggested by both the Senator's colleague and the Senator from Washington, this is certainly satisfactory. But the main thing, I say to the Senator from Alaska, is that this is a huge national asset, very important to Alaska and very important to the Nation. I submit that my amendment is good for both Alaska and the Nation. I submit there are going to be more companies up there bidding if they know they truly have an independent way to get it down to the lower 48.

Mr. STEVENS. I would say that until we get a pipeline, until someone is willing to continue to invest to get it, there is going to be no interest, whether it involves independents or others, for further development of our great potential. This is my point here. We must have that initial means of transportation from the North Slope, or there will be no interest by any group to provide further transportation, for there would not be any. These people have, are committed heavily already, and unless they can provide a means of transportation, there will be no further interest in exploration and development in Alaska. That is our point.

Mr. HASKELL. As I understand it, there is certainly no engineering problem. A line can be built. I am on firm ground there. I think the Senator will agree with me. In other words, the pipeline can be built. The problem is litigation. Will the Senator agree with me on that?

Mr. STEVENS. I will agree with the Senator on that if he will agree with me on this as we are both lawyers. How would the Senator like to try, through the SEC, for a registration of a new company to build an Alaska pipeline today or tomorrow or any time until this litigation is over? How would the Senator like to do it? He would not be able to do it, would he?

Mr. HASKELL. I know the distinguished chairman of the committee, the Senator from Washington, and I do not see eye to eye on this, but I believe the best way to get the oil from the North Slope of Alaska is to get a congressional decision. After we get that, which will examine the situation from a national viewpoint, and which way the pipeline should go, and avoid environmental litigation, I really think that is the quickest way.

Mr. STEVENS. The Senator did not answer my question. I am sure the Senator would not try to float any security and get the approval of the SEC to get a company to construct a pipeline with this situation. The companies there are the ones who have taken the risk. They have more than $1 billion invested already. They are entitled to the development of this line. In fact, if they do not develop this line, I am very much worried about future development for Alaska. The Senator is worried about the independents coming in. What independent is going to drill on the North Slope?

Mr. HASKELL. We have different definitions of "independent". When the bids were being made in Alaska, there were a great many people up there with money, bidding. Some were successful and some were not. I think in the oil industry the word "independent" includes such vast wealth that in any other industry the company would be called a major. So I think the Senator would see increased development.

Mr. STEVENS. Someone once said that an independent was one who could get a check for $1 million cashed.

Mr. HASKELL. It would be nice to be independent in that sense.

Mr. STEVENS. Again, I would hope the Senator would review what he is doing in view of the situation as it applies now. If this were something that had been received a long time it would be another matter; but with regard to North Slope oil right now, it is not possible for anyone to organize a company to build a pipeline until all factors have been determined and a lawyer could look the SEC in the eye and say, "These are the probabilities. We are making firm representations. We can go ahead and proceed with this line." The Senator could not do that now, but the oil companies that own these leases have so much money invested that they must continue. That is my point. I do not see any point in injecting this proposal now. I hope the amendment will not be called up, because while we must be diametrically opposed to it in connection with this bill, as a general proposition I find it a good idea.

Mr. HASKELL. I will, of course, take the Senator's views and the Senator's very articulate statement into consideration. I am sure he will do the same, and hopefully we can have a resolution of the matter.

Mr. GRAVEL. Mr. President, will the Senator yield for an additional colloquy?

Mr. HASKELL. I yield.

Mr. GRAVEL. I would like to add this counsel. Does the Senator have a preference with reference to shipping the oil through Canada or Alaska?

Mr. HASKELL. I have no preference, I say to the Senator. My position is that we should determine which is the most economical.

Mr. GRAVEL. And that decision would be formed through a study. Is there an amendment that would be offered to that effect?

Mr. HASKELL. There is an amendment to be offered, and I will point out to the Senator that that study is for 11 months, and then Congress must act. When Congress acts, that avoids the environmental litigation. As I mentioned to the Senator's colleague, this is in the interest of speeding up the process.

Mr. GRAVEL. If the study indicated that it would be in the best economic interests of the consumer to ship the oil through Canada, then the Senator would be for a Canadian pipeline?

Mr. HASKELL. That would be correct.

Mr. GRAVEL. The Senator would not want to raise any roadblocks to that possibility taking place—I refer to the construction of a Canadian pipeline—through legislation now?

Mr. HASKELL. Oh, no. This applies either way, no matter which route.

Mr. GRAVEL. That is the point I want to make. Under the plan as it is presently constituted, if the Senator pursues this amendment, he will guarantee that there is no way a line can be built through Canada. I would suggest that by putting the figures together reasonable men would agree that the Canadian line, since it is twice the length of that in Alaska, and assuming the Canadian line would require the same environmental criteria, and assuming the same costs would prevail on a per foot or a per mile basis, would be more expensive than the Alaska line. I think that is a reasonable assumption.

Mr. HASKELL. I would have no idea on the cost basis.

Mr. GRAVEL. If we said the equity requirements in a pipeline going through Canada would be somewhere around 70 to 80 percent, anybody building a Canadian pipeline would have to pay 25 percent of the equity of that line.

Since the Canadian Government—and I think that my colleague is aware of this—has repeatedly stated that it wants 51 percent, that it has to have a 51-percent content, we would be talking about an equity sum that would be somewhere near $800 million, which incidentally would be about the sum—$700 to $800 million—that would be necessary to come up with for an equity investment for the Alaskan pipeline. That is quite a sizable stock issue. However, in the case of Canada, it is not only $800 million, but it is about $400 million more than the Canadian's total equity has been on an average for the last 5 years.

So, what my friend is suggesting, if we codify this into law, would be the inability of the Canadian financial market to permit the construction of a pipeline through Canada.

Mr. HASKELL. Mr. President, I am sorry, but I did not follow the Senator's figures. The Senator concluded that the Canadian line would cost how much in equity?

Mr. GRAVEL. I would say in rough figures somewhere around $600 million. And if we figure 75 percent of that and a Canadian content of 51 percent of that, we come out with about $800 million that we would have to come up within stock equity. Someone would have to sell that stock in Canada, and the Canadian citizens would have to come up with $800 million. In the last 5 years, the Canadian equities in Canada have amounted to $500 million. So, the Senator would mean that for almost 2 years no one in Canada would be able to buy any other stock in any other area except this pipeline up there, financed in Canada which the Canadian Government said is mandatory with respect to a pipeline construction.

So, I think the Senator's amendment would preclude the possibility of any Canadian pipeline.

Mr. HASKELL. Mr. President, I would point out to my friend, the Senator from Alaska, that if his figures are correct the Canadian Government one way or

the other has made it impossible to acquire the equity capital for a line through Canada and therefore it must go through Valdez. And if we were to go through Valdez, there would be years of litigation.

Mr. GRAVEL. That is a conclusion that my friend reaches. We can make this judgment. The Canadians have said repeatedly that they want a 51-percent content. That is their position. We, of course, have to put pencil on paper and figure out what it will be and realize that there is no way in which Canada can permit construction of this line under the criteria that the Senate would establish into law.

Mr. HASKELL. I would say to the Senator that until we sit down seriously with the Canadian Government, we will not know what they want. Some people say that we cannot send it through Canada unless we have a treaty and that we cannot get a treaty for 3 years.

Mr. GRAVEL. Mr. President, I do not want the Senator to misunderstand me. I am not addressing myself to the negotiations in what is involved. I am quoting what the Canadians have said time and time again, and that is that for any line that goes through Canada, there will be 51 percent of the stock owned by Canadians. And with the Senator's amendment, Canada cannot afford to have this line go through.

Mr. HASKELL. If the Senator's figures are correct, Canada cannot afford to have this line whether or not this amendment goes through. The Senator from Alaska says that Canada insists on 51 percent ownership, so, Canada cannot afford it, and whether my amendment goes through or not, a Canadian route would be out.

Mr. GRAVEL. I would say that the Imperial Oil Co. of Canada could make some international transactions by which they could borrow money on a debt basis. That could be done in another way. That can be done. No oil companies would stand good for the loan. That is the same reason that my colleague is pointing out why we cannot get this off the ground, because we need somebody to stand for it.

The oil companies will stand for it, because they have so much investment in hostage to that pipeline already. That is why I suggest that it would be a good idea to offer the amendment after the oil line has been created and the oil companies have satisfied their debt.

Mr. HASKELL. Mr. President, when there is an insatiable demand and supply, whether one gets the oil though a pipeline or a railroad, it has to be financed.

Mr. GRAVEL. Mr. President, my friend is making one mistake. He is quoting the economic dictum of supply and demand. However, ahead of that, we have to have that pipeline. So, we take the supply and demand and throw it out of the window because there is no relevancy to it.

The Senator is correct. If there were no restrictions, I could put together a company tomorrow with $1 billion equity without actually having the capital, and I could total up profits for the next 30 years. However, when we talk about supply and demand and have a regulated Government operation, those factors are no longer applicable.

Mr. HASKELL. Mr. President, in national publications and national newspapers, every day there are announcements of stock issues on utilities. And I guess that they sell them.

Mr. GRAVEL. Most of the issues with respect to those equities are financed through debt capital. The equity involved is something quite different, and particularly with something that is a venture that is yet to be developed. And if the Senator can imagine the entrepreneurial talent that would have to be put together, knowing the difficulties we have gone through with the Alaskan pipeline, there would not have been an entrepreneur that would have supported the project if the Senator's amendment had been in existence. There would not have been this pipeline at this point in time.

This was occasioned because of people that have an interest in getting this finished. Over $400 million has been expended at this point in time. Where would be the entrepreneurial equity money, with fighting the economists and fighting court actions and with all of this delay? No one would have touched it had the Senator's amendment been operable. And there are merits to the amendment if it become operable after the fact, but not before the fact. Before the fact is when the entrepreneurial talent is so vital in the incubation of the total picture. In a classic sense, that is the talent that is most rewarded. The people use the entrepreneurial money to make progress in this society.

If we were to take away this reward, this would not take place. What exists in Alaska is that it is not so much a reward. The companies and individuals have an interest, because they have their oil unransomed as a result of this pipeline. That is the entrepreneurial talent that exists in this regard.

Mr. HASKELL. Mr. President, all I want to say is that the Senator mentioned that it would occasion a delay of 3 years from now. The Senator from Washington suggested making the proposed amendment effective for all interstate pipelines and having a limit of time in which divestiture should take place, so that it goes right across the board.

Mr. GRAVEL. Mr. President, I would suggest to my colleague that in looking through this magazine, the $700 to $800 million stock equity sale for utilities is fairly remote. It has happened on occasions when the Fords sold some stock. It has happened with respect to General Motors. However, normally, this is a highly remote and highly unusual type of sale of stock.

Mr. HASKELL. Mr. President, I thank the Senator.

Mr. FANNIN. Mr. President, we are considering a bill which is quite all encompassing, to authorize the Secretary of the Interior to grant rights-of-way across Federal lands where the use of such rights-of-way is in the public interest and the applicant for the right-of-way demonstrates the financial and technical capability to use the right-of-way in a manner which will protect the environment. We are discussing this legislation and attempting to approve the legislation principally because of an energy and fuels emergency that exists today and will be more serious in the future.

The fuel shortage is real, and I would just like to report on a special study conducted at the request of Senator JACKSON as part of the Senate Resolution 45, Fuel and Energy Study by the Library of Congress outlining the causes of the gasoline shortage and listing North Slope oil as part of the solution to the problem. Mr. President, I ask unanimous consent that this summary of the study be printed in the RECORD.

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

SUMMARY

The gasoline shortage is the result of several factors acting in conjunction. Limited refinery capacity, flagging domestic production, and a worldwide shortage of low-sulphur crude resulted in restricted supplies. At the same time demand was rising at rates much higher than before. This imbalance, if it continues, could create serious economic problems. The gasoline shortage has already had a major impact on consumers, farmers, and independent marketers. Unfortunately, there are no quick or simple solutions. The only short-term relief is likely to come from imports of foreign oil and oil products and through conservation efforts. A recurrence of gasoline shortages can be expected for at least the next three years until new refineries are built. Until such time as supply once again is sufficient to meet demand, artificial means may be needed to ensure that supplies of gasoline are allocated to those who need them for high priority uses.

Mr. FANNIN. Mr. President, the gasoline shortage is a result of several factors acting in conjunction. Limited refinery capacity, flagging domestic production, and a worldwide shortage of low-sulfur crude resulted in restricted supplies. At the same time demand was rising at rates much higher than before. This imbalance, if it continues, could create serious economic problems. The gasoline shortage has already had a major impact on consumers, farmers, and independent marketers. Unfortunately, there are no quick or simple solutions.

Mr. President, I imagine that most of our colleagues have had reports from their home States in regard to these shortages and the problems that exist as a result of them. Each day's delay in bringing in Alaskan oil to the United States, Mr. President, results in a balance-of-payments loss to the United States of about $5 million. So this is another great consideration that we bear the responsibility for if we do not go forward as rapidly as possible with the passage of a bill that will make it feasible to bring oil from Alaska into the United States, or into the "lower 48."

In a statement presented to the Senate Interior Committee on March 27, Thornton Bradshaw of Atlantic Richfield Co. outlined the prospects for pipeline financing, domestic energy supply and the U.S. balance of payments should Alaskan oil remain on the North Slope. His analysis illustrates that we cannot

afford continued delay in resolving the pipeline issue.

He addressed the chairman of the committee as follows:

It is not possible to construct an oil or gas transmission line of efficient size within a right-of-way limited to 25 feet on each side of the line. The construction of pipelines which touch federal lands requires a continuation of the Secretary of the Interior's historic authority to issue special land-use permits outside of the stautory right-of-way width. The Court of Appeals' decision of February 9 of this year holds that the Secretary lacks such authority and thereby rules out the construction of gas and oil transmission lines across any federal lands.

This is the situation we are faced with today and, according to Government expert estimates, each day's delay in bringing Alaskan oil to U.S. markets results in balance of payments loss to the United States of about $5 million. By the early 1980's, this balance of payments loss will be about $10 million per day.

The country, in my opinion, cannot afford continued delay in bringing this Alaska oil to the people who need it. Senator Jackson put the matter clearly at the commencement of these hearings when he said that: "The issue of right-of-way width limits is straightforward and urgent. I have not heard, and I cannot imagine an intellectually respectable argument against correcting this situation and eliminating the uncertainty that flows from it."

This Committee is deliberating today on a matter that goes beyond short range considerations of national security, international prestige, or profit and loss. The debate over the Trans Alaskan Pipeline System these last years has disguised a deeper issue, one that touches the core of the human condition. I believe what we are really discussing is what sort of world our children will grow up in and how we will help them meet the challenges they will face as adults and a free people.

The news media have made us sharply aware in the last several weeks of the narrow margin of safety that separates us from a serious energy crisis. We have seen the early manifestations in the isolated shutdowns and shortages in the Midwest and Northeast this winter. We in the petroleum industry are working hard to see that these dislocations do not escalate into additional critical problems during the summer driving months, when gasoline demand hits its peak. Speaking for my own Company, I believe these challenges can be met this year. But we can scarely afford to restrict our field of vision to the next few months or so. We need to be thinking about energy challenges we will face next year, five years, ten years, and 20 years from now, and making the appropriate decisions to meet them. I believe the Trans Alaskan Pipeline issue falls into that category.

Failure to move ahead with this project has adverse short range implications for a few of us here, but the negative long range issues touch upon all of us, everywhere in America. The basic question at hand, I believe, is how seriously we need Alaskan oil. Do we need it badly enough to press for the earliest possible delivery at the lowest cost, both environmental and economic? Or can we afford to leave it where it is another two, five or ten years, until our needs are more critical?

For the immediate future we will have to use more foreign oil by increasing oil imports from their present level of 1.7 billion barrels of crude oil and products per year (about 29% of consumption) to around 6 billion barrels per year (about 60% of consumption) by 1985. The cost of foreign crude imports today is around $4 billion. With increases in crude costs, our 1985 outlay to foreign suppliers—mostly the Middle Eastern OPEC nations—will total between $17 billion and $20 billion per year. I need not amplify for this Committee the impact this will have on our balance of payments, and the serious new strain it will put on our already battered dollar.

Some of this deficit will be inescapable. Nuclear and other exotic energy sources simply cannot be marshaled in time to take up the slack. The largest single domestic source of petroleum now at hand is in Alaska. At the moment, there are approximately 9.6 billion barrels in proved reserves at Prudhoe Bay, about 25 percent of all proved reserves in the United States. There is, perhaps, an equal amount in presumed reserves. Assuming we could get this oil on stream to the lower 48 by 1977, we could begin slicing into our negative petroleum trade balance in a meaningful way. When the Trans Alaskan Pipeline is operating at its full capacity of 2 million barrels a day, we would back out approximately $2.5 billion worth of foreign oil per year. As crude costs rise, the trade benefit from Alaskan oil will increase commensurately—and by 1985 it will probably exceed $3 billion annually.

The cumulative effect of Alaskan oil on our trade balance between 1977 and 1987, the first decade of operations of TAPS, will be between $20 billion and $25 billion. And some time around 1980, under these projections, natural gas from the North Slope could begin reaching markets in the Midwest, which could back out some of the liquified natural gas imports now under discussion between our country and the Soviet Union.

There is an instructive lesson in future shock to be extrapolated from these facts. The projected loss in 1980 trade deficits for each 24-hour delay comes to nearly $10 million. This means that the American taxpayer and consumer of 1980 will suffer an added balance of trade deficit of more than $450 million since the Appeals Court decision of last February 9. This cost is increased by inflationary factors which push up construction costs of the pipeline more than a half million dollars a day. This is what I meant about helping children meet the challenges they will face as adults.

Now, these figures are impressive by anyone's standards, but no dollar savings could possibly justify wreaking irretrievable damage on the fragile Alaskan environment. And that is not going to happen. Since the pipeline was originally conceived, its cost has increased by millions of dollars to insure that the stringent challenges of the Alaskan wilderness will be met. It will be easily the safest and best engineered pipeline in the world. It is the shortest possible route, offering fewer environmental hazards at a lower cost, with an earlier completion date than any alternative yet mentioned.

As to the issue of Alaskan right-of-way permits, I believe the Secretary of the Interior has always had discretionary authority under the 1920 Act, and indeed, has exercised that authority throughout the history of the Act. At the moment, there may be as many as 2,200 miles of pipeline projects planned or underway in the U.S. that will be delayed or jeopardized by the decision of the Court of Appeals.

In view of the urgency of the situation, the simplest and earliest solution is called for. What is needed from Congress is confirmation of the Secretary of Interior's long recognized authority to issue special land use permits.

This illustrates just how serious the situation is at the present time and the increasing seriousness of it as the months go by.

Now much has been said about building a Canadian pipeline and that it should go forward. I agree that we should build the Alaskan pipeline as provided in S. 1081. It will go forward with a study and with the hope that negotiations with Canada to build a second oil pipeline will take place in the not-too-distant future. In the case of the Canadian pipeline it might be as much as 7 to 10 years, but still that pipeline should go forward to supplement the capability of the trans-Alaska line.

We also heard comments from William J. Casey, the Under Secretary of State of Economic Affairs, who testified just what has happened in the way of prior negotiations with Canada including efforts to determine whether a Canadian pipeline could go forward at an early date. Much has been said about how we can go forward with a Canadian line but nothing has been done to try to work out the difficulties that might exist so far as negotiations with the Canadians are concerned. It is a fact that the Canadians are not that anxious to approve an oil pipeline through their country.

Now I refer to the Casey statement, in which he said:

It has been further suggested that a trans-Canadian pipeline could be authorized and constructed in only a few more years than the proposed Alaskan pipeline. With that we disagree.

It is our opinion that no trans-Canadian oil pipeline will be constructed in Canada within an acceptable timeframe unless the Alaskan pipeline is authorized and construction on it begins in the near future.

Deputy Secretary Simon already has outlined for you some of the problems, obstacles and delays which could be expected in seeking to build an oil pipeline from Alaska through Canada to the United States.

I will not repeat them but wish to confirm that these matters have been examined closely by the Department of State and we reach the same conclusions. Real obstacles exist to early construction of the suggested pipeline.

Further, as stated by my colleagues today, no assurances exist that Canada will give timely approval for the pipeline.

During the past 4 years, we have had continuing discussions with Canada on energy matters, particularly concerning the future supply of oil and gas from that country.

Among other things, we have attempted to reach understandings on the provisions to govern the construction of pipelines to bring oil and gas from Arctic regions to markets in the United States and Canada.

However, the Canadian Government has consistently taken the position that the question of pipelines through Canada from the Arctic was not a matter for inter-governmental negotiation and that it was not prepared to negotiate on this matter. We have no reason to believe that this position is changed today.

Mr. President, that is part of the statement by Mr. Casey, Under Secretary of State for Economic Affairs.

Mr. President, I now refer to an advertisement published in the Washington Post of yesterday, headlined "Why Starting the Alaskan Oil Line Now Is Important to You."

This is an advertisement by the Columbia Gas System. Here is what it says:

Summer gasoline famines. Electric power brownouts. Shortages of heating oil and natural gas supplies for next winter. Jobs threatened by lack of available energy supplies.

Mr. President, this is from a company that operates in this area, and not on the west coast or in the Middle West. The company is referring to the need to build an Alaskan pipeline. The company favors the trans-Alaska line going ahead and certainly they give many arguments here as to why it should be built now. I refer to some of them:

We need the clean oil and natural gas as soon as possible. And the Alaskan line can be started almost at once. Material is in place. Engineering and environmental studies have been completed. Oil could be flowing by 1978.

A Canadian route for the oil line would delay our use of Alaskan energy for years.

They do not say how many years, but certainly they indicate there would be a long time wait.

Running the oil line through Canada, as has been proposed by some, will take from five to six years longer. Such a project must start from scratch and the environmental impact of the Canadian route will be as great or greater than the Alaskan route.

But they do not say anything about the 5 or 6 years time involved because of the uncertainties of dealing with the Canadian Government.

The gas waits for the oil. The tremendous reserves of natural gas on the North Slope of Alaska are in association with the oil reserves and their production can't start until oil production begins. Construction on a gas pipeline must wait for the oil line. It is expected that a pipeline can bring Alaskan gas to this area by 1980, if the oil line starts promptly.

Environmental advantages to the nation greatly outweigh possible minimal adverse effects. The risk of environmental damage from the Alaskan oil line has been substantially lessened as a result of the stricter environmental stipulations, multiple safety systems and contingency planning. The benefits from increased supplies of clean gas and oil far outweigh the minimal risks.

Mr. President, I have talked about the environmental advantages that were reported in this Columbia Gas System advertisement. They repeat what I reported previously, which also has been said by others who have made a study of this matter.

I emphasize that I am talking about a company in this area. The company is not located on the west coast but on the east coast. It stands to benefit, too, from a trans-Alaska pipeline—

Costs are rising while delay continues. Because of inflation, each day of delay in starting construction makes the oil and gas pipelines more costly. Each lost day on a gas line adds $1 million to a cost estimated currently at $5.4 billion. The same facts apply to the oil line costs. All these higher costs must finally be reflected in what you and other consumers pay for oil and gas.

We are talking about a construction cost and a project cost of $5.4 billion. We need this pipeline. It will be of great aid to the U.S. economy. It will lessen dependence on foreign sources, which we have talked about. It is important to emphasize the full significance of it, not only from the standpoint of the security of this Nation but also from the standpoint of the economy of the Nation. This country cannot afford, in its present position, to import billions of dollars more of Middle Eastern oil. Certainly we cannot afford to be dependent upon countries with which we could have problems—sources which could either increase the cost or stop the flow of oil entirely.

The Columbia Gas advertisement concludes with what must be done now:

Congress has before it bills which will quickly settle questions concerning right-of-way and environmental studies for the oil line. These bills must be enacted without delay so that badly needed North Slope Alaskan oil and gas can be added to the nation's energy supply as soon as possible.

Mr. President, the idea has been placed in the public's mind that there is a conspiracy, that the industry has conspired to cause shortages and, therefore, the shortages are unreal. It has become popular to blame the oil companies for our energy crisis by alleging conspiracy. Before reaching any conclusions, however, it might be well to consider the facts. The following New York Times article of July 3, 1973, reports on company responses to such charges.

Mr. President, I ask unanimous consent that this article be printed in the RECORD.

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

CHARGE IS DENIED ON GAS RESERVES

WASHINGTON, July 2.—The Gulf Oil Corporation today disputed a Federal Trade Commission official's accusation that it had been understating its natural gas reserves.

In a statement, Gulf said the figures on reserves it had given to the American Gas Association for use in compilation of a national reserves total "were not 'significantly lower' than the reserves which the company has on its corporate books."

The phrase "significantly lower" had been used in the allegation of under-reporting, made against three oil concerns.

The charge of under-reporting was made against Gulf and two other companies (Continental Oil and Union Oil of California) by James T. Halverson, director of the F.T.C.'s Bureau of Competition, on June 27 in testimony before the Senate Antitrust and Monopoly subcommittee.

Through a spokesman, Continental said in response to an inquiry, "We emphatically deny that Continental has deliberately understated its natural gas reserves and further emphatically deny that Continental in any way is involved in a conspiracy to understate its reserves."

PROTEST IS PLANNED

The company accused Mr. Halvorson of "impropriety" in making public information from "documents which were submitted under a confidentiality order." The Continental spokesman said a "letter of protest" would be sent to the Federal Trade Commission, probably by the end of the week.

Inquiry of Union Oil's Los Angeles headquarters elicited no comment.

The F.T.C., with the help of the Justice Department, has brought a civil action against eight other gas producers to compel them to respond to the agency's subpoenas for internal documents.

At the request of the Senate subcommittee's chairman, Philip L. Hart, Democrat of Michigan, the F.T.C. has been trying to determine whether gas producers have habitually understated their gas reserves, at least in figures for public consumption, to create the impression of a shortage and thereby to push prices up.

Senator Hart said later that he thought that the natural gas shortage might be "a hoax."

Mr. FANNIN. Mr. President, the following Wall Street Journal article of June 29, 1973, reports on Chairman Nassikas' testimony that the gas shortage is real and industry is competitive. Let us, therefore, look at the facts before leaping to conclusions.

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

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

GAS SHORTAGE AND COMPETITION ARE GENUINE, FPC CHAIRMAN TELLS SKEPTICAL SENATE UNIT

WASHINGTON.—Federal Power Commission Chairman John N. Nassikas insisted to a skeptical Senate subcommittee that there is a natural-gas shortage, that it wasn't contrived by the industry and that "workable competition" exists among gas producers.

But Sen. Philip A. Hart (D., Mich.), chairman of the Judiciary Committee's Antitrust and Monopoly Subcommittee, which is holding hearings on the matter, said "information we have seems to point in the other direction." He suggested that the FPC investigate whether gas is being deliberately withheld from the market by producers to force the granting of higher prices by the agency.

Mr. Nassikas, under a subcommittee subpoena issued last week, delivered to the panel some data concerning concentration among big producers of natural-gas reserves that are uncommitted and still available for sale. Such reserves, a key measure of the availability of natural gas, have been declining, according to the FPC. The FPC gets such information from the industry.

The subcommittee said it would examine the material and didn't immediately make it public. The FPC had asked that it be kept confidential because disclosure of information about individual producers' uncommitted reserves would aid their competitors. A summary of the data, as previously reported, shows that in some key natural-gas areas more thn 90% of the uncommitted reserves are controlled by a handful of producers.

"INTERDEPENDENCE" OF PRODUCERS

Sen. Hart said that in addition to concentration of uncommitted reserves among a few companies there is "intermingling and interdependence of producers" because of consortiums, joint operating and marketing arrangements, joint bidding and substantial trading of products and tracts of land. "The industry is much like a family," the Senator said, and "to allow prices to be set on the premise that free market forces are at work in the industry may ignore reality."

The latter is what the FPC and the Nixon administration have proposed to Congress in asking that the price of newly found gas be deregulated—freed from FPC control.

Sen. Hart and Sen. Edward M. Kennedy (D., Mass.) criticized Mr. Nassikas for failing to have any idea of what effect deregulation would have on the consumer price of natural gas. Mr. Nassikas said he hadn't any estimates but that "I assume the price will go up." He said the FPC hasn't done any studies on the matter.

He added that if the price is decontrolled producers would have an added incentive to find and develop more natural gas and alleviate the current shortage. He said that if the shortage is allowed to continue, prices would go up anyway. "Consumers are interested not only in price but also in supply," he said.

Consumer groups and some members of Congress have predicted that prices to consumers would skyrocket in the event of deregulation. Joseph C. Swidler, chairman of the New York State Public Service Commission and a former FPC chairman, said in testimony to the subcommittee that an un-

regulated market "cannot be counted on to protect residential and other high priority gas consumers," and may lead to excessive gas prices. He suggested Congress instead extend federal regulation to the intrastate market, as well as to interstate sales.

The FPC data related to a February 1973 study that showed nationwide uncommitted gas reserves had declined to 3.4 trillion cubic feet in mid-1972. According to the FPC study, 79 gas producers controlled the 3.4 trillion cubic feet, with 20 of the largest producers controlling 3.2 trillion cubic feet of the reserves.

The producers weren't named, and it was earlier reported that the FPC had listed, in 1971, the four largest gas producers by total sales.

GULF ISSUES DENIAL

Gulf Oil Corp., one of the companies mentioned in the 1971 report, has denied, however that it should be considered among the major holders of natural gas reserves. "The fact is that while Gulf was the fourth largest seller of gas as shown by the 1971 FPC report, Gulf's uncommitted gas reserves as reported to the FPC were only 10.4 billion cubic feet," a Gulf official said.

"This represents less than one-third of 1% of the total uncommitted reserves of the 79 producers and less than two-thirds of 1% of the reported uncommitted reserves of the four largest producers. Obviously, Gulf couldn't have been one of the four largest or even one of the 20 largest producers measured by its uncommitted reserves," the official added.

Mr. FANNIN. Mr. President, now that some stations around the country have oil and gas where they did not have the product a short time ago, just a few weeks ago, including the area of Washington, D.C., shortages still exist, but not to the extent they did a few weeks ago. Many are saying that the energy crisis is over. But the energy crisis is not over.

As I stated earlier, I believe that many Senators have been contacted by their constituents, as I have been. Even today, I have had calls complaining that some of the stations are not able to get petroleum products. So the North Slope oil is needed now more than ever.

An article published in the Washington Post of July 8 predicts that the gasoline shortage will intensify next year. In some instances, we have had some relief, but the trans-Alaska pipeline is needed now if we are really going to have the relief we have been talking about.

Mr. President, I ask unanimous consent that the Washington Post article, entitled "Gas Shortage Eases; Crisis Seen in 1974," be printed in the RECORD.

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

[From the Washington Post, July 4, 1973]

GAS SHORTAGE EASES; CRISIS SEEN IN 1974

(By Thomas O'Toole)

The gasoline shortage that frightened 100 million motorists from coast to coast last month is suddenly not such a frightful shortage after all.

There's no sudden glut of gas either, but service stations that were limiting their hours and sales are returning to normal operations. Surviving independent retailers who saw bankruptcies in their futures are solvent once again, and giant oil companies pondering whether to advertise their products or their scarcity are leaning toward their products once more.

Nobody counts on the crisis going away. Indeed, most oil company executives see only a brief respite this summer. Almost all of them think the shortage will be back again next spring, twice as bad as it was this year.

"We'll make it through this summer alright," said Robert O. Anderson, chairman of Atlantic-Richfield Oil Corp., "but I don't know what to think about next summer except the worst."

Not that the gasoline crisis hasn't taken its toll this summer. More than 2,000 independent gas station owners went out of business this year, victims of the springtime shortage that saw major oil companies simply cut independents loose from their supplies. Among the victims was a 30-station owner in Whittier, Calif., who was one of President Nixon's early political fundraisers.

Victimized also were some of America's most time-honored ways of doing things.

Prince Georges County in Maryland no longer lets its volunteer firemen buy gasoline for 18 cents a gallon from fire station pumps. Pan American World Airways has reduced cruising speeds of its 707 jetliners from 542 to 529 m.p.h., a move that adds as much as seven minutes to flight times but which will save more than 10 million gallons of jet fuel in the next year.

Gasoline consumers have largely escaped the wrath of the shortage, though spot scarcities have hit some states hard. Florida is one of these, stuck as it is without a refinery at the end of the nation's pipeline and stuck as it is with 1 million tourists every summer.

Prices have skyrocketed because of the shortage. Gasoline sells for 10 percent more than on Jan. 1, and black market prices flourish wherever the shortage is severe.

Motorists paid $1 a gallon last month for gasoline in some parts of Nevada. Farmers in Burkbennett, Tex. (right in the middle of the Texas oil fields), had to buy black market gas to haul wheat out of their fields to market. The city of Seattle was forced to pay almost 50 percent more than it did last year just to run the city's buses.

The most interiguing aspect of the crisis is also the most controversial. How did the shortage end so abruptly? How did the nation work its way out of scarcity so quickly?

Observers of the fuel crisis are divided on the reasons. Oil industry critics say the shortage was at least partly a hoax, schemed and orchestrated by the major oil companies to drive prices up and independent oil dealers out of business.

The Interior Department's Office of Oil and Gas noted last week that refinery runs had reached record highs as early as the end of May, when gasoline production ran 15 per cent ahead of May of last year.

"It is difficult to see a shortage situation in the statistics as they are unfolding," the Office of Oil and Gas reported. "There is no doubt, however, that the independent segment of the market is short of supply and is paying a premium price for what they get."

Hearings held in the nation's heartland by Sen. Adlai E. Stevenson III (D–Ill.) last month turned up contradictions of the shortage. Stevenson was told that oil company storage tanks were full from St. Louis to Chicago, that Mississippi River barges were being turned away from terminals up and down the river because there was no place to put the gasoline they carried.

"Who's getting the gasoline?" Senator Stevenson asked the other day. "By the government's own admission, it's not the independents."

Observers closer to the oil industry cite other reasons for the apparent end to the gasoline crisis this summer. They point out that rising oil imports have allowed U.S. refineries to operate at 93 per cent of their rated capacity in the last two months, something that hasn't happened in years.

"The country's crude oil imports have risen 35 per cent since the President eliminated the quotas," said William E. Simon, deputy secretary of the Treasury, who also serves as chairman of the Oil Policy Committee. "This is one of the main reasons the gasoline shortage has eased."

Simon says the other reason is that consumer demand has eased somewhat, triggered by oil company conservation campaigns and federal pleas to conserve gasoline. Some oil company statistics suggest he's right. Standard Oil Co. of Ohio, for one, said gasoline usage grew by only 2 per cent in June, compared with an anticipated growth of 7 to 9 per cent.

"I think people are taking fewer and shorter trips," Simon said in an interview the other day. "I think they're driving slower and not using the air conditioning in their cars. I believe we're getting the message across to the American people."

The American people will need more than a message to turn the gasoline shortage around completely, because the biggest part of the crunch involves more than driving habits.

There are now 100 million cars on U.S. roads, and automakers expect to sell a record 12 million cars this year. The average car gets about 10.5 miles out of a gallon of gas today. New cars get less than that, due largely to pollution controls, air conditioning and car weight.

Air conditioning and car weight are the two biggest factors in the growth of gasoline consumption, which has risen from 735 gallons per car in 1970 to 763 gallons per car this year. The air-conditioned 1973 Vega burns as much gasoline as a 1966 Cadillac without air conditioning.

All U.S. car models have put on weight. A Chevrolet Impala that weighed 4,000 pounds 10 years ago weighs 5,500 pounds today. What does that do to gas usage? The Environmental Protection Agency says a 5,000-pound car burns twice as much gas as a 2,500-pound car meaning that the average U.S. car model gets half the mileage that its European or Japanese counter-part gets.

Americans may be taking fewer and shorter trips this summer, but driving trends tell a different story. Motorists used to average 10,000 miles of driving a year, but a study by the California Highway Patrol last year found that people driving new cars put an average of 16,500 miles on their cars the first year.

People are almost forced into more driving today, partly because of suburbanization and partly because of job relocations. The Ford Foundation's Energy Policy Project discovered that the average daily commuting trip of U.S. office workers had risen to almost 20 miles per day in 1970. Roundtrip visits to doctors and dentists were 16.6 miles. Shopping trips averaged about 10 miles.

Mr. FANNIN. Mr. President, let us look at the facts about the trans-Alaska pipeline rather than the fiction. An article compares the two and rightly concludes that we need the trans-Alaska pipeline.

I refer to an article published in the Oil and Gas Journal of June 25, 1973. It starts out by quoting from an article by Joseph Kraft which appeared in the Los Angeles Times of April 11, 1973:

A whole range of other considerations asserts the advantage of the trans-Canada route (over the trans-Alaska pipeline): It delivers oil where it is in short supply, the Middle West and East Coast, rather than the West Coast, which is practically self-sufficient. It eases the national security problem by making the most populous areas of this country dependent for oil on Canada rather than on the Arab states.

Now let us look at the facts. The article states:

The points raised by Mr. Kraft were answered by Interior Secretary Rogers C. B. Morton in a recent report to Congress.

In the first place, Morton reported that Canadian officials have imposed four conditions on any line built through that country.

I think this is very important to all of us. Those conditions are as follows:

(1) Majority of equity interest in the line must be Canadian, (2) management would have to be Canadian, (3) at least half the capacity of the line would have to be reserved for moving Canadian-owned oil to Canadian markets, and (4) preference would have to be given Canadian-owned and controlled groups for construction and materials.

"These four requirements . . . are unacceptable from the point of view of our national interests," Morton said, "especially when we have the alternative of a pipeline through Alaska that will be built by American labor and will deliver its full capacity of American-owned oil to our markets."

Morton added also that "some of the advantages to the Midwest that are claimed for a trans-Canada pipeline will not, in fact, occur. For example, an oil pipeline through Canada will not affect fuel prices in that area, because price is set by the much greater volume of oil coming north from the Gulf of Mexico and North Slope oil would provide only a portion of the total Midwest demand."

"As much as I would like to assure the Midwest even a marginal increase in the security of its total energy supply," Morton continued, "it is more important now to assure that the total economic and energy security interests of all the people of the U.S. are served by getting as much American-owned oil as possible to the U.S. market as soon as possible."

Morton also branded as untrue the claim that the West Coast does not need nor cannot use all of the oil delivered by a trans-Alaska line.

"In 1972, demand in that area was 2.3 million b/d, of which 1.5 million b/d was obtained from domestic sources and 0.8 million b/d was imported," he reported. "The best available projections show that by 1980, and for subsequent years, the West Coast demand will exceed domestic production and Canadian exports available to that area by at least the capacity of the trans-Alaska pipeline."

So, Mr. President, we are talking about a very serious matter. We have Members of this body that very sincerely, I am sure, want to study the Canadian plan for another year. Others want to go forward with negotiations and await the outcome of those negotiations with Canada. Still we have evidence from the different departments—the Department of State, the Commerce Department, the Department of Interior—that negotiations have gone forward. We have had meetings.

In one of our committee meetings it was expressed that we have had negotiations going on for at least 4 years, not just on the pipeline to Alaska but also for the pipelines that would be needed to bring oil and to bring gas into different areas of Canada as well as into the United States.

We must realize that the Canadians have a distribution problem. They have products in the western part of their country that they do not have in the eastern part of their country. This is something we could work out with the Canadians as time goes by, but let us take first things first. Our first problem is to get Alaskan crude into the lower 48. The way that can be done is to go forward immediately, as rapidly as possible, as rapidly as we can to get this legislation through Congress so that this flow will start and then we will have oil. The most important factor is that we do not have further delay. We have spent years on studies and investigations. Now is the time for action. We must go forward at the earliest possible date with the pipeline.

The New York Times, on June 13, 1973, reported that Consolidated Edison made a 5 percent voltage cut in the midst of a record demand caused by a heat wave coupled with out-of-service generators.

This is a national, not a local problem; only Congress has the power to avert future energy crises by enacting legislation designed to do just that. The need for the trans-Alaska pipeline is being felt now.

Mr. President, I ask unanimous consent to have this article placed in the RECORD.

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

CON ED REDUCES VOLTAGE BY 5 PERCENT HERE

(By David Bird)

The Consolidated Edison Company cut back its voltage yesterday as the heat wave continued, but it managed to meet a record demand for electricity because it had more generators working and was able to buy more power from outside than on Monday.

Yesterday's voltage cut was 5 per cent. The utility company said the extra power available made it unnecessary to repeat Monday's 8 per cent voltage reduction.

The record demand yesterday, set between 11 a.m. and noon was 7,917,000 kilowatts. The previous record was 7,892,000, set last July 19. On Monday, the demand was 7,611,000, a level held down by the 8 per cent voltage cutback because extra supplies were not available.

Yesterday's high temperature of 93 degrees—two degrees short of Monday's record of 95—helped a little to reduce the power demands of air-conditioners, and a break in the heat wave predicted for today is expected to ease the situation further.

Con Edison had four generators out of service Monday. Yesterday the 325,000-kilowatt Staten Island plant at Arthur Kill and the 600,000-kilowatt Bowline Point plant near Haverstraw were back on the line.

Still out yesterday were the 265,000-kilowatt nuclear plant at Indian Point and the 400,000-kilowatt at Ravenswood, Queens. The Queens plant is expected back in service this weekend and the nuclear plant is scheduled to back in July or August.

POOL ORDERS CUTBACK

It is not unusual for a utility company to have plants out of service for maintenance, but the unexpected early heat wave came at a time when plants were still going through maintenance to prepare them for the expected peaks in July and August.

The cutbacks yesterday began when the New York State Power Pool, which includes all the state's major utility companies, ordered all generators with manual voltage regulating devices to reduce voltage by 5 per cent.

This was a precautionary measure, a power pool spokesman explained from headquarters in Guilderland near Albany, because it was difficult to adjust the manual plants in a hurry if the need arose.

The move affected only about 1 per cent of the state's customer's including some Con Edison customers in Westchester and Queens.

As the power situation became tighter, Con Edison and Niagara-Mohawk, which serves Albany, Syracuse, Buffalo and other upstate areas, were ordered to reduce the voltage to all their customers by 5 per cent at 1 P.M. Con Edison put that reduction into effect at 12:57 P.M.

MAYOR ASKS HELP

At 3:45 P.M.—although the temperature had eased to 91 degrees from the high of 93 reached at 12:30 P.M.—the Long Island Lighting Company was ordered to reduce its voltage by 3 per cent to help out.

By 5:30 P.M., the day's crisis was felt to have eased enough for the utilities to return their voltages to normal.

Despite the added supplies of electricity, Mayor Lindsay called a news conference yesterday to say it "was absolutely essential that there be a maximum conservation of power."

"We must make every effort to reduce the incredible demand for electricity which is straining the limit of Consolidated Edison Company's ability to provide power during the heat of the day," the Mayor said.

Asked if the utility company was doing everything it could to meet power demands here, the Mayor said that Charles F. Luce, the Con Edison chairman, "and his colleagues at Con Edison are working their heads off."

The Mayor said the utility company appeared to be doing its best, but that it was frustrated by being saddled with old plants and the inability to build new ones because of red tape at the state and Federal levels and environmental considerations.

The Mayor showed some irritation when he was asked if there wasn't something that he could do to keep the power crisis from recurring every summer.

"Everybody turns to this goldfish bowl and says, 'What are you going to do?'" the Mayor answered and then added that he really had no legal power to do anything.

BUCK PASSED TO ALBANY

He said the power to do something lay in Albany and Washington, where "no real leadership" was being exerted on allocating the available power or in getting new sources.

Milton Musicus, the city's Municipal Services Administrator who was also at the news conference with the Mayor, agreed that Con Edison was probably doing the best it could in the present crisis, but he did not think the utility was doing the right kind of planning to avert future crises.

Mr. FANNIN. Will there be enough fuel to harvest the Nation's farmlands? This is the question confronting many farmers. Diesel fuels are needed for irrigation of fields; propane gas for drying crops. Both of these fuels are getting harder and harder to come by. That is why the Alaska pipeline is needed.

We need to increase the availability of fuels across the Nation. Mr. President, I ask unanimous consent for this article, which appeared in the Washington Post on July 8 of this year, to be placed in the RECORD.

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

FUEL SHORTAGE CONCERNS FARMERS

(By George C. Wilson)

"The fuel shortage is catching up with us fast," warns Colorado's director of the Grange. "Already a few tractors have stood idle for a couple of days."

This kind of mail is coming into the Washington offices of farm organizations and lawmakers in increasing volume, according to spot checks made yesterday by The Washington Post.

Already some farmers' fuel tanks have run dry in a few places, but the big fear is whether there will be enough gas and diesel oil when the harvesting season comes to the nation's heartland in a few weeks.

Right now wheat growers in Texas—where the crop comes in sooner than in states farther north—are experiencing problems stemming from fuel shortages.

In Burkburnett, Tex., for example, teams of men and machines which harvest crops on one farm after another are running so short of fuel that farmers fear their wheat may go unharvested.

In Nebraska, Sen. Carl T. Curtis (R-Neb.) complained that some of the farmers have run out of diesel fuel for the pumps that send water into fields of alfalfa and corn. He is among the lawmakers demanding that the federal government impose mandatory, rather than voluntary, allocation of fuel so that independent dealers and other sources for farmers get their fair share.

Curtis is to be the leadoff witness Monday as the Nixon administration's Federal Oil Policy Committee opens hearings on the fuel allocation question.

His view is that the fuel situation for farmers threatens to get worse before it gets better as the demand rises sharply at harvest time. A related worry is whether there will be enough propane gas to dry the corn after it is harvested.

The Colorado Grange leader who wrote his Washington office about tractors running out of fuel added that "Colorado is expecting one of the largest wheat crops in history. That means a lot of gasoline is going to be needed. Most combines use gasoline, as well as all trucks."

A National Farmers Union spokesman said yesterday that some of its members expect the price of propane to rise sharply as the demand exceeds the supply. He said the fuel situation will be "acute" in the heartland of the United States come harvest time.

Already, he added, some harvest crews in Colorado and Kansas are requiring farmers to guarantee that fuel will be available before the harvesters will come into the area.

The American Farm Bureau office here said fuel supplies "are awfully tight" but that it had heard of no farmers in its membership "who cannot plow or harvest" for lack of fuel.

The National Farmers Organization reported from Iowa that none of its members in that state had reported running out of fuel.

Mr. FANNIN. Mr. President, cities across the Nation are being forced to cut back their fuel intake. Petroleum prices are increasing. Gasoline prices are rising.

We need to alleviate this so our farmers will be able to continue production. We need to develop our domestic supplies of petroleum. The trans-Alaska pipeline would help bring needed fuels to manufacturers and farmers.

Mr. President, I ask unanimous consent to have this article, from the Washington Post, June 6, 1973, be printed in the RECORD.

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

CITIES ACROSS UNITED STATES CUTTING FUEL USE

(By Susanna McBee)

Caught in a tightening fuel pinch, cities across the country are paying skyrocketing prices for gasoline and heating oil, and some are cutting back on the use of municipal cars.

"Unless the urgent fuel needs of the nation's cities are immediately met, cities will be unable to perform their essential governmental functions and services," the National League of Cities and U.S. Conference of Mayors said this week. The League and Conference represent 15,000 municipalities.

One city, San Antonio, Texas, began yesterday to reduce lighting in city buildings—including police and fire departments and libraries—by 50 per cent because of a shortage of natural gas, which fuels its municipal electric utility plant.

San Antonio officials have set city building thermostats at 78 degrees, instead of the usual 70 to 72 degrees, to cut air conditioning costs. They have also shortened the hours that street lights are burning and have stopped lighting parks and ball fields that are not in use.

In Seattle, Washington, the police department has cut by one hour the time that patrol cars are on the street during each eight-hour shift. Instead of driving, officers must walk beats during that hour.

Other city departments have been ordered by Mayor Wes Uhlman to cut gasoline consumption by more than 15 per cent. His order came last month after the Union Oil Co. notified the city that its gasoline allocation of about 2.8 million gallons a year would be cut 15 per cent.

In Los Angeles, where municipal gasoline costs are expected to exceed $3 million this year compared with $2 million last year, all departments, including police, have been asked to double up on auto travel and cut gas use by at least 10 per cent.

Purchasing Director Warren L. Lintz said the new policy means that police "will make one trip rather than two on non-emergency calls such as investigations."

Norfolk, Va., City Manager G. Robert House Jr. has asked department heads to recommend ways to cut gasoline consumption. He expects all departments except police and fire to make the cuts.

The city has asked for at least eight bids from gasoline suppliers and so far has received no definite bid. Its chief supplier last year, British Petroleum, has offered only a month-to-month allocation guaranteeing only 70 per cent of what the city received in 1972.

Robert M. Martin, purchasing agent for Lynchburg, Va., faced with a 25 per cent increase in regular-gasoline costs, has asked all city departments, including police and fire, to reduce nonessential travel. Firetruck drivers will no longer idle their engines for long periods, and police will not run their engines while listening to their two-way radios, he said.

So far city cutbacks seem relatively minor, and President Nixon's energy adviser, Charles J. DiBona, assured Congress yesterday that the fuel shortage will not interfere with essential municipal services.

However, many cities are reporting that they are forced to pay gigantic price increases and are facing continuing shortages.

Detroit, for example, paid 47 per cent more last month than it did in May, 1972, for gasoline. "Our requirements for this month are covered only up to the 15th," said Art Cope, commissioner of purchases and supplies. "Normally we're six months ahead."

Carl Riedy, Detroit's representative in Washington, added, "We have no guarantee on price, no guarantee on delivery. The oil companies really have us over a barrel."

Cincinnati is paying 45 per cent more for gasoline this year than it did last year and 13 to 35 per cent more for diesel fuels.

Lakewood, Colo., a city of 120,000 people near Denver, is so low on gasoline that it is sending its cars and trucks to local gas stations, where they have to pay retail prices.

City Administrator Walter C. Kane said Lakewood had a one-year contract with Gulf Oil Corp. signed last June, "but the company reneged last November and said, 'If you don't like it, you can sue us.' Now we're down to 600 gallons for a fleet of 200 police cars and other vehicles, and there's no other source in sight."

Philo Hutcheson, Gulf's spokesman here, said the contract was dropped "because we had really critical supply problems." Noting that a substitute Lakewood supplier had also stopped selling to the city because of supply problems, Hutcheson said Gulf "is taking another look" at picking up its old contract.

The District so far has been unaffected by the fuel shortage except for a nearly 3.5 cent increase that the Metro bus system is paying for diesel fuel.

FUEL LACK MAY IDLE COMBINES IN TEXAS

BURKBURNETT, TEX., June 6.—A shortage of gasoline and diesel oil, occurring during the 1973 wheat harvest, threatened today to leave combines sitting idle in fields dotted with wells pumping oil from one of Texas' largest oil strikes.

"We had enough (fuel) to supply custom cutters and farmers this morning," Mrs. Harlan Mullins, an agricultural fuel supplier for the area, said. "We will not have any more in the morning."

Custom cutters—people with trucks and combines who harvest grain under contract with growers—are harvesting wheat and barley in the Burkburnett area.

The wheat around Burkburnett is the first in the state to be harvested. Both yield and acreage is about twice what it was last year.

The nation needs grain almost as much as it needs petroleum and gas. A shortage of grain has sent prices up and caused one of the sharpest rises in history in meat prices.

Burkburnett field was one of the big oil strikes years ago in Texas. Most wells now are "strippers"—wells that will not flow of their own accord. So hundreds of pumps clank night and day in the area, lifting the last petroleum, from the wells.

Mr. JOHNSTON. 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. BAYH. 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. BAYH. Mr. President, I ask unanimous consent that a member of my staff by the name of Howard Paster be permitted access to the floor during debate on the pipeline issue and through the vote on an amendment which the Senator from Minnesota and I shall offer.

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

Mr. BAYH. Mr. President, one of the arguments advanced by those who want the Congress to ratify an oil company decision, accepted by the administration, in favor of the Alaskan land-sea delivery route for Alaskan oil is that there will be a second line through Canada at some subsequent date. This promise of a second line will never be fulfilled.

We had previous statements by Edward Patton, president of Alyeska, the pipeline consortium and Charles Spahr, chairman of Standard Oil of Ohio, a member of the consortium, that there was little chance of two lines.

Now we have outright, unqualified word from the Canadian Government that there will be no interest in considering an oil pipeline through the Mackenzie Valley if we proceed with the Alaskan line. This is a point of great significance, since it renders title II of the committee bill meaningless, and finally removes any possibility of a two-pipeline policy.

Because of the significance of this issue, I would like to include in the RECORD at this point the text of relevant questions and answers last Friday, July 6, in the Canadian House of Commons, along with news stories on this subject

from the Montreal Gazette and New York Times.

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

QUESTION AND ANSWER PERIOD—ON THE FLOOR, HOUSE OF COMMONS, OTTAWA, CANADA, JULY 6, 1973

Mr. John A. Fraser [Vancouver South]. Mr. Speaker, I have a question for the Minister of Energy, Mines and Resources. In view of the statement of the U.S. Government and Senators that when the Alaska Oil Pipeline is approved they will want a second oil pipeline from Alaska through Canada to supply the U.S. Midwest, and in view of this governments' position that it would look favorably on the Mackenzie oil pipeline in order to avoid oil spills off B.C. Coast, can the Minister tell the House if this government would look favorably on an oil pipeline through Canada which does not replace the Alaskan pipeline and tanker route but which would be in addition to the Alaska pipeline and tanker route?

The Hon. Donald S. MacDonald [Minister of Energy, Mines and Resources]. No, sir.

Mr. Fraser. As a supplementary question, can the Minister inform the House whether the U.S. State Department has made any recent inquiries as to whether the Canadian government has any strong, current interest in the construction of the Mackenzie Valley oil pipeline? I emphasize recent.

Mr. MacDonald [Rosedale]. Yes, sir. On behalf of members of the U.S. Congress, the U.S. State Department, through its embassy here, has submitted questions to the government of Canada, not only the question mentioned by the Hon. Gentlemen but a series of other questions, to which the government of Canada has replied in detail. We are hopeful that the U.S. State Department will make certain that message is received by the Senators and Congressmen before any decision is taken within that legislative body.

[From the Montreal Gazette, July 7, 1973]

ARCTIC OIL PIPELINE UNLIKELY IF ALASKA LINE BUILT—OTTAWA

OTTAWA.—Canada would not look favorably on a U.S. application to build an oil pipeline through Canada if the United States first goes ahead with the Alaska pipeline route, energy minister Donald MacDonald said yesterday.

Conservative John Fraser asked "if this government would look favorably on an oil pipeline though Canada which does not replace the Alaskan pipeline and tanker route but which would be in addition to the Alaska pipeline and tanker route?"

The minister's reply was a brief but emphatic, "no, sir."

The Canadian government has consistently opposed a U.S. proposal which would involve heavy tankers carrying oil from Prudhoe Bay, Alaska to refineries in Cherry Point, Washington.

OIL SPILLS

Canadian authorities cite the possibility of oil spills, especially off the coast of British Columbia, when they explain their opposition to the tanker route. The tankers must pass through the narrow Straights of Juan de Fuca before arriving at Cherry Point.

So far court injunctions sought by environmentalists have held up the start of the Alaska part of the pipeline. But the U.S. Senate is expected to examine a bill on the tanker route and take a vote early next week.

MacDonald also said U.S. state department representatives had submitted a series of questions to the government as to the Canadian position on certain aspects of the pipelines.

"The government replied in detail," MacDonald said. "I hope the answers get to the senators and congressmen before any decision is made" he said.

The questions mainly dealt with matters which have already been made public by the Canadian government such as the current status of environmental studies and native claims with respect to the Mackenzie Valley route.

But in the last section under "other observations deemed relevant" the department of energy, mines and resources amplified what MacDonald said in the House of Commons yesterday.

"If Alyeska is built, Canada would find little attraction in having a second oil pipeline built through Canada to serve U.S. midwest markets unless (underlined) and until (underlined) sizeable commercial Canadian oil discoveries have been made in the north.

[From the New York Times, July 10, 1973]

CANADA WARNS THAT PIPELINE IN ALASKA WOULD WEAKEN CHANCES FOR SECOND ROUTE

(By Edward Cowan)

WASHINGTON, July 9.—In a fresh effort to block a trans-Alaska oil pipeline, the Canadian Government has told Washington that if such a line were built the chances would be slim for the laying of a second oil line through Canada's Mackenzie River Valley to the upper Middle Western states.

With the Senate beginning debate today on pipeline legislation, the official Canadian comment seemed to be intended to dissuade members of Congress from the Middle West from voting for a trans-Alaska route.

Answer by Ottawa to questions on a Mackenzie route were made public by Representative John Melcher, Democrat of Montana, after he received them from the State Department.

Canada, rebutting Senator Henry M. Jackson, a leading Democratic advocate of the Alaska route, said no treaty or agreement between Washington and Ottawa would be needed for a Mackenzie line.

Refineries in Senator Jackson's home state of Washington would get Alaska crude oil from tankers that would load at Valdez, at the southern terminus of the 789-mile line from Prudhoe Bay, on Alaska's North Slope.

FORECASTS DELAY

The Senator reiterated at a news conference his view that a Canadian line could not be started for four to six years and that this was an important reason for authorizing an Alaska line.

He also said that if litigation or legislative snarls delayed the start of construction beyond the spring of 1974, he would introduce a bill to build a federally owned and operated line. The issue now before Congress involves a pipe four feet in diameter to be built, owned and operated by a consortium of major oil companies.

This new proposal by Senator Jackson, who as chairman of the Interior Committee is floor manager of the pipeline legislation, was regarded by his opponents as a defensive maneuver following complaints that the committee bill would not immunize the project from challenge in the courts under the National Environmental Policy Act. Mr. Jackson, saying he was the act's author, insisted that it would be unwise policy for Congress to begin granting exceptions to it.

DELAYED SEVERAL YEARS

Environmentalists have already delayed construction of the pipeline for several years with challenges in the courts, resulting in intense frustration of the companies, which have tied up hundreds of millions of dollars in pipe that lies unassembled and idle on the southern shores of Alaska.

The United States Court of Appeals for the District of Columbia, without considering environmental issues, helped a lower court decision blocking construction on the ground that in some places the facility would be wider than the limit of 50 feet in the 1920 Mineral Leasing Act. The Jackson bill would remove that limitation.

With the Nixon Administration backing the Alaska route and the oil industry advertising heavily to rally public opinion behind it, some Midwestern sponsors of a Mackenzie route conceded privately that they appeared to lack the Senate votes to defeat the Jackson bill.

The Midwesterners preference for direct delivery to their fuels-short region, which has been hit hard by heating oil and gasoline shortages in the last year, has been thwarted by the failure of the Ottawa Government to commit itself unreservedly and enthusiastically to a Mackenzie Valley route.

FEAR OIL SPILL

The Canadians dislike the trans-Alaska route because they fear that the tanker shuttle terminating in the Puget Sound area sooner or later will result in a mishap. They fear that an oil spill will pollute the sport fishing and sailing waters off British Columbia and contaminate hidden coves along the jagged coast, many of which are accessible only by water.

Canadian Government ministers have been speaking out against the route for several years. However, as Senator Jackson observed today, the present Liberal government of Prime Minister Pierre Elliott Trudeau has a minority of seats in the House of Commons and needs the support of the New Democratic party.

The New Democrats of British Columbia may be against the Alaska route, as Midwesterners here maintain, but there is no solid evidence that the New Democratic caucus in the House of Commons would support a Mackenzie route.

In the comments released by Mr. Melcher, Ottawa noted that the line could be licensed without Parliament's approval. Observers said, however, that the New Democrats could demand a vote of confidence on the issue and bring down the Government.

In another fuels development, William E. Simon, the Deputy Secretary of the Treasury, declared, "It is neither necessary nor desirable to have gasoline rationing at this time."

That has been the Administration's position for some time, but the question keeps coming up because the Administration has voluntary guidelines for allocation of wholesale supplies of crude oil and petroleum products. Mr. Simon, chairman of the Oil Policy Committee, was interviewed on the National Broadcasting Company's "Today" show.

Mr. Simon denied a rumor that the Government had had printed retail gasoline rationing coupons like those used in World War II.

He said that gasoline inventories were rising, contrary to the usual seasonal pattern, and "the oil industry is responding to this problem we've had."

Mr. BAYH. Mr. President, the disclosure by Canadian Energy Minister Donald MacDonald, in answer to the second question asked in Parliament on Friday, of the existence of written questions and answers between our State Department and the Canadian Government, is of major importance to Senate consideration of this issue.

What these questions and answers show is that the Canadian Government is quite willing to consider an application for an oil pipeline through the Mackenzie Valley, if we do not go ahead first with the Alaskan line. This expressed willingness to cooperate on this matter, and, indeed, to accept an application for an oil pipeline by the end of the year is in direct contradiction with a statement made by our State Department less than 3 weeks ago.

On June 22 Marshall Wright, Assistant Secretary of State, wrote:

Our most recent inquiries and remarks by Canadian officials give no cause to change our view that the Canadian government has no strong current interest in the construction of a Mackenzie Valley oil pipeline.

When this statement was made it troubled me since it ran counter to public statements by high-ranking Canadian officials, including Prime Minister Trudeau, that Canadian concern about oil spillage from tanker traffic off their west coast would cause them to be sympathetic to an application for a trans-Canadian oil pipeline.

I have studied in some detail the questions and answers referred to by Minister Macdonald and am satisfied that they show a definite Canadian interest in a Mackenzie Valley oil pipeline. This suggests an unfortunate lack of candor in Mr. Wright's earlier letter; a lack of candor which should be distressing to all Senators who want full and honest information before voting on this issue.

So that the Senators might know of a Mackenzie Valley oil pipeline, I would like to read into the RECORD at this point the questions posed by our State Department and answered by the Canadian Government:

Q. What is the current status of relevant Canadian environmental studies? What is the expected date of their completion?

A. The Government's environmental social program calls for the publication, as they become available, of 121 reports on all phases of environmental and social concern as related to northern pipelines; of these 39 reports have already been published by Government and an additional 16 by others. It is expected that the complete material thus assembled will place the government in position to adequately assess an application for a pipeline by the end of this year.

Industry has indicated that they expect to file an application for a gas pipeline at the end of 1973 or shortly thereafter.

Q. What is the status of consideration of native claims? What is the expectation as to time required for their settlement?

A. The Indians of the Mackenzie Valley are signatories to Treaties 8 and 11. The Government's obligation under these Treaties has as yet not been fully met; the Government has affirmed that it will meet these obligations and toward this end has offered to set aside the necessary lands. However, recent indications are that the NWT Indian Brotherhood is preparing to advance claims over and above that specified by Treaty. In this respect, the Brotherhood has attempted to file a caveat to protect lands they deem to be covered under the Treaties. The matter is now before the Territorial Courts. The Government has accordingly presented its case, alleging that the caveat by its nature is not registerable. It is expected that the resolution of this specific issue will take a number of months. Although the caveat, if registered, would not apply to mining and oil rights, it could affect the granting of a pipeline right-of-way. At the moment it is not clear how and within what time frame this matter could be resolved, should the problem arise.

In the Yukon Territory no treaties are in effect. The Government is, however, in the process of negotiating native claims (Indian and Métis) and indications are that a settlement could possibly be reached there within the next two years.

Depending on the route chosen, the pipeline could pass through areas of the Mackenzie Delta where the Inuit (Eskimos) may have certain land claims. These have not as yet been fully defined and the Government has made available funds to the Inuit Tapirisat for further research.

In summary, indications are that settlement in the Yukon could be achieved within approximately two years, during which time the application could be heard and construction commenced. The situation regarding the Native Brotherhood in the NWT is not yet sufficiently clear to allow a precise statement; and considerable research must still be carried out before Inuit claims become fully defined and therefore negotiable. It is the Government's intention to proceed with northern development in the best interests of Canada, as a whole, but at the same time the Government is determined to ensure the just settlement of native claims.

Q. What is the Canadian Government's position likely to be with regard to ownership and control?

A. Speaking on this point in the House of Commons on May 22nd, 1973, Minister Macdonald said:

"Mr. Speaker, I have indicated that the objective of the government would be to give an opportunity to Canadians to acquire 51 per cent ownership in any such pipeline and the expectation that it would remain under Canadian control."

In addition, all interprovincial and international pipelines are under National Energy Board control.

Q. When will the Canadian Government be ready to give active consideration to proposals from the private sector?

A. In respect of a gas pipeline, Minister Macdonald said on May 23rd, 1973, in the House of Commons:

"Of course, the law has always been there with regard to the making of an application, but we have indicated within the past 12 months that we are completing our studies for the purpose of evaluating such an application and that we expect about the end of this year to be in a position to evaluate any application that comes forward. For that reason we have not issued any invitation to any specific group, but we have indicated that we are in a position to deal with such an application under the law."

In respect of an oil pipeline the above statement still applies. However, it should be noted that the Canadian Government has not received an application for construction of such an oil pipeline in the north nor is it apparent that any company or any group of companies is preparing to make such an application in the near future.

Substantial work has been completed by Mackenzie Valley Pipe Line Research Limited and much of this work relates to environmental and social matters. However, there undoubtedly would be additional work required by a prospective applicant in respect of environmental considerations. Additional work on details of engineering design would also be required, although these could proceed concurrently with environmental work.

Q. What would the process of consideration entail (e.g.—public hearings and a finding by the National Energy Board prior to consideration by the Government and Parliament) and how long a time would it likely require?

A. An application to build an oil pipeline would be heard by the National Energy Board which would then make its findings known to the Government. If the National Energy Board rejects the application, no further action is required by the Government. However, if the National Energy Board recommends approval of the application, the final decision must then be made by the Government. There is no legal requirement to refer to Parliament either the National Energy Board finding or the decision of the Government.

Further, the Minister of Indian and Northern Affairs, the Honourable Jean Chrétien, has announced that upon receipt of an application for a pipeline right-of-way, an Inquiry will be held under the Territorial Lands Act with the purpose of assessing the regional socioeconomic and environmental implications arising out of the construction and operation of a major pipeline in the Territories. These hearings will be held in addition to those under the National Energy Board Act described above.

The time required for a National Energy Board hearing for an oil pipeline is unknown at this time, but might take perhaps up to one and a half years, including time required to arrange financing. The hearings by the Department of Indian Affairs and Northern Development would also be concluded within that time period.

Q. Are there significant Provincial/Federal differences which are likely to delay an eventual Canadian decision? To what extent would differences of view between eastern and western Canadians obstruct or delay decisions?

A. A northern oil pipeline would be a "federal work". As such, the Provincial Governments are not legally involved. The National Energy Board Act grants to a successful pipeline applicant the right to expropriate lands, including Provincial Crown Lands, if such are necessary to complete the project.

Q. What is the status of Canadian governmental consideration of a possible Mackenzie Valley gas pipeline?

A. The answers given above gave the status of the Canadian Government's environmental work in connection with a possible gas pipeline. It should be noted that under the Task Force on Northern Oil Development, six committees have been established and work has been in progress in most of these committees for a number of years. The Advisory Committee on Northern Pipeline Financing was established in early 1973 and results from its considerations should be available by the time an application to build a gas pipeline could be filed.

Q. Would active Canadian consideration of a Mackenzie Valley oil pipeline delay consideration of the prospective application for a gas pipeline? Are there proponents in Canada of the gas pipeline who oppose encouragement of Mackenzie Valley oil pipeline on these grounds?

A. Canada would likely wish to avoid the necessity of building both an oil pipeline and a gas pipeline simultaneously because of the impacts upon the Canadian economy. If it is decided to proceed with active consideration of the Canadian oil pipeline, it is likely that the question of building a gas pipeline would be deferred, for reasons of gas supply to such a pipeline. This is based on the assumption that some 50 percent of the gas supply would be solution gas from the Alaska North Slope. If an approval to build a Canadian oil pipeline was granted and if the Canadian Government did not wish to have the gas pipeline built simultaneously, it is possible that the construction of the gas pipeline could be delayed by some three years compared with the decision to build the Alyeska oil pipeline.

Q. Any other observations deemed relevant?

A. There are a number of other elements to the Canadian position in respect to the northern oil pipeline.

(1) Canada does not now have commercial oil discoveries in the north, although the prospects are rated very high. There could be some 100 to 150 Mbd of natural gas liquids, if the gas pipeline is constructed.

(2) The Government guidelines on northern pipelines are clear in stating that Canada requires that Canadian production have "access" to such pipelines. Undoubtedly such access would be achieved by adding pipeline capacity rather than "backing out" non-Canadian supplies. Thus Canada does not require any fixed percentage of the throughputs of either a gas pipeline or of an oil pipeline.

(3) There would seem to be no reason why

the United States would need a "treaty" or agreement with Canada to cover such pipelines which would cross Canadian territory and carry U.S. supplies to U.S. markets. In this connection, the Canadian Government notes that both loops of the Interprovincial-Lakehead pipeline system cross the United States and that throughputs of these loops are vital to Ontario oil markets. The Montreal oil market is entirely dependent on the Portland-Maine to Montreal pipeline. In addition, approximately half of the Canadian gas markets, east of Manitoba, depend on the Great Lakes pipeline which crosses the United States. None of these important pipelines, across United States territory is covered by "treaty" or international agreement.

(4) Canada continues to view with alarm the prospect of large tanker movements into the Puget Sound area of the Pacific northwestern United States. For that reason, Canada is prepared to consider guaranteeing the total supply to the Puget Sound area during that period that a pipeline might be constructed through northern Canada. Such a Canadian guarantee for the Puget Sound supply would, of course, be limited to the present refining capacity in that area. The amount of *added* Canadian oil required for this purpose would be relatively small compared to the total Canadian exports to the United States and would also be relatively small compared with present Canadian deliveries to the Puget Sound area.

(5) If Alyeska is built, Canada would find little attraction in having a second oil pipeline built through Canada to serve U.S. Midwest markets *unless* and *until* sizeable commercial Canadian oil discoveries have been made in the north. Moreover, Canada is aware that the economic attraction of looping an existing TAPS line would undoubtedly militate against construction of a line through Canada. Admittedly, other circumstances such as markets and security of supply might make it attractive to build such a second line through Canada. However, such circumstances are undoubtedly present even in respect of the first oil pipeline.

Mr. BAYH. Mr. President, during this ongoing discussion of how best to expedite the delivery of Alaskan oil, there have been attempts to belittle opposition to the Alaskan land-sea route as "an obstructionist effort to protect a few caribou."

Actually, the issues involved are far more important than this, and opposition to the route chosen by the oil companies is based on a number of highly significant issues.

This is why the amendment which the Senator from Minnesota (Mr. MONDALE) and I are offering has been endorsed not only by every major national environmental group, but by the Consumer Federation of America, Common Cause, and the United Auto Workers.

The Alaska Public Interest Coalition, on behalf of these groups, yesterday circulated a letter to Senators explaining why they favor the Mondale-Bayh amendment. Since this letter shows the wide range of support which this amendment has, and since it points to the major issues involved in this matter, I would like to include that letter in the RECORD.

ALASKA PUBLIC INTEREST COALITION,
Washington, D.C., July 9, 1973.

DEAR SENATOR: This week the hour of decision is at hand for the Alaska pipeline issue in the United States Senate!

WHO SHOULD GET THE ALASKA NORTH SLOPE OIL?

Of the many elements involved in this issue, a prime one is: *to where do we ship the North Slope oil?* Is it to be transported via an all-land trans-Canada route to a point where it will meet existing oil pipelines and from there can be moved both east and west—moved both to the midwest states and points eastward and also to the west coast? Or, is it to be moved via a trans-Alaska route to Valdez (on Alaska's south coast), and thence by supertanker either to the Pacific Coast states or to Japan—leaving out the rest of the United States? For if the Alaska North Slope oil is moved by supertanker to the Pacific Coast states, there exists no feasible means of moving it to the rest of the country.

The west coast is amply supplied with oil from wells in California, from Alberta, Canada via the westward-flow transmountain pipeline and from Latin America and Indonesia. There are no pipelines to move oil from the west coast to the midwest and east. Supertankers are too big to pass through the Panama Canal. Ordinary tankers, which can clear the Panama Canal, could not economically carry enough oil to significantly affect the supply. Moving oil from Alaska clear around Cape Horn at the southern tip of South America and thence to Atlantic seaboard ports is not economically attractive either—even less so when compared with movement by an overland pipeline directly from the Alaska North Slope to American midwest and eastern markets.

In deciding what route to issue a right of way permit for, we urge the Senate to keep foremost in mind the needs of the entire country for our oil resource in Alaska and to choose the route which makes North Slope oil available to the greatest number of the United States. A trans-Canada route tying into the existing transcontinental oil pipeline system (at Edmonton, Alberta, Canada) will serve the midwest and east, provide an additional supply to the Pacific Coast—and will make more Texas-Louisiana-Oklahoma oil available for all southern states. A trans-Alaska route will serve only the three states on the Pacific Coast and/or Japan.

WILL TWO PIPELINES BE NEEDED?

Who says two pipelines will be needed within the foreseeable future to carry all the oil from the North Slope to United States markets? Not Edward L. Patton, president of the Alyeska pipeline consortium which wants to build a trans-Alaska pipeline from the North Slope to Valdez. Said Mr. Patton less than one year ago before the Joint Economic Committee of the House and Senate at Washington, D.C. in commenting on suggestions that a second oil line might be needed from the North Slope: "Such speculation borders on fantasy and reveals the absence of even a casual inquiry into the facts." This quotation and his elaboration thereon appears in the Congressional Record, June 20, 1973, page 20470.

Even Secretary of the Interior Morton stated in July of 1972: "It is uncertain that a second oil line will be needed at all, since additional reserves must be discovered by future drilling. Such a line, in any case, is many years away." (Same source as quotation in above paragraph.)

Further, the Department of the Interior in an analysis submitted to the Senate Interior Committee this April stated: "Resources to justify a second oil pipeline have not yet been demonstrated." (Same source as above.)

The decision facing the Congress is simply, which *one* pipeline shall be built? The informed testimony by both oil company and Interior Department officials is to the effect that there is no basis for thinking in terms of a second oil pipeline at this time. We urge the Senate to make its decision on the basis of the need of the whole country for oil. A trans-Canada route tying into the existing transcontinental oil pipeline system at Edmonton, Alberta, Canada immediately provides for distribution of North Slope oil to both the Pacific Coast and the rest of the United States.

On Friday July 6 in the Canadian House of Commons at Ottawa the Minister of Energy, Mines & Resources Donald McDonald, in response to a direct question, stated flatly that the Canadian Government would *not* be interested in considering a trans-Canada oil line from the Alaska North Slope if a trans-Alaska pipeline to Valdez were to be built first.

WHAT THE MONDALE-BAYH AMENDMENT WILL DO

To vote for S. 1081, Senator Jackson's federal rights of way bill, as it is now written is to give the Senate's approval to a trans-Alaska pipeline route plus supertankers from Valdez to the Pacific Coast and Japan. To vote for the Mondale-Bayh amendment to S. 1081 (No. 240) is to vote for full investigation of the feasibility economically, environmentally and diplomatically of a trans-Canada route so that the Congress will have complete information upon which to make a final choice within one year or less. There is little point in deciding to ship the oil to a part of the country where there is no present need for it while simultaneously denying that oil to a larger portion of the country which has a conspicuously demonstrated need for it. Even more significant is the fact that a trans-Canada route, connecting with the existing oil pipeline systems, will send North Slope oil *both* east and west, as present and future needs determine. It is the Mondale-Bayh amendment to S. 1081 which assures the availability of this choice.

This letter is being sent to Members of the United States Senate by the Alaska Public Interest Coalition, a citizens group composed of conservationists and national organization representatives all concerned for the wise, long-term use of the nation's natural resources in Alaska.

Sincerely,
GEORGE W. ALDERSON, *Coordinator.*

NATIONAL ORGANIZATIONS SIGNING THE LETTER

Friends of the Earth.
The Wilderness Society.
Sierra Club.
Trout Unlimited.
Environmental Defense Fund.
National Parks and Conservation Association.
Defenders of Wildlife.
Common Cause.
United Automobile, Aerospace and Agriculture Implement Workers.
Consumer Federation of America.
Cordova District Fisheries Union.
United Fishermen of Alaska.
Western Division of the National Federation of Fishermen.

Mr. TAFT. Mr. President, I believe that passage of S. 1081 is essential to the energy security of our country. The construction of the trans-Alaska pipeline will provide billions of barrels of oil to the United States at a time when it desperately needs it. Furthermore, it will provide the much needed incentive for new energy exploration to help prepare us for our distant energy needs.

Alaskan oil can provide a catalyst for energy survival in the United States as well as the premium for providing America with an energy insurance plan until we can develop more self-sufficiency.

We cannot sit back and ignore this oil which is available now in our own country to meet our needs, while we continue to rely more heavily on the Arab-bloc nations, some of whom threaten to use their oil to influence foreign policy in the Middle East.

It is vital that America be able to chart a course in its relations with other na-

tions that need not be altered by massive dependence on imported fuels for our essential energy requirements. Our foreign policy must not be shaped by this dependency, and now is the time to work toward this position.

While it has been said that the Midwest, and the State of Ohio in particular, will not benefit from the Alaskan pipeline, this is patently untrue. Major oil companies operate on a tradeoff basis throughout the United States. Ohio companies have been and continue to be crude short, however, they own over 50 percent of the reserves in Alaska. In making their large Alaskan investment they assure themselves that they have oil on the west coast to trade off with other companies holding gulf coast barrels readily available and accessible to be transported to the Midwest.

From the viewpoint of our balance of trade, there is a serious imbalance between energy supply and demand. Almost every region of our country is affected. Last year, it is reported that we imported 1.7 billion barrels of foreign oil at a cost in the first-round balance-of-payments outflows of approximately $6 billion. Despite all the efforts we can and must make to increase our domestic resource base, by 1980 we will probably have to import about 4 billion barrels of oil with first-round balance-of-payments outflows of about $16 billion, in the absence of oil from the North Slope of Alaska. The Alaska pipeline will not avoid the necessity to purchase foreign oil, but it will reduce the amount we have to buy.

It also must be noted that the construction of the Alaskan pipeline does not preclude or nullify the need for the trans-Canadian pipeline. It is not an either/or situation. While the Alaskan pipeline will have oil coming to the United States from 5 to 7 years sooner than the trans-Canadian line, we must continue to study our long-range needs and the impending need for the Canadian pipeline as well. Moreover, the early development of the Alaska pipeline will make possible and likely the building of a Canadian gas pipeline that could help serve the north central part of the United States.

The trans-Alaska pipeline is the most important immediate step that we can take to help meet the entire Nation's rapidly increasing energy needs. It is vital to our national interest.

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.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now may be a period for routine morning business, with statements limited therein to 5 minutes, and that the period not extend beyond 15 minutes.

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

REPUBLICAN LEADERSHIP MEETING AT WHITE HOUSE ON THE ECONOMY

Mr. PERCY. Mr. President, this morning, at the White House, the Republican leadership had the privilege of meeting with the President and some of his top advisers on the state of the economy, with particular reference to the current price freeze and phase IV. It was a free and open discussion, and I welcomed this opportunity to have the input into the White House by those who had been so recently in touch with their constituents, and those of us in Congress who feel that we stay very close to the feelings, aspirations, hopes, and desires of our respective constituencies.

We did discuss the budget, and I am very pleased the Senate Government Operations Committee and its Subcommittee on National Priorities and Budget Control are trying to develop a means by which the Senate can cooperate with the House in finding ways that will lead to putting a ceiling on Federal expenditures, and to make this a high priority early in each session of Congress and in each fiscal year, so that we establish a budget consistent with the role which the Federal budget should play in the economy and consistent with what is good fiscal and monetary policy.

The impact on the Federal budget is very great indeed. Progress is being made in trying to develop procedures and practices consistent with the views of the committee of both the House and the Senate that was established to work out this matter. I hope that before long a bill can be reported by the Committee on Government Operations for the consideration of the Senate, a bill that will enable us to develop responsibly a budget procedure and also will enable us to put a ceiling of our own on congressional expenditures. Until such time as we do this, I think international financiers as well as those watching the problem inside our own country will welcome such action by Congress to solve the problem and establish priorities.

Mr. President, the administration's budget proposal for fiscal year 1974 has excited a combination of praise, consternation, and controversy, and some considerable criticism.

I respect the President for presenting a budget that keeps a lid on spending and commend him for his initiatives that call for a more efficient use of Federal dollars.

I think that one of our responsibilities in Congress is that we have a deep interest in the matter of priorities, because that is one of the constitutional responsibilities we have.

However, I am particularly concerned with one area of the President's proposed budget economies. Budget cuts where health care services are concerned are, in my judgment, false economies. An excellent Chicago Tribune series on health care, written by its science editor, Ronald Kotulak, documents very well the need to commit greater, not fewer, resources toward solving our health care problems. Mr. Kotulak's articles illustrate all too vividly the alarming trends which are becoming increasingly familiar to every American who may need medical care. Despite annual expenditures of $70 to $80 billion for medical care in recent years, millions of Americans do not receive adequate care. Physicians' fees and hospital rates are such that even middle-income people are beginning to be priced out of the market. Doctors, never particularly attracted to rural areas, continue to flee the cities for the suburbs. The hospital emergency room is fast becoming the "family doctor." General practitioners, internists, and pediatricians have become even more scarce in relationship to our population and need. Even those with money to pay for medical care often cannot find a doctor to provide that care.

Most distressing to me, as a Senator from Illinois, is the fact that Mr. Kotulak's articles give evidence that the shortage of doctors appears to be even more serious in Illinois, especially in the low-income communities of Chicago, than in the Nation as a whole. I am, therefore, more convinced than ever that we must expand, not curtail, our national commitment to improve access to quality health care for all Americans.

Mr. President, I ask unanimous consent that several articles heretofore referred to be printed in the RECORD.

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

MIDDLE CLASS FINDS MEDICAL CRISIS ON ITS DOORSTEP NOW

(By Ronald Kotulak)

It came as a shock to the residents of West Lake View, a primarily white middle-class community on the city's mid-North Side.

At first no one noticed it, but one by one of the doctors' offices closed, not to be replaced. The full impact came about two years ago, when alarmed residents discovered that there were only about four doctors left to care for a population of 30,000 to 40,000.

They had become medically disfranchised. Once considered a problem faced by the poor, the inability to get adequate medical care has in the last five to 10 years become a growing problem among the middle class.

The medical gap can now be seen in low-income, working-poor, and middle-class Chicago neighborhoods, as well as in some suburbs. Poverty pockets and rural areas still have a critical shortage of health care, altho, at least for the poor, federally supported health programs are available.

Two forces are at work to deprive an increasing number of blue-collar workers and many other middle-income residents of proper care.

The first is skyrocketing medical costs, which are pushing routine care out of the reach of many. Since 1960 hospital costs have zoomed 204 percent, and doctors' fees have climbed 74 percent.

The average day in the hospital last year cost $90.46. The average fee for an office visit to an internist in 1971 was $24.13.

The second factor is the unavailability of doctors who deliver primary care. In many areas residents simply can't find a doctor, even tho they have the money to pay for care. A growing number of people in both white and black communities have come to rely on the hospital emergency room as their "family doctor."

The financial pinch became acute when Americans decided that more should be done for the poor and elderly. When medicaid and Medicaid went into effect in 1966, millions of dollars were made available for the care of those on welfare and for the elderly.

But since the medical personnel and resources were limited, the influx of huge tem had an inflationary effect.

Prices zoomed. The health-care gap was merely transferred to the working poor and other middle-income groups. They were being priced out of the market and cut off from the limited supply of health-care resources.

Added to this was the flight of doctors from poor and middle-class neighborhoods to the wealthier suburbs. The result is that great blocs of people have become medically disfranchised, said Pierre de Vise, assistant director of the Illinois Regional Medical Program.

As a result more people are beginning to fall through the cracks of the medical-care system.

For many, like Mrs. William Clark on Chicago's far South Side, and Mrs. Donna Hymen on the city's far North Side, there isn't enough money left in their budgets for routine care, preventive medicine, dental care, or annual physical checkups.

One of Mrs. Clark's children developed a bad skin allergy a while back, and the treatments cost $50 a week. The costs had to be paid out of her pocket, because she can't afford medical insurance. She still owes on these medical bills.

"I would like to be able to take the kids to the dentist and for regular doctor visits—they need it—but there isn't enough money," Mrs. Clark said.

It probably would be easier for the Clarks to get medical care if they were on welfare, but her husband is a blue-collar worker, and they don't qualify for state aid.

Mrs. Hymen's problem is similar. She knows she is playing "medical roulette" by neglecting regular medical and dental care to cut down on expenses. But since she and her husband are in their mid-twenties, they feel they can gamble and go to a doctor only when they become sick.

"I can't plead ignorance, because I work in the medical field," she said. "But most of our friends are in the same boat. We are neglecting things that should be done because we can't fit the extra medical costs into our budget."

Another young couple faces a bleak financial future as the result of a catastrophic injury. The husband was hospitalized for eight months with brain and kidney damage suffered in an accident.

The costs came to more than $60,000 of which his hospital insurance paid only $16,000. The Illinois Department of Public Aid, under its program to aid medically indigent people, is helping pay for the rest. But the state aid is being cut off, and the young wife, who holds down a full-time job, will have to find some way of paying for her husband's further care.

Trying to—and failing—to find a doctor can be a frightening experience, said Michael Burack, administrator of the Lake View Citizens Council. The community basically is a mixture of middle-class whites.

"There are thousands of people over 65 in our community, and a lot of people just couldn't find a doctor," he said.

Working with Illinois Masonic Hospital, the council established a free clinic at 3405 N. Paulina St. that cares for patients three evenings a week in an effort to fill the medical gap. But this is only a tourniquet. Much more is needed, Burack said.

Another medical wasteland exists in West Garfield Park, a community of 60,000 on the West Side, which has only 13 physicians. In 1950, when the community was all white, it had 161 doctors.

"Most of our residents don't get enough medical care," said Alfred Portis, executive director of the Christian Action Ministry. To get care residents go to a hospital emergency room or County Hospital, and many wait until they are acutely ill before they go, he said.

The same thing is happening to many suburban dwellers. Families moving out to the suburbs often find that the closest doctors are so busy that they aren't accepting new patients. Newer suburbs frequently don't have enough physicians.

One middle-class surburb hurting for doctors is Schaumburg Township. With a population of 60,000, it has only 12 doctors. It should have about 60.

"Occasional hardships" in obtaining medical care are experienced in Will County, said Dr. Robert Becker, president of the Quad River Foundation for Medical Care.

With a population of 250,000, including Joliet, the county has about 140 doctors providing primary care, he said. "We could use 50 to 100 more doctors, primarily family-practice physicians," he said.

Documenting the increasing difficulty in obtaining care, Dr. Odin W. Anderson of the University of Chicago found in a nationwide study that the number of low- and middle-income residents who do not have private doctors is sharply increasing.

While medical care for the poor has improved substantially in the last 20 years, primarily because of federally financed medicare programs like Medicaid, the problem for the low- and middle-income group has become worse.

Whereas 75 per cent of the middle-income group reported regular care from a doctor in 1963, this had dropped to 68 percent in 1970, Anderson found. Among low-income residents, the number seeing a private doctor dropped from 63 to 56 per cent. The study included 11,822 individuals in 3,880 families.

Twenty-one per cent of the low-income families reported no regular care at all, and 15 per cent of the middle-income group also said they had no regular care.

Mayor Daley recently said more must be done to help people with modest incomes meet their health-care needs.

"These persons do not ask for charity, nor do they want handouts," Daley said. "They are willing to pay for medical care, but the fees must be commensurate with their ability to pay.

"There are hospital facilities for those who are indigent and for those who can afford the costs of private hospital care. What is required is hospital facilities scaled to the various incomes of patients, or some kind of financial support for the low-income patient to compensate for the portion of the bill he cannot pay."

A working man earning $100 to $150 a week cannot afford a serious illness, because in many cases he has little or no health insurance and there is no way to provide for his family's support, Daley said.

It is becoming increasingly certain that low-income persons have less access to medical care, and that the quality and range of services available to them is much lower than those available to persons with more money, reported the Federal Department of Health, Education, and Welfare after a nationwide survey.

Routinely for the poor and low-income groups, and increasingly for those in the middle-income bracket, to be sick is to be incapacitated.

Symtoms, even serious ones, are often ignored or tolerated until disability strikes. Then medical care is an emergency. Serious illnesses that could have been prevented with early care get out of hand. Treatment often is inadequate or too late. As a consequence, the patient suffers more, a bigger demand is placed on the health-care system, and the costs are much higher.

Attempting to grapple with the problem, former Gov. Richard Ogilvie said, "We simply are not getting appropriate health care to most of the people when and where they need it.

Wonder drugs and new surgical techniques have eliminated most of what were once frightening diseases and injuries, Ogilvie said. "Now it is the bill that is frightening."

"Any individual who can't get care has a health-care crisis, and there are a lot of them," said Dr. Mark Lepper, coordinator of the state's health services and chairman of the Comprehensive Health Planning Board of Illinois.

"Collectively, there undoubtedly is a health-care crisis in terms of financing, availability, and manpower," he said.

Most people agree, Dr. Anderson said that 75 per cent of the heads of families in his study believe there is a crisis in health care in the United States.

PRIVATE DOCTOR IS HARD TO FIND

(By Ronald Kotulak)

For many Americans a private doctor is becoming a vanishing species.

More than 32,000 people called the Chicago Medical Society last year in search of physicians to look after their health and minister to their illnesses. The society expects 36,000 calls this year. Thousands more never called because they have no hope of getting their own private doctors.

One who called was Lynn Taylor, a Tribune reporter who recently moved into the predominantly white Beverly community on the city's far Southwest Side.

The society's referral service gave her the names of three doctors in her area. When she started calling them she discovered that two of the physicians no longer practiced there and the third had a six-week waiting period before seeing new patients.

Trying on her own, Miss Taylor called the Evergreen Park Medical Center and was told that the doctor only took new patients if they were referred by one of his current patients. Being new to the neighborhood, she found this a dead end.

A second call to the medical society got her another list of names. Finally she found a doctor in Evergreen Park who would see her. She got to his office at the appointed time and waited two hours in a crowded waiting room before she saw the doctor for five minutes. Her bill: $30.

The reason why more and more Chicagoans can't find private doctors is because the city is losing physicians at a record rate, according to a new study on the physician exodus by Dr. Donald Dewey, a DePaul University sociologist.

They are fleeing to the wealthier suburbs, leaving behind medical wastelands in communities suffering from dangerously low numbers of physicians. This exodus is one of the main reasons for the medical-care crisis. Experts call it a maldistribution of physicians.

"The trend in physician-office relocation has been toward a greater maldistribution of doctors' offices—toward increased concentration of doctors in a few areas and increased scarcity of them in the others," Dewey said.

Between 1950 and 1970, Chicago lost 2,000 private doctors. In 1940, there were 1.7 doctors per 1,000 residents, but the figure was 1.1 per 1,000 in 1970.

"Chicago, which was once the nation's medical mecca, is the only large American metropolitan area to have fewer private physicians today than 20 years ago," Dewey said.

"Incredibly, the metropolitan Chicago's physician-population ratio in 1970 was one-fifth below that of the average for the nation's large metropolitan areas."

The physician is the gate-keeper of the health-delivery system, and the maldistribution of doctors means that more and more people are being frozen out, said Pierre de Vise, assistant director of the Illinois Regional Medical Program.

"A patient cannot get private hospital care, ambulatory care, nursing care, or even prescribed drugs without the sponsorship of a physician," he said. Thus a majority of America's blacks and a growing number of low- and middle-income people are locked out of the private health system."

In his report, "Where the Doctors Have Gone," Dewey said the ratio of physicians to population is the lowest in the city's history, and it is expected to get worse over the next 20 years.

The main reasons doctors are leaving the city are—in order of importance—the socio-economic decline of communities; their change from white to black; and doctors' desire to work closer to where they live.

Their favorite suburbs are in the north, northwest, and west. Hinsdale, Oak Park and Glencoe registered the biggest gains.

All sections of Chicago experienced declines, except for some parts of the North Side. Lake, Kane, and Will Counties also suffered heavy losses. South Cook County, which had one of the highest physician-population ratios in 1950 [1.34 per 1,000 population], suffered the greatest loss, down to .17 doctors per 1,000 people.

"One finds a situation where more physicians live in Evanston than in all of south Cook County: more live in Wilmette than in all of southwest Cook County; more live in Winnetka than in all of Will County; more live in Skokie than in all of Kane County; and more live in Lincolnwood than in all of McHenry County," Dewey said.

The stampede of physicians out of some Chicago communities can be seen in West Garfield Park on the city's West Side. In 1950, when the community was all white, it had 161 physicians. By 1970 it had changed to 96.8 per cent black, and only 13 doctors remained to serve 60,000 people.

The physician-population ratio in West Garfield Park plummeted from one doctor for every 300 people in 1950 to one for every 3,700 20 years later.

Oak Park, on the other hand, only two miles west of West Garfield Park, had an influx of doctors. Oak Park, whose racial structure hardly changed over the 20-year period, increased its doctor-population ratio from one per 870 people to one per 225.

One of the chief reasons physicians give for leaving changing neighborhoods is personal safety. "It is like working in a battle zone," a department doctor said.

Dr. Joseph O'Donnell closed his office at 75th and Halsted Streets in 1948 to move west to Glen Ellyn. "Before we left, we were held up three times in six weeks," he said.

"When I went to make a house call in an apartment, I was held up in a dark passageway. They took my bag, wallet, and watch."

O'Donnell said he originally intended to practice on the city's South Side, but because of the rapidly-changing neighborhood he began to worry about his and his family's safety. He also wanted a better life for his family.

Robert Lindley, executive administrator of the Chicago Medical Society, said many such doctors also found it hard to get help, including nurses and other doctors to take over during days off and vacations.

"I suppose it comes down to a question of whether his desire to do a missionary job is stronger than his regard for his personal safety," Lindley said.

With an average income of about $50,000 a year, many doctors prefer living and working in the affluent suburbs, Dewey said.

"Few self-respecting physicians would purchase homes below $50,000," he said. "Most of the homes in this high price range are confined to high-income areas in the North Shore and Skokie Valley."

Physicians like to work close to their homes, and the large new suburban shopping centers with their professional office buildings offer attractive places to work, Dewey said.

While the total number of doctors in the metropolitan area increased from 9,270 to 11,840 between 1950 and 1970, most of the increase was accounted for by nonpracticing physicians, he said. The number of private-practice doctors dropped from 80 per cent to 60 per cent.

Most of the new doctors are specialists, such as anesthesiologists, pathologists, radiologists, and plastic surgeons.

One family may require the services of four to five specialists, making it even more difficult to get primary care, Dewey said. In 1950, 10 per cent of the doctors were specialists, compared with 50 per cent today.

Since many new hospitals are following the doctors out to the suburbs, Dewey recommended that all federal Hill-Burton hospital-construction funds to these hospitals be stopped if they facilitate the flight of hospitals and doctors out of inner city and rural areas.

Instead, these federal funds should be diverted to inner-city hospitals to equip and operate outpatient departments that would provide primary ambulatory care in communities lacking private physicians he said.

EMERGENCY ROOM: NEW "FAMILY DOCTOR"

Curtis Allen, 40, doesn't have a private doctor. He never had one and he has no hope of ever having one altho he can pay for a doctor's services.

Like thousands of the Chicagoans who have found themselves locked out of the traditional health-care system, Allen has come to rely on the hospital emergency room as his "family doctor."

Unfortunately, Allen goes to the emergency room only when he has an emergency and the treatment he gets is emergency care. Since he has no private doctor he can't call up when symptoms first appear and get early care that might head off an emergency.

But he's happy with this treatment, "It's good care and there's no waiting when you have an emergency," he said.

In the last three years he's been to the emergency room at Michael Reese Hospital four times, all in great pain; twice for ulcers, once for a broken leg, and most recently for severe abdominal pains which doctors suspect may be caused by gallstones. He pays cash for his care.

Allen has no private doctor because he can't find one. He lives at 7930 S. Wabash Av., and in his community there are very few physicians. Allen has to bypass the conventional health delivery system in which a patient's private doctor admits him to the hospital when he needs such care.

Because of the inability of many people to find a private doctor, "I know that as much as one-third of this city's population does not have access to a private hospital," said Richard E. Friedman, regional director of the Federal Department of Health, Education and Welfare.

The basic reason is that many doctors are fleeing the older and poorer neighborhoods for the affluent suburbs, he said. In Chicago's 10 poorest communities there are only .26 doctors per 1,000 population compared with 2.10 doctors per 1,000 population in the city's wealthier communities.

But poor, low income, middle class, and rich are flocking to emergency rooms in record numbers. The emergency room has become the catch-all for the medical have-nots.

People go there for different reasons: the poor because they have no private doctors; the middle class because they are having a tougher time finding physiicans in many neighborhoods; and the rich because they can't get care after hours, on weekends, or holidays.

"Many cannot gain access to care because the component parts of the system of care are irregularly distributed thruout the state," said Dr. Morton Creditor, executive director of the Illinois Regional Medical Program.

"With respect to the conventional care system, the situation seems to be getting worse even with widespread acknowledgment of the problem and it will continue to get worse until we examine the reasons why it is bad," he said.

The tremendous upsurge in emergency room usage was documented in a two-year study of 108 hospital emergency departments in the seven-county Chicago Metropolitan region. The study, completed in 1970, was conducted by George Bugbee, Dr. Odin Gibson of the University of Chicago.

Between 1960 and 1969 visits to emergency rooms jumped 112 per cent from 840,700 in 1960 to 1,785,600 in 1969.

For every 100 Chicagoans there are 31 visits each year to a hospital emergency room, double the national rate. The rate of visits has tripled in the suburbs.

Emergency department patients account for about one-quarter of all hospital admissions in Chicago and for no less than one-third of patient days spent in the hospital.

The 15-year period between 1954 and 1969 saw a staggering increase of 315 per cent in emergency room visits.

"Not only has the number of visits increased, but the number and proportion of non-emergency 'walk-in' patients has risen dramatically so that in many urban hospitals the emergency department is now the provider of primary medical care for those lacking private physicians," the University of Chicago team said.

The investigators found that 48 per cent of the people visiting an emergency room went there for nonemergency care.

"Almost one-half of emergency department patients should not have been in the emergency department if they had been able and had chosen to see a private physician," they said.

The nonemergency patients come in with sore throats, colds, flu, headaches, aches and pains, minor injuries, new pregnancies, or simply because they want to see a doctor, said Theodore Leiterman, in charge of ambulatory care facilities at Illinois Masonic Hospital.

Some are the "worried well," people who aren't sure if something is wrong with them and who have nowhere else to turn except the emergency room. After being seen by a physician, one out of four emergency room patients requires no treatment.

"For more and more middle-income people, the hospital emergency room is becoming the community physician," Leiterman said.

Emergency rooms are turning into very large clinics which are creating increasing problems for hospital staffs, he said. Non-emergency cases must wait until all emergencies are taken care of. Illinois Masonic, like many other hospitals, is working on plans to divert nonemergency cases to the hospital's clinics and reserve the emergency room for emergency cases, he said.

The United States is one of the only remaining nations in the world that has continued to make medical services available on an almost exclusively fee-for-service basis said Dr. Merlin K. DuVal, former assistant secretary for health and scientific affairs of HEW.

"With all the strengths and advantages that are inherent in this system, there can be little doubt that such a system appears to be incompatible with a public policy that would presumably provide coequal ac-

cess to our services for all of our citizens, rich and poor alike," he said.

"The consumer has almost no direct impact on the supply of physicians, where they will locate, what they will practice, whom they will accept as patients, or what their services will cost," Dr. DuVal said.

The University of Chicago study showed that on an average one out of every four patients going to an emergency room does not have a regular family doctor.

Fourteen per cent were people using the emergency department as an after-hour "stand-by" for their private doctor and 11 per cent were patients being treated in an emergency room by their private doctors. Thirty-nine per cent of the visits were accident cases.

Among the reasons given for the big increase in emergency room visits are:

The decrease in the number of general practitioners who function as the primary care physician of first contact.

Private physicians leaving the inner-city areas by relocation or death and not being replaced.

Physicians increasingly unavailable at night or on weekends or holidays.

Physicians reluctant to make house calls.

Patients who often do not like to inconvenience their private physician outside of office hours.

Patients who don't know which doctor to contact because of increasing specialization.

The high level of geographic mobility with substantial numbers of patients without a regular family doctor.

Large low-income areas with few physicians.

"The public has been conscious of the decreasing availability of physicians," the University of Chicago reported. "The fact that emergency departments receive patients at all hours and have physicians available after working hours has not escaped attention."

LUCKY WIFE SAVED FROM A MEDICAL NIGHTMARE

(By Ronald Kotulak)

Mrs. Betty Hasegawa, like most Americans, can't afford a catastrophic illness. When her husband, Masuo, 59, a severe diabetic, developed a worsened heart and kidney condition, her medical nightmare began.

She knew she had to get care for her husband. She knew that the hospital insurance she had would only cover part of the costs and that she would have to spend all of her savings and sell her property to help pay for them. She knew that when all her money was gone she might not be able to get the proper care for her blind husband anymore.

She knew what lay ahead because she is a nurse who has seen it happen to others. And she knew that the emotional and financial drain would affect her own health.

"The anxiety would have finished me off," she said.

But, like waking from a bad dream, she was spared from being ruined by her husband's major illness. He is getting the best medical care available and it is only costing Mrs. Hasegawa $12 a month even tho in the last eight months her husband's medical bills have totaled more than $6,000.

Thru a new medical insurance plan at Michael Reese Medical Center, where Mrs. Hasegawa works as a registered nurse she can get whatever care she or her husband may need without worrying about costs.

The Reese plan is called a health maintenance organization [H. M. O.], and it is one of a growing number of measures designed to help solve the twin problems of high cost and unavailability of care affecting an increasing number of Americans.

"I hold the view . . . that there is a crisis in the health sector of our society today." said Richard E. Friedman, regional director of the U. S. Department of Health, Education and Welfare.

The crisis has caused rumblings thruout the land. There is a new sense of urgency among the middle class, the poor and the rich that something must be done to guarantee an individual's right to medical care. As a result, said Friedman, HEW has established a new set of goals. They are:

Every American has the right to adequate health care regardless of his race, his income, or locality.

Every American has the right to treatment of major illness without fear that the cost will be disastrous for him and for his family.

Every American has the right to be free from any disease or accident that could have been prevented.

Every American seeking health care has the right to find effective and competent care thru a variety of systems of care and payment.

The H.M.O. is based on the concept that it is cheaper to keep people healthy thru preventive care than to wait until they become sick and require more expensive treatment. American medicine traditionally has been geared to sickness or acute care.

For a fixed fee, usually paid monthly, a member of an H.M.O. has all of his medical needs taken care of from physical checkups to acute care. He pays nothing extra even if he is hospitalized for a prolonged period.

The incentive for the doctors is that they make more money by keeping people healthy. By concentrating on preventive care and reducing hospitalizations and acute care, there is more money left over from the fixed fees at the end of the year to be split up among the doctors.

The granddaddy of all the H.M.O.s, the Kaiser-Permanente groups on the West Coast and Hawaii have demonstrated, according to many experts, that comprehensive care which eliminates the worry of cost and emphasizes preventive medicine, can dramatically reduce sick days and hospital stays.

Reese's H.M.O. has been operating for hospital employes since last July and it is scheduled to go public for employe groups Sunday, said Dr. Monte Levinson, director of the Michael Reese Medical Group which provides medical services for Reese's H.M.O.

The cost for total comprehensive care will be $26 for an individual and $68 per family each month. Hospital employes pay $12 a month for families.

"Under our plan a member will receive whatever medical care is necessary from immunizations to cancer therapy without any financial restrictions," Dr. Levinson said.

The plan will include areas within a 40-mile range of Reese. From three to five satellite clinics that will provide comprehensive outpatient care are expected to be established in outlying regions, he said. The first is expected to open next year in a northern suburb, he said.

The cost of care will be covered only if treatment is rendered at the hospital or a satellite clinic, Levinson said. However, emergency care at any hospital in the Chicago area or out of town will be paid for, he added.

Rush-Presbyterian-St. Luke's Medical Center also has an H. M. O. plan for its employes. Officials there are planning to open it up to selected groups outside the hospital. Northwestern Memorial Hospital officials are studying the feasibility of establishing an H. M. O. Blue-Cross and CNA Financial Inc. also have selected H. M. O.-type programs. At least 15 such plans are in different stages of development thruout Illinois.

Some of the most medically deprived Chicagoans can expect help soon from another program. Thousands of city residents who are not on welfare but who cannot afford adequate medical treatment will be given free care at the city's neighborhood health centers.

The centers, which also will funnel care into physician-short areas, are aimed at bringing better care to the working poor, said Dr. Murray C. Brown, health commissioner.

"Medicaid pays for people on welfare," Dr. Brown said. "We are concerned about those who pay taxes but can't afford proper care for themselves or their families."

The new sliding fee schedule, which is expected to go into effect sometime in September, will mean that a family of four earning up to $7,000 a year will have to pay nothing for regular care at the centers.

A family of four earning $8,000 annually will pay 10 per cent of the medical costs; $9,000, 20 per cent; $15,000, 80 per cent; and those earning $17,000 and up will have to pay the full costs.

The board's five centers see more than 22,000 patients a month. By 1975 when two more centers are in full operation, officials expect that the seven centers will be handling more than 600,000 visits a year.

The four Model Cities supported centers are Uptown, 845 W. Wilson Av.; Daniel Hale Williams, 5034 S. Vincennes Av.; North Kenwood, 43d Street and Greenwood Avenue; and Woodlawn, 6337 S. Woodlawn Av.

The two new centers, expected to be in operation next year, are scheduled to be located near Division Street and Western Avenue and near 18th Street and Ashland Avenue.

Dr. Mark Lepper, chairman of the Comprehensive Health Planning Board of Illinois, said he plans to attack the "medical crisis" at the grass roots level.

Local groups must come to grips with their needs and resources, he said.

Dr. Morton Creditor, executive director of the Illinois Regional Medical Program, envisions new methods of entering the health care system.

The physician won't be the only one to provide care, he said. There will be nurses, military corpsmen, physician's assistants, well-trained community aides, and others who will serve as the remote eyes and ears of the professional corps, he said.

In rural and poverty areas and in crowded physician's offices, the "surrogate physicians" can do many of the routine tasks doctors now do, freeing them to handle serious cases, Dr. Creditor said.

RECESS

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate stand in recess awaiting the call of the Chair.

The motion was agreed to; and at 4:55 p.m. the Senate took a recess, subject to the call of the Chair.

The Senate reassembled at 6:20 p.m., when called to order by the Presiding Officer (Mr. TUNNEY).

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. ROBERT C. BYRD. Mr. President, as I recall, at no later than 2 p.m. tomorrow the Senate will resume consideration of the unfinished business. Am I correct?

The PRESIDING OFFICER. The Senator is correct.

UNANIMOUS-CONSENT AGREEMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate resumes consideration of the unfinished business tomorrow the Senator from Washington (Mr. JACKSON) be recognized to call up an amendment; that there be a time limitation on amendment

No. 314 by Mr. JACKSON of 30 minutes, to be equally divided, in the usual form; that the time on amendment No. 315 by Mr. JACKSON be limited to 30 minutes, to be equally divided, in the usual form; that time on an amendment by Mr. PASTORE be limited to 20 minutes, to be equally divided, in the usual form.

Provided further, that when those three amendments are disposed of—and they may or may not be called up in that order—the Chair recognizes the Senator from Minnesota (Mr. MONDALE) for the purpose of his calling up an amendment; that time on the amendment of Mr. MONDALE be equally divided and controlled by Mr. MONDALE and Mr. JACKSON; that there be a time limitation on the amendment by Mr. MONDALE of not to exceed 10 hours; that a vote occur on the amendment by Mr. MONDALE at not later than 1 o'clock p.m. on Friday.

Provided further, that at no later than 1 o'clock p.m. on Thursday the Senate resume its consideration of the amendment by Mr. MONDALE, and that at that time Mr. BAYH be recognized, he being a cosponsor of the Mondale amendment.

Provided further, that at no later than 11 o'clock a.m. on Friday the Senate resume its consideration of the Mondale amendment.

Provided further, that time for debate on the bill be limited to not to exceed 16 hours, the time to be equally divided between the distinguished manager of the bill (Mr. JACKSON) and the distinguished Senator from Arizona (Mr. FANNIN).

Provided further, that immediately upon the disposition of the Mondale-Bayh amendment on Friday, the Chair recognize the distinguished Senator from Alaska (Mr. GRAVEL) for the purpose of calling up an amendment cosponsored by himself and Mr. STEVENS.

Provided further, that time on any amendment except those specified in the agreement be limited to 1 hour, to be equally divided in the usual form; that time on any amendment to an amendment, debatable motion, or appeal, be limited to 30 minutes, to be equally divided and controlled in accordance with the usual form.

Provided further, that the vote on an amendment by Mr. HASKELL occur at no later than 10 o'clock a.m., on Tuesday next; that the vote on the Gravel-Stevens amendment occur at 11 o'clock a.m. on Tuesday next; that the vote on final passage of the bill, S. 1081, occur no later than 12 o'clock noon on Tuesday next, and that rule 12 be waived; provided further, that Senators in control of the time on the bill may yield time therefrom to any Senator on any amendment, debatable motion, or appeal, and that in all respects the agreement be in the usual form.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that it be in order for the leadership to call up at any time prior to disposition of the bill, if a hiatus develops, measures on the calendar which have been cleared for action on both sides.

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

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that upon disposition of S. 1081—or prior thereto, for the purpose of making it a first-track item—the leadership may call up either S. 1861 or H.R. 7935, both of which have to do with the amendment of the Fair Labor Standards Act.

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

Mr. FANNIN. Mr. President, reserving the right to object, I did not hear the last request.

Mr. ROBERT C. BYRD. The request was that upon disposition of the bill, S. 1081, the so-called Alaska pipeline bill, the Senate proceed to the consideration of the Fair Labor Standards Act. I am leaving it up to the leadership as to which of the two bills it will call up, the Senate bill or the House bill.

Mr. TAFT. Mr. President, reserving the right to object—and I shall not object—I take it that this order would be vacated if the vote on S. 1081 should occur prior to the Tuesday time set for it.

Mr. ROBERT C. BYRD. No. It is the intention of the leadership to go to the fair labor standards bill when the Alaska pipeline bill is disposed of.

Mr. TAFT. Is it the intention of the leadership that it might go to the fair labor standards bill this week under any circumstances?

Mr. ROBERT C. BYRD. I do not see that likelihood. The reason I phrased my request in the way I did was that in the event, during the remainder of the week, the Senate was unable to proceed with action on amendments to the Alaska pipeline bill, rather than just have a hiatus, the leadership could, if need be, go to that bill. Under the agreement we cannot vote on the Gravel amendment until 11 o'clock next Tuesday, and consequently could not vote on passage of the bill until after that vote; if it became absolutely necessary, therefore, in order to make progress on something, the leadership could go to the fair labor standards bill, possibly have some debate on it, but certainly not with the idea of disposing of it before the disposition of the Alaska pipeline bill.

Mr. TAFT. I think I would be constrained to object unless there were some provision that the fair labor standards bill would not be brought up until next week. This has been the understanding informally with the chairman of the committee as to the handling of that particular measure.

Mr. ROBERT C. BYRD. The Senator may have had that understanding. I must say that I have not had that understanding. I discussed it with the chairman of the committee today. But I would be very agreeable to withdrawing that request and renewing it in another fashion, so that the Senator from Ohio would be assured that the fair labor standards bill would not come up this week:

I ask unanimous consent that upon the disposition of the Alaska pipeline bill, S. 1081, the Senate proceed to the consideration of the fair labor standards bill—whichever bill the leadership decides to call up, whether it be the House bill or the Senate bill.

The PRESIDING OFFICER. Is there objection?

Mr. TAFT. Mr. President, reserving the right to object, would the Senator explain a little further? I am not sure I understood the Senator's revised request. Would the Senator's revised request mean that the fair labor standards bill would not, under any circumstances, come up this week?

Mr. ROBERT C. BYRD. It would not, because the Alaska pipeline bill already has an order entered, with a vote to come on the Gravel amendment at 11 o'clock next Tuesday morning, and heaven and all its angels cannot change that order unless the Senate agrees to change the order. The order is already agreed to, and any Senator's objection would prevent a change in it. So if the order I have suggested, providing for consideration of the fair labor standards bill upon the disposition of the Alaska pipeline bill, is agreed to, then the able Senator can be assured that the Senate will not proceed to the consideration of the fair labor standards bill until next Tuesday.

Mr. TAFT. I appreciate the statement made now by the distinguished acting majority leader. I would, however, like to give notice that should the question be raised as to whether we should proceed to the consideration of it prior to disposition of S. 1081, I would expect to object, and I would ask to be notified that this had occurred.

Mr. ROBERT C. BYRD. The Senator is saying that if perchance, because of developments that we do not now foresee, there might be a request at some later time to vacate the order providing for the vote on the Gravel amendment on Tuesday and the final disposition of the bill no later than 12 noon on Tuesday, the Senator would want to be consulted. He has that assurance.

Mr. TAFT. I appreciate that, and withdraw my objection.

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

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

Mr. ROBERT C. BYRD. I yield.

Mr. FANNIN. Mr. President, I should like to have a clarification regarding the hiatus if the consideration of S. 1081 is interrupted. I understand that we will be able to debate any part of that bill and can continue with it until Tuesday at 11 o'clock a.m., when the vote will come on the Gravel-Stevens amendment and the vote on the passage of the bill will come at 12 o'clock. At any time in between, Senators will have the privilege of discussing what is involved. It is the word "hiatus" that was perplexing.

Mr. ROBERT C. BYRD. I can understand how that would be. I probably should not have used the word "hiatus."

I know that the leadership will be accorded a flexibility, if a hiatus arises, in which to shift to another track to consider any bill, of lesser moment than the fair labor standards bill.

Mr. FANNIN. I thank the distinguished assistant majority leader.

Mr. STEVENS. Did the unanimous-consent request include a designation of who controls the time under the specific amendments that are named, the Mondale amendment, the Haskell amendment, and the Gravel-Stevens amendment? Are those designated for control between the majority and minority leaders, or between the proponent and the manager of the bill?

Mr. ROBERT C. BYRD. In phrasing the agreement, I used the "words of art" that the agreement be in the "usual form," which in itself provides for the control of the time.

Mr. STEVENS. I am at a loss to understand "the usual form." Is it that the proponent controls the time, and the manager of the bill?

Mr. ROBERT C. BYRD. The phrase "usual form" provides for the mover of the amendment to control his half of the time and the manager of the bill to control the other half. If the manager of the bill is not opposed to the amendment, the time in opposition to the amendment would then be under the control of the minority leader or his designee.

Mr. FANNIN. Mr. President, will the Senator from West Virginia yield?

Mr. ROBERT C. BYRD. I yield.

Mr. FANNIN. In order to clarify what the Senator from Alaska has in mind, at any time the time is needed, the minority—the person handling for the minority—the time could be yielded on the bill?

Mr. ROBERT C. BYRD. The Senator is correct, but the question of the Senator from Alaska did not go to that point. As I understood it, his question was as to who would control the time on any amendment, and then, inasmuch as I have used the phrase "in the usual form," it was not clear to him as to who would have control of the time on such amendment.

Mr. STEVENS. But there would be no prohibition of time being yielded to anyone——

Mr. ROBERT C. BYRD. Again an agreement "in the usual form" would provide that the mover of the amendment is in control of his half of the time on his amendment and the manager in control of the opposition; but if the manager of the bill supports the amendment, then the time in opposition to the amendment is under the control of the minority leader or his designee. "The usual form" also provides that Senators controlling time on the bill may yield time from the bill to any Senator on any amendment, debatable motion or appeal. "The usual form" also provides that no amendment not germane is in order.

Mr. STEVENS. That was my last question. Do we have included in this unanimous-consent agreement that there will be no nongermane amendments offered to the bill following this time?

Mr. ROBERT C. BYRD. That is included.

Mr. FANNIN. Is the question answered, I ask the Senator from Alaska?

Mr. STEVENS. Yes.

Mr. FANNIN. I thank the Senator.

Mr. ROBERT C. BYRD. I thank the Senator, and I thank all Senators for their cooperation in working out this difficult agreement.

Mr. BARTLETT. Mr. President, I ask unanimous consent that on consideration of the bill (S. 1081), during debate and voting, that Wade Russell, Ron Frank, and Kevin Olson of my staff be accorded the privilege of the floor.

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

ORDER FOR SENATE TO CONVENE ON MONDAY, JULY 16, 1973, AT 10 A.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, when the Senate convenes on Monday next, it meet at the hour of 10 o'clock a.m.

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

ORDER FOR ADJOURNMENT FROM MONDAY TO TUESDAY, JULY 17, 1973, AT 9 A.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, when the Senate completes its business on Monday next, it stand in adjournment until the hour of 9 a.m. Tuesday next.

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

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, let me see if I can now state the program, looking ahead to Tuesday next.

Tomorrow the Senate will convene at 10 o'clock a.m.

After the two leaders or their designees have been recognized under the standing order, there will be a period for the transaction of routine morning business, not to exceed 15 minutes, with statements therein limited to 3 minutes each.

Following the transaction of morning business, the Senate will proceed to the consideration of S. 1328, a bill to direct the Secretary of Transportation to make an investigation and study of the feasibility of a high-speed ground transportation system between certain cities in the State of California. There is a time agreement on that bill.

Upon the disposition of S. 1328 tomorrow, the Senate will proceed to the consideration of S. 1141, a bill to provide a new coinage design and date emblematic of the bicentennial of the American Revolution for dollars and half dollars. There is a time agreement on that bill.

At 12:30 p.m. tomorrow, the Senate will vote without debate on Senate Resolution 71, a resolution expressing the sense of the Senate that the U.S. Government should seek the agreement of other governments to a proposed treaty prohibiting the use of any environmental or geophysical modification activity as a weapon of war, or the carrying out of any research or experimentation directed thereto.

Regardless of whether or not the aforementioned measures are all completed by 2 o'clock p.m. tomorrow, at no later than 2 o'clock p.m. tomorrow the Senate will resume its consideration of the unfinished business, S. 1081. At that time there will be a limitation of time on three amendments, two of them by the Senator from Washington (Mr. JACKSON), Nos. 314 and 315; and one by the Senator from Rhode Island (Mr. PASTORE). The time agreements provide for 30 minutes on each of the Jackson amendments and 20 minutes on the amendment by Mr. PASTORE.

Upon the disposition of those amendments—and as I have indicated, they may not be called up in that sequence—the Chair will recognize the Senator from Minnesota (Mr. MONDALE) for the purpose of calling up the Mondale-Bayh amendment. There is a time agreement on that amendment. It will be debated during the afternoon on tomorrow, and at no later than 1 p.m. Thursday, the Senator from Indiana (Mr. BAYH) will be recognized for the continuation of the debate on that amendment.

At no later than 11 a.m. Friday, the Senate will resume its consideration on the Mondale-Bayh amendment, with a vote to occur thereon no later than 1 p.m. Friday.

It is understood that on Thursday, there will also be first-track measures. I cannot at the moment say what they will be. However, presumably, they would be bills with time agreements thereon. However, in any event, the agreement with respect to the Mondale-Bayh amendment holds.

Then on Friday, upon the disposition of the amendment by the Senator from Minnesota (Mr. MONDALE), the distinguished Senator from Alaska (Mr. GRAVEL) will call up his amendment. There is a time limitation thereon, with a vote to occur on that amendment at 11 a.m. Tuesday next.

In the meantime, debate may proceed on the Gravel-Stevens amendment. It may be set aside, of course, for the taking up of other bills or other amendments if unanimous consent is obtained.

Then on Saturday, the Senate being in session, if it is, debate will continue on the Gravel amendment, with possible first track items on Saturday, and then on Monday the same would again occur, with first track items if they can be cranked in with time agreements, and then in the afternoon of Monday with resumption of debate on the Gravel-Stevens amendment, again with the understanding that that amendment could always be set aside by unanimous consent. Then on Tuesday, the vote will occur at no later than 10 o'clock on the Haskell amendment. It can have occurred earlier; for example, on Monday, for that matter. At 11 o'clock on Tuesday, the vote will occur on the Gravel-Stevens amendment, and then at no later than 12 o'clock noon on Tuesday, the vote will occur on passage of the bill.

On the disposition of the bill (S. 1081) the Senate will then proceed to the consideration of either S. 1861 or H.R. 7935, whichever the leadership prefers. Yea-and-nay votes will occur daily.

I think that wraps it up.

May I ask the Chair if I have correctly stated the program through 12 o'clock noon on Tuesday as far as the agreement is concerned.

The PRESIDING OFFICER (Mr. TUNNEY). It is the Chair's understanding that the wrapup is completely in accord with the unanimous-consent agreement.

Mr. ROBERT C. BYRD. I thank the Chair.

ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 10 a.m. tomorrow.

The motion was agreed to; and at 6:46 p.m. the Senate adjourned until tomorrow, Wednesday, July 11, 1973, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate July 10, 1973:

DEPARTMENT OF DEFENSE

John L. McLucas, of Virginia, to be Secretary of the Air Force, vice Robert C. Seamans, Jr., resigned.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Stanley B. Thomas, of New York, to be an Assistant Secretary of Health, Education, and Welfare, vice Patricia Reilly Hitt, resigned.

U.S. ARMY

The following-named Army Medical Department officers for temporary appointment in the Army of the United States, to the grades indicated, under the provisions of title 10, United States Code, sections 3442 and 3447:

MEDICAL CORPS

To be major general

Brig. Gen. Robert Bernstein, [redacted], Army of the United States (colonel, Medical Corps, U.S. Army).

Brig. Gen. Edward Henry Vogel, Jr., [redacted] Medical Corps, U.S. Army.

To be brigadier general

Col. Kenneth Ray Dirks, [redacted], Army of the United States (lieutenant colonel, Medical Corps, U.S. Army).

Col. George Sawyer Woodard, Jr., [redacted] Medical Corps, U.S. Army.

Col. Spencer Beal Reid, [redacted] Medical Corps, U.S. Army.

Col. William Albert Boyson, [redacted], Medical Corps, U.S. Army.

MEDICAL SERVICE CORPS

To be brigadier general

Col. John Edward Haggerty, [redacted], Medical Service Corps, U.S. Army.

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 3307:

MEDICAL CORPS

To be major general

Maj. Gen. James Arista Wier, [redacted], Army of the United States (brigadier general, Medical Corps, U.S. Army).

Maj. Gen. Spurgeon Hart Neel, Jr., [redacted] Army of the United States (brigadier general, Medical Corps, U.S. Army).

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

Brig. Gen. Robert Bernstein, [redacted], Army of the United States (colonel, Medical Corps, U.S. Army).

Maj. Gen. Richard Ray Taylor, [redacted], Army of the United States (colonel, Medical Corps, U.S. Army).

IN THE AIR FORCE

Gen. George S. Brown [redacted] FR (major general, Regular Air Force), U.S. Air Force, to be appointed as Chief of Staff, U.S. Air Force, for a period of 4 years beginning August 1, 1973, under the provisions of section 8034, title 10 of the United States Code.

The following officer to be placed on the retired list in the grade indicated under the provisions of section 8962, title 10 of the United States Code:

To be general

Gen. John D. Ryan, [redacted] FR (major general, Regular Air Force) U.S. Air Force.

AMBASSADOR

John R. Stevenson, of New York, Special Representative of the President for the Law of the Sea Conference and Chief of Delegation, for the rank of Ambassador.

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

Orman W. Ketcham, of Maryland, to be an associate judge, Superior Court of the District of Columbia, for the term of 15 years. He is now serving in this office under an appointment which expired May 16, 1973.

Edmond T. Daly, of the District of Columbia, to be an associate judge, Superior Court of the District of Columbia, for the term of 15 years. He is now serving in this office under an appointment which expired May 16, 1973.

CONFIRMATION

Executive nomination confirmed by the Senate July 10, 1973:

JOINT FEDERAL-STATE LAND USE PLANNING COMMISSION FOR ALASKA

Burton W. Silcock, of Virginia, to be a Member of the Joint Federal-State Land Use Planning Commission for Alaska.

(The above nomination was approved subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

HOUSE OF REPRESENTATIVES—*Tuesday, July 10, 1973*

The House met at 12 o'clock noon.

Rev. Newton Wise, First United Methodist Church, Homestead, Fla., offered the following prayer:

Spirit of the living God, silence the great noise within our spirits today. Speak with Thy still small voice. Speak to us through our memory. May the memory of homes and loved ones and past moments that are sacred sustain and strengthen us. Speak to us, O God, through our hopes of a better world. Save us from conformity with the low standards all about us.

Grant to each of us a sacred moment of quiet as we begin our duties of today. Give wisdom to these Congressmen in their decisions, understanding in their thinking, love in their attitudes, and mercy in their judgments. We know that Thou dost see the innermost parts of our minds. Create a right spirit within us.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 8825. An act making appropriations for the Department of Housing and Urban Development; for space, science, veterans, and certain other independent executive agencies, boards, commissions, and corporations for the fiscal year ending June 30, 1974, and for other purposes.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 8825) entitled "An act making appropriations for the Department of Housing and Urban Development; for space, science, veterans, and certain other independent executive agencies, boards, commissions, and corporations for the fiscal year ending June 30, 1974, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. PROXMIRE, Mr. MCCLELLAN, Mr. PASTORE, Mr. BAYH, Mr. CHILES, Mr. MOSS, Mr. MATHIAS, Mr. YOUNG, Mr. CASE, and Mr. FONG to be the conferees on the part of the Senate.

The message also announced that the Senate disagrees to the amendment of the House to the bill (S. 1423) entitled "An act to amend the Labor Management Relations Act, 1947, to permit employer contributions to jointly administered trust funds established by labor organizations to defray costs of legal services," agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. WILLIAMS, Mr. RANDOLPH, Mr. PELL, Mr. NELSON, Mr. EAGLETON, Mr. HUGHES, Mr. HATHAWAY, Mr. JAVITS, Mr. SCHWEIKER, Mr. TAFT, and Mr. STAFFORD to be the conferees on the part of the Senate.

The message also announced that the Secretary was directed to request the House of Representatives to return to the Senate the bill (H.R. 8619) entitled "An act making appropriations for agriculture-environmental and consumer protection programs for the fiscal year ending June 30, 1974, and for other purposes," together with all accompanying papers.

The message also announced that the Senate had passed bills and a joint resolution and concurrent resolution of the following titles, in which the concurrence of the House is requested:

S. 245. An act for the relief of Kamal Antoine Chalaby;

S. 298. An act for the relief of Sung Wan Kim;