That women be granted greater representation on the boards of directors of insurance companies; and

That insurance companies consider adopting unisex rating—charging men and women equal insurance rates despite somewhat different loss experiences.

In his testimony, Denenberg emphasized the seriousness of the problems, explaining that the denial of equal access to insurance, at fair rates, affects the economic status of all women. Other economic disadvantages of insurance, Denenberg continued, can be magnified by discriminatory, inadequate, or prohibitively costly insurance. Alternatively, insurance protection that serve women's needs can alleviate many economic burdens.

The full women's insurance bill of rights presented by Commissioner Denenberg includes the following rights:

First. The right to equal access to all types of insurance;

Second. The right to premiums that fairly reflect risks and not prejudice;

Third. The right to protection against arbitrary classification based on sex, and against sex classification when other bases which might be appropriate have not been utilized or even explored;

Fourth. The right to equal employment opportunities in the insurance industry and its regulatory agencies, and to a fair share of scholarships and financial assistance for the study of insurance;

Fifth. The right to nonsexist and nonjudgmental treatment by agents, brokers, claims representatives and all others who deal directly with policyholders;

Sixth. The right to representation on the decisionmaking bodies of commercial insurance companies, Blue Cross plans and other nonprofit insurers;

Seventh. The right to buy insurance or qualify for coverage regardless of marital status;

Eighth. The right to adequate health insurance coverage for all needs, including comprehensive maternity benefits for all conditions of pregnancy regardless of age or marital status;

Ninth. The right to disability insurance which fairly measures the economic value of child care and homemaking; and

Tenth. The right to privacy in the claims process.

HON. JAMES SMITH: A GOOD MAN

HON. J. J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1973

Mr. PICKLE. Mr. Speaker, I speak for myself and for hundreds of people in the 10th District of Texas in expressing deep sadness at the passing of our former colleague, the Honorable James V. Smith of Oklahoma.

I came to know Jim Smith when he represented the Sixth District of Oklahoma in the 90th Congress. He was a capable and effective Representative.

Four years ago, he became one of the most capable Administrators of the Farmers Home Administration in that agency's history, and it was in that capacity that he won the trust and gratitude of not only my constituents, but of people across the Nation who came to the FHA for assistance.

Under his leadership, the FHA undertook a massive sewage and water supply program to upgrade the living standard of this Nation's rural population. I well recall Jim's visit to Bastrop, Tex., for the opening of the Aqua Water Corp., which has grown to supply fresh running water to more than 1,600 people in five Texas counties.

I had the opportunity to work with Jim Smith on this and several other projects, and after each meeting with him, I was impressed with both his professional capability and his deep sense of sincerity and duty. He was the quintessential public servant. His job was more than a job; it was a chance for Jim to tangibly express his regard for his fellow man.

Jim Smith was a good man. He was considerate, kind, and helpful. He was one of those men we have to classify as a sweet person. He was indeed a conscientious public servant and a dear personal friend.

When he relinquished his position at FHA last January, many Members of Congress rose to pay tribute to his admirable record. In all his years of public service, his achievements were many and his record flawless.

And now we rise again to pay tribute to Jim Smith. His presence will be missed, but his contributions to rural America will live on, as will his memory in the minds of those he served.

TRIBUTE TO JIM SMITH

HON. DAWSON MATHIS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1973

Mr. MATHIS of Georgia. Mr. Speaker, I rise to join with my friend, the distinguished gentleman from Oklahoma (Mr. CAMP) in paying tribute to the late Hon. Jim Smith. It was not my good fortune to be able to serve with Jim during his tenure in the Congress, but I did have the opportunity to meet him shortly after my arrival here when Jim was serving as Administrator of the Farmers Home Administration. I always found Jim and his staff ready and willing to try and help with problems that might arise in my district involving FHA. He understood, I am sure, the frustrations of a freshman Member of this House and was willing to go the extra mile to help find a solution to a problem.

Jim was always interested in rural America, and when the National Future Farmers of America adopted a project initiated by the Berrien High FFA of Nashville, Ga., called Build Our American Communities, Jim Smith was interested. The project, which stresses self-help for local communities all across the Nation, caught Jim Smith's eye because he was a firm believer in rural America and in the ability of America's citizens to solve their own problems. When a special day was set aside in Nashville, Ga., to honor the project and the Berrien FFA for its part in founding and developing the program Jim Smith came to Nashville to participate. Jim joined the Honorable HERMAN TALMADGE and me in addressing the convocation, and he delivered one of the most moving speeches I have heard, discussing in down-to-earth terms the problems and the potentials for rural America.

Mr. Speaker, I related this incident here to simply demonstrate Jim Smith's deep commitment to his job, to the revitalization of rural America, and to this great Nation.

Jim Smith's life was tragically short, but this Nation is better off because he came our way. His footprints are, and will be, visible in the sands of time.

Mrs. Mathis joins me in extending our heartfelt sympathy to the Smith family.

SENATE—*Saturday, July 14, 1973*

The Senate met at 10 a.m. and was called to order by Hon. SAM NUNN, a Senator from the State of Georgia.

PRAYER

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

Almighty God, Lord of each day and of all the years, grant that the measures taken in this place may serve the highest purposes of the Nation. May the strenuous exertions of the few minister to the needs of the many. Give us a part in the cleansing of the Nation and in renewing the moral foundations of our common life. When this day is done send us to worship and rest on the Lord's day with expectant spirits and peaceful hearts.

And to Thee shall be all praise and thanksgiving. 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 assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., July 14, 1973.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. SAM NUNN, a Senator from the State of Georgia, to perform the duties of the Chair during my absence.

JAMES O. EASTLAND,
President pro tempore.

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

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Friday, July 13, 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.

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider nominations on the Executive Calendar, beginning with Ernest V. Siracusa, of California, under the heading Department of State.

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

The ACTING PRESIDENT pro tempore. The nominations on the Executive Calendar, beginning with Ernest V. Siracusa, of California, under the heading Department of State, will be stated.

DEPARTMENT OF STATE

The second assistant legislative clerk read the nomination of Ernest V. Siracusa, of California, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Uruguay.

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

DEPARTMENT OF DEFENSE

The second assistant legislative clerk read the nomination of John L. McLucas, of Virginia, to be Secretary of the Air Force.

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

U.S. AIR FORCE

The second assistant legislative clerk proceeded to read sundry nominations in the U.S. Air Force.

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

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

U.S. ARMY

The second assistant legislative clerk proceeded to read sundry nominations in the U.S. Army.

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

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

U.S. NAVY

The second assistant legislative clerk read the nomination of Adm. William F. Bringle, U.S. Navy, to be an admiral.

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

NOMINATIONS PLACED ON THE SECRETARY'S DESK

The second assistant legislative clerk proceeded to read sundry nominations in the Air Force and in the Navy, which had been placed on the Secretary's desk.

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

Mr. MANSFIELD. Mr. President, I ask unanimous consent that on the confirmation of these nominations, and on all previous nominations which have not been communicated to the President, the President be notified of their confirmation by the Senate.

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

LEGISLATIVE SESSION

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

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

FEDERAL LANDS RIGHT-OF-WAY ACT OF 1973—ALASKA PIPELINE

The PRESIDING OFFICER. Under the previous order, the Senate will resume the consideration of the unfinished business, S. 1081, which the clerk will state.

The legislative clerk read 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.

The ACTING PRESIDENT pro tempore. The pending question is on agreeing to the amendment of the Senator from Oklahoma (Mr. BARTLETT), No. 320. The vote on the amendment will occur at 11 o'clock a.m. today. Who yields time?

Mr. BARTLETT. Mr. President, I yield myself as much time as I may use.

First, I ask unanimous consent that I may modify my amendment by the insertion of two words after the word "barrel" on line 3. The words are "of oil".

The ACTING PRESIDENT pro tempore. Without objection, the amendment is so modified.

The amendment, as modified, is as follows:

At the end of the bill add a new section as follows:

Those oil leases whose daily average production per well does not exceed that of a stripper well of not more than ten barrels of oil per day shall be exempt from any allocation or price restraints established by any act of law.

Mr. BARTLETT. Mr. President, I ask unanimous consent that a member of my staff, Mr. Bud Scoggins, be granted the privilege of the floor during the debate on the bill and the vote thereon.

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

Mr. BARTLETT. Mr. President, the preceding hours of discussion on S. 1081 have focused upon our Nation's current and prospective energy problems. The urgency for constructive action is evident. My amendment will help to decrease the energy shortage.

The preceding debate has determined that no matter what action is taken on S. 1081 there will be a delay of at least 4 years before we receive any of the Alaskan crude oil.

My amendment would achieve results this year that will help the crude oil shortage problem.

My amendment would help to maintain domestic crude oil production that now exists, but is on the brink of being lost forever. We need every last drop of producible crude oil. We cannot afford to let regulatory policies of price controls or mandatory allocations to force economically marginal oil wells to be shut in.

The pending amendment would help to stretch out the life of the so-called "stripper well."

A stripper well is a low productivity, marginally economic well. It can produce just enough oil to remain above the break-even point. By definition a stripper well averages 10 barrels of oil per day or less. These wells provide 1.25 million barrels of oil per day. Eliminating the stripper well would eliminate a substantial part of our country's producible reserves. In 1972, stripper wells accounted for 11.2 percent of our domestic oil production.

A few years ago, in Oklahoma, a friend said:

I finally figured out the definition of a big oil man—a big oil man is a person who has a big oil well.

I can tell Senators the definition of a little oil man. A little oil man is a person who has a little oil well—commonly called a "stripper" well.

Large oil companies have few stripper wells. Because of their higher operational costs, major oil companies are forced to sell their leases to independents—who can operate these leases for a longer period.

Major companies, by selling stripper leases to independents, also divulge themselves of the often difficult problem of plugging and abandoning a producing lease.

Merely having stripper wells subject to allocation programs or price controls would prevent the free marketplace from acting to alleviate energy shortages

by extending oil production that would otherwise be abandoned forever.

It has been estimated that in 1972 a 25-cent-a-barrel increase in the price of crude oil would have continued 15,000 wells in production that were plugged and abandoned because of high costs and low profits—because they were losing money while producing the oil. Had these wells continued, they would have produced an extra 235 million barrels of oil during their extended lives.

This is the equivalent of two major oilfields which we would like to find in the United States today, but which we are not finding because we are not having adequate exploration activities.

Economics dictate whether or not these wells will remain on production. There are three reasons that adoption of this amendment will help to maintain current oil production:

First. The ability for the operator of a stripper well to seek higher prices for his crude oil would help to offset the high costs of the equipment necessary to lift the crude oil from the reservoir after the natural pressure mechanism of the producing formation has been depleted. For example, a pumping well could be operated longer because of the more favorable economics.

Second. There would be an incentive to do remedial work on the well. Most remedial work requires a large investment from the operator. Whether or not he makes this investment depends upon the likelihood of recovering his investment with a reasonable profit.

The third reason is that secondary oil recovery projects would be encouraged. Projects that up to now have been uneconomical to initiate and that have remained in producers' file cabinets would now move forward to help flush more oil out of the stingy oil reservoirs.

With the psychological barriers of possible mandatory allocation programs or price control programs eliminated, renewed enthusiasm toward stripper wells would be generated.

The price increases of crude oil during the last few months serve as testimony for the anticipated results of this amendment. A news article from the Daily Oklahoman on Saturday, July 7, 1973, backed up the claims of its headline that "strippers getting new lease on life from price hikes," Mr. President, I ask unanimous consent to have that newspaper article printed in the RECORD at this point.

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

STRIPPERS GETTING NEW LEASE ON LIFE FROM PRICE HIKES

Recent increases in the price of crude oil have prompted Oklahoma oilmen to extend the production life of stripper wells and begin working over older wells for renewed output.

Company sources said that strippers, which produce less than 10 barrels a day, are still pumping because of the price of crude in the last three months has risen from around $3.60 a barrel to $4.30 a barrel.

James Ramsey, Oklahoma City, petroleum consultant for investors and producers, said some wells capable of only two or three barrels a day output now are economically feasible to continue at the higher prices.

He said old wells in the Kingfisher area, for example, which before the hike were not worth keeping in production, probably will be reworked and plugged to shallow depths to capture oil not worth producing a year or so ago.

Dean McGee, chairman of Kerr-McGee Corp., said the higher prices would stimulate extending marginal wells and doing remedial work.

He said, however, that Kerr-McGee and other companies have not received similar price increases in Louisiana.

Prices are still 35 cents below Oklahoma prices there, he said.

Independent producers have warned for more than a year that stripper wells were being plugged and abandoned because of low crude prices. They urged price increases to assure continued output of crude they said would be lost forever if wells were plugged.

Chairman Charles R. Nesbitt of the Oklahoma Corporation Commission said recently that several million dollars worth of oil had been saved because of the price increases.

Richard Norville, Oklahoma City, said some wells in a water-flooding project he has in Garvin County might be worth continuing in production for another two years

Norville has been working a schedule of abandonment as the field depleted.

About one-half of the nation's more than 300,000 stripper wells are located in Oklahoma, Texas and Kansas, an industry group has reported.

Mr. BARTLETT. Oklahoma crude oil prices went from $3.60 to $4.30 in a 3-month period. Some wells capable of only 2 or 3 barrels a day output became economically feasible to produce at these higher prices. Old wells which had not been worth producing will be reworked to shallow depths to capture oil not worth producing a year ago.

As the article states, Dean McGee, chairman of Kerr-McGee Corp., said the higher prices would stimulate extending marginal wells and doing remedial work.

The article also points out a significant fact that I would like to emphasize. If a well becomes uneconomical and it is plugged, it is lost forever. The chairman of the Oklahoma Corporation Commission indicated that several million dollars worth of oil had been saved, because of these small price increases.

Extending the life of stripper wells will provide more sweet crude oil to inland refineries that are critically short of crude oil.

Because much of the stripper production is in the East and Midcontinent area, it is helpful to these areas as well as the entire country.

Mr. President, I ask unanimous consent to have printed in the RECORD at this point a letter from Mr. C. John Miller, president of that National Stripper Well Association to the Price Commission in April of 1972.

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

NATIONAL STRIPPER WELL ASSOCIATION,
Allegan, Mich., April 1972.

Mr. C. JACKSON GRAYSON, Jr.,
Chairman, the Price Commission,
Washington, D.C.

GENTLEMEN: This letter proposes an increase in the price of domestic crude oil as being in the best interests of the Nation and the consuming public.

It is our understanding from reports in the oil press that it is not a prerogative of the Price Commission to consider appeals by groups or associations. Within these parameters it is therefore urged that that the Commission favorably act on requests by individuals or specific firms seeking an increase in the price of crude oil, or other constructive improvement in incentives which would assure greater longevity for present producing oil wells, thereby adding to the nation's recoverable petroleum reserves as advocated in this submission.

Information presented specifically refers to marginal or stripper wells and the price of crude oil as the controlling factor in the essential contribution such wells make to the national economy and the total domestic crude oil supply. Fundamentally, economic conditions determine the amount of oil which may be recovered from known reservoirs.

A marginal or stripper well is defined as being one which has an average production of less than 10 barrels daily. Nationwide, these wells averaged only 3.37 barrels of oil daily in 1970.

Marginal wells total approximately 369,000 it is revealed in a survey sponsored by this Association and represent 70% of all the Nation's oil wells. In 1970 marginal wells accounted for more than 1/8th of total domestic oil supply, or 441 million barrels.

As the production of a well gradually but inevitably declines an economic break-even point is approached. At such level, these wells and the otherwise producible reserves they represent are abandoned.

Increased operating costs through recent years in materials, taxes, wages and maintenance combined with only a minimal increase in the price of produced crude oil have seriously impaired the producer's ability to continue operation of marginal wells, forced cancellation of plans for normal development drilling, made it economically less desirable to convert properties to secondary recovery projects, and hastened the break-even point. These factors have jeopardized the position of the marginal well as an essential segment of the entire producing industry.

There is ample evidence that this Nation's immediately available supply of crude oil is at the critical stage. Productive capacity in excess of domestic demand has been exhausted. Exploration and development drilling has declined constantly since 1956. A proper and adequate balance between increasing demand for petroleum and available reserves no longer exists.

This imbalance, resulting from lack of a reasonable crude oil price, is forcing the abandonment of thousands of small wells while substantial proven reserves remain to be recovered from underlying reservoirs.

During the past five years for which data are available abandonments were as shown:

1966	16,207
1967	14,986
1968	20,496
1969	15,618
1970	15,631

A recent study by this Association indicates that a price increase of only 25¢ per barrel in crude oil from marginal wells would results in continued operation of approximatesult in continued operation of approximately 15,400 wells which are expected to be plugged this year for economic reasons. As a result of such price increase, an additional 10.7 million barrels of crude could be expected to be produced in the following 12 months from wells currently facing abandonment.

Applying these same factors to the total of presently operated marginal wells, additional recovery would be 235,000,000 barrels, equivalent to the total production from two major oil fields.

Considered in arriving at this added production figure have been the following elements:

1. Well has reached the zero profit/loss status

2. Production continues its typical production decline of 5% per year for a well that has reached a 2 barrels per day producing level

3. That taxes and royalty payments to farmers and landowners be applied against the increased price as these are integral to the value of produced oil

4. That other cost elements . . . wages, materials, etc., remain constant

The effective value of the 25¢ crude price increase would be reduced by approximately 32% through allowances made for No. 3 above. This was taken into consideration in the calculations extending total recovery. Despite the substantial gain of 10.7 million barrels in production resulting from the application of the effective balance available to the producer from a 25¢ price increase, the total thrust would be inadequate to the Nation's needs for oil. The measure would only be a short term gain, and limited in results to a 12-month period at which time normal depletion through continued production would establish a new zero profit/loss point.

However, substantial and prolonged results would be gained from a realistic crude price increase to $5.00 per barrel. In this case, and using the same limiting factors, a well would produce for six years before a new break-even point would be reached.

Production anticipated from one typical well would be as follows:

	Barrels
First year	693
Second year	659
Third year	626
Fourth year	595
Fifth year	565
Sixth year	536

During the extended productive life of six years this typical well would produce 3,674 barrels which would have been left in the reservoir without the price increase. Applying this factor only to present marginal wells as they reach their break-even point, an additional 1.32 billion barrels of crude would be recovered. It is observed, however, that the total number of marginal wells is augmented each year as production in larger wells declines below the 10 barrels per day definition.

No attempt is here made to project total future production resulting from the proposed price increase to present non-marginal wells. Whatever the figure, it would be quite substantial. Further, benefits in additional available crude oil would be cumulative.

Direct advantages would also accrue to other segments of the economy. Continued operation of marginal wells would provide jobs and wages which cease with abandonments. Further, well services, chemicals, tubing, casing, pumping units, purchased power, taxes and royalty payments would be continued in support of a desired overall economic posture.

It is submitted that a realistic increase in the price of crude oil is consistent with sound economics, is in the best interests of the consuming public, and would assure a substantially greater recovery of this valuable energy resource from known and proven reserves.

Respectfully,

C. JOHN MILLER,
President, National Stripper Well Association.

Mr. BARTLETT. Mr. President, there is more than ample precedent for the thrust of my amendment.

During World War II, there was a subsidy program financed by the taxpayers for stripper wells, which went into effect on January 28, 1944.

The payment schedule is as follows:

35 cents per barrel for 5 barrels per day or less per well on a field basis.

26 cents per barrel for 5 to 7 barrels per day or less per well on a field basis.

20 cents per barrel for 7 to 9 barrels per day or less per well on a field basis.

36 cents per barrel for 9 or more if exceptionally high costs justified it.

All wells in the four States of Pennsylvania, New York, Ohio, and West Virginia received 75 cents per barrel of oil.

Amount of $64,934,215 was paid during this nearly 2-year emergency period for 176,764,913 barrels of oil. So approximately $65 million of taxpayers' money was determined by Congress to be necessary to provide an additional amount of oil to help solve the shortages that existed at that time, during World War II.

The current crisis is more severe than that of World War II. This amendment does not require a subsidy or any payment by the taxpayers but does permit the mechanism of the market place to operate to permit higher prices, if justified to increase our stripper oil reserves to increase the amount of oil available to this country that would otherwise be lost.

I call on my colleagues not to turn their back on our existing energy crisis. These struggling small wells need to be maintained, not snuffed out by arbitrary price controls or allocation programs. If Congress has any intent whatsoever to try to eradicate a portion of our fuel shortages with domestic production, then this amendment should be adopted.

Mr. President, I ask unanimous consent that the names of the Senator from Kansas (Mr. DOLE), the Senator from West Virginia (Mr. RANDOLPH), and the Senator from Wyoming (Mr. HANSEN) be added as cosponsors of this amendment.

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

Who yields time?

Mr. BARTLETT. I yield to the distinguished Senator from Wyoming.

Mr. HANSEN. Mr. President, I am happy to be a cosponsor of this measure. As the Senator from Oklahoma has indicated, this amendment makes about as much good sense as any amendment that has been before this body for some time.

We are talking about known production when we speak of stripper wells, and we are talking about production that has decreased in quantity while there has been a concomitant increase in the per unit cost of recovery.

So that when a level is approached between these two figures—that is to say between what the oil above ground is worth and what it costs to bring it above ground—the well then is truly marginal. No one then has much interest in further production, because it is uneconomic to carry on an operation in order simply just to break even. That is why the amendment by the distinguished Senator from Oklahoma makes such good sense. It provides the incentive to continue production in such marginal operations.

Simply permitting the price of oil from these wells to reflect what the true demand situation is in the United States will assure that efforts to produce this oil will continue and that we will squeeze every last drop of this vitally important source of energy that we possibly can from these wells.

It was not too long ago, I recall, when the Areeda Commission was damning the oil industry and the mandatory oil import program and saying how silly it was to make any use of the production from stripper wells in the United States at that time. As I recall about one-eighth of our total domestic production came from this type well. The Areeda Commission said:

> Let us forget it all. It is too high priced. It is an unnecessary burden on the consumer, on the public in the United States, and we would be far better off to forget the mandatory oil program and to go abroad to the Middle East where you can buy it for one-third or one-fourth of the cost here.

Unfortunately, too many Members of Congress were taken in by that false ideology presented by a group of people who really did not know what they were talking about. I am glad the President, among his advisers, had people to expose the fallacy in such arguments, and who rejected it. As a consequence the recommendation of the Areeda Commission was not implemented. We are glad that it was not implemented because had those recommendations been implemented our dependency on foreign oil would have been increased, our latitude in trying to implement foreign policies that best serve the interest of peace and the people of the United States would have been diminished by the increased amount of our foreign dependency upon sources of energy, and we would have been in a far worsened position than we now find ourselves.

I hope Congress will have the good judgment to understand the good sense that is contained in the amendment by the distinguished Senator from Oklahoma and to adopt this amendment so as to make certain that these known reserves we have in this country today can be put to good use to satisfy the energy needs of America.

Mr. President, in yesterday's newspaper I read that one of the actions taken by Bunker Hunt, whose profits in the Middle East were expropriated by the nation of Libya, involved that company seeking to recover some tanker loads of the expropriated oil. The unique thing about the expropriated oil being sold by Libya was that the price being offered for it was at least $1 above the price for crude in the United States.

There are those who still argue that the oil and energy crisis is a contrived affair made by the industry. I submit that if it were contrived it certainly would not follow that any legitimate oil company would be out on the open market bidding more than $1 above the price of crude today in order to secure crude that would be sold in the free world markets today. So I think what this indicates is that there is, indeed, a very real crisis, as most people are realizing today. Since that is true, since we know this stripper oil is secure in U.S. territory, production from such wells should be encouraged.

If we assume our reserves are 40 bil-

lion barrels and if we were to increase the ultimate recovery by one percent, we would have added to our reserves by 400 million barrels. That is a very major oil discovery. And yet we do not have to do any work to discover such oil. It is here now. All we have to do is to take advantage of the amendment of the Senator from Oklahoma to secure production of this oil. It is here. It is going to cost more money, and as I said yesterday, we are going to pay more money. What is at issue is the decision on the basis of a sensible and reasonable domestic policy to encourage our domestic production recognizing increased costs and pay higher prices for U.S. oil, or to turn our backs on this opportunity forever and say we will forget about stripper wells and continue to purchase, as we are, more and more oil from the Middle East. If we choose the latter course I submit we will, indeed, pay more for oil.

The Arabs long ago demonstrated they can read the English language pretty well. They know the situation pretty well in this country. The OPEC countries have gotten together as we could have expected them to do and have decided they are going to push the price up to what the traffic will bear. When a country is as dependent upon energy as is the United States—when three-fourths of all our energy today comes from oil and gas, the Arabs know we are pretty dependent on such fuels. The Arabs know, and we ought to realize they know that the price no longer is of any consequence if we cannot get it anyplace else. They know we are going to pay through the nose for oil and they are charging increasingly higher prices to us for their oil.

I hope the Senate will have the good judgment to adopt this amendment unanimously because it makes the best sense of any amendment I have seen before this body during the course of the disunion of this bill.

I thank the distinguished Senator for yielding.

Mr. BARTLETT. I thank my distinguished friend, the Senator from Wyoming, for his cogent remarks and for his perception in this very important matter of energy that is such a problem to this country.

Mr. COOK. Mr. President, will the Senator yield to me for 5 minutes?

Mr. BARTLETT. I yield to the distinguished Senator from Kentucky for 5 minutes.

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

Mr. COOK. Mr. President, I rise to support amendment No. 320 introduced by my colleague, Senator BARTLETT of Oklahoma.

On many occasions I have expressed my concern for the degree of dependence this Nation now has upon foreign sources for energy fuels. None can deny that this dependence grows daily and with this growth comes the degradation of our balance of payments and a weakening of our status as a world power.

Earlier this week, in this Chamber, I took issue with the decision of the Cost of Living Council because it did not differentiate between domestic crude over which it exercised price controls and foreign crude over which it had no control. As a result of the formula which had been derived, which included a consideration of a 1.5 percent price increase as well as their profit margin ratio, the crude importer is caught on the horns of a dilemma. He is forced, in some instances, to decide between importing the high priced foreign crude, knowing that because of the limitations imposed he cannot recover his cost when he sells the refined product or not importing the crude at all.

I see here a very close parallel between the higher cost of imported crude over which we have no control and the higher cost of crude produced from stripper wells over which the producer has no control if he wants to continue production. It just costs more money to produce from stripper wells. Additionally if the decision is made to stop production, this is a lasting decision in that it is financially impossible to again attempt production from the particular well. We lose this domestic crude.

If we decide to impose a limitation on this producer, and thereby deny him the capability of commercial production, we create another in an ever-increasing series of self-inflicted wounds. I think it is time that we take a close look at such activity.

As well meaning as price restraints on stripper production may seem by the way, we are talking about stripper wells that produce 10 or less barrels a day—we must weigh the effects of such action in light of its total impact on the energy problem. If by effecting price restraints we deny the people of this Nation the use of domestic crude at a price which compares favorably with the ever-increasing cost of foreign imports, then I say that such action does not make good sense. In fact what it will do is make good cents and dollars for foreign producers.

Let us start to bind up the self-inflicted wounds that exist, and even more importantly, let us not inflict any new wounds to ourself and our Nation. Instead of finding ways to hinder our domestic production, let us expand this effort in assisting in the solution of the problem. Only then will we be really coming to grips with a very important question concerning our energy shortage and providing an answer to this question.

I do not think there is any question about the fact, if we are talking about stripper wells with production of 10 barrels a day and less, that we are talking about a very small percentage of the crude that is available for refining purposes. That means that if we take this entire amount out of the stripper situation as it exists in the country and put it in the entire pool that is available to be produced, regardless of the fact that there may be a slight increase in the cost of stripper production, it means nothing to the overall cost of a gallon of gasoline—absolutely nothing—because we are talking about—can the Senator give me a figure on production?

Mr. BARTLETT. Yes, 1.25 million barrels.

Mr. COOK. Considering the millions of barrels that have to be utilized in the Nation overall and the cost ratio of the entire pool, we are talking about a percentage of increase that would result in moving the decimal point all the way over, if we are talking about a production of 1.25 million barrels. We are now importing from foreign sources 5 million barrels a day. That amounts to 5 million times 42 gallons. We can see what effect that would have. And that price on crude is absolutely uncontrollable by the U.S. Government.

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

Mr. COOK. I yield.

Mr. BARTLETT. The Senator is referring to what used to be referred to as cheap foreign crude. How does the price of that cheap foreign crude compare with the price of domestic crude today and the price of stripper wells?

Mr. COOK. The price differential in relation to foreign crude and the present capacity of our strippers to produce is about two and a half times.

Mr. BARTLETT. It is about a dollar a barrel more.

Mr. COOK. It is about a dollar a barrel more, and obviously the stripper, at this stage of the game, could not get a dollar more. If he did, he would be lucky. We are talking about an increased cost of operation that would be somewhere around $10 a day if he could get $1 additional to get those barrels out of the ground——

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

Mr. COOK. I yield.

Mr. BARTLETT. I believe the Senator is making the point that if the stripper wells are plugged, the amount of oil they are now producing would have to be replaced by foreign oil which costs $1 more.

Mr. COOK. I am not only making that point; I am saying that if the stripper well cannot continue operation, that percentage of crude is totally lost. It is lost not only to this market, but to every market. So the semantics of saying it would have to be replaced by foreign crude is one thing. The whole point is, it is lost.

Mr. BARTLETT. Is it not true that, being lost and having to be replaced by foreign crude, what we are doing by letting foreign crude in for a dollar a barrel more, is that we are working against our high cost stripper wells, making it harder for them to produce oil, making it easier for foreigners to produce their oil, which costs only 20 cents a barrel to produce?

Mr. COOK. As I said in my remarks, it makes no sense not to adopt this amendment. If we do not adopt it, the only sense it makes is the dollars and cents that will go to the foreign producers who are going to replace it, and we will go from 5 million barrels a day to 6½ million barrels a day immediately.

I thank the Senator from Oklahoma for the opportunity to participate in this discussion.

Mr. BARTLETT. I appreciate very much the remarks of the Senator from Kentucky. They bring out a point which many people miss. They bring out the point that so often we seem to look at foreign production or the welfare of

people in other parts of the world differently from our own welfare, and we seem to want to take a little better care of them than our own people.

Mr. President, I ask unanimous consent that the name of the distinguished Senator from West Virginia (Mr. ROBERT C. BYRD) be added as a cosponsor of this amendment.

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

Who yields time?

Mr. HART. Mr. President, will the Senator yield to me for a question?

Mr. BARTLETT. I yield.

Mr. HART. I have listened to the Senator's comments, and I tend to be persuaded by them. Is he in a position to advise us whether the stripper producer, if that is the correct expression——

Mr. BARTLETT. That is the correct expression.

Mr. HART. Owns other oil producing resources which, if brought on the market, would be marketed or produced at a lower cost than the stripper operation?

Mr. BARTLETT. It is the hope of anybody in the oil business to have more profitable wells and more profitable leases.

This amendment—I will read it to the Senator; it is short—states:

> Those oil leases whose daily average production per well does not exceed that of a stripper well of not more than ten barrels per day shall be exempt from any allocation or price restraints. . .

So if the stripper producer had production that did not qualify, he, of course, would not be in any position to have that production exempted from price controls. It is done on a lease basis, because normally all the wells on one lease go into one tank or on a several-tank basis. So if it is from a big well, the average goes away up.

Incidentally, when subsidies were put on during World War II, that went beyond just a lease basis; that was done on a field basis, because it is easier to do all the accounting that way. But in this case, it is only decided on a lease basis.

Mr. HART. What I am trying to find out—perhaps if I rephrased it I would have a better shot at it—is whether this amendment, if adopted, will actually make more oil available, or, if it is adopted, might it simply replace a cheaper oil which otherwise would be brought in?

Mr. BARTLETT. No. Let me try to explain. It would affect a well that has just about reached the marginal limit and give it new life with a little more profit. In other words, the well is on a decline. At some place it is going to reach the break-even point, and then further it is going to lose money. At that point it is going to be plugged and abandoned forever.

If we do not adopt this amendment, or provide some relief to the stripper wells, we will have the producers of 15,000 marginal wells plug their wells. If we do plug them and we want to have more oil in this country, we are forced to import it, So, instead of getting cheap oil, this is going to result in getting more expensive oil. Right now the price of foreign crude is approximately $1 per barrel higher than domestic crude oil.

So, we will be replacing that stripper well with more expensive oil.

Mr. COOK. Mr. President, if the Senator will yield, I think there is something else that the Senator from Michigan should also understand.

It does not mean that a man with a number of stripper wells could demand an additional dollar for his crude because we pass the amendment, 90 percent of the strippers are also under contract to a jobber who picks up his crude.

We are not really saying by any stretch of the imagination—and I hope the Senator is not saying by any stretch of the imagination—that this fellow with a series of wells which produce 10 barrels, eight barrels, or several barrels could automatically say that tomorrow his crude goes up $1 a barrel. He is under contract and that contract is good as long as he is producing. However, as long as it is not feasibly possible for him to produce, he will plug that well, as 15,000 wells were plugged last year, and that production is lost forever.

Mr. HART. Mr. President, would this amendment apply, for example, to one of the 10 majors; do any of them have stripper wells producing 10 or less barrels?

Mr. BARTLETT. Mr. President, it is very seldom that major companies lease after they reach the break-even point. When it reaches that point, he sells, because the independent can operate that lease longer. He has a lower cost basis. Many of them are individuals. Some of them are pumpers who have pumps and lease for the majors. They will ask the major if he wants to buy it.

The incentive for the major to do this is that the major oil company may also be a refiner, and he would then be in a position to have that oil produced and available to him so that he could sell it.

Another reason for selling it is that sometimes there are complications in the whole matter of plugging these. It takes a lot of time to junk. The leases are completely abandoned then. And the independent many times is also in a position to sell the used pipe and also many of them are in a sense junkies. This fits into the independent operation.

Mr. COOK. Mr. President, may I say to the Senator from Michigan that this is a much greater source of supply for independent refiners than it ever would be for any majors.

In my State the basic supply from the strippers go to the independents and would not go to the majors at all.

Mr. FANNIN. Mr. President, if the Senator from Michigan will yield, I might advise the Senator from Michigan that the Bartlett amendment is really a conservation measure and provides an incentive not to leave oil in the ground.

The Senator knows that many of the wells of his own State are marginal. Some of them have almost stopped producing. The Bartlett amendment would encourage those wells to continue producing. The stripper wells in his State would be benefited by it. That the amendment would also cut down on the need to increase imports already has been brought out.

Chemical industry executives are feeling the squeeze on fossil fuels from two sides: many of their products are petroleum-based; and these companies need more fuel to run their plants. These price increases are being passed on to the consumer.

Mr. President, we need to develop our domestic oil supplies to alleviate this energy problem. The adoption of the Bartlett amendment would stimulate domestic supplies.

I ask unanimous consent that this article from the Wall Street Journal of May 29, 1973, be printed in the RECORD.

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

(By Jeffrey A. Perlman)

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

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

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

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

SUPPLY AND DEMAND

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

Gerald L. Decker, Dow Chemical Co.'s energy specialist, says that by 1980 it will cost 32% more to make polyvinyl chloride, a major plastic used in products such as bowling balls and floor tiles. Moreover, he anticipates a 29% rise in the cost of producing polyethylene, used to make plastic bags, dishes and bottles. And ethylene glycol, used in antifreeze, polyester fibers and plastics, should cost 8% more to produce by 1980, he says. The list goes on and on.

FROM SODA ASH TO SEAT BELTS

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

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

charging for the two plastics are going through the roof.

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

Morton Levine, president of Amberlite Plastics Corp., a Leominster, Mass., comb manufacturer, says he can't get enough polystyrene, the raw material for his combs. While he once paid 15 cents a pound, he now is charged 23 cents a pound—provided he can get someone to sell him the stuff. By contrast, Dow says it is currently selling the plastic to distributors for 13 to 13½ cents a pound. Distributors normally charge an extra two cents a pound to their customers, Dow says Mr. Levine worries about getting enough polystyrene to keep his plant operating and his 40 employes on the payroll. He can't buy from a major producer, he says, because they sell only to long-standing customers. With small distributors running out of the material, he says, "I'm left out in the cold."

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

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

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

A GLIMPSE OF THE FUTURE?

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

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

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

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

A SCRAMBLE FOR CLEAN FUEL

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

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

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

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

A HOLDING ACTION

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

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

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

Mr. BARTLETT. Mr. President, I would like to thank the distinguished Senator from Michigan for his very fine questions and make this one quick point. Very little of the major production is stripper oil. A very high percentage of the independent production is stripper oil.

When the program was put into effect at the time of World War II, 75 cents a barrel would serve every area in New York, New Jersey, and Ohio, recognizing that the tremendous amount of stripper wells in that area facilitate major company activity.

Mr. COOK. Mr. President, might I state to the Senator from Michigan that I would suggest that by far the biggest percentage of production from stripper wells, 10 barrels or less, is secondary or tertiary recovery. The lives of those wells have passed, and they are in the process of bleeding that well or pumping to the best of their ability to get what is left. However, once they stop that, that source is gone.

Mr. HART. Mr. President, I am very grateful to the Senator from Kentucky and the Senator from Oklahoma for helping me to understand this amendment.

I am sympathetic obviously with the desirability of increasing the available volume of oil. My only concern is that by agreeing to this amendment we not make a major oil company make a decision that, because of the amendment, he is now able to use a higher priced stripper source of oil and lose its enthusiasm to continue the production of a lower cost oil. That is really what I am trying to point out.

Mr. BARTLETT. Mr. President, I say to the Senator from Michigan that I believe there are 3 strong economic incentives for a major to dispose of an operation early.

The PRESIDING OFFICER. The time of the Senator from Oklahoma has expired. The Senator from Washington has time remaining.

Mr. JACKSON. Mr. President, I yield 2 minutes to the Senator from Oklahoma.

Mr. BARTLETT. Mr. President, I thank the Senator from Washington.

I merely want to say that most of the stripper production that a major would have—and it would be very little—would be production that the major is hoping to water flood or use a secondary recovery program, which is a tremendous operation and is a very high cost operation, even though they may later produce a lot more oil.

This is a conservation program and I think it is needed, regardless of who is providing the money and the leadership.

I do not think a figure is available on the amount of oil that the majors would have in this classification. It would be very low, though. And for the independents, it would be very high.

Mr. JACKSON. Mr. President, I yield 5 minutes to the distinguished Senator from West Virginia, and whatever time I may have left, I will yield later.

Mr. RANDOLPH. Mr. President, I thank the astute Senator from Washington (Mr. JACKSON) the manager of the bill.

The able Senator from Oklahoma (Mr. BARTLETT) has presented a thoroughly valid and important amendment—which I have cosponsored—and he has made a persuasive argument in its behalf.

This amendment to the pending bill provides that the oil leases, the daily average production of which does not exceed that of a stripper well of no more

than 10 barrels a day, shall be exempt from any allocation or price restraints established by any act of law.

This would not be a frivolous exemption, Mr. President. And I emphasize that it would not be a frivolous exemption. And it would not be, and I emphasize this also, an unwarranted exemption.

As the Senator from Oklahoma has pointed out, even though Congress were to pass the pending legislation this year, a substantial number of years—perhaps as many as 4—probably would expire before oil from the North Slope of Alaska would come into the commercial stream.

Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. The Senate will be in order.

Mr. RANDOLPH. Mr. President, our country is already in an energy crisis. We must act on many fronts to overcome the problems inherent in this crisis—and the amost important actions will be those which add to the production of much-needed energy supplies. In this case we are considering ways to increase our domestic crude oil supplies. This is a highly necessary objective.

As the Senator from Oklahoma has said, our amendment is one which would achieve results this year. It is a means for reducing the crude oil shortage with promptness.

And I underscore another important point our colleague has emphasized, namely, this:

His amendment goes to the heart of a serious problem in that it would help to maintain domestic crude oil production that now exists—production which, however, is in danger of being lost forever.

I agree with Senator BARTLETT that we need every possible drop of crude oil production that can be developed and maintained—and we cannot afford to permit regulatory policies and/or price controls or allocation systems to force economically marginal oil wells to be shut down and possibly plugged forever.

As we have been informed by the principal author of the amendment—and I agree with him—it would help to stretch the life of the so-called "stripper" wells, wells of which we have hundreds in the State of West Virginia. He has pointed out that such wells are economically marginal but, cumulatively and in toto—and I think this is important for Senators to understand and the citizens of the country to appreciate—they provide America with approximately 1¼ million barrels of crude oil per day. Last year, such wells accounted for 11.2 percent of our country's total domestic production.

The amendment would not in any sense create a bonanza condition for the major oil companies, which was perhaps the concern, in part, of the Senator from Michigan (Mr. HART), because they have very few stripper wells.

The ACTING PRESIDENT pro tempore. The Senator's 5 minutes have expired.

Mr. JACKSON. I yield the knowledgeable Senator 2 more minutes.

Mr. RANDOLPH. It is a fact that the major companies cannot afford to operate such wells in their systems, consequently, they lease them to the so-called independent producers who generally can and do operate them for long periods of time.

I understand and agree with the thesis of the junior Senator from Oklahoma that if, in 1972, a 25-cent-per-barrel increase in the price of crude oil had been made, as many as 15,000 wells would have continued in production—wells that were plugged and abandoned because of high costs and marginal profits and in fact, no profits. Such a loss—15,000 oil producing wells—even with marginal profits—would have been the equivalent of 235 million barrels of crude oil, which would be like the finding of two new major oil fields.

We should cogitate at length before deciding to permit such conditions to go on into another year without the taking of such appropriate action as would be inherent in approving our amendment today.

Mr. President, I hope this needed amendment will be approved by an overwhelming vote.

As emphasized by the chief sponsor of this amendment, I think there is ample precedent. The amendment does not require a subsidy or any payment by the taxpayers, but we have had direct subsidization before. I recall that during a 2-year emergency period at a stage of the World War II era, all wells in the contiguous States of West Virginia, Ohio, Pennsylvania, and New York were subsidized in a national interest program for which the taxpayers paid $65 million for almost 177 million barrels of oil. This was helpful to the meeting of an emergency situation.

The importance of this amendment would be to permit the marketplace to operate normally. Under such operations there is little doubt but that our stripper oil reserves would be increased, and this is an essential ingredient of recovery from the energy crisis and its accompanying supply shortage condition.

Mr. JACKSON. Mr. President, I yield 30 seconds to the Senator from Wyoming.

Mr. HANSEN. I only need 15.

Mr. President, I ask unanimous consent to have printed in the RECORD a letter from the National Stripper Well Association.

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

NATIONAL STRIPPER WELL ASSOCIATION,
Tulsa, Okla., May 19, 1972.

The PRICE COMMISSION,
Mr. C. JACKSON GRAYSON, Jr.,
Chairman, Washington, D.C.

Gentlemen: This letter proposes an increase in the price of domestic crude oil as being in the best interests of the Nation and the consuming public.

It is our understanding from reports in the oil press that it is not a prerogative of the Price Commission to consider appeals by groups or associations. Within these parameters it is therefore urged that the Commission favorably act on requests by individuals or specific firms seeking an increase in the price of crude oil, or other constructive improvement in incentives which would assure greater longevity for present producing oil wells, thereby adding to the nation's recoverable petroleum reserves as advocated in this submission.

Information presented specifically refers to marginal or stripper wells and the price of crude oil as the controlling factor in the essential contribution such wells make to the national economy and the total domestic crude oil supply. Fundamentally, economic conditions determine the amount of oil which may be recovered from known reservoirs.

A marginal or stripper well is defined as being one which has an average production of less than 10 barrels daily. Nationwide, these wells averaged only 3.37 barrels of oil daily in 1970.

Marginal wells total approximately 359,000 it is revealed in a survey sponsored by this Association and represent 70% of all the Nation's oil wells. In 1970 marginal wells accounted for more than ⅛th of total domestic oil supply, or 441 million barrels.

As the production of a well gradually but inevitably declines an economic break-even point is approached. As such level, these wells and the otherwise producible reserves they represent are abandoned.

Increased operating costs through recent years in materials, taxes, wages and maintenance combined with only a minimal increase in the price of produced crude oil have seriously impaired the producer's ability to continue operation of marginal wells, forced cancellation of plans for normal development drilling, made it economically less desirable to convert properties to secondary recovery projects, and hastened the break-even point. These factors have jeopardized the position of the marginal well as an essential segment of the entire producing industry.

There is ample evidence that this Nation's immediately available supply of crude oil is at the critical stage. Productive capacity in excess of domestic demand has been exhausted. Exploration and development drilling has declined constantly since 1956. A proper and adequate balance between increasing demand for petroleum and available reserves no longer exists.

This imbalance, resulting from lack of a reasonable crude oil price, is forcing the abandonment of thousands of small wells while substantial proven reserves remain to be recovered from underlying reservoirs.

During the past five years for which data are available abandonments were as shown:

1966	16,207
1967	14,986
1968	20,496
1969	15,618
1970	15,631

A recent study by this Association indicates that a price increase of only 25¢ per barrel in crude oil from marginal wells would result in continued operation of approximately 15,400 wells which are expected to be plugged this year for economic reasons. As a result of such price increase, an additional 10.7 million barrels of crude could be expected to be produced in the following 12 months from wells currently facing abandonment.

Applying these same factors to the total of presently operated marginal wells, additional recovery would be 235,000,000 barrels, equivalent to the total production from two major oil fields.

Considered in arriving at this added production figure have been the following elements:

1. Well has reached the zero profit/loss status
2. Production continues its typical production decline of 5% per year for a well that has reached a 2 barrels per day producing level
3. That taxes and royalty payments to farmers and landowners be applied against the increased price as these are integral to the value of produced oil
4. That other cost elements . . . wages, materials, etc., remain constant.

The effective value of the 25¢ crude price increase would be reduced by approximately

32% through allowances made for No. 3 above. This was taken into consideration in the calculations extending total recovery. Despite the substantial gain of 10.7 million barrels in production resulting from the application of the effective balance available to the producer from a 25¢ price increase, the total thrust would be inadequate to the Nation's needs for oil. The measure would only be a short term gain, and limited in results to a 12-month period at which time normal depletion through continued production would establish a new zero profit/loss point.

However, substantial and prolonged results would be gained from a realistic crude price increase to $5.00 per barrel. In this case, and using the same limiting factors, a well would produce for six years before a new break-even point would be reached.

Production anticipated from one typical well would be as follows:

	Barrels
1st year	693
2nd year	659
3rd year	626
4th year	595
5th year	565
6th year	536

During the extended productive life of six years this typical well would produce 3,674 barrels which would have been left in the reservoir without the price increase. Applying this factor only to present marginal wells as they reach their break-even point, an additional 1.32 billion barrels of crude would be recovered. It is observed, however, that the total number of marginal wells is augmented each year as production in larger wells declines below the 10 barrels per day definition.

No attempt is here made to project total future production resulting from the proposed price increase to present non-marginal wells. Whatever the figure, it would be quite substantial. Further, benefits in additional available crude oil would be cumulative.

Direct advantages would also accrue to other segments of the economy. Continued operation of marginal wells would provide jobs and wages which cease with abandonments. Further, well services, chemicals, tubing, casing, pumping units, purchased power, taxes and royalty payments would be continued in support of a desired overall economic posture.

It is submitted that a realistic increase in the price of crude oil is consistent with sound economics, is in the best interests of the consuming public, and would assure a substantially greater recovery of this valuable energy resource from known and proven reserves.

Respectfully,

C. JOHN MILLER,
President.

Mr. JACKSON. Mr. President, I call up my amendment to the amendment in the nature of a substitute, which is at the desk.

The ACTING PRESIDENT pro tempore. The amendment is not in order until 11 o'clock, except by unanimous consent.

Mr. JACKSON. Mr. President, I ask unanimous consent that I may call up my amendment to the amendment in the nature of a substitute.

Mr. COOK. Mr. President, reserving the right to object, and I conceivably will not object, I would like to know the import of the amendment.

Mr. JACKSON. I will give the Senator a copy of the amendment.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. MATHIAS. Mr. President, reserving the right to object, will this change the hour from voting from 11 o'clock?

Mr. JACKSON. No, it is not changing the hour of voting.

The ACTING PRESIDENT pro tempore. The vote will still occur at 11 o'clock.

Mr. JACKSON. The vote will occur, and there could be a vote on the amendment to the amendment first, I assume. Is that not correct?

The ACTING PRESIDENT pro tempore. The Jackson amendment would be voted on first, to be followed by the vote on the Bartlett amendment.

Is there objection?

Mr. FANNIN. Mr. President, reserving the right to object, we have not had a chance to read it.

Mr. JACKSON. Mr. President, while that is pending, I will not call it up, but in the meantime I will proceed with my statement.

First of all, Mr. President, we have not had hearings on the amendment offered by the distinguished Senator from Oklahoma. I am very sympathetic with this problem, and I want to do something about it, but there are some obvious concerns, which are expressed in my amendment to the amendment.

For example, the amendment exempts every oil lease, rather than oil sales. The amendment may also run to natural gas from those leases. Mr. BARTLETT's proposal exempts leases with a certain oil production and may well apply to gas production from those leases under the Natural Gas Act, and in effect deregulate natural gas in this category.

The exemption, I think, should be limited to price controls under the Economic Stabilization Act, and not to rules established by any other act of law.

Mr. ROBERT C. BYRD. Mr. President, may we have order?

The ACTING PRESIDENT pro tempore. The Senate will be in order.

Mr. JACKSON. Further, I would mention that at the present time—and I think the small companies do have a special case here—the Economic Stabilization Act, as I understand it, applies only to the 23 major oil companies, under the rules, that is, pursuant to the guidelines established by the Cost of Living Council.

Mr. President, I do believe that stripper wells are a source from which we can get additional oil. I believe that with the price being raised abroad, we ought to provide an incentive and inducement to get all the oil we can from these strippers.

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

Mr. JACKSON. Let me finish this.

During World War II, as I understand it, the small strippers were given a subsidy, and I am very sympathetic to this problem, but I think the Senate ought to know what it is doing when we vote on this amendment. I would certainly arrange for early hearings to provide the encouragement, the incentive, and the inducement to see that the small stripper is given a chance to make a contribution in connection with the oil shortage problem.

The point, I think, that is critical, is that the Middle Eastern countries are shoving the price of oil up and up and up. I want to see these little fellows make a contribution which otherwise would not be made when these wells are shut down. We recognized that problem in World War II, as the Senator from West Virginia has indicated, and did provide a subsidy.

Mr. LONG. Mr. President, I congratulate the Senator on taking an open-minded attitude about the Bartlett amendment. We in Louisiana have recognized this problem for more than a quarter of a century. We have the highest tax on oil and gas of any State in the Union. We have about 25 cents——

The PRESIDING OFFICER. The Senate will be in order.

Mr. LONG. We charge about 25 cents a barrel severance tax on oil producted from those we regard as good wells. But for the kind of wells involved here, we have a severance tax of only about—

The ACTING PRESIDENT pro tempore. All time has now expired.

Mr. JACKSON. Mr. President, I ask for the yeas and nays on the amendment to the amendment.

Mr. HANSEN. Mr. President—Mr. President, I thought——

Mr. JACKSON. Mr. President, I now call up my amendment to the amendment and ask that it be stated.

The ACTING PRESIDENT pro tempore. The amendment to the amendment will be stated.

The legislative clerk read as follows:

At the end of the bill add a new section as follows:

SEC. .

(a) The first sale of crude oil and natural gas liquids produced from any lease whose average daily production of such substances does not exceed ten barrels per well shall not be subject to price restraints established pursuant to the Economic Stabilization Act of 1970 as amended, or to any allocation program for fuels or petroleum established pursuant to that Act or to any Federal law for the allocation of fuels or petroleum.

(b) The agency designated by the President or by law to implement any such fuels or petroleum allocation program shall promulgate and cause to be published regulations implementing the provisions of this section.

Mr. JACKSON. Mr. President, I ask for the yeas and nays on the amendment to the amendment.

Mr. HANSEN. Mr. President, a parliamentary inquiry.

The ACTING PRESIDENT pro tempore. The Chair would advise that a parliamentary inquiry is not in order until the yeas and nays have been ordered.

Mr. JACKSON. Mr. President, I ask unanimous consent that the amendment be read to the Senate.

The ACTING PRESIDENT pro tempore. Is there a sufficient second?

Mr. JACKSON. For the yeas and nays?

Mr. HANSEN. Mr. President, a parliamentary inquiry.

The ACTING PRESIDENT pro tempore. The Senator from Wyoming will state it.

Mr. HANSEN. I thought the Senator from Washington asked unanimous consent, and I thought that while we were discussing that issue he chose to address

the Senate and that there is still an opportunity to object to a unanimous-consent request that his amendment be called up at this time.

Mr. JACKSON. Mr. President, a parliamentary inquiry. Is not the amendment in order?

The ACTING PRESIDENT pro tempore. Until the request for the yeas and nays has been withdrawn, parliamentary inquiries are not in order.

The Chair would inquire, is there a sufficient second?

There was a sufficient second, and the yeas and nays were ordered.

Mr. HANSEN. Mr. President, a parliamentary inquiry.

The ACTING PRESIDENT pro tempore. The Senator from Wyoming will state it.

Mr. HANSEN. What is the pending business?

The ACTING PRESIDENT pro tempore. On the amendment of the Senator from Washington to the amendment.

Mr. ROBERT C. BYRD. Mr. President, may we have order in the Senate? We cannot hear what is being said.

The ACTING PRESIDENT pro tempore. Will Senators please take their seats. The Senate will suspend until Senators take their seats.

The question is on agreeing to the amendment of the Senator from Washington to the amendment of the Senator from Oklahoma.

All time has expired. 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 Alabama (Mr. ALLEN), the Senator from Virginia (Mr. HARRY F. BYRD, JR.), the Senator from Missouri (Mr. EAGLETON), the Senator from Mississippi (Mr. EASTLAND), the Senator from Colorado (Mr. HASKELL), the Senator from Maine (Mr. HATHAWAY), the Senator from Iowa (Mr. HUGHES), the Senator from Massachusetts (Mr. KENNEDY), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Minnesota (Mr. MONDALE), the Senator from Rhode Island (Mr. (PASTORE), the Senator from California (Mr. TUNNEY), and the Senator from Maine (Mr. MUSKIE) 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 anonunce that, if present and voting, the Senator from Washington (Mr. MAGNUSON) and the Senator from Rhode Island (Mr. PASTORE) would each vote "yea."

Mr. SCOTT of Pennsylvania. I announce that the Senator from Tennessee (Mr. BROCK), the Senator from Nebraska (Mr. CURTIS), the Senator from Kansas (Mr. DOLE), the Senator from Oregon (Mr. PACKWOOD), the Senator from Ohio (Mr. TAFT), the Senator from Texas (Mr. TOWER), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

The Senator from New Hampshire (Mr. COTTON) is absent because of illness in the family.

The Senator from Michigan (Mr. GRIFFIN) and the Senator from Nebraska (Mr. HRUSKA) are absent on official business.

Also, the Senator from Maryland (Mr. BEALL), the Senator from Massachusetts (Mr. BROOKE), the Senator from New York (Mr. BUCKLEY), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

If present and voting the Senator from Nebraska (Mr. CURTIS), the Senator from Kansas (Mr. DOLE), the Senator from Ohio (Mr. TAFT), and the Senator from Texas (Mr. TOWER) would each vote "yea."

The result was announced—yeas 66, nays 3, as follows:

[No. 288 Leg.]

YEAS—66

Abourezk	Fannin	Montoya
Aiken	Goldwater	Moss
Baker	Gravel	Nelson
Bartlett	Gurney	Nunn
Bayh	Hart	Pearson
Bellmon	Hartke	Pell
Bennett	Hatfield	Percy
Bentsen	Helms	Proxmire
Bible	Hollings	Randolph
Biden	Huddleston	Ribicoff
Burdick	Humphrey	Roth
Byrd, Robert C.	Inouye	Saxbe
Cannon	Jackson	Schweiker
Case	Javits	Scott, Pa.
Chiles	Johnston	Scott, Va.
Church	Long	Stafford
Clark	Mansfield	Stevens
Cook	Mathias	Stevenson
Cranston	McClellan	Symington
Domenici	McClure	Talmadge
Dominick	McGovern	Thurmond
Ervin	Metcalf	Williams

NAYS—3

Fong	Fulbright	Hansen

NOT VOTING—31

Allen	Eastland	Muskie
Beall	Griffin	Packwood
Brock	Haskell	Pastore
Brooke	Hathaway	Sparkman
Buckley	Hruska	Stennis
Byrd, Harry F., Jr.	Hughes	Taft
	Kennedy	Tower
Cotton	Magnuson	Tunney
Curtis	McGee	Weicker
Dole	McIntyre	Young
Eagleton	Mondale	

So Mr. JACKSON'S amendment was agreed to.

Mr. JACKSON. Mr. President, I ask unanimous consent that the previous order entered for the yeas and nays on the amendment be vacated.

The PRESIDING OFFICER. Is there objection?

Mr. MANSFIELD. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. BARTLETT. Mr. President, I ask unanimous consent that I may ask a question of the distinguished chairman concerning the amendment.

The PRESIDING OFFICER. Does the Senator from Washington yield for that purpose?

Mr. JACKSON. I yield to the Senator from Oklahoma.

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, I think we ought to have a time limitation on this colloquy.

Mr. HANSEN. Mr. President, I ask unanimous consent that there be a period of 30 minutes in which to ask questions, the time to be equally divided between the interrogators and those who will respond to clarify the effect of the Jackson amendment.

Mr. LONG. Mr. President, reserving the right to object, I would be willing to agree to 10 minutes; 30 minutes is too long.

Mr. HANSEN. All right. I revise the time to 10 minutes.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. HUMPHREY. Mr. President, will the Senator yield for a half minute?

Mr. JACKSON. I yield.

Mr. HUMPHREY. Mr. President, I merely ask unanimous consent that a member of my staff, Miss Wendy Ross, may have the privilege of the floor.

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

Mr. BARTLETT. Mr. President, will the Senator from Washington yield?

Mr. JACKSON. I yield.

Mr. BARTLETT. I wish to ask a question of the distinguished Senator from Washington.

The PRESIDING OFFICER. The Senator will be in order.

Mr. BARTLETT. Is it not true that the term "first sale" in the Senator's amendment means to reserve price exemptions, and the fuel allocation to customers of stripper well producers applies only to the first sale? The first sale means the first sale from the tank taking place after the lease. That is the first sale; it does not have any other meaning.

Mr. JACKSON. The Senator is basically correct. I would construe, in connection with the amendment just adopted, which I offered, that the first sale of crude oil and natural gas liquids as contained in the first line of the amendment relates to the sale by the producer to whoever buys it, to the pipeline operator or whoever else it may be. The first sale is the sale by the producer.

Mr. BARTLETT. So it is the first sale by the producer of the crude oil on the lease "whose average daily production" on that lease "does not exceed 10 barrels per well."

Mr. JACKSON. That is correct.

Mr. HANSEN. Mr. President, I wish to ask the distinguished Senator from Washington several questions.

Mr. JACKSON. I yield whatever time is necessary.

Mr. HANSEN. Mr. President, we are in the middle of an energy crisis and yet we have not had the opportunity to look into the matter for 5 minutes before the last vote on an amendment to the amendment by the distinguished Senator from Oklahoma, the amendment proposed by the Senator from Washington.

Mr. President, let me tell you how important these stripper wells are. They produce more than one-eighth of the total production of all oil in the United States—oil and natural gas liquids.

For the year 1966, 16,207 such wells were closed; in 1967, 14,986 stripper wells were shut down; in 1968, 20,496 stripper wells were closed; in 1969, 15,618 were

closed; and in 1970, 15,631 were shut down.

It seems to me to be pretty cavalier on the part of some people in this body to say we do not have time to discuss what we are talking about when it comes to voting on certain amendments and then turn around and say we need to hold hearings on other amendments because we need more time to discuss them. I submit the Senator from Washington is a most knowledgeable expert on oil. He knows about production in the Middle East and in this country, and to say that we do not want to consider an amendment because we want to hold hearings on it, begs the question. The Senator knows the answers. I do not think many people in this body are more knowledgeable.

We have to do something about the energy crisis. If these stripper wells are shut down, there is no way to open them up again. We are talking about more than one-eighth of the total domestic production in the United States of America.

My question to the distinguished Senator from Washington is: Does he think, given that set of circumstances, that it makes good sense to call hearings, in addition to all the others we have had, and let these wells be shut down month by month and day by day while we hold further hearings to decide what the energy crisis is all about?

Mr. JACKSON. Mr. President, may I say to my good friend, the Senator from Wyoming, that I took a good, hard look at the amendment of the Senator from Oklahoma (Mr. BARTLETT) this morning and what disturbed me was the language contained in it.

I address this part of the amendment. I will read it and then ask him if one should not ask questions about it. This is the amendment:

> Those oil leases whose daily average production per well does not exceed that of a stripper well of not more than 10 barrels a day shall be exempt from any allocation of price restraints established by any act of law.

Will the Senator tell me what that means? What I am pointing to is the language "any act of law." This could include deregulation of natural gas.

Mr. HANSEN. Very well. I will respond to my good friend from Washington. I think it means precisely what it says, "any act of law." We are talking about more than one-eighth of the total production.

I know my good friend from Washington knows about secondary recovery and tertiary recovery.

Does my good friend want to get oil from these fields that will be recovered by secondary and tertiary recovery efforts?

Mr. JACKSON. I feel a responsibility to this body, as all Senators do, to try to point out to Members what might be contained in the language of a particular amendment.

I submit it is pretty clear that the Bartlett amendment, as I view it, could have been interpreted as a deregulation of natural gas.

I will ask my friend: Did anyone supporting this amendment tell the Senate in connection with this debate that they were advocating deregulation of natural gas?

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

Mr. HANSEN. I have advocated deregulation of gas for a long time.

Mr. JACKSON. I said in connection with this amendment. As the manager of this bill I have a duty and a responsibility to inform the Senate what, in our judgment, a given amendment contains. I wish to ask him whether anyone supporting this amendment——

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

The PRESIDING OFFICER. The Senator's time has expired. The Senator from Oklahoma is recognized.

Mr. HANSEN. Ten minutes is all we need.

Mr. BARTLETT. Mr. President, I wish to read my amendment. It states:

> Those oil leases—
>
> It did not say gas leases—
>
> whose daily average production per well does not exceed that of a stripper well of not more than 10 barrels—

I modified the amendment by unanimous consent to provide "barrels of oil per day." Then continuing to read:

> shall be exempt from any allocation or price restraints established by any act of law.

It did not apply to gas. I remind the distinguished chairman and I know he is aware of this, that a stripper well does not produce gas other than a small amount.

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

Mr. BARTLETT. It is a stripper well because the gas is depleted.

Mr. HANSEN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. Does the Senator yield for a parliamentary inquiry?

Mr. BARTLETT. I yield.

Mr. HANSEN. How much time remains?

The PRESIDING OFFICER. Two minutes remain.

Mr. JACKSON. I wish to ask my good friend this question. He is an expert. Do oil leases produce gas?

Mr. HANSEN. These stripper wells do not produce gas.

Mr. JACKSON. No, but when you use the language "oil leases," I understand oil leases include the broad spectrum of gas as well as oil.

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

The PRESIDING OFFICER. Does the Senator yield to the Senator from West Virginia?

Mr. BARTLETT. I yield.

Mr. RANDOLPH. Mr. President, how much time remains?

The PRESIDING OFFICER. There are 2 minutes remaining.

Mr. RANDOLPH. Mr. President, I think the objectives by the chairman, the manager of the bill (Mr. JACKSON) and the principal sponsor of the amendment, the Senator from Oklahoma (Mr. BARTLETT) are the same.

I feel, as we discuss the stripper well problem, that we can take just one moment to strip this discussion of some of its verbiage and come to this central question.

I emphasize, Mr. President, that in 1972, had we had a 25-cent-a-barrel increase in the price of oil to the producer, that we would not have had in this country more than 15,000 stripper oil wells that were plugged or abandoned. When that took place we lost 235 million barrels of needed oil to meet the energy crisis, which the able Senator from Wyoming (Mr. HANSEN) mentioned. The same approximate losses were experienced in 1966, 1967, 1968, 1969, 1970, and 1971 as well as last year.

Under the Senator's amendment to the amendment of the Senator from Oklahoma, joined in by other Senators, does the chairman feel that essentially we can anticipate needed increases for stripper well production under the amended amendment?

Mr. JACKSON. I do not know what it will be in the marketplace.

Mr. RANDOLPH. I can understand that the Senator does not know as to exact percentage. But he realizes, as do I, the necessity to stop this substantial loss in production. The small producer must not be regulated out of business. We need this oil, we urgenely need the protection proposed in this amendment.

Mr. HANSEN. Mr. President, how much time remains?

The PRESIDING OFFICER. 1 minute.

Mr. JACKSON. My amendment clearly achieves the objectives the Senator from West Virginia (Mr. RANDOLPH) has stated. We have discussed the problem, and I know of his familiarity with the situation in his State. He has an intimate knowledge of the small producer concerns, and I commend his efforts to give aid where justified. My amendment clears up any question about collateral impact on the whole question of pricing in connection with natural gas, particularly. That was my point. My amendment will achieve his objective.

The PRESIDING OFFICER. The time on the amendment has expired.

Mr. RANDOLPH. Mr. President, I ask unanimous consent that the time may be extended for 2 minutes.

The PRESIDING OFFICER. Is there objection?

Mr. HANSEN. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

The question is on agreeing to the Bartlett amendment, as amended. 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 Alabama (Mr. ALLEN), the Senator from Virginia (Mr. HARRY F. BYRD, JR.), the Senator from Missouri (Mr. EAGLETON), the Senator from Mississippi (Mr. EASTLAND), the Senator from Colorado (Mr. HASKELL), the Senator from Maine (Mr. HATHAWAY), the Senator from Iowa (Mr. HUGHES), the Senator from Massachusetts (Mr. KENNEDY), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Minnesota (Mr. MONDALE), the Senator from Maine (Mr. MUSKIE), the Senator from Rhode Island (Mr.

PASTORE), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I further announce that the Senator from Wyoming (Mr. MCGEE), the Senator from Washington (Mr. MAGNUSON), and the Senator from Alabama (Mr. SPARKMAN) are absent on official business.

I also announce that the Senator from Mississippi (Mr. STENNIS) and the Senator from South Dakota (Mr. ABOUREZK) are absent because of illness.

I further announce that, if present and voting, the Senator from Washington (Mr. MAGNUSON) and the Senator from Rhode Island (Mr. PASTORE) would each vote "yea."

Mr. SCOTT of Pennsylvania. I announce that the Senator from Maryland (Mr. BEALL), the Senator from Tennessee (Mr. BROCK), the Senator from Masssachusetts (Mr. BROOKE), the Senator from New York (Mr. BUCKLEY), the Senator from Nebraska (Mr. CURTIS), the Senator from Kansas (Mr. DOLE), the Senator from Oregon (Mr. PACKWOOD), the Senator from Ohio (Mr. TAFT), the Senator from Texas (Mr. TOWER), the Senator from Connecticut (Mr. WEICKER), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

The Senator from New Hampshire (Mr. COTTON) is absent because of illness in the family.

The Senator from Michigan (Mr. GRIFFIN) and the Senator from Nebraska (Mr. HRUSKA) are absent on official business.

If present and voting, the Senator from Nebraska (Mr. CURTIS), the Senator from Kansas (Mr. DOLE), the Senator from Ohio (Mr. TAFT), and the Senator from Texas (Mr. TOWER) would each vote "yea."

The result was announced—yeas 67, nays 1, as follows:

[No. 289 Leg.]

YEAS—67

Aiken	Fulbright	Montoya
Baker	Goldwater	Moss
Bartlett	Gravel	Nelson
Bayh	Gurney	Nunn
Bellmon	Hansen	Pearson
Bennett	Hart	Pell
Bentsen	Hartke	Percy
Bible	Hatfield	Proxmire
Biden	Helms	Randolph
Burdick	Hollings	Roth
Byrd, Robert C.	Huddleston	Saxbe
Cannon	Humphrey	Schweiker
Case	Inouye	Scott, Pa.
Chiles	Jackson	Scott, Va.
Church	Javits	Stafford
Clark	Johnston	Stevens
Cook	Long	Stevenson
Cranston	Mansfield	Symington
Domenici	Mathias	Talmadge
Dominick	McClellan	Thurmond
Ervin	McClure	Williams
Fannin	McGovern	
Fong	Metcalf	

NAYS—1

Ribicoff

NOT VOTING—32

Abourezk	Eagleton	Mondale
Allen	Eastland	Muskie
Beall	Griffin	Packwood
Brock	Haskell	Pastore
Brooke	Hathaway	Sparkman
Buckley	Hruska	Stennis
Byrd, Harry F., Jr.	Hughes	Taft
	Kennedy	Tower
Cotton	Magnuson	Tunney
Curtis	McGee	Weicker
Dole	McIntyre	Young

So Mr. BARTLETT'S amendment, as amended, was agreed to.

The PRESIDING OFFICER (Mr. HUDDLESTON). Under the previous order, the Senate will now proceed to the consideration of amendment No. 332, as modified, an amendment offered by the Senator from Michigan (Mr. HART). On this amendment, the yeas and nays have been ordered. The clerk will report the amendment.

The legislative clerk read as follows:

Immediately following section 307, add a new section 308, as follows:

SEC. 308. Section 3502 of title 44, United States Code is amended by inserting in the first paragraph defining "Federal agency" after the words "the General Accounting Office" and before the words "nor the governments" the words "independent Federal regulatory agencies,".

Mr. MANSFIELD. Mr. President, in view of the fact that it ought to be possible at least to get an abbreviated definition of what the amendment implies, states, and indicates, I ask unanimous consent that there be a limitation of 10 minutes on the Hart amendment—no agreement has been asked for—the time to be divided equally between the distinguished Senator from Michigan (Mr. HART) and the manager of the bill.

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

Mr. HART. Mr. President, I yield myself 2 minutes. Mr. President, under the Coordination of Federal Reporting Services Act (44 U.S.C. 3501 et seq.), Federal agencies may not collect information from 10 or more persons or companies without prior approval of the Office of Management and Budget. This World War II requirement was designed to prevent unnecessary and repetitious requests for information from Federal bureaucracies. I have no quarrel with these objectives.

Today, however, this act has been construed by OMB to require independent Federal regulatory agencies—arms of Congress—to receive OMB approval before they can collect vital information necessary in the discharge of their congressionally delegated responsibilities. Moreover, the Business Advisory Council to OMB often consists of representatives of the industries from whom information is sought. In effect, the industry has an opportunity to review any information request and then advise OMB as to whether or not it should be approved. Thus, independent agencies cannot act in vital areas without executive branch and business concurrence.

Chairman Lewis Engman and other senior FTC officials most vividly brought this problem to my attention at recent hearings held by the Antitrust and Monopoly Subcommittee. Section 6(b) empowers the Commission to obtain important data from businesses through questionnaires called "6(b) reports." Yet, FTC's Bureau of Economics' energy industry structure study is relying upon publicly available data rather than company-by-company reserve data, notwithstanding FTC's belief that concentration of reserve ownership is vital to understanding industry structure.

Why?

Based upon FTC experience with OMB, FTC testified at these hearings:

Had we sought to collect data on reserves, we would have nothing to report now and probably for the next couple years.

Additionally, in the fall of 1970, the FTC submitted a line of business report program to OMB for its approval. Industry, in the form of the Business Advisory Council, had a meeting on this request on January 21, 1971. The representatives of the Business Advisory Council all came from corporations, with assets of at least $1 billion, in addition to such trade associations as the National Association of Manufacturers, the American Petroleum Institute, and the Automobile Association, among others.

Not surprisingly, the Business Advisory Council challenged the need for the data requested by the FTC. As a result, early in the spring of 1971, OMB told the Commission that its proposal was unacceptable and instructed the FTC to go back to the drawing boards. As of the current date, that request made in the fall of 1970, is still pending before the OMB.

In 1969, the Commission severely limited its conglomerate study to nine companies because it knew that OMB would not approve 6(b) questionnaires for a complete conglomerate study.

Most recently, the FTC attempted to estimate the degree of overcharge and the cost to consumers of pricing behavior within concentrated industries. This, too, had to be abandoned because of OMB refusal to clear FTC section 6(b) requests.

Mr. President, the examples are endless, and they are not limited to the Federal Trade Commission. All independent regulatory agencies have specifically delegated authority to collect business information, but this authority is impaired by the need to obtain OMB approval.

This amendment, Mr. President, would give independent Federal regulatory agencies no additional powers. Whatever powers exist in their enabling statutes will continue unchanged. This amendment, Mr. President, will make certain, however, that these powers can be exercised in the wisdom of the agency. This amendment will assure that the commissioners confirmed by this body can exercise their powers of collecting information necessary or appropriate in the discharge of their statutory responsibilities without fear of an OMB veto.

Mr. President, I should add that this is an amendment offered jointly by the Senator from Washington and the Senator from Michigan. I hope very much that the amendment will be agreed to.

Mr. President, I reserve the remainder of my time.

Mr. JACKSON. Mr. President, I rise in support of the amendment of the distinguished Senator from Michigan. The amendment would modify the Federal Reporting Services Act of 1942 to exempt independent Federal regulatory agencies from the limitations of that act.

The purpose of this amendment is to preserve the independence of these agencies to carry out the quasi-judicial function which have been entrusted to them

by the Congress. I do not interpret the intent of the amendment as encouraging a proliferation of general questionnaires to industry with all the concomitant costs and burdens.

The point of the amendment is to insure that the existing clearance procedure for questionnaires does not become, inadvertantly or otherwise, a device for delaying or obstructing the investigations and data collection necessary to carry out the regulatory functions assigned to the independent agencies by the Congress.

This exemption should be restricted to the greatest extent consistent with its intent. I would consider the following agencies to be covered:

Civil Aeronautics Board;

Federal Communications Commission;

The Atomic Energy Commission—insofar as its regulatory and adjudicative functions are concerned;

Federal Trade Commission;

Interstate Commerce Commission;

Securities and Exchange Commission; and

Federal Power Commission.

I ask my colleague if this is consistent with his understanding of the amendment.

Mr. HART. Precisely.

Mr. HANSEN. Mr. President, if the Senator would yield, this prohibition imposed pursuant to statute by the Bureau of the Budget, now the OMB, has been in effect since 1942.

I ask my distinguished friend, the Senator from Michigan if that is correct.

Mr. HART. The Senator is correct.

Mr. HANSEN. Would it seem appropriate to the chairman of the committee that hearings should be held on this matter? I do not know what we are talking about and feel that the amendment has very little relevance to the pipeline bill.

Mr. JACKSON. It is very simple.

Mr. HANSEN. This amendment is not in the category pertaining to the stripper well business is it? We need hearings on the prior amendment, but not on this?

Mr. JACKSON. Now, wait a minute. This is the independent Federal agencies that we are dealing with.

Mr. HANSEN. We have been working with this law since 1942.

Mr. JACKSON. Well there are a lot of things we have been working with since 1942.

Mr. HANSEN. I suppose the Senator has answered my question.

Mr. JACKSON. Are there any further requests for time?

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

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

Mr. JACKSON. I yield first to the Senator from Montana, and then the Senator from Arizona.

Mr. METCALF. Mr. President, the Federal Reports Act of 1942, which provides for the coordination and collection of information by Government agencies from 10 or more persons or firms has been the subject matter of hearings before the Subcommittee on Intergovernmental Relations of the Committee on Government Operations of the Senate in several instances. As a part of these hearings, the influence of the 1942 act on the power of the independent regulatory agencies to gather information and submit questionnaires has been a subject of the special study. These hearings were held on October 6, 7, 8, and 9 of 1970 and December 8, 10, and 17 of 1970. Witnesses included representatives of the regulatory agencies of the Office of Management and Budget, representative members of OMB advisory committees and representatives of the public.

When Everette McIntyre, Chairman of the Federal Trade Commission testified, he put into the RECORD a history of the Federal Reports Act of 1942, which includes some information as how it came to be applied to questionnaires and information gathering facilities of regulatory agencies (Advisory Committee hearings, part II, pages 274–275). It was his conclusion that—

> There is no doubt that the purpose for which the Act was conceived—to cut costs to the Government and to avoid unnecessary harassment of citizens and businesses—has considerable merit. If, however, it becomes an instrument of control over some types of investigations, specifically those of independent regulatory agencies—and this in fact has occurred—it would appear that the authority the Act vests in the Bureau of the Budget needs to be reexamined.

Mr. Ed Wimmer, vice president and public relations director of the National Federation of Independent Business, Inc., one of the original sponsors of the Federal Reports Act of 1942 testified on October 7, 1970, and told how in 1942, businessmen all over America were harassed by the volume of reports and paper work required by the Office of Price Administration. He pointed out that at that time it was impairing the activity of small businessmen and their ability to help with the war effort.

My immediate predecessor in the Senate, Senator James E. Murray, who was chairman of the Small Business Committee, heeded the concern of these small businessmen, and the result was the Federal Report Act of 1942 requiring clearance by the Bureau of the Budget before questionnaires and other reports could go out from any agency. During the course of the debate, concern was expressed by several Senators and Members of the House of Representatives that this act was too broad and that in covering regulatory agencies and other independent agencies it went further than was necessary to cure the evil that was apparent in the OPA reports. But in haste to pass this legislation, some of these questions that were raised were not heeded.

Mr. Wimmer did come back and testify before the committee in 1970 that it was never the intention of his organization and the people he represented to take away the power of investigation and the information gathering facilities of the independent regulatory agencies, and that, in his opinion, the act has been used for control of the regulatory agencies and restriction of information gathering ability of Congress rather than for the original purpose of eliminating the blizzard of paperwork that was descending on small business.

In other words, the Federal Reports Act originally passed as relief for small business, is now applied to the advantage of big business.

The hearings on the Federal Reports Act, and the industry committees advising OMB on information clearance, led to a broader and more indepth set of hearings on advisory committees by the Subcommittee on Intergovernmental Relations in 1971. There were 12 days of hearings on legislation which was finally adopted by Congress in 1972. Part of the hearings referred to the OMB advisory committees. Nevertheless the subject of OMB control over independent regulatory agencies was ever present.

The subject matter was again taken up in a third set of hearings on exemption of the budgets of regulatory agencies from clearance by OMB. These hearings were held by the above subcommittee on February 15, 16, and 17, 1972, February 22 and 23, 1972, and May 17 and 25, 1972. Witnesses were again a representative group from OMB; from regulatory agencies, from the academic community and public interest witnesses representing the public. These are all steps in liberating the independent regulatory agencies as arms of Congress from control by the Executive Office of the President and the Office of Management and Budget.

Under the present regulations, the procedures for a regulatory agency to submit a questionnaire or to try to gather information from more than nine people in an industry is about as follows: It is necessary for the questionnaire not only to be approved by the members of the commission itself who are confirmed by the Senate, but it must be submitted to OMB. It is the practice of OMB to submit such a request for the circulation of a questionnaire to the Business Advisory Council of Federal Reports for approval.

In 1970, the Subcommittee on Natural Gas Pipelines of the Business Advisory Council of Federal Reports (pt. I, hearing on S. 3067, 91st Cong., 2d sess., Subcommittee on Intergovernmental Relations of the Committee on Government Operations, p. 130) was composed of the following members:

LIST OF MEMBERS

E. H. Hasenberg, Natural Gas Pipeline Company of America (Chairman).

W. Page Anderson, Panhandle Eastern Pipe Line Co.

Daniel L. Bell, Jr., Columbia Gas System Service Corporation.

I. D. Bufkin, Texas Eastern Transmission Corp.

Robert L. Cramer, Florida Gas Transmission Co.

J. D. McCarty, United Gas Pipeline Co.

Harry A. Offutt, Consolidated Gas Supply Corp.

C. W. Radda, Northern Natural Gas Company.

Walter E. Rogers, Independent Natural Gas Assn. of America.

Harry B. Sheftel, Office of Management and Budget.

Robert H. Stewart, Jr., Gulf Oil Corp.

Lloyd M. Barenkamp, El Paso Natural Gas Company.

The Subcommittee on Petroleum and Natural Gas was composed of the following members:

LIST OF MEMBERS

Robert H. Stewart, Jr., Gulf Oil Corporation (Chairman).
A. P. Bradford, Texaco, Inc.
C. J. Carlton, Standard Oil Co. of California.
James S. Cross, Sun Oil Company.
E. Wilson Fry, Atlantic Richfield.
E. H. Hanenberg, Natural Gas Pipeline Company of America.
Edward R. Heydiner, Marathon Oil Company.
John E. Hodges, American Petroleum Institute.
G. B. McGillibray, Mobil Oil Corporation.
Harold T. Lingard, Office of Management and Budget.
Melvin L. Mesnard, Independent Petroleum Assn. of America.
Carl E. Richard, Humble Oil and Refining Co.
Frank Young, Continental Oil Company.

The Subcommittee on Public Utilities—Financial Reports was composed of the following members:

LIST OF MEMBERS

Robert S. Quig, Ebasco Services Incorporated (Chairman).
C. M. Allen, Panhandle Eastern Pipe Line Co.
A. J. Brodtman, New Orelans Public Service Company.
Miles J. Doan, The Cincinnati Gas & Electric Co.
Robert R. Fortune, Pennsylvania Power & Light Co.
Arthur E. Gartner, Consolidated Natural Gas Co.
John Geiger, Pacific Power & Light Company.
John S. Graves, Columbia Gas System, Inc.
Robert A. Jeremiah, Long Island Lighting Company.
J. C. Johnson, Southern Services, Inc.
Albert J. Klemmer, Rochester Gas & Electric Company.
Frank H. Roberts, Northern Natural Gas Company.
William E. Sauer, Peoples Light & Coke Co.
Harry B. Sheftel, Office of Management and Budget.
Alfred E. Softy, Edison Electric Institute.
William T. Sperry, Public Service Gas & Electric Co.
Douglas M. Tonge, American Electric Power Service Corp.

Therefore, in order for the Federal Power Commission, for example, to determine whether or not information will be available to it from the various gas pipelines of the United States, the FPC would have to survive the veto of the principal officers of the pipeline it is required to regulate. The same is true of the other regulatory agencies who have to go through an advisory committee consisting of officers with special interest in the field in which the Commission seeks to regulate. These include all the independent regulatory agencies—the CAB, FTC, SEC, and the like, all of whom have special OMB subcommittees that pass upon information that they are seeking from the companies that they are required to regulate.

Senator HART's original amendment No. 332, which he offered on July 12 related to the investigative powers of the Federal Trade Commission under its section 6(b) of the Federal Trade Commission Act. Control by OMB over FHC's 6(b) powers was one of the more telling lines of testimony in hearings held by the Subcommittee on Intergovernmental Relations in 1970 (S3067, 91st Cong., 2d sess.).

Now that Senator HART has broadened his amendment, to include all independent regulatory agencies, and remove all from such agencies subject to OMB approval, I presume we can assume that the monopoly and anticompetitive investigatory powers of FTC are entirely included in the modified amendment, as well as the information gathering of other agencies as it relates to the activities of companies involved in the Alaskan pipeline, and other corporate activity.

I urge the adoption of the Hart amendment, as modified.

I ask unanimous consent that an exerpt from part 2 of the hearings of the Subcommittee on Intergovernmental Operations on Advisory Committees October 8, 1970, at pages 195 to 198 be included at this point in the RECORD.

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

MR. TURNER, COUNSEL FOR THE COMMITTEE, INTERROGATING MAURICE MANN, ASSISTANT DIRECTOR OF OMB

Mr. TURNER. Now, Mr. Mann, you referred to the nitty-gritty several times, and I would like to get something that we discussed yesterday. And I am sorry you did not have a chance to review the testimony, but it concerns not only our testimony yesterday but an article in the Washington Post in the business section this morning, an article dated October 8, 1970, entitled "Monopoly Trend Cited—FTC Asked To Study Fuel, Power Firms."

(The article referred to follows:)

[From the Washington Post, Oct. 8, 1970]

FTC ASKED TO STUDY FUEL, POWER FIRMS—MONOPOLY TREND CITED

(By David Vienna)

"A powerful congressman has asked the Federal Trade Commission to study 'the trend toward monopoly' among fuel and power companies in light of declared shortages of coal, electricity and natural gas.

"Rep. Joe L. Evins (D-Tenn.) in a Tuesday letter to FTC Chairman Miles W. Kirkpatrick, said, 'I am deeply concerned over the monopolistic concentration of ownership of these vital and important areas of our economy—such as the reported acquisition of a number of major coal companies by oil companies.'

"Early last month, Sen. Philip A. Hart (D-Mich.), chairman of the Senate Antitrust and Monopoly Subcommittee, asked the FTC to learn whether oil companies were withholding data on natural gas reserves and, if so, to determine if this violated antitrust laws.

"Trade commissioners wrestling with Hart's request, are worried about embarrassing the Federal Power Commission. The FPC has been accused by Hart of basing a proposed gas rate increase solely on information supplied by industry.

"The trade commissioners Tuesday took up a proposal for an oil industry study, drafted by their staff in response to Hart's request. They were not happy with the proposal and delayed action until next week, FTC sources said.

"The study proposed by Evins is more broadly based and probably more to the liking of the Trade Commission members. Besides, Evins is chairman of the House Appropriations Subcommittee from which the FTC gets its budget.

"At a House Small Business Committee hearing on the energy crisis Tuesday, Evins, who also is chairman of that panel, said he agreed with a view expressed by Rep. Silvio O. Conte (R-Mass.).

"Conte said, 'I think there is a conspiracy among the oil companies in this country not to produce' industrial grade or residual fuel oil.

"Evins, according to his letter, is particularly worried about coal shortages. The Tennessee Valley Authority in his home state is a big coal customer.

"The National Coal Association in a September statement said that 'those who allege that energy companies' are responsible for the current coal shortage and current high prices also give the impression to the public that a very large part of the productive capacity of the coal industry is controlled by the oil industry.

" 'This is contrary to the facts,' the association said. 'Only about 20 per cent of the productive capacity of the coal industry is owned by the oil industry.'

"Furthermore, the coal association said, 'the ownership of coal reserves by oil companies not producing coal exists primarily in areas (the Far West and Illinois) where there are such very great reserves of coal that "monopoly" is impossible, and ownership of reserves has nothing to do with the current shortage.'

"At the House Small Business Committee hearing yesterday, Power Commission Chairman John N. Nassikas explained that a coal shortage exists because coal companies cut back on exploration a few years ago when electric power companies began considering turning to nuclear plants.

"He said a tight electric power supply situation would not be eased for as much as five years.

"Robert E. DeBlois, president of the New England Fuel Institute, said the tight supply of residual fuel oil, used by industry and large institutions, has caused them to turn to the No. 2 fuel oil normally used to heat homes. He warned of 'the distinct possibility of a severe shortage.'

"Meanwhile, Sen. Edward M. Kennedy (D-Mass.) announced yesterday that five major oil companies will release additional residual fuel oil to help ward off a shortage in the Northeast. He listed Gulf Oil Co., Mobil Oil Co., Texaco, Inc., Humble Oil and Refining Co. and Shell Oil Co."

Mr. TURNER. This request for a study has apparently come from Representative Joe L. Evins, Democrat, of Tennessee, in a letter to Chairman Miles Kirkpatrick of the Federal Trade Commission. Representative Evins is quoted as saying, "I am deeply concerned over the monopolistic concentration of ownership of these vital and important areas of our economy," referring to electricity, coal, and natural gas.

"Early last month," the article states, "Senator Philip A. Hart, chairman of the Senate Antitrust and Monopoly Subcommittee, asked the FTC to learn whether oil companies were withholding data on natural gas reserves and, if so, to determine if this violated antitrust laws."

In addition, the Federal Power Commission has pending proposed requests for increases in gas rates on a national basis, and I will take that up seriatim after I discuss with you the Federal Trade Commission situation.

Now, the Congress gave the FTC powers under section 6 of the act, title XV, section 46, United States Code, called "Additional Powers" to gather and compile information and to investigate corporations and their conduct and their practices and their management.

I might say that in section 6(b), which is the important part for your consideration, that the FTC may require, by general and special orders, corporations, excepting banks and common carriers, to file with the Commission, in such form as the Commission may prescribe, annual or special, or both annual

and special reports or answers in writing to specific questions, such information as they may require with respect to the organization—and that could refer to the relationships between oil and gas companies, their interlocking directorates, their stock ownership, their control and service contracts—conduct, practices, management, and various other matters related to the activities of the corporation, and such reports and answers shall be made under oath.

Now, do you know, sir, that before the Federal Trade Commission can issue such requests covering the field of natural gas, the resources of natural gas, the capped wells, the drilling, the resources of coal, the resources of oil, and initiating any investigation into potential antitrust and monopoly practices, it must send to the Bureau of the Budget its proposed investigatory request, and that the Bureau of the Budget Office must review it, along with the advisory committees representing the industry to be investigated? Is this your knowledge?

Mr. MANN. I am advised in the case of hearings by the FTC with the hearing examiners this is not covered by the Federal Reports Act.

Mr. TURNER. That is exactly my point, Mr. Mann. Under the Administrative Procedure Act, those hearings are of a judicial nature, and I would hope, I would hope that there would be no contact between the Bureau of the Budget and the Federal Trade Commission once a case has been started. I would hope that is true.

Mr. MANN. To the best of my knowledge, Mr. Turner, it is true.

Mr. TURNER. Because it would be an interference of executive power in the judicial process.

Mr. MANN. I agree with you fully.

Mr. TURNER. But in order to prepare the facts, to obtain information and to make a preliminary investigation—and I have checked this both with the Senate Subcommittee on Antitrust and Monopoly and with the Federal Trade Commission people—it would have to be done under section 6(b), and reports requesting all of the facts with respect to corporate relationships and resources would have to be sent to the Bureau of the Budget for clearance.

Mr. KRUEGER. I do not know the specifics of the particular case you have in mind. If I understand it correctly, I assume——

Mr. TURNER. There is no pending action——

Mr. KRUEGER. I assume——

Mr. TURNER (continuing). Merely seeking information.

Mr. KRUEGER. I assume that this would be covered by the provisions of the Federal Reports Act.

Mr. TURNER. Yes; because the Federal Reports Act does refer in its definition under 44 U.S.C. 3502[6] that a "Federal Agency" means an executive department or commission. So, therefore, the Bureau of the Budget would have to clear such preliminary investigation as requested by Representative Evins and Senator Hart.

Now, let me turn to the second part of my questions. Am I correct in assuming that such a request as this would be submitted to the Advisory Council on Federal Reports and to either a Subcommittee on Petroleum and Natural Gas or some other panel directed to the issue with respect to the necessary scope of the request?

Mr. KRUEGER. Not necessarily.

Mr. MANN. I think that is a matter of policy. Again, I cannot address myself to the specific case, but the general rule is, for example, if the Federal Trade Commission wants information and wants to send out a questionnaire, then, of course, this would come through the review procedure. On the other hand, if it is a matter within the auspices of a hearing examiner, then it would not come through a review procedure, and therefore would not be subject to this.

Mr. TURNER. Now, Mr. Mann, I agree, as I told you—and I will say it again—that if the hearing examiner is hearing an action, a complaint which has been made by the Commission, I would hope under all circumstances that the executive would have no part of ruling on a discovery request. But the preliminary investigations that are required under section 6—and it is one important way, in fact it may be the only way, so far as I can find, that the Federal Trade Commission could have initiated this fuel survey requested by Members of Congress—would have to go to the Bureau.

And I merely asked whether or not this is the type of thing that the Committee on Petroleum and Natural Gas, the industry committee, would have an opportunity to look at, to evaluate, to comment on.

Mr. KRUEGER. If we considered in the course of an examination of such a proposal that there were questions or reporting problems which we would find it useful to discuss with the committee, then we would refer it to the committee.

Mr. TURNER. That is right.

Mr. KRUEGER. On the other hand, if the committee expressed interest in that and requested an opportunity to look at it, we would consider such a question.

Mr. TURNER. That is right. And such a committee is made up of Chairman Robert Stewart and members of the companies of Texaco, Standard Oil, Sun Oil, Atlantic Richfield, and others that I have mentioned so that they would have a very real opportunity at the initial stage of the investigation to face the Federal Trade Commission at the Bureau of the Budget level on the relevance and the necessity of the Federal Trade Commission's survey.

Mr. KRUEGER. I cannot say right now that it would be referred to that particular committee or that we would consider that the proper committee to consult on such an inquiry. We might request that a special panel be convened with representatives of other parties of the industry. Our consultation with the industry groups is not limited to these formal continuing committees.

There are single-time panels organized to review some of the data-gathering proposals for which a committee does not seem to be the proper kind of a group.

Mr. JACKSON. I thank the distinguished Senator from Montana for that very helpful information regarding the hearings. I think perhaps that answers a part of the question raised by the distinguished Senator from Wyoming.

I now yield to the Senator from Arizona.

Mr. FANNIN. I thank the distinguished chairman of our committee. I would just like to ask a question, because we have had some disputes this morning, and I am sorry that this has come about, but I think we should delve into it, to determine the germaneness of this particular amendment.

As I understand, the amendment was not introduced until July 12, and then it was modified, printed, and released yesterday, July 13.

Is this amendment in accordance with the agreement we have on the bill as to germaneness?

Mr. JACKSON. Well, very candidly, I will say to my friend from Arizona that I cannot stand up in this body and say that all of the amendments that we have been taking up are exactly germane. It all depends on how far you want to go. Some amendments could have been objected to.

But I would say that it is as germane as the amendment we adopted yesterday—we have been more or less making our rules as we go along—in connection with the Federal Trade Commission, in which we granted the subpoena power.

Mr. FANNIN. Mr. President, I am not objecting, but I wish to clarify.

Mr. JACKSON. I understand.

Mr. FANNIN. I just wanted the distinguished Senator from Michigan to know that this is making an exception to the rule and I would like to ask a question; since we have gotten into this, I think we should have clarification. I think copies of the amendment are on Senators' desks. I trust they have all read the amendment.

I would like the Senator from Michigan to explain the change in the law that his amendment would provide.

Mr. HART. Mr. President, the question is quite proper, and I am glad to respond.

This amendment, which is on Senators' desks, would insert four words into section 3502 of title 44.

The PRESIDING OFFICER. The Chair is advised that the time of the Senator from Washington has expired. The Senator from Michigan has 3 minutes remaining.

Mr. JACKSON. Will the Senator from Michigan yield to the Senator from Arizona for his colloquy? Or he can yield on his own time.

Mr. HART. Then, on the remaining time, let me respond.

Section 3502 contains the definition of "Federal agency" which triggers the need to obtain OMB approval.

"Federal agency," as used in that act, means:

> An executive department, commission, independent establishment, corporation owned or controlled by the United States, board, bureau, division, service, office, authority, or administration in the executive branch of the Government; but does not include the General Accounting Office nor the governments of the District of Columbia and of the territories and possessions of the United States, and their various subdivisions;

Mr. FANNIN. I thank the distinguished Senator from Michigan. The only question I would like to ask, if the Senator would permit, is as to the waiver of the germaneness rule on this particular amendment; that does not include the waiver of germaneness on any future amendments?

Mr. JACKSON. Absolutely not. I cannot make the ruling; it is for the Senate to rule, but I am sure that the Parliamentarian would rule that the question of germaneness can be brought up at any time in the absence of an agreement by which the rules of germaneness have been waived.

Mr. FANNIN. I thank the Senator for making that clear.

Mr. JACKSON. I will ask the Chair if that is not correct.

The PRESIDING OFFICER (Mr. HUDDLESTON). The Chair would advise that in this particular case germaneness is waived because the Senate has given unanimous consent to vote upon this particular amendment.

The PRESIDING OFFICER. Who yields time?

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[6] See pt. 1, p. 3.

Mr. JACKSON. I am prepared to yield back the remainder of my time.

Mr. HART. I yield back the remainder of my time.

Mr. DOMINICK. Mr. President, will the Senator from Michigan yield?

The PRESIDING OFFICER. All time has been yielded back.

Mr. JACKSON. Mr. President, I ask unanimous consent to proceed for 1 minute, so the Senator may ask his question.

The PRESIDING OFFICER. Without objection, the Senator may proceed for 1 minute.

Mr. DOMINICK. I do not know; I may be out of step with the rest of the Members of the Senate, but I admit that I do not have the foggiest idea of what the amendment is designed to do. Apparently it waives a whole bunch of restrictions we now have in force insofar as independent regulatory agencies are concerned, and is designed to give them, I gather, much more power than they had before. If I am wrong on that, I would like to be corrected, because under the present situation I intended to vote against the amendment; I do not know what it does, but obviously, since it covers all independent regulatory agencies, we are going away beyond the scope of this bill.

Mr. HART. Mr. President, in whatever time remains I regret I cannot repeat the explanation. But it adds no substantive powers; the Senator from Washington and I insist that it adds nothing to the power of any Federal agency. Not one iota. It does insure that our independent Federal regulatory agencies may be able to exercise the power that is given them without an OMB veto.

The PRESIDING OFFICER (Mr. HUDDLESTON). All time having expired, the question is on agreeing to the amendment of the Senator from Michigan (Mr. HART). 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 Alabama (Mr. ALLEN), the Senator from Virginia (Mr. HARRY F. BYRD, JR.), the Senator from Missouri (Mr. EAGLETON), the Senator from Mississippi (Mr. EASTLAND), the Senator from Colorado (Mr. HASKELL), the Senator from Maine (Mr. HATHAWAY), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Iowa (Mr. HUGHES), the Senator from Massachusetts (Mr. KENNEDY), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Minnesota (Mr. MONDALE), the Senator from Maine (Mr. MUSKIE), the Senator from Rhode Island (Mr. PASTORE), the Senator from California (Mr. TUNNEY), and the Senator from New Jersey (Mr. WILLIAMS) are necessarily absent.

I further announce that the Senator from Wyoming (Mr. MCGEE), the Senator from Alabama (Mr. SPARKMAN), 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 Washington (Mr. MAGNUSON), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Rhode Island (Mr. PASTORE), and the Senator from California (Mr. TUNNEY) would each vote "yea."

Mr. SCOTT of Pennsylvania. I announce that the Senator from Maryland (Mr. BEALL), the Senator from Tennessee (Mr. BROCK), the Senator from Massachusetts (Mr. BROOKE), the Senator from New York (Mr. BUCKLEY), the Senator from Nebraska (Mr. CURTIS), the Senator from Kansas (Mr. DOLE), the Senator from Oregon (Mr. PACKWOOD), the Senator from Ohio (Mr. TAFT), the Senator from Texas (Mr. TOWER), the Senator from Connecticut (Mr. WEICKER) and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

The Senator from New Hampshire (Mr. COTTON) is absent because of illness in the family.

The Senator from Michigan (Mr. GRIFFIN) and the Senator from Nebraska (Mr. HRUSKA) are absent on official business.

If present and voting, the Senator from Texas (Mr. TOWER) would vote "nay."

The result was announced—yeas 46, nays 21, as follows:

[No. 290 Leg.]

YEAS—46

Abourezk	Fong	Moss
Bayh	Gravel	Nelson
Bellmon	Hart	Nunn
Bentsen	Hartke	Pearson
Bible	Hatfield	Pell
Biden	Hollings	Proxmire
Burdick	Humphrey	Randolph
Byrd, Robert C.	Inouye	Ribicoff
Cannon	Jackson	Saxbe
Case	Javits	Stafford
Chiles	Mansfield	Stevens
Church	Mathias	Stevenson
Clark	McClure	Symington
Cook	McGovern	Talmadge
Cranston	Metcalf	
Ervin	Montoya	

NAYS—21

Aiken	Fulbright	McClellan
Baker	Goldwater	Percy
Bartlett	Gurney	Roth
Bennett	Hansen	Schweiker
Domenici	Helms	Scott, Pa.
Dominick	Johnston	Scott, Va.
Fannin	Long	Thurmond

NOT VOTING—33

Allen	Griffin	Packwood
Beall	Haskell	Pastore
Brock	Hathaway	Sparkman
Brooke	Hruska	Stennis
Buckley	Huddleston	Taft
Byrd, Harry F., Jr.	Hughes	Tower
	Kennedy	Tunney
Cotton	Magnuson	Weicker
Curtis	McGee	Williams
Dole	McIntyre	Young
Eagleton	Mondale	
Eastland	Muskie	

So Mr. HART's amendment was agreed to.

Mr. JACKSON. Mr. President, I move to reconsider the vote by which the amendment was adopted.

Mr. HART. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 299

Mr. STEVENS. Mr. President, at this time I call up for consideration amendment No. 299, submitted on June 29 by Senator MAGNUSON.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 32, line 13, add the following new section:

SEC. 116. The Secretary of the Department in which the Coast Guard is operating is hereby directed to establish a vessel traffic control system for Prince William Sound and Valdez, Alaska, pursuant to authority contained in title I of the Ports and Waterways Safety Act of 1972 (86 Stat. 424, Public Law 91-340).

Mr. STEVENS. Mr. President, I ask unanimous consent that my name be added as a cosponsor of the amendment.

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

Mr. STEVENS. Mr. President, amendment 299 is simple and straightforward. It is a further step in insuring that the marine leg of the Alaska pipeline delivery system is the safest possible. By its terms, the amendment would require the Commandant of the Coast Guard to begin the construction of a vessel traffic control system for Prince William Sound and Valdez, Alaska. The Coast Guard presently has authority to establish such systems where needed and they are being built or operated in Puget Sound, San Francisco Bay, New Orleans, and the New York Harbor.

The authority for these systems is contained in title I of the Ports and Waterways Safety Act and includes authority to—

First, require vessels to comply with the system;

Second, control the movement of vessels during bad weather or in areas of hazardous conditions;

Third, establish traffic routing schemes;

Fourth, direct the anchoring, mooring, or movement of a vessel when necessary to prevent damage to or by the vessel;

Fifth, require the use of pilots; and other requirements designed to prevent maritime mishaps which might damage property or the marine environment.

The Ports and Waterways Safety Act gives the Coast Guard this broad authority because of its technical expertise in navigation matters. Pursuant to its authority, the Coast Guard has been tentatively considering a system for the Valdez tanker traffic which would include the features I just mentioned.

I ask unanimous consent to have printed in the RECORD a statement with respect to the estimate for a positive vessel traffic control system for Valdez, Alaska, prepared by the Coast Guard.

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

ESTIMATE FOR A POSITIVE VESSEL TRAFFIC CONTROL SYSTEM FOR VALDEZ, ALASKA, INCORPORATING FULL RADAR COVERAGE OF THE TANKER ROUTE FROM SEA TO TERMINAL

1. INTRODUCTION

You requested an estimate of the cost necessary to construct a system which would provide complete radar coverage over the tanker routes from the approaches to the Hinchinbrook Entrance through Prince William Sound to Valdez.

An estimate has been prepared. The cost would be approximately $17,980,000 for con-

struction and $2,650,000 for annual operation and maintenance thereafter. A breakdown of this estimate and an explanation of the system involved follows. It should be understood that this is a preliminary estimate based on past experience, done without engineering site surveys, detailed engineering design or solicitation of price information from possible suppliers or construction contractors for this specific project. Furthermore, it should be understood that such a system, while it may be technically feasible, would be very expensive to operate and maintain—thus the sizeable estimates for these items in the breakdown.

The Coast Guard is not pursuaded that such a sophisticated system is warranted in this area, nor that it would prove more successful in preventing a collision than the system explained in your office. It could play a part in preventing a grounding. However, vessels in the proposed trade would be equipped with the navigation devices (gyrocompass, radar, fathometer, radio direction finder, Loran) necessary to proceed safely through these waters. Thus in this sense the system would be redundant.

A study now in progress is addressing all the major ports and waterways in the United States to determine the necessity for systems, the level of complexity of systems required for a particular port and an order of priority for proceeding port by port in the implementation of vessel traffic systems throughout the nation. It is the stated goal of the Coast Guard in this national effort that systems be installed only where they are needed, and that those systems installed be no more sophisticated nor restrictive to the user, than is necessary to achieve the required level of safety for the particular port in question. A favorable cost to benefit evaluation will be a requisite for any system undertaken.

2. OBJECTIVE

To provide tankers transiting Prince William Sound from Cape Hinchinbrook to Valdez with all-weather, collision/grounding free transit.

3. ELEMENTS OF THE SYSTEM

(A) VHF–FM Communications network with complete coverage of Prince William Sound and 30 miles to sea from Cape Hinchinbrook.

(B) Mandatory charted traffic lanes inbound and outbound, with an intervening separation lane.

(C) Augmented aids to navigation.

(D) Complete Radar coverage of the tanker route from approximately 30 miles south of Cape Hinchinbrook thru Prince William Sound to terminal at Valdez.

(E) Compulsory Pilotage.

(F) Positive control of tanker transit including course stray advisories, recommended speed of advance, as well as movement control such as permission to get underway, anchor, etc.

(G) Computerized control center, located in Valdez with all remote site inputs transmitted by Micro-wave.

4.—SYSTEM COMPONENTS AND ESTIMATED COST

[In millions of dollars]

	A.C. & I.	OE
(A) Vessel traffic control center:		
(1) Building	1.40	0.068
(2) Power supplies	.02	.004
(3) Computers	1.00	.200
(4) Antenna	.20	.040
(5) Displays	.25	.050
(6) Tape recorders	.02	.004
(7) Video mapper	.15	.030
(8) Communications controllers	.03	.006
(9) Maintenances computer	.08	.016
(10) Radar controllers (PPI's etc.)	.50	.100
(11) Miscellaneous equipment	.39	.078
Subtotal	4.04	.596
(B) Housing: (1) Housing for approximately 29 military personnel	1.0	.0600
(C) Remote sites:		
(1) Cape Hinchinbrook:		
(a) High resolution radar	1.00	.2000
(b) VHF–FM communications equipment	.20	.0400
(c) Antenna	.20	.0400
(d) Emergency power	.02	.0040
(e) Control equipment	.02	.0040
Subtotal	1.44	.2880
(2) Montague Point:		
(a) Building (8 x 8) prefab	.01	.0006
(b) High resolution radar	1.00	.2000
(c) Antenna	.20	.0400
(d) Emergency power	.02	.0040
(e) Control equipment	.02	.0040
Subtotal	1.25	.2486
(3) Knowles Head:		
(a) Building (8 x 8) prefab	.01	.0006
(b) High resolution radar	1.00	.2000
(c) Antenna	.20	.0400
(d) Emergency power	.02	.0040
(e) Control equipment	.20	.0400
Subtotal	1.43	.2846
(4) Glacier Island: (Same as Montague Point)	1.25	.2486
(5) Valdez Narrows: (Same as Knowles Head)	1.43	.2846
(D) Microwave transmission: System (connecting all remote sites with center)	5.0	.1000
(E) Electronic spare modules	1.0	.2000
(F) Augmented aids to navigation	.14	.0270
(G) Personnel: 4 officers plus 3 warrant officers plus 22 enlisted		.3080
Total	17.98	3.0528

Note: These figures represent gross estimates and are not based on factual engineering studies.

Mr. STEVENS. Mr. President, with approval of this amendment and enactment of the rights-of-way bill, establishment would begin as soon as possible so that the system could be operative when the oil begins to flow through the trans-Alaska pipeline. And I long for that day, Mr. President.

I urge the Senate to vote favorably on this amendment.

Mr. JACKSON. Mr. President, I rise in support of amendment No. 299, submitted by the distinguished senior Senator from Washington, the chairman of the Committee on Commerce.

As Senators know, it is not possible for Senator MAGNUSON to be present today. He has, however, addressed to me a letter setting forth the objectives of the pending amendment and stating his views on the need for positive vessel traffic control for Prince William Sound and Valdez, Alaska.

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

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

U.S. SENATE,
Washington, D.C., June 29, 1973.

Hon. HENRY M. JACKSON,
Chairman, Senate Committee on Interior and Insular Affairs, U.S. Senate, Washington, D.C.

DEAR SENATOR JACKSON: As you are aware, I have introduced an amendment to the Federal Lands Rights-of-Way Act of 1973, S. 1081, which would mandate the United States Coast Guard to establish, maintain, and operate a vessel traffic control system for Prince William Sound and Valdez, Alaska. Authority for such action by the Coast Guard presently exists under the Ports and Waterways Act of 1972 (86 Stat. 424, Public Law 92-340).

Positive vessel traffic control systems are now being operated in San Francisco, California, and in Puget Sound in our own State of Washington. The location of one in the Valdez vicinity would provide needed controls for the loading end of the marine leg of the Alaska pipeline delivery system for North Slope oil and gas.

I want to stress that it has been my position that the technical features of these vessel traffic control systems is a matter best left to the expertise of the Coast Guard. The legislative branch is in no position to decide exactly what is technically needed to provide vessel control in any particular geographical location. Consequently, I believe we in the Congress should defer to the discretion and expertise of the Coast Guard in mandating a control system for Valdez.

Therefore, I urge you to support my amendment 299 as the most workable method of directing the creation of a vessel traffic control system for Prince William Sound and Valdez.

Sincerely yours,

WARREN G. MAGNUSON,
Chairman.

Mr. JACKSON. Mr. President, the able and experienced chairman of the Commerce Committee is unsurpassed in the Senate in his interest in, knowledge of, and concern for the safe navigation of ships and vessels in our ports, harbors, and coastal waters. In his letter he has stated the case well, and I endorse the vews stated therein.

It is imperative that positive and timely actions be taken to insure that the marine leg of the trans-Alaska route be afforded the same environmental protection which is to be guaranteed the terrain through which the pipeline itself will pass.

The Congress, by the passage of the Ports and Waterways Safety Act of 1972, has acted "to protect the navigable waters—of the United States—and the resources therein from environmental harm resulting from vessel or structural damage." That act grants authority to the Coast Guard to establish and maintain vessel traffic services in out ports, harbors, and other congested waters in order to prevent collisions, groundings, and other accidents which could result in pollution of our waters and beaches. Furthermore, it provides the Coast Guard with the authority to make mandatory the compliance with those regulations it might set forth in such areas as pilotage, ship movement, and necessary shipboard electronic installations.

The amendment before us would go beyond the granting of authority provided for in the Ports and Waterways Safety Act and specifically direct that, in Prince William Sound and Valdez, Alaska, a vessel traffic control system be established.

The junior Senator from Alaska has expressed his very strong desire for the establishment of a system which will prevent, to the greatest extent possible, the pollution of our Alaskan waters. I most strongly share his concern and desire and I believe that this amendment, offered by the senior Senator from Washington, will attain that goal. I most strongly endorse it, and I urge the support of my colleagues.

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

Mr. JACKSON. I yield such time as the Senator may require.

Mr. GRAVEL. Mr. President, I agree

very strongly with the concept of this amendment. I have only one problem with it, and that is that it still leaves control of the vessel at the bridge of the vessel, of the ship itself.

I have asked the Coast Guard to prepare a system whereby control would not be at the bridge of the vessel but would lie at a control tower similar to what we have with respect to airplanes at airports.

For that reason, I have an improvement on this amendment, which, unfortunately, I had not had the opportunity to clear with the senior Senator from Washington (Mr. MAGNUSON) prior to his departure to China.

At this time, I ask unanimous consent to have printed in the RECORD the amendment I would propose, but shall not propose, as a substitute, together with a statement of the details explaining this amendment.

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

AMENDMENT

On page 32, line 13, insert the following:

Sec. 116 (a) (1) The Secretary of the Department in which the Coast Guard is operating is hereby directed to establish, operate, and maintain to the extent deemed necessary, a positive vessel traffic control system for Prince William Sound and Valdez, Alaska, beginning twenty miles to sea from Cape Hinchinbrook, pursuant to authority contained in Title I of the Ports and Waterways Safety Act of 1972 (86 Stat. 424, Public Law 92-340).

(2) Such positive vessel traffic control system shall, to the extent deemed necessary by the Secretary, include, but is not limited to, the following features:

(A) VHF-FM Communications Network;
(B) Mandatory Charted Traffic Lanes;
(C) Augmented Navigation Aids;
(D) Complete Radar Coverage;
(E) Compulsory Pilotage;
(F) Positive Control of Vessel Transit; and
(G) Computerized Control Center.

(b) No Tanker engaged in the transporting of crude oil of the North Slope area of the State of Alaska to the other states of the United States shall operate in any of the navigable waters of the United States unless such tanker is equipped with a collision avoidance system which, by the use of digital computers and display consoles, will be sufficient to provide affected personnel on such tanker with pictorial displays of harbor approaches and other dangers, and which meets the requirements of the Secretary as contained in regulations issued by him pursuant to subsection (c) of this section.

(c) The Secretary shall issue such regulations as he may determine necessary to carry out the purposes of this section. Such regulations shall contain, among others, provisions setting forth the requirements which must be met with respect to any collision avoidance system referred to in subsection (b) of this section.

(d) No tanker shall engage in the transporting of North Slope crude oil resources in any of the navigable waters of the United States except in compliance with the provisions of this section and regulations issued pursuant thereto.

(e) (1) There is authorized to be appropriated the sum of $23,000,000 for the establishment of the positive vessel traffic control system authorized by subsection (a) of this section.

(2) There is authorized to be appropriated the sum of $3,000,000 for the purpose of operating and maintaining such navigational facility system authorized by subsection (a) of this section.

POSITIVE VESSEL CONTROL SYSTEM FROM VALDEZ TERMINAL TO THE SEA

My proposal for complete radar coverage from Hinchinbrook Entrance thru Prince William Sound to Valdez would cost approximately $22 million to construct and require $2½ million annually to maintain. While this is somewhat of a ballpark figure, the U.S.C.G. did use past experience in developing the cost data, and it should be fairly reliable. I might add that the reason which the Coast Guard gives for not endorsing the system which I propose is because it is not endorsed by the administration. I would like to read from Admiral Bender's letter regarding my proposal . . . "I share your concern over the worsening energy crisis, and the environmental considerations pertaining to the movement of the petroleum by water. Yesterday RADM BENKERT met with you and discussed the various aspects of the navigation problem in Prince William Sound and approaches, the Coast Guard's plans for a communications based system incorporating traffic separation and limited radar surveillance and non-technical details of the sophisticated, full radar coverage system supplied you previously. I fully appreciate your interest in this matter as it relates to the completion of the pipeline and the protection of the environment in this area. It must be stated that the more extensive system would provide a greater degree of control over all vessels in Prince William Sound and immediate approaches than would the simpler system, and would provide a higher degree of safety. . . . The Coast Guard is not in a position to support your amendment since it is not sponsored by the administration. . . ."

Subsequently they prefer a less expensive modification. So once again we are told that if it's not good for the Administration it's not good for the country or it's not good for Alaska. I will not accept that position now or ever. A general comparison of the proposed systems is as follows:

YOURS

Positive vessel control system

1. VHF-FM Communications.
2. Chartered Traffic Lanes.
3. Augmented navigational aids.
4. Complete radar coverage.
5. Compulsory pilotage.
6. Tanker Course, speed & movement control.
7. Computerized Control centers.
8. $22 million Construction & $2½ million maintenance.
9. Fully manned.

THEIRS

Vessel traffic system

1. Same.
2. Same.
3. Same.
4. Limited to Narrows, Arm & Port.
5. Same.
6. Arrival and Departure only.
7. None.
8. $3½ million construction and $½ million maintenance.
9. Partially manned.

However, we cannot accept price as the only criteria. For example, most vessels which will be transporting the oil will cost in excess of $44 million each—with a cargo capacity approximating 890,000 barrels. If the worst happened and one of these ships were lost within Prince William Sound or the Valdez Narrows because of poor weather, faulty navigational aids, or ship master's error, the cost of environmental cleanup, vessel replacement, fishing loss or Canadian ill-will would be completely disproportionate to the modest price tag attached to a positive vessel control system. And, with consideration being given to the use of supertankers, the impact of such a catastrophe would be magnified twofold.

In discussion with my colleagues on this matter the question raised was "did I feel that the justification could be made for the additional cost?" Mr. President, no port on the West Coast will, in the next twenty years be receiving the amount of oil which Valdez will be handling on a day to day basis. The sheer magnitude of providing 2,000,000 barrels per day justifies the need for this system.

And, to further assure that the most reliable collision avoidance system possible is used, I am also proposing that the ships transporting Alaska's oil to the Lower 48 be equipped with navigational systems which, through the use of digital computers and display consoles, will provide the ship masters with pictorial displays of the harbor approaches and the dangers around them. This will provide the ship masters with instantaneous assessment of the area and it will further reduce the probability of human error by providing automatic radar fixes in relation to navigational aids, shoal displays, possible collision points and course and speed of ships in the vicinity. This type of system would also include automatic alarm notification to the captain alerting him when the ship is navigating outside of the parameters of its programed course or if it is exceeding its authorized speed.

A most important and unique feature of this type installation is that it allows the ship to use the Navy's Navigational Satellites to pinpoint its location in any type weather as it journeys from Valdez to Washington or California. This additionall equipment, when used with the satellite system, is extremely accurate and will enable the ship to fix its position within 200 yards of its actual location on the ocean's surface.

And, while I am certain that the cost of collision advoidance systems will result in some opposition by the oil companies, I feel that the additional safeguards which they would provide will assure safe, collision-free transit of ships transporting the oil.

MISCELLANEOUS RELEVANT DATA

Vessels proposed to move Alaskan oil	A	B	C
Ship dead weight tons	86,000	120,000	225,000
Cargo capacity in barrels	636,400	888,000	1,665,000
Draft (feet)	47½	52	70
Construction cost	$33,000,000	$44,000,000	$70,000,000
Construction time in years	2	2½	3½

Note: Harbor depth—Valdez 90 ft. plus; California 57 ft. plus.

Mr. GRAVEL. What this amendment would do would be to treat oil tankers the way we treat jet aircraft. I think this is long overdue. We have handled our maritime ways in a most archaic fashion, and that is somewhat like the right-of-way.

I think that with supertankers and the cost to our environment and the ecology it is ignorant to continue with that approach. I know the Coast Guard thinks my suggestion is an improvement but because of the cost they cannot support it strongly. I hope we can make this improvement in conference.

I wish to ask the junior Senator from Washington if the system I propose could not be implemented if the Executive chose to make that decision under the existing amendment of the senior Senator from Washington.

Mr. JACKSON. The Senator is correct. That is the position taken by the senior Senator from Washington, in his letter, which I have placed in the RECORD.

Mr. GRAVEL. I thank the Senator. That is satisfactory to me with respect to Congress. If the Executive did not come forward to implement this proposal I would seek a stronger measure of this sort in Congress.

I thank the Senator.

Mr. STEVENS. I yield back my time.

Mr. JACKSON. I yield back my time.

The PRESIDING OFFICER. All time is yielded back. The question is on agreeing to the amendment of the Senator from Alaska.

The amendment was agreed to.

Mr. STEVENS. I move to reconsider the vote by which the amendment was agreed to.

Mr. GRAVEL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. JACKSON. Mr. President, yesterday I had a colloquy with the Senator from Indiana (Mr. BAYH) and the Senator from Minnesota (Mr. MONDALE) as to whether the Mondale amendment did or did not exempt the trans-Canada or trans-Alaska pipeline from the provisions of the National Environmental Policy Act.

I ask unanimous consent that the text of an editorial from the New York Times of July 13 be printed in the RECORD at this point. The editorial opposes what it views a NEPA exemption in the Mondale amendment.

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

PIPELINE AMENDMENT

Senators Mondale of Minnesota and Bayh of Indiana make a good case for their amendment to the Jackson right-of-way bill, which is designed to speed the building of the long disputed oil pipeline across the state of Alaska. The Senators want a 14-month postponement not only to allow the State Department time to negotiate with Canada on the possibility of an alternative route along that country's Mackenzie River valley but to permit the National Academy of Sciences time to study the engineering and environmental implications of both routes.

At the end of that period Congress itself would make the choice, according to the Mondale-Bayh proposal. If the Canadian alternative seemed politically or economically unrealistic—or unacceptable because of the time it would take to get into production—the line from Prudhoe Bay to Valdez would get a green light and the controversy would be over.

In the conviction that oil will eventually be produced from Alaska's North Slope, our principal concern throughout this controversy has been that the oil be removed in the way least harmful to the environment. The Mondale-Bayh amendment would go far to make possible the most reasonable decision in the shortest time. But to forestall lawsuits at the end of the 14-month period, based on the alleged inadequacies of the Interior Department's environmental impact statement that is now required by law, the Mondale-Bayh amendment would exempt the pipeline from the procedures of the National Environmental Protection Act and therefore from judicial review.

Even though the intent is to substitute the judgment of the respected National Academy of Sciences for the requirements of the Environmental Protection Act, we believe that such exemption could set a dangerous precedent. Any highway, dam, barge canal or other porkbarrel assault on the environment could be similarly shielded from the requirements of NEPA by statutory exemption of this sort, or by the substitution of review by some designated agency. This potentially mischievous provision should be removed from the Mondale-Bayh amendment. Even if that resulted in its rejection, the worst that could happen would be that the present environmental lawsuits would follow their judicial course, with the possibility that the courts, rather than Congress, would require a more thorough study of the Canadian alternative than has yet taken place.

It would help if the Canadian Government itself would at long last either indicate outright enthusiasm for a Mackenzie Valley pipeline or renounce any interest in it. Its opinions on the subject have until now been so limited in scope and muted in tone that one can only conclude that while it is extremely (and plausibly) sour on the Alaska line—because of the damage its tanker leg might do to the British Columbia coast—it is somewhat less than eager for a trans-Canadian one.

Mr. JACKSON. Mr. President, the editorial states in part:

But to forestall lawsuits at the end of the 14-month period, based on the alleged inadequacies of the Interior Department's environmental impact statement that is now required by law, the Mondale-Bayh amendment would exempt the pipeline from the procedures of the National Environmental Protection Act and therefore from judicial review.

Even though the intent is to substitute the judgment of the respected National Academy of Sciences for the requirements of the Environmental Protection Act, we believe that such exemption could set a dangerous precedent. Any highway, dam, barge canal or other porkbarrel assault on the environment could be similarly shielded from the requirements of NEPA by statutory exemption of this sort, or by the substitution of review by some designated agency. This potentially mischievous provision should be removed from the Mondale-Bayh amendment. Even if that resulted in its rejection, the worst that could happen would be that the present environmental lawsuits would follow their judicial course, with the possibility that the courts, rather than Congress, would require a more thorough study of the Canadian alternative than has yet taken place.

RESPONSE OF OIL INDUSTRY TO MAJOR PUBLIC POLICY QUESTIONS

Mr. NELSON. Mr. President, earlier this year I inserted into the CONGRESSIONAL RECORD three articles on the oil industry that appeared in the April issue of the Progressive magazine. These articles presented dramatic and deeply disturbing material and charges about the policies, practices and procedures of the oil industry. One of the articles was by our former and still valued colleague, Fred Harris. The second was by Philip M. Stern, whose books on taxation and on other subjects have won widespread acclaim. The third article was by Laurence Stern, the able, award-winning writer for the Washington Post.

These articles represented a significant challenge to the oil industry on many important points involving major public policy questions. At the time I inserted the articles in the RECORD, I announced that in order to assure that the oil companies had a full opportunity to comment on these issues I would write the leading oil executives for their comments on the articles and submit their response for printing in the RECORD.

Thus far, I have received responses from Mr. Frank N. Ikard, president of the American Petroleum Institute; Mr. William P. Tavoulareas, president of Mobil Oil Corp.; Mr. H. Robert Sharbaugh, president of the Sun Oil Co.; Mr. James D. Parriott, Jr., director of public affairs, the Marathon Oil Co.; Mr. W. F. Martin, president and chief executive officer of the Phillips Petroleum Co.; Mr. Stephen Stamas, vice president—public affairs, Exxon Corp.

I ask unanimous consent that these responses be printed in the RECORD at the end of these remarks.

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

(See exhibit 1.)

Mr. NELSON. Mr. President, early next week, I intend to bring up for consideration amendments to the Alaska pipeline bill which would establish a temporary study commission on the energy fuels industries and require major fuel producers to disclose data they now keep secret concerning their reserves of mineral fuels.

At that point, I will have further comments on our energy problems and the role of the oil industry in our energy affairs.

EXHIBIT 1

AMERICAN PETROLEUM INSTITUTE,
Washington, D.C., April 25, 1973.

Hon. GAYLORD NELSON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR NELSON: I appreciate your fairness in inviting a response, by your letter of April 16, to the articles from *The Progressive* that you inserted in the CONGRESSIONAL RECORD on March 20. You are certainly right in stating that there is more than one side to this issue, and also that a balanced and vigorous dialogue is important to the national welfare.

I would not attempt to burden this correspondence with a detailed reply to every criticism of the petroleum industry raised in the three articles in question. These same criticisms have been aired repeatedly over the years and have been just as often refuted. Even the few key charges that I will respond to on this occasion have been thoroughly debunked by myself and others on innumerable past occasions. If I were to make a criticism of the petroleum industry's detractors, I would accuse them of an undue fondness for cliches and for the trite and threadbare in making their attacks against us.

Let me begin with that tired old claim that the oil industry is a monopoly. Here are a few facts that should take care of that charge:

There are no "big three" or "big five" companies in the petroleum industry. Instead, in speaking of the major petroleum companies it is necessary to refer to the "big" 25 or the "big" 30.

Some 7,000 firms are engaged in the search for and production of oil and natural gas. The largest of these business organizations accounts for only about nine per cent of total production.

There are some 250 oil refineries operating in 39 states. The largest refining company has less than nine per cent of the total capacity.

On the average, a motorist has a choice of 28 gasoline brands in his state. The largest single marketer accounts for only about eight per cent of the total sales.

As for the claim about the petroleum industry's "political power," let me give a few examples that should dispose of that charge:

Since 1954 the intensely competitive business of finding and producing natural gas has been regulated by the federal government on the same basis as a public utility. Yet gas producers do not receive any of the privileges accorded public utilities—such as an exclusive franchise or the right of eminent domain. There is no other example of the federal government regulating a competitive, non-utility business on such a basis over a period of peacetime years.

The petroleum industry has an exceptional record for moderation in price increases. For example, from 1962 through 1972 the service station price of gasoline (excluding taxes) increased 20 per cent—compared to an increase of more than 38 per cent in the official Consumer Price Index. Yet despite this record, petroleum has been singled out for direct federal price controls in the current program.

In 1968 the largest known oil field on this continent was discovered on Alaska's North Slope. Despite a domestic oil shortage, not one drop of that North Slope oil has yet reached consumers in the lower 48 states. Delivery of this oil to consumers has been frustrated by failure to approve the needed pipeline even though the most exacting environmental requirements have been met.

A moratorium on drilling on leases granted off the California coast has been in effect for three years. Delays and restrictions have hindered undersea drilling in other areas.

Actions by governmental bodies have prevented construction of needed new refinery capacity or delayed plans for such projects.

Percentage depletion rates for oil, gas, and most other minerals were reduced as part of the 1969 tax legislation. Oil and gas took by far the sharpest depletion rate cut. In addition, percentage depletion was made subject to the tax on tax preferences. The combination of these changes resulted in an increase of more than half a billion dollars annually in the petroleum industry's federal income tax burden.

Numerous other examples could be cited, but these should be enough to make the point.

In a speech in support of percentage depletion, made on the Senate floor April 19, 1967, Senator Fred R. Harris of Oklahoma (the same Senator Harris whose article you inserted in the *Congressional Record*) said: "Responsible national policy would call for doing all we can to encourage, to stimulate the needed intensified search for oil and natural gas."

I agree with this statement by Senator Harris as much as I disagree with the extravagant charges against the petroleum industry made in the article in question.

The phony debate technique used by Philip M. Stern in his article could well be characterized as an example of the Walter Mitty syndrome. Since Mr. Stern composes the arguments for both sides, naturally his viewpoint wins (even though he has to do some sleight of hand with statistics to pull off the victory). On those occasions when Mr. Stern's views have been debated under less one-sided conditions, he has not fared so well.

Mr. Stern resorts to a much-used bit of statistical trickery in his charges about the tax burden of the petroleum industry. He relates the worldwide income of a group of oil companies to their alleged U.S. income tax—completely ignoring their income tax payments to foreign governments. For such a comparison to be fair, it would have to follow one of two courses of consistency: either compare worldwide income with worldwide income taxes, or U.S. income with U.S. income taxes. An analysis by Price Waterhouse & Co. of data compiled from 18 leading petroleum companies indicates that their 1971 effective income tax rate on their U.S. source income was 23.5 per cent. This is substantially higher than the figures cited by Mr. Stern (and by Senator Harris).

In discussing petroleum tax treatment, Mr. Stern and the other critics, of course, disregard one grim fact that *investors* cannot ignore: Of every 60 wells drilled in search of new or gas fields, only one—on the average—makes a commercially significant find.

Had Senator Harris researched his article a little more thoroughly he would not have repeated the old chestnut about the Cabinet Task Force on Oil Import Control having claimed that the oil import program costs consumers $5 billion each year. James W. McKie, who served as chief economist on the Task Force staff, has publicly branded such a use of that figure as "a misleading oversimplification of the economic impact of the oil import control program."

Senator Harris also failed to note that five of the seven members of the Cabinet Task Force on Oil Import Control expressed serious reservations about the plan proposed in the report, and two of these five actually filed a dissenting report.

He also fails to note that Gen. George A. Lincoln, who was Director of the Office of Emergency Preparedness, and who concurred with the report, on January 10 of this year gave the Senate Interior Committee a rundown of five key points on which the report's "foresight was critically in error on the optimistic side."

Senator Harris is also off the beam in his comments on oil industry profits. In point of fact, oil company profits trailed below the all-manufacturing average in seven of the past ten years. Last year, according to figures compiled by the First National City Bank of New York, the rate of return for oil companies, in relation to net worth, averaged less than 11 per cent. By comparison, the figure for all manufacturing was a shade over 12 per cent.

The May, 1972, issue of *Fortune* magazine contains the annual roundup of financial data on the 500 largest U.S. industrial firms for the preceding year. Of the 25 largest companies—on the basis of total profits—eight were oil companies. But only one of these eight oil companies made the list of the top 100 on the basis of return on equity investment.

I do not want to neglect Laurence Stern. He gets quite emotional on the subject of natural gas prices and quotes some quite imaginative statistics on the subject. He ignores this key statistic, however: The wellhead price of natural gas is only about one-fifth of the cost the household consumer pays for this fuel.

I have long been puzzled as to why some people become enraged at the thought that domestic wellhead prices of natural gas might rise to 30, 40, or even 50 cents per thousand cubic feet (to provide an economic climate for exploration and increased reserves). But these same people are apparently quite complacent at the prospect of paying $1, $1.25 or more per thousand cubic feet for liquefied natural gas imported from Algeria, the Soviet Union, or other distant and not consistently friendly lands.

I could go on. There are many more vulnerable points in these articles. As I have indicated, they have all been answered frequently and at length. I am attaching to this letter, however, a number of documents that will serve to set the record straight and to present the "other side" that your letter to me indicates you are seeking. These documents are:

1. Statements of witnesses who testified on various aspects of the petroleum industry's tax treatment on behalf of the American Petroleum Institute and other industry organizations before the House Ways and Means Committee on March 19, 1973.

2. A reprint of a Fact & Fiction page from the *Oil and Gas Journal* of November 13, 1972, refuting incorrect claims about the petroleum industry's tax burden.

3. "One Answer to the Energy Crisis," a compilation of statements made by witnesses who testified on behalf of the American Petroleum Institute and other industry organizations before the Senate Committee on Interior and Insular Affairs on April 11, 1972.

4. A statement of LeRoy Culbertson on behalf of the American Petroleum Institute presented to the Senate Committee on Interior and Insular Affairs on March 24, 1972. Pages 10 and 11 deal with the matter of natural gas reserves that was raised by Laurence Stern.

5. The full text of the October 11, 1971, letter of James W. McKie that was mentioned above.

6. An excerpt from the January 10, 1973, testimony of General Lincoln—also mentioned above.

7. Press releases on fuel oil supply, issued by the API on February 21 and 23 of this year. The February 21 release refutes Laurence Stern's charge that the industry "misled" the Office of Emergency Preparedness.

8. Reprints from the Fact & Fiction pages of the *Oil and Gas Journal* that relate to Senator Harris' charges about oil proration laws. This issue is now obsolete because production in all states is virtually at capacity.

9. The text of my address before the 50th annual meeting of the API in November, 1969, in which I advocated adoption of a national energy policy. This refutes Laurence Stern's implication that the petroleum industry is only now talking about such a policy.

If I have made it clear that there is much, much more to be said on the industry's side of these issues than the articles under discussion would suggest to an uninformed reader, then my letter has accomplished its purpose. Thank you again for your interest in inviting this response.

Sincerely,

FRANK IKARD.

PHILLIPS PETROLEUM CO.,
Bartlesville, Okla., June 7, 1973.

Hon. GAYLORD NELSON,
U.S. Senator from Wisconsin,
Senate Office Building,
Washington, D.C.

DEAR SENATOR NELSON: This is in response to your letter of April 30 and the enclosure from the CONGRESSIONAL RECORD.

Having read the letter you received from Mr. Ikard, President of the American Petroleum Institute, I will not comment, as he has done, on the various criticisms of the petroleum industry made in the articles published by *The Progressive* but rather I wish to make more general observations.

I agree with you that there are two sides to every issue. This is especially true of the criticisms of the petroleum industry being advanced today. However, it sometimes appears that the petroleum industry is singled out for special accusatory treatment based largely on isolated and unique business situations of a single individual or company which prompts public clamor. This is unfortunate, to say the least.

While we do not contend that mistakes are not made by representatives of petroleum companies, we do not believe rebukes are warranted against the entire industry when they stem from separate and particular instances. By the same token, I think you will agree that the Congress of the United States should not be judged on the basis of alleged irresponsible actions of a few members. There are those abroad and in this country who would destroy the private enterprise system which has brought this country to its present state of pre-eminence. The petroleum industry is a choice target for this objective. These people, having found that they cannot accomplish their purpose of socializing the country through the ballot boxes, have resorted to originating and furthering unjust criticism designed to promote piecemeal regulation of the petroleum industry which may have the unfortunate result of placing the industry in the position

of being unable to meet its obligations to the citizens of this country. I trust this will not happen because if it does a strong case for nationalization will be made available to those who care to pursue it.

Those of us who believe strongly in the private enterprise system must be diligent in our efforts to maintain it, and in my judgment the petroleum industry should be freed of much of the regulation under which it now struggles rather than be subjected to more regulations as is proposed by many of its self-appointed critics.

With the critical energy problems facing our country, this is a time when Government and the petroleum industry should seek to understand the problems of the other and provide solutions rather than develop conflicts.

I appreciate your thoughtfulness in giving me the opportunity to respond to the articles you placed in the CONGRESSIONAL RECORD.

Respectfully yours,

W. F. MARTIN.

MOBIL OIL CORP.,
May 31, 1973.

Senator GAYLORD NELSON,
Senate Office Building,
Washington, D.C.

DEAR SENATOR NELSON: In your letter of April 30 you extended to us the opportunity to respond to a series of statements that appeared in the PROGRESSIVE magazine and which appeared in the Congressional Record on March 20.

We have often taken the initiative to discuss the oil industry and the U.S. energy situation in public, and we are always pleased when there is responsible discussion of these matters which are so important to the nation. As you can appreciate, we oftentimes do not agree with positions taken, but we continue to believe that responsible debate is in the public interest. Unfortunately, the items referred to in your letter cannot be called responsible. It would therefore be a waste of time for me to engage in a point by point discussion of unsubstantiated generalizations and innuendo. I would like to mention only a few examples.

Laurence Stern quotes from a speech by S. David Freeman, whom he identifies as Director of the Ford Foundation Energy Policy Project, but conveniently ignores the fact that the Energy Policy Project itself disavowed the speech the week after it was given, as not representing the conclusions of the project.

Mr. Laurence Stern also quotes a Mobil advertisement to support an argument that the oil industry believes "that what is good for the oil industry is good for the country." Our statement was:

"Oil companies knew the shortage was coming. We knew how it could be averted. For the last twenty years we have told everyone who would listen what we knew, but we failed to convince policy makers to take the necessary steps."

It is often pleasant to know that you were right in making a forecast. In this case we are not happy that we were right. We saw the shortage coming. Nowhere in the advertisement (copy attached) did we say or imply that what is good for the oil industry is good for the country. We do believe that a shortage of energy is not good for the country, and we would suppose that Mr. Stern might agree. Incidentally, our failure to convince policy makers is a poor track record for an industry which some think is "politically the most powerful in the country."

Even the statistics in the article are either wrong or handled in a misleading fashion. For example, the quote from Mr. Harris's article says that 55.4% of all petroleum sales in 1970 were made by four companies: Standard of New Jersey, Mobil, Texaco, and Gulf. In point of fact, published statistics show that these four companies accounted for 32% of total petroleum sales; and in the case of gasoline—a market which is highlighted as lacking in competition—the four companies only accounted for 27%.

In the Philip Stern article, *worldwide* before-tax income is related to *U.S.* income taxes. Now, it should come as a surprise to no one that a company—such as Mobil—which in the year cited earned 73% of its before-tax income overseas, would have paid substantial *foreign* income taxes. As a matter of fact, we paid over $500 million in taxes to foreign countries which, when taken together with income taxes paid to the United States, results in a 53% tax rate on worldwide income.

Finally, Mr. Harris makes reference to another Mobil advertisement entitled "Stagnation is Still the Worst Form of Pollution." His interpretation is: "This message really boils down to the claim that if the energy industry has to join the free enterprise system, economic growth will be killed." I am attaching the full advertisement for the record. Nowhere in the advertisement can we find a basis for the interpretation made by Mr. Harris. Indeed, the advertisement is directed at one of the cruelest hoaxes which is current in the country today. This hoax would have us believe that those who are proposing limitation of further economic growth would also be prepared to reduce their own standard of living so as to provide for the legitimate aspirations of those less advantageously situated.

Sincerely,

W. P. TAVOULAREAS.

[From the New York Times, Jan., 18, 1973]

IS ANYBODY LISTENING?

If normally cold weather prevails this month, up to 25 percent of the workers in parts of Illinois will be laid off because plants and factories can't get enough natural gas or heating oil.

Major airlines were forced to ration their jet fuel at Kennedy airport recently.

The Federal Power Commission has proposed a long-term system for rationing natural gas.

These items all made newspaper headlines. They all mean the same thing: The U.S. is facing an energy crisis of serious and growing proportions. In a curious way, the oil industry has failed.

Oil companies knew the shortage was coming. We knew how it could be averted. For the past 20 years we have told everyone who would listen what we knew, but we failed to convince policy-makers to take the necessary steps. Some examples:

When the Federal Power Commission began regulating the wellhead price of natural gas in interstate commerce in the 1950's, oil companies told Congress that artificially low prices would increase the demand for natural gas while reducing both the incentive and the ability to search for new reserves.

When the F.P.C. said the only consideration in price controls on natural gas was low prices to the consumer in the short term, oil companies told them this objective ignored adequacy of supply in the longer term and that a shortage would result. The gas shortage is now severe and getting worse.

When federal, state, and local governments decided the environment was to be protected at all costs, we told them this would worsen the natural gas shortage. It has.

Oil companies said that unless new refineries were built in this country, a severe winter could produce critical heating oil shortages. Not a single refinery is under construction in the U.S. at this time. Law suits and regulations stemming from exaggerated environmental fears have blocked the construction of new refineries. So today U.S. refineries are producing heating oil at peak capacity—in record volumes, in fact—and still having to ration it.

Oil companies said it was a mistake to delay construction of the trans-Alaska pipeline, keeping oil from what may prove to be the largest find in U.S. history away from U.S. markets. Today many U.S. refineries are short of crude oil, and foreign supplies of it are being allocated.

Oil companies said further burdens would be placed on U.S. oil and natural gas resources if nuclear energy were not allowed to play an important role in meeting the nation's energy needs. This has happened.

Oil companies said it was a mistake to reduce exploration incentives in 1969; to suspend drilling on offshore California leases; to delay lease sales off the coast of Louisiana; and to refuse to make leases available off the U.S. East Coast. We sounded off on all these issues, but we obviously failed to persuade enough people. In 1971 fewer exploratory wells were drilled in this country than in any year since 1947.

With such a good track record for prophecy in the past, what are oil companies saying *now?*

That while the U.S. has a strong energy resource base for the long term, in the form of coal, oil shale, uranium, and petroleum, it faces a critical oil-and-gas supply problem from now to about 1985.

That we are not alone in this critical supply problem for the next 12 to 15 years. Europe and Japan are facing the same problem. If the U.S. does not develop greater domestic capability for producing oil and gas, we will find ourselves competing increasingly with other countries of the West for relatively scarce supplies of petroleum from exporting nations.

That the long-term U.S. resource base can be developed to make us almost self-sufficient in energy and thus hold our dependence on foreign sources to a reasonable level, only through the adoption of realistic national energy policies.

That our country's fast-rising imports of oil and gas over the next 12 to 15 years—amounting to about half of our total consumption by 1985—pose balance-of-payments and securtiy problems to which we are not giving enough attention.

That we must rely primarily on oil and gas for energy for at least the next 12 to 15 years and accordingly must minimize our dependence on imports by finding, developing, and producing more oil and gas in this country.

That the most promising areas for this additional petroleum lie under the waters of our outer continental shelf, and that federal leasing of this acreage for exploration should proceed apace.

That we should be building a great deal of additional refining capacity here—particularly on the East Coast, where demand is greatest and where most of the imported oil is brought in—and stop exporting American jobs and capital on such a large scale.

That our nation should be building superports capable of accommodating the huge tankers that reduce transportation costs.

That atomic power plants should be built at a far faster rate.

That we must be sensible about environmental demands and must strike a socially acceptable balance between environmental considerations and the need for additional energy supplies.

Our industry seemed finally to have made itself heard last month when the *Washington Post* said in an editorial:

"The price of gas ought to be raised . . . The present shortage of gas to residential consumers has risen largely because of obsolete and harmful price regulations imposed by the federal government. Despite soaring demand, the price has been held far below the cost of competing fuels. Present policy is a monument to the influence of senators and congressmen from the urban states."

Is anybody *else* listening?

[From the New York Times, May 4, 1972]

STAGNATION IS STILL THE WORST FORM OF POLLUTION

Pollution takes many forms. In the American experience, by far the most damaging form has been stagnation. Economic stagnation.

This is the stagnation that brings a region or a community (or a race, or an economic group) or the whole country to a standstill. It deprives people of upward mobility. It erodes individual ability and self-respect and even hope.

Of all forms of pollution, economic stagnation has been least acceptable to other generations of Americans.

In the 1930s, as part of our response to the Depression, America mounted a great effort to overcome the blight of the South. And of the Dust Bowl, and other rural sectors. In the 1940s, emphasis shifted to the nation's declining small towns; and for a decade, on into the 1965s, our efforts were directed largely at relief for the depressed areas of New England, the Middle Atlantic states, the Midwest, and the Great Lakes region.

During the 1960s, social policy and programs reached out toward new concerns: the hopelessness of the rural poor, the bitterness of the ghetto.

But for all our good intentions, the basic problem will persist until we focus on root causes: failure to conserve and develop resources; failure to keep pace in fostering the new investment that creates new jobs; failure to encourage sound growth and expansion of the private sector as the sole support of works needed in the public sector. These omissions lead to stagnation. Stagnation has polluted the lives of millions of Americans. It will continue to pollute lives until we as a nation attain the understanding and determiniation that can stop it. And we can stop it without impairing the environment.

To stop pollution of human existence we must restore a decent priority to economic growth—south, responsible, adequate growth. Public policy must encourage growth and expansion. It must encourage investment, innovation, and new technology.

Growth carries with it some costs. But they are costs we can afford and may eventually be able to reduce. Economic stagnation brings far larger costs—larger than America can afford—and they multiply inexorably through the generations.

What we inherit when that happens is surely the very worst of all the many forms of pollution.

SUN OIL CO.,
May 30, 1973.

Hon. GAYLORD NELSON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR NELSON: Thank you for your recent letter enclosing the three articles from *The Progessive* magazine, as inserted in the *Congressional Record.*

Copies of these articles had been forwarded to us earlier, after publication, by the publisher of *The Progresive*. We did not comment at that time, feeling that if our views had really been desired they would have been solicited prior to publication of the articles.

The articles contain, in my opinion, very serious charges against the integrity and competence not only of this country's petroleum companies but also of the individuals who are responsible for managing and operating them. Yet, in spite of the severity of the charges, to my knowledge the authors did not make one single effort to discuss the issues with representatives of petroleum companies prior to publication. Accordingly, I can only conclude that they were not really interested in factual discussion of the national energy situation, but only in publicizing, for reasons of their own, severe criticisms of the petroleum industry.

Over and beyond the attack on the industry and the many thousands of Americans who give it substance and direction, publication of the articles, in our view, was a disservice to the American people and to the national interest. What we desperately need today is improved public understanding of the basic energy problems we face as a nation, and rational discusion of the alternative actions open to us if we are to avert a really critical situation in the future. The petroleum industry certainly must bear a share of the responsbility for the energy problems we face, just as a share must be borne by government, by all of us consumers, and even, perhaps, by uninformed critics. But accusation by insinuation, implication, half-truth and distortion contributes nothing to rational discussion or to solving the problem.

While it is not my intent to engage the authors or anyone else in debating opinions they advance as facts, or to attempt to rationally respond to the irrational, I will seek to tell you briefly why we consider these articles lacking in both objectivity and accuracy.

For example, they are highly critical of "monopoly" in the energy field, including the fact that petroleum companies are engaged in natural gas as well as oil operations and the fact that they are participating in development of coal, shale, and tar sands resources. The industry's involvement in natural gas, of course, stems from the simple fact that oil and gas are usually found together, and, therefore, developing one requires developing the other. And participation in the development of liquid fuels from coal, shale and tar sands is a logical extension of petroleum operations, and, in fact, essential to the nation's energy security. Investment in these activities is open to anyone who is interested, and is today being strongly encouraged by our government.

Anyone who thinks this is a bonanza being cornered by the petroleum industry might be interested in reading about the experience of Sun Oil Company in developing the Athabasca tar sands in Alberta, Canada (which are mentioned in one of the articles). We initiated our efforts toward commercial production of synthetic crude oil from the tar sands in the early 1960's, attaining sustained production in 1968. Our investment there now totals approximately $300 million. Additionally, as of the end of 1972, we have accumulated operating losses of some $88 million. In the first quarter of this year, a modest operating profit was achieved for the first time, although it is uncertain whether this can be sustained for the remainder of the year.

Another basic charge is that oil and natural gas are overpriced. The fact of the matter is that our country spends less than 3 per cent of national income for energy in its raw forms. And, at both the wholesale and retail levels, U.S. petroleum prices have advanced less in the past decade than have the average prices of all commodities as reported by the Bureau of Labor Statistics.

Considerable criticism is directed at the recently-suspended mandatory oil import control program, and its effect on domestic oil prices. While the mechanics of that program could certainly have been improved, it should be recognized that the basic goal of attempting to prevent heavy U.S. reliance on insecure sources of foreign oil was a valid one. Today our country needs all of the oil it can get, and the control program has been suspended. But it is worth noting that as our dependence on foreign oil has increased, so has the price of that oil. It no longer enjoys a price advantage over domestic oil. And we will be forced in the future to face the price, balance of payments and security of supply problems that foreign dependence entails, a situation that the control program sought, unsuccessfully, to avoid.

Again, the tax equity basis for the percentage depletion deduction is rejected out of hand, and completely ignored is the fact that the effective rate of depletion today is 18 per cent rather than 22 per cent. Further, comprehensive studies have shown that when foreign taxes on foreign earnings are included, and when taxes at all levels of government are considered, petroleum industry taxes as a per cent of revenues are now, and have been, higher than the average for all industries.

Similarly, the industry is depicted as earnthe excessive profits. But the truth is that during the 1962 to 1971 period the industry averaged an 11.8 per cent return on net worth, compared to 12.4 per cent for all other manufacturing industries.

I think these points are sufficient to indicate why we view these three articles as something far less than objective and accurate, and consider them a disservice to the American public.

We appreciate the opportunity to comment.

Sincerely yours,

H. ROBERT SHARBAUGH.

MARATHON OIL CO.,
Findlay, Ohio, May 28, 1973.

Hon. GAYLORD NELSON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR NELSON: Your April 30 letter requesting J. C. Donnell II's comments on three articles in the April issue of *The Progressive* magazine has been referred to me for reply. Recently, Morris Rubin, editor of that publication, made a similar request and a copy of my reply is attached. I hope that it will be adequate for your purpose.

Also, Frank Ikard, president of the American Petroleum Institute, has replied to your inquiry and generally we are in accord with the views he has expressed. I might point out that Mr. Ikard's letter deals with the allegations of monopoly by citing national market percentages, showing that the largest single marketer has only 8% of the total sales, while my letter dealt with maximum market shares only in the 25 largest gasoline consuming states. The figures, however, are consistent.

We think that you and Mr. Rubin are to be commended for soliciting the comments of those who might hold views contrary to those stated by the Messrs. Stern and Harris, and we thank you for your request.

Sincerely,

JAMES D. PARRIOTT, Jr.,

MARATHON OIL CO.,
Findlay, Ohio, May 18, 1973.

Mr. MORRIS H. RUBIN,
Editor, the Progressive,
Madison, Wis.

DEAR MR. RUBIN: Your March 20 letter to J. C. Donnell II concerning your April issue featuring the power of oil has been referred to me. Thanks very much for soliciting our views.

There was nothing new in the articles. They pretty well covered the points which are usually asserted against the oil industry and omitted the important points in favor of it. Fred Harris' article was a classical and cynical catering to oil paranoia, but I realize that it gives him currency in his new enterprise. Philip Stern's dialogue, Socrates and the Oil Dolt, was good technique. Laurence Stern did the popular thing by quoting Morris Adelman and not mentioning the deluge of contrary opinion, including that of James Akins of the State Department. However, whenever I feel that the oil industry is a leaf in the wind of public policy, which is usually, these articles will be something I can cling to.

I'll cover only three or four of the obvious omissions, but my comments cannot be adequate without going at least to the lengths

of the articles themselves. Most of the figures I'll use will be based on those maintained by financial institutions on the 27 leading oil companies. Note that to get industry figures, you have to consider 27 companies, not two or five, and this does not include the thousands of independents in all phases of the industry. I don't know of any major or basic industry which has this broad a competitive base.

The price record of the industry is good. The U.S. always has one of the lowest energy costs among the developed countries. Over the past ten years, the average retail product price has risen at about half the rate of the consumer price index. However, the fact that, with 6% of the world's population, we consume a third of the energy might suggest that the price has been so low that it has encouraged profligate use. At least the Sierra Club thinks so.

The average rate of return on investment in the industry has been below the average of other U.S. business in seven out of the last ten years. This is significant because you can't toss revenue and profit figures around without mentioning an investment base. Your articles never mentioned investment.

Moreover, when all direct domestic taxes are totaled, including state, federal and local taxes, the oil industry averages higher direct domestic tax payments than the average of American business. This doesn't include the gasoline taxes we collect as a conduit for the state and federal governments.

The fact that the industry's after-tax return on investment is only average suggests that the tax provisions covering the industry create no windfall.

Philip Stern did the old trick of comparing worldwide revenues with U.S. federal taxes to arrive at his percentages of tax. In this he overlooks the sovereignty of foreign governments who tax foreign-earned income at rates similar to those in the U.S. and the treaties, conventions and statutes under which foreign tax credits are allowed in order to prevent double taxation. We pay plenty of foreign taxes and they should be stated if foreign income is to be used.

I'm not sure that Fred Harris or I know what he was talking about. He describes price wars and then says that there is no competition among majors. He says that the majors have a "shared monopoly", a term which I don't understand, particularly since, in the top 25 gasoline consuming states there is only one in which one company exceeds more than 20% share of the market. What he has described is an industry. As an employee of a relatively small oil company, I can say that we're able to compete with the big ones where we chose.

I think that in their biased zeal the articles overlooked some matters of broad public policy, particularly in how to deal with the ruinous and compounding trade imbalances which result from growing dependency on foreign oil and natural gas. These imbalances and this dependency are inflationary and they assault our domestic industrial capability. Above all, the articles ignore the fact that supplying energy is a huge and complex job which, perforce, must be done by a huge and complex industry under multiform public policies. The facts that our nation gets more energy at lower cost than almost any other and that the bottom line shows only an average return on investment within the industry indicate that this enormous complex must be doing something right.

I'm sorry that I have not commented on a line-by-line basis, but I hope that this letter adequately responds to your inquiry. Again, thanks for making it.

Sincerely,

JAMES D. PARRIOTT, Jr.
Director, Public Affairs.

EXXON CORP.,
New York, N.Y., June 27, 1973.

Sen. GAYLORD NELSON,
U.S. Senate, Washington, D.C.

DEAR SENATOR NELSON: Since receiving your April 30 letter to Mr. Brisco (who has been succeeded as President by Mr. C. C. Garvin, Jr.) concerning certain articles critical of the oil industry, we have learned of your exchange on this with Mr. Ikard of the American Petroleum Institute. Mr. Ikard's letter and attachments being quite comprehensive, it would perhaps not be particularly helpful to go over the same ground. Let me add just a few brief comments.

The reference by former Senator Harris to a Jersey Standard (now Exxon) U.S. market share of "nearly 20 per cent" is incorrect; the correct figure would be less than 9 per cent.

The effective rate of income tax on Exxon's U.S. source income was more than 29 per cent in 1972, approximately the level of the previous several years. Income tax obligations on a worldwide basis amounted to an effective rate of about 60 per cent.

With respect to the recounting by Mr. Stern of Professor Adelman's viewpoints on international oil developments, I think it would not be correct to ascribe to Professor Adelman, as the reader might derive from reading Mr. Stern, a suggestion that the international oil industry is cartelized. I believe that the article in the April issue of "Foreign Affairs" by Mr. Akins, formerly Director of the Office of Fuels and Energy at the State Department, also provides useful insight on this whole matter.

We appreciate your identifying and inviting comments on the material discussed.

Sincerely,

STEPHEN STAMAS.

ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, what is the pending business?

The PRESIDING OFFICER. Under the previous order the Senator from Washington was to be recognized to call up an amendment.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that that order be vitiated and the time transferred to Monday.

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

Mr. MANSFIELD. Now, what is the pending business?

The PRESIDING OFFICER. The pending business is S. 1191.

NATIONAL CENTER ON CHILD ABUSE AND NEGLECT

Mr. MANSFIELD. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business is S. 1191, which the clerk will state.

The bill was stated by title as follows:

A bill (S. 1191) 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.

The Senate proceeded to consider the bill which had been reported from the Committee on Labor and Public Welfare with amendments on page 1, at the beginning of line 4, insert "and Treatment"; on page 2, line 4, after the word "establish", strike out "an office" and insert "a center in the Office of Child Development"; in line 8, after the word "The", where it appears the first time, strike out "Secretary" and insert "Secretary,"; in the same line, after the word "the", where it appears the second time, strike out "Center" and insert "Center,"; after line 9, strike out:

(1) compile a listing of accidents involving children who have not obtained eighteen years of age;

At the beginning of line 12, strike out "(2)" and insert "(1)"; in the same line, after the word "publish", insert "annually"; in line 13, after the word "summary", strike out "annually"; at the beginning of line 15, strike out "(3)" and insert "(2)"; at the beginning of line 19, strike out "(4)" and insert "(3)"; in line 22, after the word "and", strike out "neglect." and insert "neglect; and"; after line 22, insert:

(4) provide technical assistance (directly or through grant or contract) to public and nonprofit private agencies and organizations to assist them in planning, improving, developing, and carrying out programs and activities relating to the prevention, identification, and treatment of child abuse and neglect.

On page 3, after line 3, strike out:

(c) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.

In line 9, after the word "The", strike out "Secretary" and insert "Secretary, through the Center,"; in line 14, after the word "be", strike out "used—" and insert "used for—"; in line 15, after "(1)", strike out "for"; in line 16, after the word "for", strike out "professional and paraprofessional"; in line 17, after the word "in", strike out "the fields of"; in the same line, after the word "law,", insert "law enforcement, education,"; in line 18, after the amendment just stated, strike out "and"; in the same line, after the word "work,", insert "and other relevant fields"; at the beginning of line 22, insert "(2) establishment and maintenance of centers, serving defined geographic areas, staffed by multidisciplinary"; in line 24, after the word "teams", strike out "of professional and paraprofessional personnel, who are" and insert "of personnel"; on page 4, line 1, after the word "Cases,", strike out "on a consulting basis to small communities where such services are not available" and insert "to provide a broad range of services related to child abuse and neglect, including direct support and supervision of satellite centers and attention homes, as well as providing advice and consultation to individuals, agencies and organizations which request such services;"; in line 9, after the word "innovative", strike out "projects" and insert "projects, including appropriate parent self-help organizations,"; after line 12, strike out:

(b) There are authorized to be appropriated $10,000,000 for the fiscal year ending June 30, 1973, and $20,000,000 for each of the succeeding four fiscal years.

And, in lieu thereof, insert:

(b) Assistance provided pursuant to this section shall not be available for construction of facilities; however, the Secretary is authorized to supply such assistance for the

lease or rental of facilities where adequate facilities are not otherwise available, and for repair or minor remodeling or alteration of existing facilities.

After line 21, insert:

(c) The Secretary shall establish criteria designed to achieve equitable distribution of assistance under this section among the States, among geographic areas of the Nation, and among rural and urban areas. To the extent possible, citizens of each State shall receive assistance from at least one project under this section.

On page 5, line 8, after the word "the", strike out "President" and insert "President, by and with the consent of the Senate,"; in line 9, after the word "among", strike out "persons" and insert "parents, State and local officials, and other persons"; in line 11, after the word "the", strike out "field" and insert "fields"; in the same line, after the word "preventing", strike out "and treating"; in line 12, after the word "and", strike out "neglect" and insert "neglect,"; in line 15, after the word "Commission.", insert "In making appointments to the Commission the President shall give consideration to the appointment of individuals who represent the various disciplines involved in the prevention and treatment of child abuse."; in line 19, after the word "be", strike out "completed" and insert "completed, and the Commission shall hold its first meeting,"; in line 22, after the word "The", strike out "President shall designate" and insert "Commission shall elect"; in line 23, after the word "of", strike out "the" and insert "its"; on page 6, line 10, after the word "doctors", strike out "and other professionals." and insert a comma and "physician assistants, dentists, nurses, social workers, teachers, medical examiners, law enforcement personnel, and other individuals required to report such abuse and neglect;"; after line 13, insert:

(B) the effect of existing programs designed to prevent, identify, and treat child abuse and neglect;

(C) the national incidence of child abuse and neglect, including a determination of the extent to which if any, the incidents of child abuse and neglect are increased in number or severity;

(D) the causes of child abuse and neglect including the relationship, if any, between drug dependence and alcoholism and such abuse and neglect;

(E) the adequacy of funding for efforts to deal with child abuse and neglect available from Federal, State, and local public and nonprofit private resources; and

On page 7, at the beginning of line 1, strike out "(B)" and insert "(F)"; in line 10, after the word "for", insert "Federal and State"; in line 22, after the word "request", strike out "made by" and insert "of"; on page 8, line 1, after the word "Chairman", strike out "shall have the power to" and insert "may"; in line 10, after the word "but", insert "no such personnel shall be compensated"; in line 11, after the word "rates", strike out "not"; in 1-ne 16, after the word "at", insert "per diem"; in line 17, after "$50", strike out "a day"; in line 25, after the word "the", strike out "rate of $100 per day" and insert "maximum rate for GS-18 of the General Schedule under section 5332 of title 5, United States Code,"; on page 9, after line 6, strike out:

(g) There are hereby authorized to be appropriated such sums as may be necessary, not to exceed a total of $———— to carry out the provisions of this section.

At the beginning of line 10, strike out "(h)" and insert "(g)"; and, after line 12, strike out:

CHILD ABUSE PREVENTION PROGRAMS UNDER SOCIAL SECURITY ACT

SEC. 5. Section 422(a)(1) of the Social Security Act is amended—

(1) by striking out "and" at the end of subparagraph (B) thereof, and

(2) by adding after subparagraph (C) thereof the following new subparagraph:

"(D) effective July 1, 1973, includes, with respect to the prevention of child abuse, a special program under which—

"(i) effective procedures are established for the discovery of instances of child abuse and neglect, and for the prevention, remedying, and otherwise treating of the problem of child abuse and neglect (including procedures to assure the enforcement of State and local laws dealing with child abuse),

"(ii) there is collected and reported to the Secretary and to the public such information and data (in accordance with regulations of the Secretary) which adequately and fully reflect the extent to which laws of the State (and the enforcement of such laws) are adequate in meeting the problem of child abuse in the State, and the steps, if any, which are being taken to assure the adequacy of such laws and the enforcement thereof, and

"(iii) cooperative arrangements are entered into with the State health authority, the State agency primarily responsible for State supervision of public schools, and other appropriate agencies to assure to the maximum extent feasible that instances of child abuse will be reported to the appropriate agencies within the State and that appropriate services and action are taken by such agencies with respect to each instance of child abuse so reported, and".

And, in lieu thereof insert:

SEC. 5. There are hereby authorized to be appropriated for the purposes of this Act $10,000,000 for the fiscal year ending June 30, 1974, and $20,000,000 for each of the four succeeding fiscal years, of which not more than $2,000,000 per annum shall be available for the purposes of section 2 of this Act, and not more than $1,000,000 per annum shall be available for the purposes of section 4 of this Act.

PENDING BUSINESS TEMPORARILY LAID ASIDE

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the pending business be laid aside temporarily.

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

ESSENTIAL RAIL SERVICES CONTINUATION ACT OF 1973

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate turn to the consideration of Calendar 284, S. 1925, which has been cleared all around.

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

The bill was read by title as follows:

A bill (S. 1925) to amend section 1(16) of the Interstate Commerce Act authorizing the Interstate Commerce Commission to continue rail transportation services.

The Senate proceeded to consider the bill which had been reported from the Committee on Commerce with an amendment to strike out all after the enacting clause and insert:

That this Act may be cited as the "Essential Rail Services Continuation Act of 1973".

SEC. 2. Section 1(16) of the Interstate Commerce Act (49 U.S.C. 1(16)) is amended by inserting "(a)" before the word "Whenever" in the first sentence and adding the following new paragraph:

"(b) Whenever any carrier by railroad is unable to transport the traffic offered it because—

"(A) its cash position makes its continuing operation impossible;

"(B) it has been ordered to discontinue any service by a court; or

"(C) it has abandoned service without obtaining a certificate from the Commission pursuant to this section; the Commission may, upon the same procedure as provided in paragraph (15) of this section, make such just and reasonable directions with respect to the handling, routing, and movement of the traffic available to such carrier and its distribution over such carrier's lines, as in the opinion of the Commission will best promote the service in the interest of the public and the commerce of the people subject to the following conditions:

"(A) Such directions shall be effective for no longer than sixty days unless extended by the Commission for cause shown for an additional designated period not to exceed one hundred and eighty days.

"(B) No such direction shall be issued that would cause a carrier to operate in violation of the Federal Railroad Safety Act of 1970 (45 U.S.C. 421) or that would substantially impair the ability of the carrier so directed to serve adequately its own patrons or to meet its outstanding common carrier obligations.

"(C) The directed carrier shall not, by reason of such Commission direction, be deemed to have assumed or to become responsible for the debts of the other carrier.

"(D) The directed carrier shall hire employees of the other carrier to the extent such employees had previously performed the directed service for the other carrier, and, as to such employees as shall be so hired, the directed carrier shall be deemed to have assumed all existing employment obligations and practices of the other carrier relating thereto, including but not limited to agreements governing rates of pay, rules and working conditions, and all employee protective conditions for the duration of the direction.

"(E) Any order of the Commission entered pursuant to paragraph (b) hereof shall provide that if, for the period of its effectiveness, the cost, as hereinafter defined, of handling, routing, and moving the traffic of another carrier over the other carrier's lines of road shall exceed the direct revenues therefor, then upon request, payment shall be made to the directed carrier, in the manner hereinafter provided and within ninety days after expiration of such order, of a sum equal to the amount by which such cost has exceeded said revenues. The term 'costs' shall mean those expenditures made or incurred in or attributable to the operations as directed, including the rental or lease of necessary equipment, plus an appropriate allocation of common expenses, overheads, and a reasonable profit. Such cost shall be then currently recorded by the carrier or carriers in such manner and on such forms as by general order may be prescribed by the Commission and shall be submitted to and subject to audit by the Commission. The Commission shall certify promptly to the Secretary of the Treasury the amount of payment to be made to said carrier or carriers under the provisions of this paragraph. Payments required to be made to a

carrier under the provisions of this paragraph shall be made by the Secretary of the Treasury from funds hereby authorized to be appropriated in such amounts as may be necessary for the purpose of carrying out the provisions hereof."

The PRESIDING OFFICER. The question is on agreeing to the committee amendment.

The committee amendment was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill (S. 1925) was ordered to be engrossed for a third reading, was read the third time, and passed.

NATIONAL CENTER ON CHILD ABUSE AND NEGLECT

The Senate resumed the consideration of S. 1191 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.

Mr. MANSFIELD. I suggest the absence of a quorum.

The assistant legislative clerk proceeded to call the roll.

Mr. RANDOLPH. 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. STEVENS. Mr. President, will the Senator from West Virginia yield for a parliamentary inquiry?

Mr. RANDOLPH. Yes, I yield.

Mr. STEVENS. Mr. President, following the consideration of the child abuse bill, will the time on the Alaska Pipeline bill be under control for the rest of the day?

The PRESIDING OFFICER. There is a general time limitation on S. 1081 which will be in effect following the consideration of S. 1191.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that upon the disposition of the pending business and our return to the consideration of the Alaska bill there be no time limitation for the remainder of the day.

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

The question before the Senate is on the passage of S. 1191. Who yields time?

Mr. STAFFORD obtained the floor.

Mr. JAVITS. Mr. President, will the distinguished Senator from Vermont yield me 2 minutes?

Mr. STAFFORD. I yield 2 minutes to the distinguished Senator from New York.

Mr. JAVITS. Mr. President, I wish to express myself as being in favor of the bill, S. 1191, the Child Abuse Prevention and Treatment Act, which I have cosponsored.

I desire to express my deep appreciation to the distinguished Senator from Minnesota (Mr. MONDALE), who is the basic author; to the distinguished Senator from Vermont (Mr. STAFFORD), on the Republican side, who has given a great deal of energy, intelligence, and constructive effort to the fashioning of the bill; and to the distinguished Senator from West Virginia (Mr. RANDOLPH), who has undertaken the floor management of the bill, together with Senator STAFFORD.

It is quite clear that the dimensions of child abuse in the Nation exceed greatly the capacity of State and local and Federal efforts to deal with the problem.

As noted in the committee report, 60,000 cases of child abuse are reported annually; in New York City alone more than 10,000 cases of child abuse or suspected abuse were reported in 1972. According to the testimony of Barbara Blum, assistant administrator commissioner of the special services for children program in New York City, 50 children died in New York City alone last year in cases of child abuse.

The Department of Health, Education, and Welfare testified in hearings before the committee that of the $46 million available for children's programs under title IV–B of the Social Security Act in 1973—the principal source of funding—only $507,000 was spent on activities related to child abuse.

This means that for each of the 60,000 reported cases in the country—and we can expect that that figure would be multiplied many times were reporting laws more adequate—less than $10 is now available from Federal, State, and local sources.

The administration, which opposes this bill, points to a number of efforts now conducted or to be conducted by the Department of Health, Education, and Welfare, through the Office of Child Development and other agencies; these efforts which include expanded funding, a review of existing programs, and the establishment of model codes, are set forth in a letter to Senator WILLIAMS, chairman of the Committee on Labor and Public Welfare from Secretary Weinberger, and printed at page 8 of the committee report on this bill.

The administration's basic position is stated on page 9 of the report as follows:

> We believe the most effective approach to the problem is to work with State and local government, voluntary agencies, and professional associations to obtain a more adequate picture of the incidence and characteristics of child abuse than we have now. Rather than creating new offices and commissions, as proposed by S. 1191, I am of the opinion that coordination and intensification of existing efforts and organizations will produce greater and more lasting positive results.

In my opinion—without faulting the commendable plans of the administration—that, in essence, is exactly what this bill would do.

The basic elements of the committee's bill—the establishment of a national center on child abuse, the establishment of a demonstration program and the establishment of a national commission on child abuse and neglect—are all directed to the end of the Federal Government "working with State and local governments, voluntary agencies and professional associations" to the end of dealing with the problem of child abuse.

The committee bill does not represent a substantial "flooding" of Federal funds or intrusion of the Federal Government into the area of child abuse.

Its authorization of $90,000,000 over a 5-year period—roughly $20,000,000 a year—is very modest indeed considering the present efforts I have outlined and the needs—and even then it is to be directed in efforts in which the Federal Government will serve basically an innovative and catalytic function.

The bill is clearly only an interim measure—not yet a comprehensive proposal to deal with child abuse across the board.

Mr. President, it is quite clear from testimony of very distinguished experts on the State and city level in New York, as well as elsewhere, that at least as equally important as this bill, will be some sharpening of efforts under title IV–A of the Social Security Act, which as noted, is the principal source of funding at this time.

Accordingly, I am very pleased that the Committee on Labor and Public Welfare, while unable to effect changes in that law since it is within the jurisdiction of the Senate Finance Committee, will work with that committee, and as ranking minority member I pledge every effort to that end.

Also, I am delighted with the inclusion in this bill of the number of provisions that I added on the basis of testimony during the hearings in New York and elsewhere; these include:

The provisions set forth in section 2(a)(4) under which the national center on child abuse would provide technical assistance to public and nonprofit private agencies.

Provisions set forth in section 4(b) to insure that parents, State and local officials as well as other persons serve on the National Commission to be established under that section.

The provisions contained in section 4(d) mandating that the Commission shall explore the relationship between drug abuse, alcoholism and child abuse and neglect and the adequacy of funding for efforts to deal with child abuse.

I am also pleased that the bill contains, in section 3(a)(3) an authorization for the funding of parent self-help organizations. This will permit Federal "seed money" for "Parents Anonymous" programs which have been conducted in New York City and in other areas of the country with such success.

Mr. President, for these reasons I support the committee bill and urge that it be passed.

Mr. STAFFORD. Mr. President, I yield myself as much time as I may consume.

I ask unanimous consent that an excerpt from the committee report be printed in the RECORD.

PURPOSE

The purpose of the legislation is to provide financial assistance for demonstration programs for the prevention, identification, and treatment of child abuse and neglect, to establish a National Center on Child Abuse and Neglect, and for other purposes.

NEED FOR S. 1191

Each year in this country, thousands of innocent children are beaten, burned, poisoned, or otherwise abused by adults.

One source—the National Center for the Prevention and Treatment of Child Abuse

and Neglect in Denver—estimates that 60,000 cases of child abuse are reported annually. Barbara Blum, assistant administrator commissioner of the special services for children program in New York City, testified that in that city alone, more than 10,000 cases of child abuse or suspected abuse were reported in 1972. Witnesses agreed that most estimates of the incidence of child abuse represent only a small proportion of the number of children who are actually maltreated.

In the last decade nearly every State in the Union has revised its child abuse reporting laws. Yet it is common for cases of abuse to come to light only after the victim has suffered permanent psychological and/or physical damage; or even been killed. One reason for this is that most laws do not require any followup or treatment once a case of abuse has been reported.

Although effective programs exist in some communities, for many years the problem of child abuse has lacked a focus within broader social service programs. Moreover, the very social service agencies with the responsibility to deal with this problem have often lacked the necessary resources. One witness, an admitted former child abuser, testified that she had voluntarily gone from one public agency to another seeking help which would prevent her from harming her child—and was repeatedly turned away.

Federal support for programs dealing with child abuse—to the limited extent that it exists—has been available primarily through title IV–B of the Social Security Act, which authorizes child welfare services including child protective services. However, the entire child welfare program received only $46 million in 1973 and is budgeted for the same amount in 1974. And, HEW told the committee that of the $46 million available for IV–B activities in 1973, only $507,000 was spent on activities related to child abuse.

Representatives of the Department of Health, Education, and Welfare testified that child abuse programs are a function of the individual States and should be implemented under the existing authority for titles IV–A and IV–B under the Social Security Act. However, they also testified that they had no information about the effectiveness of these State programs in preventing, identifying, and treating child abuse, but were aware that they are not adequate. The hearings revealed further that not one employee of the Federal Government works full time on the problem of child abuse.

LEGISLATIVE HISTORY

On March 18, 1973, Senator Mondale introduced, with the cosponsorship of 13 other Senators, S. 1191, the Child Abuse Prevention and Treatment Act. A similar bill, H.R. 638, was introduced in the House of Representatives.

The Subcommittee on Children and Youth received testimony on S. 1191 in hearings in Washington, Denver, and New York. As part of these investigations the subcommittee visited the child abuse treatment facilities in Children's Hospital, Washington, D.C.; Roosevelt Hospital in New York; and the National Center for the Prevention and Treatment of Child Abuse and Neglect affiliated with the University of Colorado Medical Center in Denver. In addition, testimony was taken at a joint hearing of the Subcommittees on Human Resources and Employment, Poverty, and Migratory Labor in Los Angeles.

On June 18 the bill was reported with amendments by the Senate Subcommittee on Children and Youth to the Labor and Public Welfare Committee.

THE CHILD ABUSER

Dr. John Allen, a representative of the American Academy of Pediatrics testified: "We believe strongly that about 80 percent of these families (of abused children), and may be even 90 percent, with proper multi-disciplinary coordination, could be rehabilitated * * *."

Witnesses agreed that only about 10 percent of adults who abuse children are psychotic or seriously mentally ill; and that the other 90 percent inflict abuse on a child out of frustration about other problems or unrealistic expectations about how a child should act.

Obviously, abused children must be permanently removed from the care of psychotic parents or other adults. However, in other cases the child can often be removed temporarily and returned to the family after both parent and child have undergone some type of therapy or other remediation of the family situation.

Dr. C. Henry Kempe of the center in Denver believes that child abuse occurs most often when a crisis occurs in a family in which parents may have underlying tendencies to resort to violence as a solution to their problems. Examples of a crisis, Kempe suggests, could be an argument over money, loss of a job, the need for day care—anything which disrupts the fabric of family life.

In the majority of cases, witnesses testified, parents who abuse their children were themselves abused when they were young. This suggests the vital importance of trying to treat child abuse so that a cycle is not repeated from generation to generation.

TREATMENT PROGRAMS

Members of the committee were encouraged to learn that in recent years a number of promising new approaches to child abuse have been developed and put into effect on a limited basis.

One of these approaches is the creation and operation of multi-disciplinary child abuse teams, like the ones at Children's Hospital in Washington, D.C., at Roosevelt Hospital in New York, and at the National Center in Denver. The personnel on these teams represent the various disciplines with a potential for contribution to solution of child abuse cases—doctor, psychiatrists, and psychologists, social workers, nurses, lawyers, and law enforcement officials.

These teams collect information from a variety of sources concerning a specific case of child abuse or suspected abuse; combine the information; and develop a program of treatment for both the abused child and his family.

The work of the professionals on the Denver team is augmented by the work of lay therapists. These are mothers who are trained to work closely with families in which child abuse has occurred; and to offer their assistance on a 24-hour-a-day basis. The lay therapists, who receive $2 an hour for their services, work with two or three families. They visit parents and children regularly and make themselves available to help resolve the types of crises that often lead to child abuse.

Another promising approach to dealing with child abuse has been the creation of parent self-help groups. These are organizations like Parents Anonymous, and Families Anonymous, whose membership consists of parents who have abused or fear that they might hurt their children. In a manner similar to that of Alcoholic Anonymous, these parents call on each other for assistance in a family crisis; and also learn to cope with their abusive tendencies by talking about them with others who have the same problem.

Through a combination of the above services, over the past 4½ years the Denver center has been able to return 90 percent of the abused children to their natural families within 8 months without any repetition of abuse.

THE DEMONSTRATION GRANT PROGRAM

The committee believes that the types of substantial contribution to eliminating child activities described above could provide a abuse if financial support were available to expand and strengthen them. These efforts have started and managed to exist through foundation grants, community contributions, and contributions of staff and facilities by hospitals, welfare agencies, police departments, and other institutions and agencies, The funds available from these sources are inadequate to the national need for such programs.

It is the intention of the committee that the demonstration grants be awarded to a wide variety of recipients for a variety of programs aimed at preventing, identifying, and treating child abuse. The committee believes that there is a particular need to increase the training opportunities of hospital emergency room personnel, social workers, teachers, and others who are likely to come in contact with child abuse. The committee further recognizes the special needs of small, and/or isolated communities which lack the resources to establish a complete multi-disciplinary team, and encourages the creation of networks of experts who can consult and advise the authorities in such communities on child abuse.

It is the intention of the committee that is establishing regulations governing assistance to parental self-help organizations the Secretary shall not prescribe organizational rigidities tending to require procedures limiting the effectiveness or violating the confidentiality of such programs, which must remain informal and nonbureaucratic to be effective.

NATIONAL CENTER ON CHILD ABUSE AND NEGLECT

Testimony by the Department of Health, Education, and Welfare clearly indicated that there is no central repository of information on either child abuse research or programs in this country. The committee believes that all communities should have access to any information which might assist them in dealing with child abuse.

The committee takes note of the announcement in June by HEW that it would test the feasibility of creating a clearinghouse to collect and disseminate information on child abuse. The committee believes strongly that the replication of promising program models will be enhanced by the creation of such a clearinghouse and that the immediate need has been fully documented in testimony.

NATIONAL COMMISSION ON CHILD ABUSE AND NEGLECT

It is clear that many complex legal and policy questions remain to be answered in the area of child abuse. For this reason, the committee has endorsed the concept of a Presidential Commission to study some of these questions and to make appropriate recommendations. The committee hopes that one area included in this examination will be the nature, effectiveness, and desirability of statutes which offer immunity from civil and criminal liability to persons who report child abuse.

The committee is aware that the Department of HEW has announced plans to study child abuse laws and possibly recommend acceptance of a new model statute by the States. The committee believes that the study should be expanded to include other areas and should be carried out by an independent, objective, outside body—the Presidential Commission—rather than by a government agency.

The committee further believes that establishment of the Commission—with authority to conduct public hearings and a mandate to report its findings—will assure a vital continuation of the public focus and the input of parents and others with insights into the problem of child abuse.

PREVENTION AND TREATMENT OF CHILD ABUSE UNDER THE SOCIAL SECURITY ACT

The committee believes that an adequate response to the problem of child abuse re-

quires not only enactment and funding of S. 1191, but also greater resources for and attention to the protective services activities authorized under titles IV–A and IV–B of the Social Security Act. Indeed, in order to emphasize this combined approach, S. 1191 as originally introduced contained an amendment to the Social Security Act requiring every State to have a State plan for activities related to child abuse under the child welfare program authorized by title IV–B. This provision was dropped at the subcommittee level with the understanding that Senator Mondale would introduce a revised and strengthened version of it on behalf of himself and other committee members for consideration by the Finance Committee, which also has a deep concern about the problem of child abuse and has jurisdiction over legislation amending the Social Security Act.

Inclusion of this protective provision in the original bill, however, did help provoke some useful suggestions and recommendations during subcommittee hearings and investigations.

Dr. Vincent DeFrancis of the American Humane Association, Assistant Administrator/Commissioner Barbara Blum of New York City's Special Services Agency for children, and representatives of the Child Welfare League provided the subcommittee with an understanding of these existing efforts, and persuasively urged that title IV–B be strengthened and more fully funded so that child protection agencies have better support and more adequate resources for dealing with child abuse problems.

This dual approach received further support at the National Conference on Child Abuse and Neglect held in Washington this June. Members of the conference workshop on legislation suggested that Federal child abuse efforts include both a demonstration grant program of the type authorized by S. 1191 and an effort to upgrade existing child protective services along the lines suggested above. Authorities suggested, among other things, that in order to receive IV–B funds, States be required to meet more specific standards—such as having a child abuse reporting law—than those included in S. 1191 as originally introduced.

Following the hearings on S. 1191, the Department of Health, Education, and Welfare announced its intention to earmark $4 million for activities related to child abuse in fiscal 1974. Yet the announcement did not specify where these funds would come from, nor the extent to which they represented new and heretofore unplanned expenditures. Because of these ambiguities, and because of the severely limited budget available to Office of Child Development to fulfill its existing responsibilities in a wide range of programs serving children, Senator Mondale wrote to HEW requesting a detailed explanation of the sources of the $4 million and of the Department's plans for spending it. The text of Senator Mondale's letter and the response from Secretary Caspar Weinberger appear at the end of this report.

CONCLUSION

The committee believes that the HEW response demonstrates the inadequacy of the Department's plans for dealing with the critical and immediate problem of child abuse; and further demonstrates the pressing need for enactment of S. 1191.

JUNE 11, 1973.

Hon. CASPAR WEINBERGER,
Secretary, Department of Health, Education, and Welfare, Washington, D.C.

DEAR SECRETARY WEINBERGER: I understand that Acting Assistant Secretary for Human Development Stanley B. Thomas, Jr., announced on June 9 that HEW has earmarked $4 million to be used in activities relating to child abuse in fiscal year 1974.

As you know, legislation dealing with child abuse is pending before the subcommittee. I would appreciate receiving from you the following information about the new activities to be undertaken by the Department in this area:

1. A detailed explanation of the sources of the $4 million—including authorizations. Was this previously planned or authorized for other programs? If so, please list them and the amounts of money involved in each.

2. A detailed explanation of how the $4 million will be spent.

3. How the Department intends to go along initiating a revision of the model child abuse reporting law.

4. What method will be used to survey the activities of States relating to child abuse? What criteria will be used to judge the effectiveness of the "program models and systems" to be studied for possible replication?

5. Exactly how the Department intends to test the feasibility of establishing a national clearinghouse.

6. A description of the type of training materials to be developed; of their contents, their distribution and audiences.

Because this legislation is under active consideration by the subcommittee, I request that you submit this information to me by the close of business on June 15.

Sincerely,

WALTER F. MONDALE.

JUNE 20, 1973.

Hon. WALTER F. MONDALE,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MONDALE: I am pleased to respond to your letter of June 11 relating to the Department's plans in the area of child abuse. Of course in as important a field as this, our plans will necessarily evolve in various ways as more information on needs is developed.

The information that follows references the specific points in your letter:

1. Funds for the support of increased efforts in the area of child abuse will come from existing authorities such as the Office of Child Development and other programs as appropriate. Specific sources will be identified as our planning evolves. We would not expect that the funds will have been planned or authorized for other programs.

2. Plans for spending the $4 million will involve: (1) Revision of the model child abuse reporting law first developed in 1962; (2) survey of existing State and local programs in order to develop program models suitable for replication; (3) development of approaches to the collection and dissemination of data with respect to child abuse and neglect; and (4) development of training materials for persons dealing with the abused child. In addition, we will enlist the assistance of experts in the field to secure the benefit of their ideas and suggestions.

3. The Office of Child Development will be responsible for revision of the model child abuse reporting law, seeking the advice and assistance of a variety of knowledgeable individuals.

4. The Department plans to review its child abuse program guidelines and revise them as appropriate. This will involve a survey of selected State programs and a review of current State and Federal guidelines. In addition, a survey of selected local child abuse programs will be conducted as part of an effort to develop appropriate criteria to judge the effectiveness of current models. While it is too early to specify criteria at this time, we are looking for programs which allow for equal access of all children to services, which provide a coordinated flow of cases through the legal, medical, and social service systems involved, and which have clarity of assignment of responsibility in all phases of a case.

5. The feasibility of establishing a national clearinghouse will be tested by a recognized authority on child abuse and on reporting laws. The primary emphasis will be on the coordination of State reporting systems, with an effort to bring them into accord on definitions of what is to be reported, who is mandated to report, and to whom the report should be made.

6. The types of training materials and the contents of the material are undetermined at this time. However, I anticipate utilizing the expertise of many persons, from many disciplines, in the development of materials. The potential audience are those persons who would be most likely to come into contact with children and thus be in a position to identify the abused or potentially abused child, that is, teachers, doctors, nurses, policemen, and so on.

Your continuing interest in the Department's activities is appreciated.

With kind personal regards,

Sincerely,

CASPAR W. WEINBERGER,
Secretary.

DEPARTMENTAL REPORT

THE SECRETARY OF HEALTH, EDUCATION, AND WELFARE,
Washington, D.C.

Hon. HARRISON A. WILLIAMS, Jr.,
Chairman, Committee on Labor and Public Welfare, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This letter is in response to your request for a report on S. 1191, a bill entitled the Child Abuse Prevention Act.

This bill would direct the Secretary of HEW to establish a National Office on Child Abuse and Neglect to serve as the focal point for dissemination of research results on child abuse and neglect. The Office would establish and maintain an information clearinghouse on child abuse programs, and compile and publish training materials for persons working in or planning to enter the field. The bill would also establish a program of grants and contracts for demonstration programs designed to prevent, identify, and treat child abuse and neglect. In addition, S. 1191 would establish a National Commission on Child Abuse and Neglect, appointed by the President, to study and investigate the effectiveness of existing reporting laws and the proper role of the Federal Government in assisting State and local public and private efforts to cope with child abuse and neglect.

The Department of Health, Education, and Welfare has been deeply involved with the problem of child abuse. The Children's Bureau, now a part of the Office of Child Development, has for a number of years been concerned with this complex problem and, in 1961, undertook the task of assembling information and initiating action. The first step was the development of a State model act, to assist States in the formulating of State laws, since the States have always had jurisdiction in this area. Now, all the 50 States, the District of Columbia, Guam, and the Virgin Islands have enacted child abuse reporting laws and some have amended their original laws to make them more effective.

Dealing with child abuse involves not merely the identification of the abused child but a whole range of services aimed at prevention of abuse and treatment of the child and his family. The most compelling current need is for the fullest implementation of existing laws. Basic to any solution of the problem is the establishment of comprehensive protective and preventive services, including child health services, throughout a State. While the Federal role in this process is an important one, the Department sees this role as one of providing financial assistance, technical advice, and research and demonstrations to discover new and more effective means of carrying out State programs, rather than mandating specific procedures.

The principal Federal financial assistance to States in serving children and their parents who are involved in child abuse derives from the Social Security Act, in particular

the 1967 amendments to title IV–A which require that protective services be provided to all neglected or abused children in families receiving AFDC and that cooperative arrangements be worked out with the courts and law enforcement officials in referring appropriate cases and following up on these cases. States may claim 75 percent reimbursement from the Federal Government for their expenditures for these purposes. In the period 1971–74, approximately $224,362,000 of title IV–A money will be used to reimburse States for protective services, and $655,000 of these funds will be spent on research and demonstrations related to child abuse.

During the same period, Federal child welfare funds, authorized by title IV–B of the Social Security Act, in the amount of $2,643,000 will have been spent for protective services provided by State child welfare programs for children who are not recipients of AFDC. Federal funds are also provided through title V of the Social Security Act, by the Maternal and Child Health Service, for health services which are a basic element of the identification and treatment of child abuse. In addition, the National Institute of Mental Health will have expended an estimated $829,534 from Public Health Services Act funds. The total of these Federal expenditures for the 1971–74 period is estimated at $231,656,240.

We believe the most effective approach to the problem is to work with State and local government voluntary agencies and professional associations to obtain a more adequate picture of the incidence and characteristics of child abuse than we have now. Rather than creating new offices and commissions, as proposed by S. 1191, I am of the opinion that coordination and intensification of existing efforts and organizations will produce greater and more lasting positive results. Accordingly, I have designated the Office of Child Development to take the leadership in coordinating the enhanced Department efforts in the child abuse and neglect area. The Office of Child Development has recently made a grant to Dr. Vincent DeFrancis, a noted authority in this field, to examine the feasibility of a National Clearinghouse on Child Abuse and Neglect for the systematic gathering of data which would assist in the analysis of trends having policy and program implications. This should be of material assistance in the development of effective programs and the allocation of resources where they will do the most good.

The National Institute of Mental Health conducts research, provides training, and disseminates materials relating to child abuse. In October 1972, for example, it published a bibliography entitled "Selected References on the Abused and Battered Child." In June of 1973, the National Institute of Mental Health also supported a conference on child abuse attended by a number of experts from the key disciplines involved in the problem. One of the major efforts of this conference was to attempt to define the problems of identification of abuse, including the legal, social and medical aspects. At that conference, the Acting Assistant Secretary for Human Development outlined the new initiatives which will be undertaken by HEW, involving the earmarking of $4 million of new funds in addition to those already committed to this problem.

We are also currently funding projects for the provision of emergency services—one in Buffalo, N.Y. and the other in Nashville, Tenn.—which provide assistance to families in crisis, many of which involve child abuse. Another of our projects operates a protective services center, offering a broad range of services to families who have abused their children. We also are planning a study to identify the early warning signs of family dysfunction which is generally a prelude to abuse. Another of our planned studies is a national evaluation of child abuse programs to determine the most effective means of dealing with the problems of child abuse at the local level.

As this review of our activities indicates, abused or neglected, I have already alluded to the funds provided under the AFDC, Child Welfare and Material and Child Health authorities of the Social Security Act. But it should also be recognized that much of the current activity and much of the projected effort in combatting the child abuse problem is supported solely from State, local, and voluntary funding sources, such as hospitals with large pediatric services. We sincerely believe that such local community efforts should be encouraged and supported rather than supplanted by Federal mandates.

As this review of our activities indicates, we are already deeply and firmly committed to substantial and enhanced efforts to cope with the problem of child abuse and neglect. Many of our ongoing activities as well as our projected ones would be duplicated by the provisions of S. 1191. In addition, S. 1191 proposes the creation of new organizational categorical units which, in the experience of the Department, tend to work against the development of successful means of dealing with problems rather than aiding in their solution.

For the above reasons, we believe that S. 1191 is unnecessary to carry out the Federal role of assisting States and local communities in coping with child abuse, and we recommend against its enactment.

We are advised by the Office of Management and Budget that there is no objection to the presentation of this report from the standpoint of the administration's program.

Sincerely,

CASPAR W. WEINBERGER,
Secretary.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

This section provides that the legislation may be cited as the "Child Abuse Prevention and Treatment Act."

Section 2. National Center on Child Abuse and Neglect

This section authorizes the Secretary of HEW, to create, within the Office of Child Development, a National Center on Child Abuse and Neglect. It specifies that the center is authorized to compile, analyze and publish annually a summary of research on child abuse and neglect; to develop and maintain an information clearinghouse on programs dealing with child abuse; to compile and publish training materials for personnel in the fields which deal with child abuse; to provide technical assistance to public and nonprofit private agencies; and to administer the demonstration grant program authorized in section 3.

Section 3. Demonstration program for the prevention, identification and treatment of child abuse and neglect

Subsection 3(a) authorizes the Secretary of HEW, through the center, to make grants for demonstration programs designed to prevent, identify, and treat child abuse and neglect. This section specifies that the grants may be used for training of personnel to deal with child abuse; for establishment and maintenance of multidisciplinary centers to deal with child abuse; and for other innovative projects, including support of parent self-help organizations, which show promise of preventing or treating child abuse and neglect.

Subsection 3(b) specifies that funds provided pursuant to this section shall not be used for construction of facilities but may be used for lease or rental of facilities where adequate facilities are not available; and for repair or minor remodeling or alteration of existing facilities.

Subsection 3(c) requires the Secretary to establish criteria designed to achieve equitable distribution of assistance under this section among geographic areas of the Nation, and among urban and urban areas. It also specifies that to the extent possible, citizens from each State receive assistance from at least one project supported under this section.

Section 4. National Commission on Child Abuse and Neglect

Section 4(a) creates a National Commission on Child Abuse and Neglect.

Section 4(b) requires that the Commission have 15 members, appointed by the President with the advice and consent of the Senate. It specifies that the membership include parents, State and local officials and other persons who by reason of experience or training in the fields related to child abuse and neglect, are especially qualified to serve. The Secretary and the Director of the Office of Child Development are named as ex officio members of the Commission. This subsection also requires that the Commission be appointed and hold its first meeting within 60 days of enactment.

Subsection 4(c). This subsection provides that the Commission elect one of its members to serve as chairman and one to serve as vice chairman; that a vacancy in the Commission not affect its powers; and that eight members of the Commission shall constitute a quorum.

Subsection 4(d) requires the Commission to make a full study and investigation of several questions related to child abuse, and to transmit to the President and Congress 1 year after the first meeting a report containing a statement of the findings and conclusions of the Commission, together with such recommendations, including recommendations for Federal and State legislation, as it deems advisable.

The questions the Commission is required to study are the effectiveness of existing child abuse and neglect reporting laws, ordinances and related laws; the effectiveness of existing programs designed to prevent, identify, and treat child abuse and neglect; the national incidence of child abuse and neglect; the causes of child abuse and neglect; the adequacy of Federal, State, local, public, and private funding for child abuse programs; and the appropriate role of the Federal Government in assisting State and local public and private efforts to deal with child abuse and neglect.

Subsection 4(e) authorizes the Commission to hold hearings and to take sworn testimony from witnesses; requires Government agencies to furnish the Commission with such information as requested by the chairman or vice chairman to carry out the functions of the Commission; authorizes the chairman to appoint staff and hire consultants; authorizes the Commission to enter into contracts with private, nonprofit firms, institutions, and individuals to prepare research or surveys, reports, and other activities deemed necessary; authorizes the compensation of members of the Commission at the maximum per diem rate of GS–18; and specifies that on the 90th day after the date of submission of its report to the President, the Commission shall cease to exist.

COST ESTIMATE PURSUANT TO SECTION 252 OF THE LEGISLATIVE REORGANIZATION ACT OF 1970

In accordance with section 252(a) of the Legislative Reorganization Act of 1970 (Public Law 91–510, 91st Congress), the committee estimates that the cost which would be incurred in carrying out this bill as amended in the fiscal year ending June 30, 1974, and for each of the 4 succeeding years would be $10 million for the fiscal year ending June 30, 1974, and $20 million for each of the 4 succeeding fiscal years, of which not more than $2 million per annum shall be available for section 2 and not more than $1 million for section 4 of the bill.

Mr. STAFFORD. Mr. President, the bill before the Senate is designed to end years of Government neglect of a terrible and a growing danger to the health and well-being of our Nation's greatest resource: our children. This legislation is designed to get us started down the road to the development of a system through which we will be able to identify and to treat the thousands of American youngsters who are victims of child abuse each year. And, perhaps more importantly, this legislation is designed to get our Nation started on the quest for a system through which we will be able to prevent the abuse of countless numbers of other American children who are destined to become victims unless we act with determination.

In placing this bill before the Senate, we are calling upon the Government of the United States to volunteer to act in the defense of American children who are too young to articulate their needs; of infants who cannot speak out to call for help; of infants whose only method of expression is often an anguished cry of pain and despair.

Equally important, this legislation is designed to aid the families of these children: the fathers and mothers and other relatives who inflict the abuse, more often out of frustration and lack of understanding than out of any evil intent. It has been estimated that 80 to 90 percent of these families can be rehabilitated, given adequate treatment and guidance.

Mr. President, the Child Abuse Prevention and Treatment Act is designed to move on these three fronts:

First. It would establish within the Office of Child Development a center that would take note of all research going on in this field; that would maintain a national clearinghouse on programs dealing with child abuse treatment and prevention, and that would make this information, along with training material, available to persons working in the field.

Second. It would establish demonstration grants to be used to train specialists in the field and to make these specialists available where they are most needed. The demonstration grants would also be used to support innovative programs that hold promise for the prevention and treatment of child abuse.

Third. It would create a National Commission on Child Abuse to examine the proper role of the Federal Government in this field of human need. The Commission would also examine the effectiveness of existing laws and programs dealing with child abuse.

If anyone has any doubts about my contention that we have been guilty of official neglect of this mounting national problem, let me note that hearings conducted by the Subcommittee on Children and Youth revealed, in the words of the committee report—

> That not one employee of the Federal Government works full time on the problem of child abuse.

It is time for our Nation to redress that wrong.

During our subcommittee hearings, we heard testimony from specialists in the field. We heard the appeals of those who deal daily with the legal, sociological, psychological, and medical aspects of child abuse. And we heard, most dramatically and most movingly, from parents who had previously been guilty of abusing their own children.

The hearings revealed that about 60,000 cases of child abuse are reported annually in this Nation, but specialists in the field were unanimous in their agreement that only a small percentage of child abuse cases are ever officially reported. The actual number is doubtless many times 60,000 each year.

We also learned that child abuse is not associated primarily with any racial, ethnic, sociological, or economic group. The specialists told us that the incidence of child abuse is evenly distributed among the rich and the poor; the city dweller and the farmer; white and black; the college graduate and the high school dropout.

So, when you ask, whose children are we talking about, the answer is, we are talking about our children.

If there is one way to anticipate the kind of parents who are most likely to inflict abuse upon their children, the specialists in the field suggested to us that in a majority of cases of reported child abuse, the victims were the children of parents who had suffered child abuse when they were young.

Thus, it becomes vital that we act to halt an evil that appears to perpetuate itself.

While our years of neglect of this problem has meant we know too little about ways of preventing child abuse, there is some evidence of promising efforts to deal with the issue.

The creation and operation of multidisciplinary child abuse teams has blazed new trails through the forest of neglect. There is one such team at the Children's Hospital of the District of Columbia. There are others at Roosevelt Hospital in New York City and at the National Center for the Prevention and Treatment of Child Abuse and Neglect in Denver, Colo.

Evidence over the last 4½ years at the Denver center has demonstrated that 90 percent of abused children have been returned to their families within 8 months of treatment and rehabilitation, with no repetition of the tragic act. Thus, we have heartening evidence that we can dramatically reduce this assault against our children and against our sensibilities.

To date, Federal support for programs designed to prevent and treat child abuse have been limited primarily to funds available through title IV–A of the Social Security Act for child welfare and protective services. But, of the $46 million made available to child welfare programs during the 1973 fiscal year, only $570,000 was spent on activities related to child abuse prevention and treatment.

Within the last few weeks, the Department of Health, Education, and Welfare announced it would make available $4 million for programs designed to end child abuse. But details of the availability of that money and the ways it will be be spent remain vague. While I welcome the belated commitment of our Government to this struggle, I suggest that a much greater effort is needed.

Mr. President, at this point I ask unanimous consent that a history of child abuse prepared by the Congressional Research Service of the Library of Congress be included in the RECORD at the conclusion of my remarks. I also ask unanimous consent that editorials on the subject that appeared in the Washington Post of April 1, 1973, and in the Washington Star-News on April 2, 1973, also be included in the RECORD at the conclusion of my remarks.

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

(See exhibits 1 and 2.)

Mr. STAFFORD. Mr. President, this bill, S. 1191, calls for a modest financial effort by our Nation. The total cost would be $90 million over the next 5 years. It is an investment that cannot fail to return many times that amount of money in economic gains. But, more importantly, it is an investment that will yield this Nation immeasurable returns in terms of human values.

Mr. President, I have had the experience of sitting on the subcommittee and listening to the experts in this field, parents who have confessed to abusing their children. I have visited the Children's Hospital here in Washington and talked with the team of doctors and others who have various disciplines who attempt to deal with this problem.

Anyone who has seen an abused child would, I am sure, agree with me that they would want S. 1191 adopted this afternoon in the U.S. Senate. I hope we may have its unanimous approval.

It has been a privilege to serve with the distinguished Senator from Minnesota (Mr. MONDALE), chairman of the subcommittee, and with the distinguished Senator from West Virginia, Mr. JENNINGS RANDOLPH, chairman of the full committee.

I urge the adoption of S. 1191.

I reserve the remainder of my time.

EXHIBIT 1

CHILD ABUSE LEGISLATION IN THE UNITED STATES

Ironically, it may very well be the abhorrence of child abuse which has made it such a slow moving area of legislation. The very idea that a parent, who is supposed to love and protect his offspring, could be responsible for his or her child's physical injury, or even death is so repulsive that many are reluctant to believe it. Our courts have also been reluctant to get involved in internal family government, preferring to let the family head determine his own laws and punishments. The implied "hands-off" policy followed by the courts is very much the result of our close association with English Common Law. Under the English Common Law, the right of the father to custody and control of his children was considered absolute, regardless of the welfare of the child. This has carried over to a strong extent in our own legal system.

EARLY HISTORY OF CHILD ABUSE IN THE U.S.

In colonial America, the father ruled both his wife and his family. Parental discipline was severe, and parents, teacher and ministers found justification for stern disciplinary measures in the Bible.

The earliest recorded case of child abuse in the United States involved a Massachusetts man whose maltreatment of his apprentice resulted in the latter's death. This case, which took place in 1655 described the kind of brutality which is common in contemporary child abuse cases. The master was convicted of manslaughter, ordered "burned

in the hand" and his goods were confiscated. There were also two court cases in Massachusetts in 1675 and 1678 which record the removal of children from their parents because of unsuitable homes.

The dearth of recorded child abuse cases in early American history suggests the general tendency of the courts to allow parents their own discretion in determining home discipline. Parents were considered immune from prosecution unless the punishment was beyond the bounds of "reasonableness" in relation to the offence, or if the punishment was excessive, or the child was injured permanently.

EARLY REFORM MOVEMENT—CHILDREN AS ANIMALS

In 1840 there was a criminal case in Tennessee which involved prosecution for excessive punishment. Despite evidence which showed that the child had been beaten, whipped, her head pushed against a wall, and tied to a bedpost for hours, the court reversed the parents' conviction. It ruled that excessive punishment was a question of law, and that it was not the punishment, but its excessive nature which constituted the offence.

It wasn't until the second decade of the nineteenth century that public authorities began to intervene in cases of parental neglect. Most of the reform movements were directed toward children in institutions, however, and were aimed at preventing a neglected child from entering a life of crime.

Probably the most significant and helpful of all reform campaigns was that launched by the American Society for the Prevention of Cruelty to Animals. In 1874, a church worker sought the help of the President of the ASPCA on behalf of an abused child. The case concerned a ten-year old foster child named Mary Ellen Wilson who was the victim of child abuse. At that time there were laws which protected animals but no local, state or federal laws to protect children. The case was presented to the court on the theory that the child was a member of the animal kingdom, and therefore entitled to the same protection which the law gave to animals.

In the aftermath of public indignation over the case Elbridge T. Gerry, the lawyer who represented the ASPCA, founded the New York Society for the Prevention of Cruelty to Children. It was originally organized as a private group and later incorporated. Legislation was soon passed in New York and cruelty societies were authorized to file complaints for the violation of any laws relating to children, and law enforcement and court officials were required to aid the societies.

Similar societies were soon organized in other cities throughout the country and by 1922 there were 57 societies for the Prevention of Cruelty to Children, and 307 humane societies. With the advent of government intervention into child welfare the number of these societies has declined.

RECENT DEVELOPMENTS

One of the main reasons for the lack of prosecution in child abuse cases has always been the difficulty in determining whether the physical injury was, in fact, a case of deliberate assault by a parent, or an accident. Doctors in the area of pediatric radiology have been able to determine the incidence of repeated child abuse through more sophisticated developments in the area of X-ray technology. These advancements have allowed radiologists to see more clearly such things as subdural hematomas (blood clots around the brain resulting from blows to the head) and abnormal fractures. This has brought about more recognition of the widespread incidence of child abuse and public reaction has been on the rise.

LEGISLATION

The discovery of the bruised and weighted down body of three-year old Roxanne Felumero in the East River in 1969 set off particular public furor when it was discovered that just two months prior to her death her parents had been brought before the New York Family court for alleged neglect and abuse, and the judge had released the child back to her parents' custody.

This brings us to the problem of legislation. Between 1963 and 1969, all fifty state legislatures passed some kind of child abuse reporting statute, and all but four had mandatory requirements. But, despite this legislative action there are still thousands of cases of suspected abuse which remain unreported every year. The problems are difficult to solve through legislation. The reluctance of people to get involved, and the possibility of civil suits against them if they do seems to remain a deterrent despite the fact that all but one of the states has passed some form of immunity legislation. Part of the problem may also lie in the lack of information about the subject. The first studies which appeared in the early 1960's were often more sensationlistic than informative. Since that time, more substantive studies have been conducted and while the number of cases reported is still considered only the "tip of the iceberg", there has been an increase.

Until just recently, legislation in the area of child abuse has been confined almost entirely to the states. Although the passage of the Social Security Act in 1935 brought the federal government into the area of child welfare, they have mainly concentrated their concern on financial assistance. The 1962 Amendments to the Social Security Act did include a provision which required each state to extend their child protective services, but aside from this and legislation relating only to the District of Columbia (which is under the jurisdiction of Congress) the federal government has stayed out of the area of child abuse legislation.

Recently, perhaps because of the increasing awareness of child abuse, and the resulting public outcry, several bills have been introduced in Congress. Aside from those relating specifically to the District of Columbia there has been no action further than their referral to the proper committee.

CHILD ABUSE BILLS

(88th Congress through 92d Congress)

88TH CONGRESS, 1ST SESSION

No bills.

88TH CONGRESS, 2D SESSION

H.R. 9652—To provide for the mandatory reporting by physicians and institutions in the District of Columbia of certain physical abuses of children.

By: Mr. Multer, January 16, 1964.

To: Committee on the District of Columbia.

Action: Reported out favorably by commissioners with amendments and referred to Subcommittee No. 6 where there was no further action.

89TH CONGRESS, 1ST SESSION

S. 1318—To provide for the mandatory reporting by physicians and institutions in the District of Columbia of certain physical abuses of children.

By: Mr. Bible, March 1, 1965.

To: Committee on the District of Columbia.

Action: Referred to Subcommittee on Public Health, Education, Welfare and Safety where there was no further action.

H.R. 3394—Same as S. 1318.

By: Mr. Multer, January 25, 1965.

Action: Referred to Subcommittee No. 3; considered, amended and approved August 4, 1965. See H.R. 10304.

H.R. 3411—Same as H.R. 3394.

By: Mr. Sickles, January 25, 1965.

H.R. 3814—Same as H.R. 3394.

By: Mr. Moorhead, January 28, 1965.

H.R. 10304—To provide for the mandatory reporting by physicians and institutions in the District of Columbia of certain physical abuses of children. (Clean bill embodying amendments to H.R. 3394).

By: Mr. Multer, August 5, 1965.

Action: Committee on the District of Columbia considered and approved. Reported and passed House August 9, 1965. Reported and passed Senate, amended September 30, 1965.

89TH CONGRESS, 2D SESSION

No bills.

90TH CONGRESS, 1ST AND 2D SESSION

No bills.

91ST CONGRESS, 1ST SESSION

H.R. 11584—National Child Abuse Act—Provides for the protection of children under 16 years of age who have had physical injury inflicted upon them, or who are further threatened with physical injury by the conduct of those responsible for their care.

Requires mandatory reporting by any doctor, school teacher, social worker or welfare worker of an incidence of child abuse and makes it a misdemeanor for failure to report. Would grant immunity to any person filing a report in good faith.

Provides for the establishment of a child identification system through the issuance of a social security number to each child immediately after birth.

By: Mr. Biaggi, May 22, 1969.

To: Committee on Ways and Means. No further action.

H.R. 11615—National Child Abuse Act—Same as H.R. 11584.

By: Mr. Biaggi et al.; May 26, 1969.

To: Committee on Ways and Means. No further action.

91ST CONGRESS, 2D SESSION

H.R. 15481—National Child Abuse Act—Same as H.R. 11584 (above—91st 1st Session).

By: Mr. Biaggi et al.; January 21, 1970.

To: Committee on Ways and Means. No further action.

H.R. 19208—National Child Abuse Act—Same as H.R. 15481.

By: Mr. Fulton.

To: Committee on Ways and Means. No further action.

92ND CONGRESS, 2D SESSION

H.R. 304—National Child Abuse Act—Same as H.R. 19208 (see above).

By: Mr. Murphy (N.Y.) January 22, 1971.

To: Committee on Ways and Means—No further action.

H.R. 10336—Authorizes the Secretary of HEW to make grants to State agencies to assist in developing and carrying out child abuse prevention programs. Requires that the states provide for the reporting of instances of child abuse. Grants immunity from any civil or criminal liability for any doctors, school teacher, social worker, welfare worker, medical examiner or coroner who reports an instance of child abuse. Requires reporting of abuse by the above with a penalty for non-compliance of the reporting requirement. Authorizes the person making the report to hold the child in temporary custody or transfer the child to another person or agency if it is necessary in order to prevent the further abuse of the child through the proper court procedure.

By: Mr. Biaggi, August 3, 1971.

To: Committee on Ways and Means. No further action.

92ND CONGRESS, 2ND SESSION

H.R. 13855—Same as H.R. 10336.

By: Mr. Biaggi et al., March 16, 1972.

To: Committee on Ways and Means. No further action.

H.R. 13856—Same as above.

By: Mr. Biaggi et al. March 16, 1972.

To: Committee on Ways and Means. No further action.

JEAN YAVIS,
Education and Public Welfare Division.
November 1, 1972.

EXHIBIT 2

[From the Washington Star, Apr. 2, 1973]

THE BATTERED CHILDREN

Of all the loathsome happenings we can remember in this area, none was more repelling than this latest rash of child-abuse incidents, two of which resulted in the deaths of children and conviction of adults. Now there's a new charge in Montgomery County, against parents whose three-months-old baby died last week. No one can presume to judge guilt or innocence in that case. But this whole subject was brought into chilling focus the other day before a Senate subcommittee.

Anyone who saw the film slide presentation before that panel will never forget it. Indeed a good many people in that committee room diverted their eyes, so unbearable were the pictures being shown by a team of specialists from Children's Hospital. Those who watched saw a procession of infants and pre-teen children who had been brutally tortured—beaten, burned, scalded, wounded with forks and other instruments. Some had broken limbs. These things were suffered at the hands of parents and guardians, and it all happened here in the Washington area.

Worst of all, these cases apparently represented just a fraction of the whole picture. Dr. Robert H. Parrott, director of Children's Hospital, said the facility handled about 100 of the 150 child abuse cases reported in the District last year, "and we estimate there are three times that many occurring each year, but going undetected."

And in Montgomery County, suspected child abuse cases reported thus far this year exceed half the number for all of 1972, and are more than double those for 1971. This probably reflects an improvement of reporting more than an increase of abuse, because the area was startled into a recognition of the problem. The death of nine-year-old Donna Anne Stern under horrifying circumstances, and the murder conviction of her stepmother last month, didn't escape the attention of very many Montgomery countians. About half of this year's suspected cases have been reported by the school system, which has acquired a keener awareness of its obligation in this field.

But still there are serious shortcomings. Professional forces dealing with this dilemma—especially in the social and psychiatric services—are badly understaffed. Sometimes there has been poor communication between the responsible agencies. Some children who haven't been removed from abusive homes might have been saved from injury or death haven't been removed from abusive homes in time. And deficiencies of law deserve much blame, too. In Maryland, protective services workers don't have authority to enter a home, to investigate possible child abuse, without a warrant. Other citizens often hesitate to speak up for fear they won't have legal immunity in reporting abuse cases. However, theses drawbacks, and some others, would be removed by legislation now before the General Assembly. This session should produce new law to speed the identification and psychiatric treatment of child abusers, and afford better protection for the children.

The need for a strong federal assault on this problem is apparent, though, for most states are lagging dismally while children suffer. Senator Walter Mondale, whose subcommittee heard and viewed the grim testimony last week, has the most promising plan. He would establish a National Center and a National Commission on Child Abuse and Neglect, and require the states to draw up acceptable plans for remedial programs. Congress should approve this approach, along with enough funding to assist the states on a major scale.

[From the Washington Post, Apr. 1, 1973]

CARING FOR BATTERED CHILDREN

This much anyway the community owes to JoAnna Stern, the Montgomery County woman found guilty of killing her 9-year-old stepdaughter by a series of tortures almost too terrible to consider: a heightened awareness of the reality of child abuse and of the wholly inadequate measures we have devised to deal with it. As these particular horrors go and case by case, Mrs. Stern's behavior toward the child who died would have to be considered atypical—most child abuse is far less calculated and grotesque than that in which she engaged. But the part of the story that was, in its special way, most horrifying was also the part that was not atypical, the part about the manner in which responsible officials of the county, once alerted to the danger the child was in, still failed to take steps to rescue her in time. We quote a memorable passage from LaBarbara Bowman's account of the trial in The Post:

". . . a county policewoman told how she . . . tried without success to get the county's family services department to take an active role in the affairs of the troubled family."

The particular combinaton of lethargy and confusion that characterized this performance is hardly unique to the area we live in. The fact is that nationwide the relevant authorities have been slow to recognize the dimension of the problem of child abuse and slow to take advantage of the methods available for detecting its incidence and preventing terrible damage from being done. But that should not be much comfort and still less inspiration to the people of this area who have been reading daily about local cases of child abuse in which horrendous crimes are committed against infants and young children and in which horrendous mistakes may be made by those charged with protecting them.

The Child Abuse Team of Children's Hospital provided some incisive testimony before Senator Mondale's Subcommitee on Children and Youth the other day, outlining the steps that we should be taking to protect the helpless victims of these crimes. And while they described some progress, they also described the severe limitations on action that proceed from the fact that many of the relevant authorities are under-funded, understaffed and under-informed. Police, judges, lawyers, government workers and medical people, according to the Children's Hospital Team, could all use more education in known and available techniques for doing much better by the victims of child abuse.

In recommending a number of steps to be taken, the Children's Hospital Team did cite one giant step backwards the Department of Human Resources seems to be taking. It is the elimination of the corps of special protective services case workers who have been able to devote the requisite special and urgent attention to those children in distress. That group, rather than being enlarged and improved, is evidently to be disbanded, with the small caseload of each special protective service worker to be spread out among the overburdened case workers in other areas. As many of those observed, whose letters on this subject we printed Friday, there is something so senseless and misguided about this move as to defy reason. Emergency situations involving the lives of innocent and helpless children require emergency action—and action that is right the first time around. Can anyone have any doubts about that? A group of workers connected with Children's Hospital put the case against eliminating these special services succinctly and well: "The consequence could be an increase in irreparable damage and death to these children because they will be deprived of their right to specialized intervention . . . Remember, we are not dealing with social abstractions, but with life and death."

Mr. RANDOLPH. Mr. President, we have had the explanation by the able Senator from Vermont (Mr. STAFFORD) of the essential provisions of the pending legislation. I commend the diligence of the Senator from Vermont (Mr. STAFFORD) and the attention to this subject matter by all the members of the Committee on Labor and Public Welfare, and especially of the Subcommittee on Children and Youth.

The subcommittee, as we know, is chaired by the very progressive and helpful Senator from Minnesota (Mr. MONDALE), and I think that I should mention who the other members of the subcommittee are. They are Senators WILLIAMS, of New Jersey; KENNEDY, of Massachusetts; NELSON, of Wisconsin; CRANSTON, of California; HATHAWAY, of Maine, and myself as majority members of the subcommittee and Senators TAFT, of Ohio; BEALL, of Maryland; and, of course, the Senator who has just spoken, Mr. STAFFORD, of Vermont.

Mr. President, in the absence, and understandably necessary absence of the Senator from Minnesota (Mr. MONDALE), who as other Senators and I know would be handling this measure today if he were present, I ask unanimous consent that a statement by the Senator from Minnesota on S. 1191, and other material relating to the Child Abuse Prevention and Treatment Act, be printed at this point in the RECORD, coming prior to the remarks I wish to make upon the legislation itself. This is a statement of the chairman of the Subcommittee on Children and Youth.

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

The statement follows:

STATEMENT OF SENATOR MONDALE

I sincerely regret that I am unable to be present in the Senate for consideration of S. 1191, "The Child Abuse Prevention and Treatment Act".

I am deeply grateful to Senator Robert Stafford of Vermont, both for the continuing leadership of bipartisan support of this bill and for his willingness to manage it on the floor today in my absence.

I would also like to express my sincere gratitude to Senator Randolph, who has taken an active role in shaping this legislation from the beginning. I am particularly grateful for the time and trouble he took to attend the Subcommittee's field hearing in Denver, and for his willingness to assist in managing the bill today.

On March 13 of this year, with the bipartisan cosponsorship of 13 other Senators, I introduced S. 1191. Since then the Subcommittee on Children and Youth, which I chair, has held four hearings on the bill. We have listened to the testimony of parents who abused their children, of doctors and social workers, lawyers and psychologists and many other concerned persons. We have visited abused children in hospitals in Washington, Denver and New York—children horribly burned, beaten and bruised.

In the Washington area, the stepmother of a 9 year old girl was recently found guilty of the premeditated murder and torture of the child. In Denver, a father burned the palms of his son's hands with a cigarette lighter. Years earlier, his father had used the same lighter on him for the same purpose.

The children who will benefit from enactment of this legislation are the victims of cruel psychological and physical punishment—not of normal discipline.

At least 60,000 cases of child abuse are reported in this country each year. Experts who testified before the subcommittee em-

phasized that the number of reported cases is only a small indication of the incidence of child abuse in this country. They further stated that child abuse is a problem which is found in virtually all social and economic groups within our society.

As I listened to the testimony and made field trips to hospitals, I was shocked and appalled at the stories I heard.

At the same time I was very gratified to learn that in many places there are serious, concerned people who are doing what they can to prevent, identify and treat child abuse. The people have learned and demonstrated that where adequate support services are made available to families suffering from this problem, 90 percent of abused children can be reunited with their parents without a repeated abuse. Our ultimate goal must, of course, be to prevent future occurrences of child abuse. We can only do this when we have accomplished a thorough understanding of the causes of the problem.

In the meantime, it is essential that steps be taken to protect the thousands of youngsters who suffer permanent physical and psychological damage each year. The purpose of the "Child Abuse Prevention and Treatment Act" is to provide support to successful and promising efforts to deal with child abuse: and to intensify our study of the underlying causes and possible solutions to it. If S. 1191 is enacted, for the first time we could have a national focus on activities dealing with child abuse. The National Center on Child Abuse and Neglect, within the Office of Child Development, would collect and disseminate research on child abuse and on child abuse programs.

In addition, the Center would award demonstration grants for the creation and expansion of programs aimed at preventing, treating and identifying child abuse. I was particularly impressed by testimony concerning the need for a multidisciplinary approach which brings together doctors, social workers, psychiatrists, legal and law enforcement workers and others to work together on individual child abuse cases. Some of the grants awarded under this bill would be directed toward creation of regional centers which would use this multidisciplinary approach.

Funds granted under this program could also be used to assist in the formation and operation of parent self-help organizations, like Parents Anonymous, which encourages parents who have abused their children to talk out their common problems and provide support to each other in crises.

Child protective services programs, which historically have had the responsibility for dealing with child abuse, have been hampered in their efforts by inadequate funding. Under this bill, protective services agencies could apply for grants for a variety of programs including the creation of multidisciplinary teams and personnel training.

In addition to the demonstration grant program, the other major thrust of the bill is creation of a Presidential commission. I believe strongly that such a commission is needed to examine some of the complex and unresolved questions concerning past and future efforts to eliminate child abuse.

When S. 1191 was introduced it included a section amending the Social Security Act to require a state plan for child abuse under Title IV–B, the protective services program. In the course of my study of this problem, I concluded that it is absolutely essential to make available extra resources for the strengthening of child abuse programs authorized by the Social Security Act. So I intend to offer on behalf of myself and other members of the Labor and Public Welfare Committee, additional legislation directed toward that goal. We will offer this legislation through the Finance Committee, which has jurisdiction over the Social Security Act.

As some of you know, the Department of Health, Education and Welfare announced suddenly in June its intention to earmark $4 million for expenditures relating to child abuse in 1974. I subsequently wrote to Secretary Weinberger requesting a detailed account of the sources of the $4 million and of the way in which the funds would be spent. I believe that there is no better argument for passage of S. 1191 than the inadequate answer I received from the Secretary. I ask unanimous consent that copies of our correspondence on this matter be printed at the close of my remarks in the Record.

I would like my colleagues to know that S. 1191 was reported by the Labor and Public Welfare Committee with no objections. In closing, I would like to express my special appreciation to Chairman Williams of the Labor and Public Welfare Committee for his support of S. 1191.

JUNE 11, 1973.

Hon. CASPAR WEINBERGER,
Secretary, Department of Health, Education, and Welfare, Washington, D.C.

DEAR SECRETARY WEINBERGER: I understand that Acting Assistant Secretary for Human Development Stanley B. Thomas, Jr. announced on June 9 that HEW has earmarked $4 million to be used in activities relating to child abuse in fiscal year 1974.

As you know, legislation dealing with child abuse is pending before the subcommittee. I would appreciate receiving from you the following information about the new activities to be undertaken by the Department in this area:

1. A detailed explanation of the sources of the $4 million—including authorizations. Was this previously planned or authorized for other programs? If so, please list them and the amounts of money involved in each.

2. A detailed explanation of how the $4 million will be spent.

3. How the Department intends to go about initiating a revision of the model child abuse reporting law.

4. What method will be used to survey the activities of States relating to child abuse? What criteria will be used to judge the effectiveness of the "program models and systems" to be studied for possible replication?

5. Exactly how the Department intends to test the feasibility of establishing a national clearinghouse.

6. A description of the type of training materials to be developed; of their contents, their distribution and audiences.

Because this legislation is under active consideration by the subcommittee, I request that you submit this informaton to me by the close of business on June 15.

Sincerely,

WALTER F. MONDALE.

JUNE 20, 1973.

Hon. WALTER F. MONDALE,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MONDALE: I am pleased to respond to your letter of June 11 relating to the Department's plans in the area of child abuse. Of course in as important a field as this, our plans will necessarily evolve in various ways as more information on needs is developed.

The information that follows references the specific points in your letter:

1. Funds for the support of increased efforts in the area of child abuse will come from existing authorities such as the Office of Child Development and other programs as appropriate. Specific sources will be identified as our planning evolves. We would not expect that the funds will have been planned or authorized for other programs.

2. Plans for spending the $4 million will involve: (1) Revision of the model child abuse reporting law first developed in 1962; (2) survey of existing State and local programs in order to develop program models suitable for replication; (3) development of approaches to the collection and dissemination of data with respect to child abuse and neglect; and (4) development of training materials for persons dealing with the abused child. In addition, we will enlist the assistance of experts in the field to secure the benefit of their ideas and suggestions.

3. The Office of Child Development will be responsible for revision of the model child abuse reporting law, seeking the advice and assistance of a variety of knowledgeable individuals.

4. The Department plans to review its child abuse program guidelines and revise them as appropriate. This will involve a survey of selected State programs and a review of current State and Federal guidelines. In addition, a survey of selected local child abuse programs will be conducted as part of an effort to develop appropriate criteria to judge the effectiveness of current models. While it is too early to specify criteria at this time, we are looking for programs which allow for equal access of all children to services, which provide a coordinated flow of cases through the legal, medical, and social service systems involved, and which have clarity of assignment of responsibility in all phases of a case.

5. The feasibility of establishing a national clearinghouse will be tested by a recognized authority on child abuse and on reporting laws: The primary emphasis will be on the coordination of State reporting systems, with an effort to bring them into accord on definitions of what is to be reported, who is mandated to report, and to whom the report should be made.

6. The types of training materials and the contents of the material are undetermined at this time. However, I anticipate utilizing the expertise of many persons, from many disciplines, in the development of materials. The potential audience are those persons who would be most likely to come into contact with children and thus be in a position to identify the abused or potentially abused child, that is, teachers, doctors, nurses, policemen, and so on.

Your continuing interest in the Department's activities is appreciated.

With kind personal regards,

Sincerely,

CASPAR W. WEINBERGER,
Secretary.

U.S. SENATE,
COMMITTEE ON LABOR
AND PUBLIC WELFARE,
Washington, D.C., March 8, 1973.

Hon. WALTER F. MONDALE,
Chairman, Subcommittee on Children and Youth, Committee on Labor and Public Welfare, Washington, D.C.

DEAR FRITZ: I have been following with great interest the preliminary research and investigation which the Subcommittee on Children and Youth has conducted in the area of child abuse. The compilation of materials which the subcommittee published last winter is an important beginning.

Child abuse is a sickening, largely overlooked problem in America. In the last several months, however, the media has begun to turn its attention to this phenomenon and it has become clear that brutality against children by their parents has been dramatically and tragically increasing. This fact is confirmed by recent studies showing child abuse to be on the rise in the United States. We can no longer afford to ignore this situation and the implications that it has for children, families, and, indeed, the entire Nation.

As chairman of the Labor and Public Welfare Committee, I cannot urge you strongly enough to expand your subcommittee's examination and evaluation of this issue. It is my hope that you will begin hearings as soon as possible with a goal of identifying

precisely what role, if any, Federal legislation and Federal resources might play in the solution of this problem. The time has come to prevent the occurrence of child abuse, identify the victims, and provide the necessary help to these children and their families.

I want you to know that you will have my full support and cooperation in this vital effort.

Sincerely,

HARRISON A. WILLIAMS, Jr.,
Chairman.

Mr. RANDOLPH. Mr. President, I ask unanimous consent also to have printed in the RECORD at this point, the statement of the chairman of the Committee on Labor and Public Welfare, the Senator from New Jersey (Mr. WILLIAMS), who is unavoidably absent from the Chamber during the consideration of this matter, but who has been a very strong supporter, together with a letter addressed to the Senator from Minnesota. We have looked to him for substantial guidance in reference to this legislation.

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

STATEMENT BY SENATOR WILLIAMS

Child abuse is a sickening problem and until recently, has been largely overlooked in the United States. Year by year, hundreds and thousands of helpless children are brutalized by their parents, guardians, and other adults. Some of these young people never survive these beatings, burnings, poisonings and other abuses. For others, the resulting emotional scars of such brutality can never be healed.

It has been estimated by the National Center for the Prevention and Treatment of Child Abuse and Neglect, that 60,000 child abuse cases are officially reported on an annual basis. In New York City alone, there were 10,000 cases of child abuse or suspected abuse reported in 1972. In my own state of New Jersey we have just learned that for the first five months of 1973, child abuse cases have more than doubled over the previous year. Statistics released on June 26, 1973 by the State of New Jersey showed that there have been 2,078 reported incidents of child abuse as of the end of May compared with 1,032 cases reported for the same period in the previous year. And despite the fact that during the last decade virtually every state in the Union has revised its child abuse laws, the problem continues to assume massive proportions. Indeed it is one of our great national tragedies.

During the last year the Senate Subcommittee on Children and Youth began preliminary research and investigation into this area. As a result of these initial efforts, I became deeply interested in ways in which the Senate Labor and Public Welfare Committee could develop some legislative initiatives to help deal with child abuse. In this regard, I urged the Chairman of that Subcommittee, Senator Mondale, to expand his activities and evaluation of this issue, and told him of my full support for any efforts he could undertake to deal with the problem.

On March 13, 1973, Senator Mondale with my cosponsorship introduced S. 1191, the Child Abuse Prevention and Treatment Act. It is to my deep satisfaction that the Senate is considering this measure today.

Over the course of the last three months, the Subcommittee on Children and Youth conducted hearings in Washington, Denver and New York and made numerous visits to child abuse treatment facilities in the areas across the country. The findings of the Subcommittee are fully documented in the hearing record and in the Committee's report on this bill. Clearly,the most important finding which the Committee made in its examination of this problem is that laws prohibiting child abuse take effect only after the victim has suffered permanent psychological and/or physical damage. And the very complex reasons for child abuse are such that criminal laws against child abuse do not serve as a deterrent. Thus, it became clear to the Committee that assistance was needed to encourage communities across the nation to develop programs for preventing and treating child abuse.

We know, of course, that a few areas in the United States have pioneered in new approaches to this problem with remarkable success. But, even in these instances, funding limitations have meant that such initiatives can only be put into effect on a limited basis.

In my judgment, the legislation before the Senate today will provide a substantial boost to the further development of comprehensive child abuse treatment programs across the nation. The bill authorizes the Secretary of Health, Education and Welfare to establish a National Center on Child Abuse and Neglect, which is mandated to maintain an information clearinghouse on child abuse programs, compile and publish training materials for personnel in fields dealing with child abuse, to provide technical assistance to public and non-profit agencies who request such help, and to compile and evaluate a summary of research on child abuse and neglect.

In addition, the bill authorizes the Secretary through the National Center, to make grants for demonstration programs designed to prevent, identify and treat child abuse. Such grants may be used for personnel training for the establishment and maintenance of multi-disciplinary centers to deal with child abuse, as well as for other innovative projects including support for parents' self-help organizations.

The bill also creates a National Commission on Child Abuse and Neglect which is required to make a full study and investigation of the effectiveness of existing child abuse laws, the effectiveness of existing programs for prevention, treatment and identification of child abuse and the causes of this tragic problem.

A total of $90 million is authorized for all of these purposes over the next five fiscal years.

When the Administration was asked for its views on this legislation, the Committee was told that this initiative was unnecessary because in fact, the Department of HEW was already undertaking several small efforts in this regard and already had adequate legislative authority to get the job done. Following the completion of hearings on S. 1191, the Department surprisingly announced its intention to earmark $4-million for child abuse activities in Fiscal Year 1974.

In HEW's view this reinforced its position that a new program was unneeded, yet, as the Committee report shows, in response to written questions from Senator Mondale, HEW could not specifically identify where these funds would come from or precisely how they would be spent—particularly in regard to the prevention and treatment efforts which S. 1191 addresses itself to. It is unfortunate that after months of activity by the Labor and Public Welfare Committee in this area that the Administration has been unable to adequately grasp the necessary focus for child abuse programs and, while I am pleased that the Department of HEW has, for the first time earmarked some monies for child abuse, its intentions do not go far enough.

I am deeply committed to the philosophy and objectives of the legislation before us today. My distinguished colleague, the Chairman of the Subcommittee on Children and Youth, Senator Mondale, has labored long and hard to develop a bill which will have meaningful impact in this highly emotion-charged and complex field. He has brought to the attention of the American people the fact that child abuse is not something which we can lightly dismiss. He has demonstrated a clear need for Federal assistance in the development of well-planned programs which will help eradicate child abuse in America.

I commend him for his efforts and urge all my colleagues to support S. 1171.

MARCH 3, 1973.

Hon. WALTER F. MONDALE,
Chairman, Subcommittee on Children & Youth Committee on Labor and Public Welfare, Washington, D.C.

DEAR FRITZ: I have been following with great interest the preliminary research and investigation which the Subcommittee on Children and Youth has conducted in the area of child abuse. The compilation of materials which the Subcommittee published last winter is an important beginning.

Child abuse is a sickening, largely overlooked problem in America. In the last several months, however, the media has begun to turn its attention to this phenomenon and it has become clear that brutality against children by their parents has been dramatically and tragically increasing. This fact is confirmed by recent studies showing child abuse to be on the rise in the United States. We can no longer afford to ignore this situation and the implications that it has for children, families, and, indeed, the entire nation.

As Chairman of the Labor and Public Welfare Committee, I cannot urge you strongly enough to expand your Subcommittee's examination and evaluation of this issue. It is my hope that you will begin hearings as soon as possible with a goal of identifying precisely what role, if any, federal legislation and federal resources might play in the solution of this problem. The time has come to prevent the occurrence of child abuse, identify the victims, and provide the necessary help to these children and their families.

I want you to know that you will have my full support and cooperation in this vital effort.

Sincerely,

HARRISON A. WILLIAMS, Jr.,
Chairman.

Mr. RANDOLPH. Mr. President, I ask unanimous consent that the privilege of the floor be given to staff members Nick Edes and Robert Harris during the consideration of the pending bill.

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

Mr. MATHIAS. Mr. President, if the Senator will yield at that point, I ask unanimous consent that the privilege of the floor be given to Colby King, during the consideration of the pending bill.

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

Mr. RANDOLPH. Mr. President, S. 1191, the Child Abuse Prevention and Treatment Act now before the Senate, marks a major step toward the solution of one of the most shocking problems in America. All too often we read in a newspaper or listen on the radio or see on the television about a young child who has been severely beaten, burned, poisoned, or otherwise abused by their parents or other adults. when we see this, we sometimes pass it by without consideration of the fact that we, as the people of the United States, have a responsibility through the Congress to take steps toward solving this problem.

We have reliable estimates of the num-

ber of known or suspected cases reported each year, but there is general agreement among experts in the related fields for treatment of child abuse that the incidence of unreported cases for child abuse outnumbers the known cases. The estimated 60,000 known cases of abuse that occur annually is fast approaching the point of a national disgrace. The pending measure proposes to take affirmative action to halt this disease that cripples children and in many cases breaks apart the fabric of the American family, the bulwark of our society.

S. 1191 provides the opportunity to move forward in the prevention and treatment of child abuse. How are we to do this? Not in some imaginary program, but we will fit the pieces together. That is what this bill would do. We establish regional centers and programs, which will be staffed by persons who have knowledge in this field. But we need more persons who have a greater knowledge in the related fields of identification, treatment, and prevention. Regional centers will also provide for the training of these individuals.

Moreover, this bill provides for a thorough investigation of the many facets of this problem through the establishment of a National Commission on Child Abuse and Neglect.

The subcommittee chaired by the Senator from Minnesota, the Subcommittee on Children and Youth, has held extensive hearings under his leadership. The hearings have extended over many days in Washington and other areas of the country. I especially recall a hearing we had in Denver, which was a most informative hearing. It indicated what the University of Colorado and those who are working on the program thought of this matter and what they have done to help us understand the situation.

The subcommittee heard compelling testimony which showed that there is a need for action. However, there is much that is still unknown about child abuse or even what the proper role of the Government must be.

In the committee report filed with this legislation, the language is used that it is "clear that many complex legal and policy questions remain to be answered in the area of child abuse."

So, we come here today, not having all of the answers, but knowing that a beginning must be made. For this reason, the committee established the concept of a national commission to make a full study of these questions and to make recommendations not only for our committee and subcommittee, but also for all Members of the Senate as well.

Because of its desire for immediate action, the committee endorsed a demonstration grant program designed to establish major centers and networks of smaller centers working through a regional center. These programs will be designed to increase the training of multidisciplinary staffs of experts as well as providing services for the identification and treatment of known cases of child abuse and the prevention of further cases.

Through the media the public has generally become aware of the intensity of this shocking problem.

I have in my hand now an advertisement which appeared in last evening's Washington Star and News, which caught my attention. It focuses on an article on child abuse that will appear in the "Washington," the magazine supplement section of the Sunday Star-News. And these words are used to draw attention to the article which I hope that all Senators will read tomorrow:

The brutal sickness called child abuse.

If efforts to contain child abuse are to be successful, there must be a greater public awareness, and not only an awareness, but also a sense of urgency by the public to help Congress solve these matters. The public must be made aware that there are facilities that can be used for the proper care of the abused children. The National Center on Child Abuse and Neglect and the National Commission will continue the emphasis needed to keep the public informed.

It is important to recognize that this legislation is not punitive in nature. Much of the testimony that the subcommittee heard on S. 1191 pointed out that through proper care for the abused child and abusive parents alike the family can again be united. Experts estimate that 90 percent of adults who abuse children can be rehabilitated.

Mr. President, I have listened to some of these parents admit what they have done.

I think it was courageous for mothers to come before the subcommittee and tell how they had abused their children. There were reasons why parents did this; I shall not go into them now. It is a very complex subject, in some cases involving one child even abusing another child in the family, because that child felt that attention was not given to him in the same degree that it was given to another child in the same family. These are all very complex matters, involving the psychology of growing minds and sometimes the distorted psychology of parents—all of these things are involved, as we attempt to rehabilitate. We heard testimony and we saw instances where children have been abused by parents who themselves had been abused as children.

It is not the intention of this legislation, I wish to underscore, to break apart the family, but rather to preserve the institution of the family as a wholesome institution in which there can be love and understanding.

Our subcommittee chairman (Mr. MONDALE) has worked with diligence in this matter. We have had the cooperative efforts and effective work of the Senator from Vermont who, while not the ranking minority member on the subcommittee, has been perhaps the most active minority member. Other members of the subcommittee, I am sure, would agree with that, in connection with his application of time and attention to this matter.

I feel that there has been perseverance and coordination in bringing this legislation to the floor. We need to halt the spread of child abuse; and I think this measure (S. 1191) is necessary and important toward achieving that end.

I hope that when the roll is called—and an order for a rollcall has been entered—there will be unanimity of support within this body.

The PRESIDING OFFICER. Who yields time?

Mr. MATHIAS. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. BAYH). Will the Senator from Maryland withhold his amendment until the Senate has an opportunity to act upon the committee amendments? I am advised that they take precedence.

Mr. MATHIAS. I am happy to do so.

Mr. STAFFORD. Mr. President, I move the adoption of the committee amendments.

The PRESIDING OFFICER. Does the Senator from Vermont ask unanimous consent that the amendments be considered en bloc?

Mr. STAFFORD. I do so request.

The PRESIDING OFFICER. Without objection, it is so ordered. The question is on agreeing to the committee amendments, en bloc.

The PRESIDING OFFICER. The bill is now open to further amendment, and the amendment of the Senator from Maryland will be stated.

The assistant legislative clerk read as follows:

On page 5, between lines 2 and 3, insert the following new subsection:

"(d) The Secretary is authorized and directed to prepare and submit annually to the President and to the Congress a report on the programs assisted under this section, together with an evaluation of such programs."

Mr. MATHIAS. Mr. President, I would like to thank the managers of the bill, the distinguished Senator from West Virginia and the distinguished Senator from Vermont, for the attention that they are giving to this problem. Perhaps it is an appropriate note that we are considering this bill here on Saturday, because it is the kind of bill that needs to be thought about urgently. It is not the sort of thing that we ought to put over until next week, next month, or next year, because for the children who are suffering now, next week, next month, or next year may be too late.

Mr. President, if there is one thing Americans have always prided themselves on, it is that, more than any other people on Earth, we care for our children. If we slave and we sacrifice and we struggle, it is not for ourselves, but so our children can enjoy advantages and opportunities far greater than those we ourselves were able to enjoy. We fight no war, adopt no program, take no action that is not ultimately and unselfishly aimed at making life better for "generations yet unborn," for "our children and our children's children."

We have, it would appear, every reason to believe what foreign observers have long said of us: that we are a child-oriented society, that our children are the center and the circumference—the Alpha and Omega of our lives. The trou-

ble is, Mr. President, that somebody apparently forgot to tell over 60,000 children who were burned and beaten and poisoned and in various other ways abused by adults last year. And we are told that this rough estimate may only represent the tip of the iceberg.

Clearly, child abuse in America is a national problem. It is appropriate, therefore, that we seek to find a national solution to this difficult and perplexing issue. On this score, I wish to commend the distinguished chairman of the Subcommittee on Childrcn and Youth, Mr. MONDALE, my distinguished Republican colleague from Vermont (Mr. STAFFORD), and the other members of the subcommittee for taking the leadership in the Senate on this issue. S. 1191 represents a serious attempt on the part of the Congress to come to grips with the problem of child abuse and neglect and for this reason, I shall vote in favor of the bill.

Mr. President, S. 1191 wisely recognizes that there are many major unresolved questions which plague this entire issue of child abuse and neglect. Section 3 of the bill, which creates a National Commission on Child Abuse and Neglect, in my judgment, represents a step in the right direction. While I am not at all certain that the commission need be created at the presidential level, I agree with the committee that we do need to have a body to make a full study and investigation of many major unresolved questions. I am pleased to see that the commission, if created, would be required to study issues such as:

The effectiveness of existing child abuse and neglect reporting laws, ordinances and related laws; the effectiveness of existing programs designed to prevent, identify, and treat child abuse and neglect; the national incidence of child abuse and neglect; the cause of child abuse and neglect including its relationship, if any, to drug dependency and alcoholism: The adequacy of Federal, State, local, public, and private funding for child abuse programs, and the appropriate role of the Federal Government in assisting State and local public and private efforts to deal with child abuse and neglect.

Clearly, such a commission will be able to provide the Congress with the kind of information we need to know about the problem in order to fashion additional legislative remedies.

Simultaneously, with the creation of the national commission, section 3 of S. 1191 would also authorize grants for demonstration programs designed to prevent, identify, and treat child abuse and neglect. This section of the bill, the demonstration grant program, is vital to the whole effort to create a national response to a national problem.

But, Mr. President, congressional attention to this problem cannot end with the passage of this bill. We will need to know if the money being spent under the demonstration grant program is contributing to the solution of child abuse problems and if the programs funded under this section are worth the money being spent on them.

Mr. President, my amendment, quite simply, is designed to help the President and the Congress address these questions. This amendment will enable Congress and the President to receive timely feedback about the positive and negative effects which will result from the demonstration grant programs. This amendment will also enable the Congress to receive an assessment of what difference this legislation is actually making on the problem of child abuse and neglect so that we and the President can make our own projections of what reasonably could be expected if these programs were continued, expanded or otherwise modified in the future.

Mr. STAFFORD. Mr. President, speaking for the minority side of the committee, we have had a chance to examine the amendment offered by the distinguished Senator from Maryland(Mr. MATHIAS), and we are prepared to accept the amendment.

Mr. RANDOLPH. Mr. President, I have had the privilege of discussing the pending amendment with the Senator from Vermont, and I also have the desire which he has expressed to accept the amendment, but I would like to have the opportunity to ask one question of the able Senator from Maryland (Mr. MATHIAS).

It is my understanding that this amendment is offered so that there may be, in a relatively new field, the opportunity for the oversight function to take place. Congress—and in a sense through Congress—the American people will know that we are having brought back to us and to them a report which will indicate not only the enormity of the problem, but hopefully that the dollars are being wisely spent and that the proper emphasis is being given to the solving of the very terrible and tragic child abuse problem in this country.

Mr. MATHIAS. The Senator from West Virginia has, I think, placed his finger exactly on the purpose of this amendment. We have so many competing claims on the very limited Federal dollar that it is imperative that we be able to critically examine the benefits and costs associated with what we would hope to accomplish under this legislation—not just for today, or next year, but for the years to come. I think my amendment will make it possible for the Congress to fulfill its responsibilities in this regard over a period of time, and to sustain its oversight in this very vital field.

Mr. RANDOLPH. Mr. President, the Senator from Vermont and I agree to the amendment.

The PRESIDING OFFICER (Mr. CHURCH). Is time on the amendment yielded back?

Mr. RANDOLPH. I yield back my time.

Mr. MATHIAS. I yield back the remainder of my time.

The PRESIDING OFFICER. All remaining time have been yielded back, the question is on agreeing to the amendment of the Senator from Maryland (Mr. MATHIAS).

The amendment was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. STAFFORD. Mr. President, I ask unanimous consent that the administration's departmental report in opposition to S. 1191 be printed in the RECORD at this point in the debate.

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

DEPARTMENTAL REPORT
THE SECRETARY OF HEALTH,
EDUCATION, AND WELFARE,
Washington, D.C.

HON. HARRISON A. WILLIAMS, Jr.,
Chairman, Committee on Labor and Public Welfare, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This letter is in response to your request for a report on S. 1191, a bill entitled the Child Abuse Prevention Act.

This bill would direct the Secretary of HEW to establish a National Office on Child Abuse and Neglect to serve as the focal point for dissemination of research results on child abuse and neglect. The Office would establish and maintain an information clearinghouse on child abuse programs, and compile and publish training materials for persons working in or planning to enter the field. The bill would also establish a program of grants and contracts for demonstration programs designed to prevent, identify, and treat child abuse and neglect. In addition, S. 1191 would establish a National Commission on Child Abuse and Neglect, appointed by the President, to study and investigate the effectiveness of existing reporting laws and the proper role of the Federal Government in assisting State and local public and private efforts to cope with child abuse and neglect.

The Department of Health, Education, and Welfare has been deeply involved with the problem of child abuse. The Children's Bureau, now a part of the Office of Child Development, has for a number of years been concerned with this complex problem and, in 1961, undertook the task of assembling information and initiating action. The first step was the development of a State model act, to assist States in the formulating of State laws, since the States have always had jurisdiction in this area. Now, all the 50 States, the District of Columbia, Guam, and the Virgin Islands have enacted child abuse reporting laws and some have amended their original laws to make them more effective.

Dealing with child abuse involves not merely the identification of the abused child but a whole range of services aimed at prevention of abuse and treatment of the child and his family. The most compelling current need is for the fullest implementation of existing laws. Basic to any solution of the problem is the establishment of comprehensive protective and preventive services, including child health services, throughout a State. While the Federal role in this process is an important one, the Department sees this role as one of providing financial assistance, technical advice, and research and demonstrations to discover new and more effective means of carrying out State programs, rather than mandating specific procedures.

The principal Federal financial assistance to States in serving children and their parents who are involved in child abuse derives from the Social Security Act, in particular the 1967 amendments to title IV–A which require that protective services be provided to all neglected or abused children in families receiving AFDC and that cooperative arrangements be worked out with the courts and law enforcement officials in referring appropriate cases and following up on these cases. States may claim 75 percent reimbursement from the Federal Government for their expenditures for these purposes. In the period 1971–74, approximately $224,362,000 of title IV–A money will be used to reimburse States for protective services, and $655,000 of these funds will be spent on research and demonstrations related to child abuse.

During the same period, Federal child welfare funds, authorized by title IV–B of the Social Security Act, in the amount of $2,643,000 will have been spent for protective services provided by State child welfare programs for children who are not recipients of AFDC. Federal funds are also provided through title V of the Social Security Act, by the Maternal and Child Health Service, for health services which are a basic element of the identification and treatment of child abuse. In addition, the National Institute of Mental Health will have expended an estimated $829,543 from Public Health Services Act funds. The total of these Federal expenditures for the 1971–74 period is estimated at $231,656,240.

We believe the most effective approach to the problem is to work with State and local governments voluntary agencies and professional associations to obtain a more adequate picture of the incidence and characteristics of child abuse than we have now. Rather than creating new offices and commissions, as proposed by S. 1191, I am of the opinion that coordination and intensification of existing efforts and organizations will produce greater and more lasting positive results. Accordingly, I have designated the Office of Child Development to take the leadership in coordinating the enhanced Departmental efforts in the child abuse and neglect area. The Office of Child Development has recently made a grant to Dr. Vincent DeFrancis, a noted authority in this field, to examine the feasibility of a National Clearinghouse on Child Abuse and Neglect for the systematic gathering of data which would assist in the analysis of trends having policy and program implications. This should be of material assistance in the development of effective programs and the allocation of resources where they will do the most good.

The National Institute of Mental Health conducts research, provides training, and disseminates materials relating to child abuse. In October 1972, for example, it published a bibliography entitled "Selected References on the Abused and Battered Child." In June of 1973, the National Institute of Mental Health also supported a conference on child abuse attended by a number of experts from the key disciplines involved in the problem. One of the major efforts of this conference was to attempt to define the problems of identification of abuse, including the legal, social and medical aspects. At that conference, the Acting Assistant Secretary for Human Development outlined the new initiatives which will be undertaken by HEW, involving the earmarking of $4 million of new funds in addition to those already committed to this problem.

We are also currently funding projects for the provision of emergency services—one in Buffalo, N.Y. and the other in Nashville, Tenn.—which provide assistance to families in crisis, many of which involve child abuse. Another of our projects operates a protective services center, offering a broad range of services to families who have abused their children. We also are planning a study to identify the early warning signs of family dysfunction which is generally a prelude to abuse. Another of our planned studies is a national evaluation of child abuse programs to determine the most effective means of dealing with the problems of child abuse at the local level.

As for services to the child identified as abused or neglected, I have already alluded to the funds provided under the AFDC, Child Welfare and Material and Child Health authorities of the Social Security Act. But it should also be recognized that much of the current activity and much of the projected effort in combatting the child abuse problem is supported solely from State, local, and voluntary funding sources, such as hospitals with large pediatric services. We sincerely believe that such local community efforts should be encouraged and supported rather than supplanted by Federal mandates.

As this review of our activities indicates, we are already deeply and firmly committed to substantial and enhanced efforts to cope with the problem of child abuse and neglect. Many of our ongoing activities as well as our projected ones would be duplicated by the provisions of S. 1191. In addition, S. 1191 proposes the creation of new organizational categorical units which, in the experience of the Department, tend to work against the development of successful means of dealing with problems rather than aiding in their solution.

For the above reasons, we believe that S. 1191 is unnecessary to carry out the Federal role of assisting States and local communities in coping with child abuse, and we recommend against its enactment.

We are advised by the Office of Management and Budget that there is no objection to the presentation of this report from the standpoint of the administraion's program.

Sincerely,

CASPAR W. WEINBERGER,
Secretary.

Mr. HELMS. Mr. President, I realize that a vote against this measure will be misinterpreted by some as an indication of disinterest in the tragic problem of child abuse.

But I must vote against the proposition because it is yet another step in the direction of centralizing further power and responsibility in Washington.

Child abuse, like other callous violence, is a crime that States and local governments have as their responsibility. No doubt some States would like to pass the buck—and the cost—to Washington. And that, Mr. President, is precisely the sad story of how so much power has been centralized in Washington—by citizens, and States, and local and State leadership, seeking an "easy" way. There is no easy way.

I know something personally, Mr. President, about this problem. I have worked with it in my own State. And if I may make a personal reference, Mrs. Helms and I adopted a neglected child several years ago—a son who has been a blessing to us.

Mr. President, we either mean what we say, or we do not, when we talk in this body, and in other oratory, about "States' rights." Sometimes we must cast difficult votes—votes subject to being misunderstood. But I pledged when I came to Washington that I would try to be consistent—that I would cast my every vote to preserve the rights, and the responsibility, of the States.

Thus, tempting as it is to vote in favor of this measure, I am compelled to vote against it.

Mr. DOMINICK. Mr. President, the problems associated with child abuse and neglect are certainly not new to our society, and yet I feel that awareness of this problem by the general public and recognition and effective handling by professionals is lagging far behind the times.

Positive action toward handling child abuse in this country began about 100 years ago with the creation of the Society for the Protection of Cruelty to Children under the auspices of private concerned citizens. No major steps toward treating these problems occurred for the next 90 years.

However, largely due to the excellent work of a handful of dedicated people, such as at the University of Colorado Medical Center, public awareness has grown. Within the last 10 years, all 50 States have passed reporting laws of some kind and all 50 States now have child protective services under the State welfare department, which receive these reports.

There is no question that this is a very serious problem. Approximately 60,000 suspected cases of child abuse are reported in the United States every year. The frequency of child abuse may actually be twice this figure annually. Five to 25 percent of abused children die as a result of injuries they receive, and an additional 20 to 30 percent suffer permanent disability—usually mental retardation or motor changes. Much more can and should be done to remedy the situation.

For that reason, Mr. President, I have cosponsored S. 1191, which will give impetus to the effort of finding solutions to this problem. In addition to providing Federal funds for demonstration projects for the prevention, identification, and treatment of child abuse and neglect, this bill would help focus national attention and expertise on this problem through the establishment of a Presidentially appointed National Commission on Child Abuse and Neglect. This legislation is not intended to establish a permanent Federal program, but to enlarge public and professional awareness, and to stimulate the development of State and private programs which will both reduce the incidence of child abuse and provide treatment to its victims.

After the planning and implementation of State programs has begun to crystallize, the role of the Federal Government in this area can be reduced if not eliminated.

I would also like to take this opportunity to note that I am particularly proud of the fact that the leadership of Dr. Henry Kempe and the hard work of a group of public-spirited professionals for the past 12 years at the University of Colorado Medical Center in Denver has resulted in the creation this year of the National Training Center for Child Abuse and Neglect with headquarters at Booth Memorial Home, and operating out of there and the Colorado Medical Center. The center was created with the express purpose of prevention, identification, and treatment of abused children. I believe this center will serve as a model for the Nation as child abuse programs are expanded.

I think many of my colleagues were able to observe this spring, during the hearings on this bill, the tragic plight of those who have suffered child abuse. Certainly the stories and facts that were brought before the subcommittee touched many of us, and I would urge members of this body to support the bill.

Mr. STEVENS. Mr. President, I ask unanimous consent that a statement prepared by the Senator from South Carolina (Mr. THURMOND) be printed in the RECORD at this point.

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

STATEMENT BY SENATOR THURMOND

I share the concern expressed by the Labor and Public Welfare Committee over the problem of child abuse and neglect. However, I do not believe that the creation of additional Federal program agencies as proposed on S. 1191 will contribute to effective efforts to prevent, identify and treat the problem. I thereby oppose this bill.

My basic objection is that the protection of children is primarily a state responsibility. It is a matter that should not be controlled by a Federal bureaucracy. The vast network of state and local institutions such as schools, hospitals, law enforcement agencies, social service agencies, and a wide range of private agencies expend substantial sums of money in a wide array of programs.

The role of the Federal government is to aid states and localities in carrying out their responsibility for the protection of children. This is done through activities such as the development of a uniform reporting law, through the conduct of research and demonstrations which identify various approaches to assist children in danger of abuse, through grants to states for services such as provision of food, clothing and shelter when necessary, and health services which are targeted primarily to the economically disadvantaged, and through the provision of technical assistance and consultation.

The principal Federal financial assistance to states in serving children and their parents who are involved in child abuse is through Title IV–A of the Social Securtiy Act which requires that protective services be provided to all neglected or abused children in families receiving AFDC. Cooperative arrangements must be worked out with the courts and law enforcement officials in referring appropriate cases and following up on these cases. States may claim 75 percent reimbursement from the Federal government for their expenditures for these purposes. In the period 1971–74, approximately $224,362,000 of Title IV–A money will be used to reimburse states for protective services, and $655,000 of these funds will be spent on research and demonstrations related to child abuse.

During the same period, Federal child welfare funds, authorized by Title IV-B of the Social Security Act, in the amount of $2,643,000 will have been spent for protective services provided by state child welfare programs for children who are not recipients of AFDC. State expenditures under this program are considerably higher.

The Department of Health, Education and Welfare has indicated recently that it plans to expend an additional $4 million for new initiatives in the child abuse and neglect area. Many of the activities they plan to undertake are duplicated by the provisions of S. 1191. These include revision of the model child abuse reporting law first developed in 1962, surveying state and local child abuse neglected children's service programs in order to develop program models and systems which could be replicated, testing the feasibility of a National Clearinghouse for the collection and dissemination of data with respect to child abuse and neglect, and developing training materials for use with people likely to come into contact with abused or neglected children.

A review of HEW activities indicates, they are already deeply and firmly committed to substantial and enhanced efforts to cope with the problem of child abuse and neglect. Many of the on-going activities as well as those projected would be duplicated by the provisions of S. 1191. In addition, S. 1191 proposes the creation of new categorical programs which, in the experience of the Department, tend to work against the development of successful means of dealing with problems rather than aiding in their solution.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

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

Mr. RANDOLPH. Mr. President, I yield back the time under the control of the majority.

Mr. STAFFORD. I yield back the minority's time.

The PRESIDING OFFICER (Mr. CHURCH). All time having been yielded back, the question is, Shall the bill pass? On this question, the yeas and nays have been ordered, and the clerk will call the the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Alabama (Mr. ALLEN), the Senator from North Dakota (Mr. BURDICK), the Senator from Virginia (Mr. HARRY F. BYRD, JR.), the Senator from Missouri (Mr. EAGLETON), the Senator from Mississippi (Mr. EASTLAND), the Senator from Alaska (Mr. GRAVEL), the Senator from Colorado (Mr. HASKELL), the Senator from Maine (Mr. HATHAWAY), the Senator from Iowa (Mr. HUGHES), the Senator from Massachusetts (Mr. KENNEDY), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Minnesota (Mr. MONDALE), the Senator from Maine (Mr. MUSKIE), the Senator from Rhode Island (Mr. PASTORE), the Senator from California (Mr. TUNNEY), the Senator from New Jersey (Mr. WILLIAMS) are necessarily absent.

I further announce that the Senator from Wyoming (Mr. MCGEE), the Senator from Alabama (Mr. SPARKMAN), 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 Alaska (Mr. GRAVEL), the Senator from North Dakota (Mr. BURDICK), the Senator from Iowa (Mr. HUGHES), the Senator from Massachusetts (Mr. KENNEDY), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Minnesota (Mr. MONDALE), the Senator from Rhode Island (Mr. PASTORE), the Senator from Washington (Mr. MAGNUSON), the Senator from California (Mr. TUNNEY), the Senator from New Jersey (Mr. WILLIAMS) would each vote "yea."

Mr. SCOTT of Pennsylvania. I announce that the Senator from Maryland (Mr. BEALL), the Senator from Tennessee (Mr. BROCK), the Senator from Massachusetts (Mr. BROOKE), the Senator from New York (Mr. BUCKLEY), the Senator from Nebraska (Mr. CURTIS), the Senator from Kansas (Mr. DOLE), the Senator from Oregon (Mr. PACKWOOD), the Senator from Ohio (Mr. TAFT), the Senator from Texas (Mr. TOWER), the Senator from Connecticut (Mr. WEICKER), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

The Senator from New Hampshire (Mr. COTTON) is absent because of illness in the family.

The Senator from Michigan (Mr. GRIFFIN) and the Senator from Nebraska (Mr. HRUSKA) are absent on official business.

Also, the Senator from Arizona (Mr. GOLDWATER) and the Senator from South Carolina (Mr. THURMOND) are necessarily absent.

If present and voting, the Senator from Ohio (Mr. TAFT) would vote "yea."

On this vote, the Senator from Kansas (Mr. DOLE) is paired with the Senator from South Carolina (Mr. THURMOND). If present and voting, the Senator from Kansas would vote "yea" and the Senator from South Carolina would vote "nay."

On this vote, the Senator from Nebraska (Mr. CURTIS) is paired with the Senator from Arizona (Mr. GOLDWATER). If present and voting, the Senator from Nebraska would vote "yea" and the Senator from Arizona would vote "nay."

The result was announced—yeas 57, nays 7, as follows:

[No. 291 Leg.]

YEAS—57

Abourezk	Ervin	McGovern
Aiken	Fong	Metcalf
Baker	Fulbright	Montoya
Bartlett	Gurney	Moss
Bayh	Hart	Nelson
Bennett	Hartke	Nunn
Bentsen	Hatfield	Pearson
Bible	Hollings	Pell
Biden	Huddleston	Percy
Byrd, Robert C.	Humphrey	Proxmire
Cannon	Inouye	Randolph
Case	Jackson	Ribicoff
Chiles	Javits	Schweiker
Church	Johnston	Scott, Pa.
Clark	Long	Stafford
Cook	Mansfield	Stevens
Cranston	Mathias	Stevenson
Domenici	McClellan	Symington
Dominick	McClure	Talmadge

NAYS—7

Bellmon	Helms	Scott, Va.
Fannin	Roth	
Hansen	Saxbe	

NOT VOTING—36

Allen	Goldwater	Packwood
Beall	Gravel	Pastore
Brock	Griffin	Sparkman
Brooke	Haskell	Stennis
Buckley	Hathaway	Taft
Burdick	Hruska	Thurmond
Byrd, Harry F., Jr.	Hughes	Tower
	Kennedy	Tunney
Cotton	Magnuson	Weicker
Curtis	McGee	Williams
Dole	McIntyre	Young
Eagleton	Mondale	
Eastland	Muskie	

So the bill, S. 1191, was passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Child Abuse Prevention and Treatment Act".

THE NATIONAL CENTER ON CHILD ABUSE AND NEGLECT

SEC. 2. (a) The Secretary of Health, Education and Welfare (hereinafter referred to in this Act as the "Secretary") is authorized and directed to establish a center in the Office of Child Development to be known as the "National Center on Child Abuse and Neglect" (hereinafter referred to in this section as the "Center").

(b) Secretary, through the Center, shall—

(1) compile, analyze, and publish annually a summary of recently conducted and currently conducted research on child abuse and neglect;

(2) develop and maintain an information clearinghouse on all programs, including private programs showing promise of suc-

cess, for the prevention, identification, and treatment of child abuse and neglect;

(3) compile and publish training materials for personnel who are engaged or intend to engage in the prevention, identification, and treatment of child abuse and neglect; and

(4) provide technical assistance (directly or through grant or contract) to public and nonprofit private agencies and oragnizations to assist them in planning, improving, developing, and carrying out programs and activities relating to the prevention, identification, and treatment of child abuse and neglect.

DEMONSTRATION PROGRAM FOR THE PREVENTION, IDENTIFICATION AND TREATMENT OF CHILD ABUSE AND NEGLECT

SEC. 3. (a) The Secretary, through the Center, is authorized and directed to make grants to, and enter into contracts with, public agencies or nonprofit private organizations for demonstration programs designed to prevent, identify, and treat child abuse and neglect. Grants under this section may be—use for—

(1) the development and establishment of training programs for personnel in medicine, law, law enforcement, education social work, and other relevant fields who are engaged in, or intend to work in the field of the prevention, identification, and treatment of child abuse and neglect;

(2) establishment and maintenance of centers, serving defined geographic areas, staffed by multidisciplinary teams of personnel trained in the prevention, identification, and treatment of child abuse and neglect cases, to provide a broad range of services related to child abuse and neglect, including direct support and supervision of satellite centers and attention homes, as well as providing advice and consultation to individuals, agencies and organizations which request such services; and

(3) for such other innovative projects, including appropriate parent self-help organizations, that show promise of successfully preventing or treating cases of child abuse and neglect as the Secretary may approve.

(b) Assistance provided pursuant to this section shall not be available for construction of facilities; however, the Secretary is authorized to supply such assistance for the lease or rental of facilities where adequate facilities are not otherwise available, and for repair or minor remodeling or alteration of existing facilities.

(c) The Secretary shall establish criteria designed to achieve equitable distribution of assistance under this section among the States, among geographic areas of the Nation, and among rural and urban areas. To the extent possible, citizens of each State shall receive assistance from at least one project under this section.

(d) The Secretary is authorized and directed to prepare and submit annually to the President and to the Congress a report on the programs assisted under this section, together with an evaluation of such programs.

THE NATIONAL COMMISSION ON CHILD ABUSE AND NEGLECT

SEC. 4. (a) There is hereby established a National Commission on Child Abuse and Neglect.

(b) The Commission shall be composed of fifteen members to be appointed by the President, by and with the consent of the Senate, from among parents, State and local officials, and other persons who by reason of experience or training in the fields of preventing child abuse and neglect, are especially qualified to serve on the Commission. The Secretary and the Director of the Office of Child Development shall be ex officio members of the Commission. In making appointments to the Commission the President shall give consideration to the appointment of individuals who represent the various disciplines involved in the prevention and treatment of child abuse. Appointment of the Commission shall be completed, and the Commission shall hold its first meeting, not later than sixty days following enactment of this Act.

(c) (1) The Commission shall elect one of its members to serve as chairman and one to serve as vice chairman.

(2) Any vacancy in the Commission shall not affect its powers. Eight members of the Commission shall constitute a quorum.

(d) (1) The Commission shall make a complete and full study and investigation of—

(A) the effectiveness of existing child abuse and neglect reporting laws and ordinances, with special consideration of the impart, if any, of penalties of varying severity for child abuse, on the effectiveness of provisions requiring the reporting of child abuse by medical doctors, physician assistants, dentists, nurses, social workers, teachers, medical examiners, law enforcement personnel, and other individuals required to report such abuse and neglect;

(B) the effectiveness of existing programs designed to prevent, identify, and treat child abuse and neglect;

(C) the national incidence of child abuse and neglect, including a determination of the extent to which if any, the incidents of child abuse and neglect are increased in number of severity;

(D) the causes of child abuse and neglect including the relationship, if any, between drug dependence and alcoholism and such abuse and neglect;

(E) the adequacy of funding for efforts to deal with child abuse and neglect available from Federal, State, and local public and nonprofit private resources; and

(F) the proper role of the Federal Government in assisting State and local public and private efforts to prevent, identify, and treat cases of child abuse and neglect.

(2) The Commission shall transmit to the President and to the Congress not later than one year after the first meeting of the Commission a final report containing a detailed statement of the findings and conclusions of the Commission, together with such recommendations, including recommendations for Federal and State legislation, as it deems advisable.

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

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

(3) Subject to such rules and regulations as may be adopted by the Commission, the Chairman may—

(A) appoint and fix the compensation of an executive director, and such additional staff personnel as he deems necessary, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but no such personnel shall be compensated at rates not in excess of the maximum rate for GS–18 of the General Schedule under section 5332 of such title, and

(B) procure temporary and intermittent services to the same extent as is authorized by section 3109 of title 5, United States Code, but at per diem rates not to exceed $50 for individuals.

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

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

(g) On the ninetieth day after the date of submission of its final report to the President, the Commission shall cease to exist.

SEC. 5. There are hereby authorized to be appropriated for the purposes of this Act $10,000,000 for the fiscal year ending June 30, 1974, and $20,000,000 for each of the four succeeding fiscal years, of which not more than $2,000,000 per annum shall be available for the purposes of section 2 of this Act, and not more than $1,000,000 per annum shall be available for the purposes of section 4 of this Act.

The title was amended, so as to read: "A bill to provide financial assistance for a demonstration program for the prevention, identification, and treatment of child abuse and neglect, to establish a National Center on Child Abuse and Neglect, and for other purposes.".

Mr. STAFFORD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. RANDOLPH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

FEDERAL LANDS RIGHT-OF-WAY ACT OF 1973—ALASKA PIPELINE

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.

TRANS-ALASKA PIPELINE MEANS MORE AMERICAN JOBS

Mr. STEVENS. Mr. President, the immediate construction of the trans-Alaska pipeline will mean more American jobs. The trans-Alaska pipeline, obviously, means more jobs for Alaskans. The line is expected to take 3 years to build and would employ almost 10,000 men during actual construction. It would mean, in addition, thousands of extra jobs for those who would feed, clothe, house, and provide other services to these primary workers.

The construction of a trans-Alaska pipeline would be a tremendous shot in the arm to the American economy. It would require thousands of additional skilled workers. These are people who could help us develop our other areas of potential petroleum reserves—the Outer Continental Shelf and the rest of Alaska.

Completion of the Alaskan pipeline will probably yield a net benefit to the American economy starting at $1 billion per year and increasing to $2.4 billion annually by 1980. It will benefit all regions of the country. At this time, when we are fighting unemployment, thousands of new workers will find employment in Alaska during pipeline construction. These people will buy goods and services from throughout the United States. As these goods and services must be shipped to Alaska, the transportation industry will also benefit. Merchants will benefit, indeed, the entire economy will benefit.

The trans-Alaska pipeline will particularly aid several vital American industries which are currently depressed. For example, the American maritime and shipbuilding industry will be helped greatly. Alaskan oil must be carried in American-bottom ships under the Jones Act. At least 27 new tankers must be constructed: 73,480 man-years of shipyard employment will be created; 3,800 permanent jobs will be created to run and maintain this new, modern tanker fleet. This will result in more than $1.6 billion for America's shipbuilding industry. This is an industry that has, for some time, been at a competitive disadvantage because of lower costs from foreign competition. The trans-Alaska pipeline will indeed have a great positive effect on this industry.

The trans-Alaska pipeline will probably, when one considers its total effect on the U.S. economy, result in more than $19 billion to the American economy by 1980.

For this reason, hundreds of thousands of American workers, led by the AFL–CIO, the Teamsters International, the carpenters union, as well as many other unions throughout the Nation, have also given their strong support for immediate construction of the trans-Alaska pipeline.

Mr. President, throughout the discussion and debate on S. 1081, I have been trying to emphasize what immediate construction of the trans-Alaska pipeline means to the people of Alaska.

I invite the attention of the Senate to a recent article in the Washington Star-News entitled "Oil Alone Fires Life at Barrow," written by Wallace Turner of the New York Times News Service. This article tells the facts of what construction of the trans-Alaska pipeline means to Alaska—specifically to the town of Barrow.

Pipeline construction means jobs for many of the unemployed in Barrow; it means the dawn of a new day for this economically depressed Alaskan town. The pipeline is their hope; it is an answer to their dreams.

Mr. President, I ask unanimous consent that Mr. Turner's article be printed in the RECORD, for it is an excellent description of what the trans-Alaska pipeline means to Alaskans.

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

OIL ALONE FIRES LIFE AT BARROW

(By Wallace Turner)

BARROW, ALASKA.—The rusty, errant pipe that travels from house to house here, propped on old oil barrels, or tunneling beneath the streets, is a symbol of the break with the harsh, cruel life of centuries past as well as a talisman of hope for the future.

Even in summer it is hard to live here. There was rain on Independence Day, and the Eskimo children's dances were rescheduled. The next day there was snow. They say the sun has not set since one night in May, but to believe that a sun exists behind the fog and mist requires faith.

Ten feet of open water lies darkly sullen between the dirty white of the pack ice, stretching north to the horizon, and the pea gravel of the beach. Walkers in parkas lean into a cold wild that comes off the ice.

For a mile along the beach and a half mile inland there is a scattering of small, low, square houses that make up Barrow. The pipes that link the houses carry natural gas from wells drilled on a Navy petroleum reserve that begins just outside the village.

The gas line replaces the whale oil fires used in the past or the 55-gallon fuel drums used by Eskimos who live on the Bering Sea. The gas itself comes from the huge reserves of gas and oil being found in the Arctic.

The future here is entwined with the future of oil development, and rests with the pipeline that will probably cross Alaska from Prudhoe Bay to Valdez, when the U.S. government decides that it should be built.

This place, 2,000 residents, calls itself the biggest Eskimo village in Alaska. Also, it has become the seat of government for a sprawling new political entity that will affect the development of one of the major oilfields in North America, that at Prudhoe Bay, 175 miles east of here on the Arctic sea.

The new political entity is the North Slope Borough, 4,000 people living within 88,000 square miles.

For the most part they live here or at dots on the map called Anaktuvuk Pass or Point Hope or Barter Island, all between the Chukchi Sea, the Canadian border, the Arctic Ocean and the Brooks Range.

Some still live the wild, free life of the migrant Eskimo hunter, fisherman and trapper. The Eskimos grow up speaking the tongue of their ancestors. English is a language that some have acquired well, and some have not.

Joe Kaleak, a driver for the Top of the World Company, speaks English to his customers from "outside" and Eskimo to his radio dispatcher.

"I was outside to California," he said, swerving his cab though a mudhole. It was for six months in basic training at Fort Ord when he was in the Eskimo National Guard Battalion 15 years ago.

Eben Hopson has been "outside" many times, although he ended his formal education at the Bureau of Indian Affairs grammar school here.

Hopson, 51 years old, was an advisor to Gov. William A. Egan of Alaska but left that job about 18 months ago to come back here and campaign for acceptance of the North Slope Borough. He also campaigned for election as the first mayor of the borough and won on both.

The oil companies have hired many Eskimos as laborers. The Atlantic Richfield company, for example, has 40 employes working at Prudhoe Bay, and 24 of these are Alaska natives. They spend a week of seven shifts of 12 hours each, and then go home to Barrow for a week. The laborers earn about $15,000 a year.

When the pipeline is built, there will be 300 to 500 wells in the field. There now are about 65 wells, all capped. Employment will grow to 400 or 500 by Atlantic Richfield and British Petroleum, which will operate the field. Many workers will be Eskimos.

Eskimo leaders see these job opportunities as beneficial but they think the oil discoveries should bring more to the Eskimos. The oil lies below their lands, they say, and the Eskimos should benefit from its sale.

The oil companies tried and failed to prevent creation of the borough.

The companies then asked that the borough be prevented from levying and collecting taxes until their appeal was decided, and after the borough budget had been made up such a court order was issued. This left Hopson and his five assemblymen with a budget but with their property tax rolls decimated. They had assessed property of $765 million on the rolls and the court order removed $565 million of it.

The borough then quadrupled the base tax rate and levied the entire $4.2 million in taxes against the property left on the rolls. This has been shattering to holders of some undeveloped oil leases in the North Slope region. They find their lease holds valued as if they were on proved oil land, which they are not, and then taxed at high rates.

In years to come, if it survives legal tests, the borough tax load will climb spectacularly as it assumes costs of schools, roads, and services now paid for by federal and state governments.

The dispute has emphasized the fact that many of the companies that bought leases in the frenzy of the state oil lease auction in 1969 will never recoup their investments.

Those leases did not cover land within the Prudhoe Bay fields, which is the only one proved so far. That field is 95 percent controlled by Atlantic Richfield and British Petroleum who are developing it. Between then, they paid just under $11 million for leases that have at least $30 billion worth of oil under them. There is a possibility that big lease money was paid for land with little or no oil under it.

When the pipeline is in operation and the wells are producing, the state's income from its one-eighth royalty and severance taxes will be from $400 million to $500 million a year from known reserves.

Estimates are of a minimum reserve of 10 billion barrels, which would last for 15 to 20 years at the projected delivery rate now discussed. Gas reserves are estimated at 21 trillion cubic feet.

Meantime, Alaska's legislature is steadily eating up the $900 million realized from the 1969 lease sale, cutting it down to $640 million at present. The first tax-royalty income from Prudhoe Bay is not expected until 1977-78.

Delay in pipeline construction could be catastrophic to the state, because it has been spending on a bigger scale.

The Alyeska Pipeline Service Company is ready to begin construction if its design is approved, and some way is found to circumvent the problems in its way. These now are chiefly that its pipeline right-of-way requirement is greater than the law will allow it to have in some areas of the route.

MILITARY SPENDING

Mr. PROXMIRE. Mr. President, a little later this year, the Senate will be engaged in a debate on military spending. We will have a chance to do that when the procurement bill comes before us and when the defense appropriation bill comes before us.

I look forward to this discussion and debate and decision by the Senate more in this year than in any other concerning our military policy since I have been in the Senate. I do that because we have ended the Vietnam war—it will be over as of August 15—and because there is a greater realization on the part of the public and Congress, especially in the Senate, of the importance of taking a more thoughtful look at our military spending.

There is also pressure as never before

on the Congress to hold down spending as the most significant action we could take to stem inflation.

All Members of the Senate without exception, recognize that we have to have a strong military force stronger than we have had historically in the past, and I think we should have the strongest military force in the world. It is possible to reconcile that view with a substantial reduction in the recommendations made by President Nixon.

Fortunately, a group of extraordinarily able and experienced men, have made an excellent study of the military budget prior to this. These men, by and large, are oriented toward the Defense Department. They have worked in the Defense Department. They understand military problems. They understand the high cost of our military operations. They understand fully the increasing cost of military spending caused by the increased pay in the Army, Navy, and Air Force and the terriffic escalation in the cost of weapons. Yet, these men have made a dramatic recommendation on reducing defense spending.

They include men such as Alfred B. Fitt, former Assistant Secretary of Defense, Manpower; Roswell L. Gilpatric, former Deputy Secretary of Defense; Morton Halperin, Former Deputy Assistant Secretary of Defense; Townsend Hoopes, former Under Secretary of the Air Force; George B. Kistiakowsky, former Presidential Science Adviser to President Eisenhower; Herbert Scoville, Jr., former Deputy Director, Central Intelligence Agency; Ivan Selin, former Deputy Assistant Secretary of Defense; and Paul C. Warnke, former Assistant Secretary of Defense, International Security Affairs.

Before I place their report in the RECORD, I should like to read briefly from some of the highlights of the report, because these men, with their background, their concern for the defense of our country, and their understanding of other priorities, have made some recommendations that should awaken Members of the Senate to the great opportunity we have to make substantial reductions this year. They say, in part, as follows:

We have analyzed the Nixon military budget proposal, which calls for the appropriation of $87.3 billion in Fiscal 1974 for Pentagon programs, nuclear arms, and foreign military assistance, $83.5 billion of which is requested for the Department of Defense. Even a conservative analysis shows that some $14 billion can be saved from the Nixon proposal while fully preserving our national security, and starting a return to a peacetime national budget. Even making a generous allowance for transition and other "shut-down" costs, a substantial amount of the savings can be achieved in Fiscal 1974 budget authority, with the full saving in future years. Specifically, we project feasible savings of $3.1 billion in U.S. military operations in and aid to Southeast Asia, $4.0 billion in paring of our inflated general purpose forces and weapons systems, $3.3 billion in military manpower efficiency improvements, $3.0 billion in elimination or stretch-out of new strategic weapons procurements made unnecessary by the recent nuclear arms agreements with the Soviets, and $556 million in discontinuance of unproductive and even counter-productive foreign military assistance.

They go on:

We start with some basics:

About half of the current defense budget is enough to provide a more than adequate nuclear deterrent, as well as the land, sea, and air capacity to repel attack on U.S. territory.

The other half is spent to continue our alliance commitments and to maintain our overseas bases and troop deployments.

Many of these latter expenses are well justified; our national security interests at this time are advanced by a strong, stable network of international relationships. But recognition of the proportion of defense spending attributable to these commitments highlights the need for a close link between our international policy and our military spending.

The report goes on to point out that even without any reduction in our NATO commitment, although they find one can be justified, they say that $14 million could be eliminated.

They point out:

At present only 15 per cent of military personnel are "combat" forces—the other 85 per cent provide engineering support, transport services, a logistic network, training facilities, and other non-hostile services. While the spending for combat troops has decreased, reflecting the reduction in troop levels following the end of U.S. ground combat in Vietnam, support spending has not decreased proportionately. We recommend a 10 per cent reduction in support personnel which could yield as much as $1.2 billion.

One other area I think that is worthy of highlighting:

One significant source of increased costs is the steadily growing number of higher grade officers in a smaller total force. There are now more field grade and flag officers (lieutenant colonel or commander and above) to command a force of 2.2 million than there were in 1945 when the military numbered 12.1 million. Since 1970 total defense manpower has decreased by 15 per cent, while the number of general and flag rank officers and comparably paid civilians has remained the same. A similar problem exists with respect to non-commissioned officers.

If, by the end of Fiscal 1974, grade distribution were to be restored to the grade pattern of Fiscal 1964—the last "peacetime" year—an annual savings of over $2 billion could be realized from this factor alone. Due to the costs of separation pay and retirement benefits, the first year savings from restoring grade patterns would be an estimated $400 million.

Furthermore, they state:

The Department of Defense employs one million civilians, or ten times the number employed by the Department of Health, Education, and Welfare. President Nixon recognized in a recent interview that the Pentagon civilians were in need of a "thinning down." Yet his proposed budget raises civilian employment by 31,000.

Finally, with regard to the military assistance program, this report states:

The United States must adjust the military assistance program to the new era which has opened in international affairs. The detente among the superpowers has downgraded the significance of political/military developments in regions which were formerly the chief arenas of Big Power confrontation. Moreover, U.S. experience in Indochina in the past decade has shown the limits of military power, direct and by proxy, even when applied in huge amounts, to complex economic, political, and social conflicts within developing nations.

The American people recognize that the United States has neither the resources nor the need to be the world's policeman. It is equally wrong to continue to seek to be the world's chief distributor of subsidized arms and ammunition. Our arms aid and sale policies have led us to arm both sides in local conflicts. They increase the danger that the United States will align itself against the hopes and aspirations of the majority of the world's people by arming authoritarian governments representing a narrow political-military-economic elite.

In the current fiscal year the Executive Branch estimates that military and related assistance and arms sales programs total more than $8.4 billion. Much of this assistance—some $4 billion—is made available through programs which require no Congressional appropriations, for example, Department of Defense foreign military cash sales, excess defense articles, and ship loans.

They recommend a savings of $556 million in this area.

As I said, I think this is a very significant report. It could not be timed better. It comes before the Senate at a time when we will have a chance to analyze it and consider it. From my point of view, I could not support a reduction of $14 billion. I think it is excessive, but I think this report, which has been put together by very able, patriotic, and devoted men, who are knowledgeable in the field of defense, should be considered very carefully. Perhaps a $5 or $6 billion would be more reasonable, such a spending cut would go a long way toward enabling us to come in under the ceiling while at the same time meeting our very vital domestic needs.

Mr. President, I ask unanimous consent that the report be printed in the RECORD.

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

A REPORT TO CONGRESS: MILITARY POLICY AND BUDGET PRIORITIES, FISCAL YEAR 1974

Presented by:

Adrian S. Fisher, former Deputy Director, US Arms Control and Disarmament Agency.

Alfred B. Fitt, former Assistant Secretary of Defense (Manpower).

William Foster, former Director, US Arms Control and Disarmament Agency.

Roswell L. Gilpatric, former Deputy Secretary of Defense.

Morton Halperin, former Deputy Assistant Secretary of Defense.

Townsend Hoopes, former Under Secretary of the Air Force.

George B. Kistiakowsky, former Presidential Science Advisor to President Eisenhower.

Vice Adm. John Lee, USN Ret., former Assistant Director, US Arms Control and Disarmament Agency.

Herbert Scoville, Jr., former Deputy Director, Central Intelligence Agency,

Ivan Selin, former Deputy Assistant Secretary of Defense.

Paul C. Warnke, former Assistant Secretary of Defense (International Security Affairs).

Herbert F. York, former Director of Defense Research and Engineering.

Walter Slocombe, Editor, former staff member, National Security Council.

MONEY BILLS IN CONGRESS

[In billions of dollars]

*Distribution of the $171.5 billion budget authority requested for fiscal 1974**

Total	$171.5
National defense (57.2%)	98.1
DOD (including pay raises)	80.5
Physical resources (12.3%)	21.1
Veterans benefits	80.5
Military construction	2.9
Foreign military aid	1.3
AEC-military component	1.2
Agriculture, environment & consumer protection	9.5
Transportation	3.1
HUD	2.7
Dept. of Interior	2.4
Public Works, AEC-civilian component	3.4
Human resources (19.7%)	33.7
Labor, HEW	33.7
Other (10.8%)	18.6
State, Commerce, Justice, Judiciary	4.3
Foreign economic aid	3.1
Space, science	3.6
Treasury, general government, etc.	7.6

* Only $171.5 billion is requested to be appropriated by Congress for Fiscal 1974; the rest of the proposed budget is composed of interest on the national debt, trust funds, and other funds obligated under permanent authorization legislation.

Source: U.S. Senate Appropriations Committee.

MILITARY POLICY AND BUDGET PRIORITIES

Our nation has been burdened in recent years with unprecedented military costs. The Vietnam War and the nuclear arms race have not only cost us dearly in lives and peace of mind: they have also distorted our national budget towards arms and war and away from those vital areas of our people's needs dependent on support from federal revenues. With the end of our Vietnam involvement and the negotiation of the Moscow arms agreements in 1972, we were entitled to expect a major reduction in the military budget for Fiscal Year 1974 similar to the massive reductions achieved upon termination of the Second World War and of the Korean War. But, instead of reductions, President Nixon has proposed a $5.6 billion increase in national defense budget authority for Fiscal 1974 and simultaneously a vast cut-back on a great variety of federal domestic programs essential to our genuine national security.

A new international situation

Now is the time when the defense budget should decline, not increase, to reflect a changing world. The President, in his cordial exchanges with Chinese and Soviet leaders, has repeatedly stressed the need for a relaxing of international tensions. The Nixon doctrine states that foreign allies are primarily responsible for their own security. The SALT negotiations should have begun to curb a dangerous nuclear arms race. The U.S. and Russia have begun to develop economic ties, with large-scale business exchanges, which imply the existence of long-term, stable relationships.

As the President has repeatedly stated, we are indeed moving from an era of confrontation to one of negotiation. We still need a defense fully adequate to ensure our physical safety, but a general reduction in military funding would be consistent with that purpose in this new era. The Administration's proposal for increased military spending would, at best, mean a diversion of U.S. resources from urgent domestic needs. At worst, it could re-ignite the arms race, bring about new international crises, and jeopardize our national security.

*Summary of feasible reductions in national defense budget authority fiscal year 1974**

[In billions of dollars]

Southeast Asia	3.1
Military aid to South Vietnam, Laos, Cambodia	2.1
U.S. combat operations	1.0
General purpose forces	4.0
Procurement reductions	2.0
Asia-committed forces	2.0
Manpower efficiency	3.3
Reduce support personnel	1.2
Grade levels: restore to 1964 pattern	.4
Cut civilian manpower 10%	.8
No recomputation	.4
Other savings	.5
Strategic forces	3.0
Trident	1.3
Minuteman MIRV's	.7
B-1 bomber	.4
ABM	.4
AWACS	.2
Other (SLCM, ABRES, mobile ICBM, phased array warning)	.1
Military aid: Aid to foreign nations and U.S. military missions	
Total feasible reductions	14.0

* Detail may not add to totals due to rounding.

The Nixon military budget could safely be reduced by more than 15 percent

We have analyzed the Nixon military budget proposal, which calls for the appropriation of $87.3 billion in Fiscal 1974 for Pentagon programs, nuclear arms, and foreign military assistance, $83.5 billion of which is requested for the Department of Defense. Even a conservative analysis shows that some $14 billion can be saved from the Nixon proposal while fully preserving our national security, and starting a return to a peacetime national budget. Even making a generous allowance for transition and other "shutdown" costs, a substantial amount of the savings can be achieved in Fiscal 1974 budget authority, with the full saving in future years. Specifically, we project feasible savings of $3.1 billion in U.S. military operations in and aid to Southeast Asia, $4.0 billion in paring of our inflated general purpose forces and weapons systems, $3.3 billion in military manpower efficiency improvements, $3.0 billion in elimination or stretch-out of new strategic weapons procurements made unnecessary by the recent nuclear arms agreements with the Soviets, and $556 million in discontinuance of unproductive and even counter-productive foreign military assistance.

We start with some basics:

About half of the current defense budget is enough to provide a more than adequate nuclear deterrent, as well as the land, sea, and air capacity to repel attack on U.S. territory.

The other half is spent to continue our alliance commitments and to maintain our overseas bases and troop deployments.

Many of these latter expenses are well justified; our national security interests at this time are advanced by a strong, stable network of international relationships. But recognition of the proportion of defense spending attributable to these commitments highlights the need for a close link between our international policy and our military spending.

In this report, we focus on that relationship and on wasteful expenses—those deployments and programs that do nothing to further our interests, either to defend the U.S. or to support our alliances. And we point out some expenditures that actively threaten our national security by increasing the prospects of military confrontation.

An issue of priorities

We emphasize that savings from the Nixon military spending proposals must be made not merely because of the general desirability of eliminating wasteful spending. Making reductions on the military side has now become indispensable for adequate funding of many essential domestic programs. Programs now threatened by the Fiscal 1974 budget include: urban and rural housing assistance, water and sewer programs, various community development projects, health care and training programs, educational assistance for the disadvantaged. The cities, where many of these programs have been concentrated, are beginning to feel the effects of the Nixon reductions. The funds for manpower training and employment programs will be decreased nationwide by 13.5 per cent. Community development projects—those dealing with urban renewal, park construction, and sewer services—will be phased out abruptly. There is a promise in the budget of block grants to be available in 1975, but no new money is offered for 1974. Funds proposed for education special revenue sharing will decline by $515 million from comparable program appropriations in 1972.

For all practical purposes, a maximum has been set on the total federal budget. President Nixon has defied Congress to exceed his proposed $268.7 billion "fiscally responsible" federal outlay budget for 1974 and has threatened to impound domestic appropriations which would cause that limit to be exceeded. Congress has generally indicated its approval of such a spending ceiling, recognizing that the present inflation requires a limit on federal spending.

President Nixon, by increasing the military budget while announcing that we cannot afford to increase or even to maintain many of our vital domestic programs, has put before the Congress a fundamental issue of national priorities: It has become indispensable to the maintenance of our true national security that we find savings in the inflated defense budget to meet real human needs at home. We have concluded that at least $14 billion can easily be eliminated from President Nixon's proposed $87 billion military appropriations request.* Those billions saved can and should be applied to the needs of our people.

SOUTHEAST ASIA MILITARY COSTS

(RECOMMENDED SAVINGS: $3.1 BILLION)

The new budget authority being requested by the Pentagon in Fiscal 1974 for Southeast Asia is $2.9 billion. This figure includes $1.9 billion for U.S. military aid to South Vietnam and Laos, about half of which is slated for ammunition and equipment procurement for those two countries, and half for support of "allied operations." The remaining $1 billion is for the support of U.S. naval and air forces in Southeast Asia. In addition, $180 million for military aid to Cambodia is sought in the military assistance request. All $3.1 billion in new authorizations should be cut out. The arms assistance previously authorized is more than adequate for purposes of self defense.

The Congress and the American people are now united in the conviction that it is time

*The figures in this report, except as otherwise stated, refer to "budget authority," i.e., proposed new appropriations. Because actual spending ("outlays") includes amounts appropriated in prior years, reductions in appropriations, particularly for procurement, do not immediately produce equally large cuts in outlays. The full savings would be achieved in future years.

to disengage militarily from Indochina. The January 27, 1973 peace agreement provided for an end to U.S. bombing in North and South Vietnam and the withdrawal of our ground forces there. However, the Administration has continued its heavy military involvement throughout Southeast Asia by conducting extensive bombing raids over Cambodia, sending in new advisors to South Vietnam, flying oil and other supplies to Phnom Penh, conducting two days of bombing raids over Laos, sending reconnaissance planes over North Vietnam, and maintaining high levels of "replacement" of equipment and supplies to South Vietnam.

The U.S. is becoming enmeshed in one part of Indochina—without any constitutional authority—just after disengaging militarily from another area. This can only lead to new military involvement, to new U.S. combat deaths in Indochina, to new prisoners of war, and to further Indochinese deaths.

It is time for the U.S. to end our use of military force in the entire area. This means the cessation of all U.S. bombing, the withdrawal of support for Thai mercenaries in Laos, the suspension of the shipments of enormous amounts of military equipment to the area, and the removal of our air forces in Thailand and our naval forces off the shores. In short, a true U.S. withdrawal can be achieved only by completely ending U.S. military participation in this tragic area, where such participation only serves to keep the fighting going and to encourage new outbreaks.

The economic savings from the Fiscal 1974 military budget will be substantial; even more substantial will be the human savings resulting from an end to continued U.S. involvement in Southeast Asia. It is time to leave the resolution of power struggles in Indochina to the Indochinese people.

GENERAL PURPOSE FORCES (RECOMMENDED SAVINGS $4 BILLION)

General purpose forces—Army divisions, tactical air wings, both land- and sea-based, and most naval units—are the most expensive item in our defense budget. General purpose forces absorb 75 per cent of the defense dollar and are the driving element in the increasingly expensive defense manpower bill. Moreover, although they lack the terrible potential for ultimate destruction of strategic forces, the level and deployment of our general purpose forces may have more day-to-day political and diplomatic significance.

For the foreseeable future, the United States must maintain adequate conventional forces so that we do not have to rely entirely on strategic nuclear threats. However, in planning for these forces, we must keep two objectives in mind. First, we must achieve the most efficient possible use of funds spent for the manpower and equipment in our general purpose forces. Both because of budgetary considerations and because it is of profound importance to our national policy, we must clearly link the force levels and deployment patterns of our general purpose forces to our political and diplomatic objectives.

Procurement of new weapons

We must call a halt to the administration's seemingly incurable preference for extravagantly expensive, overly complicated weapons systems and for unjustifiably high force levels, sustained more by tradition than by need. The potential savings in this area are very large, at little or not cost in ability to meet genuine requirements. For example, by cancelling the fourth nuclear carrier and maintaining a reduced number of carriers in the future, we would save $700 million on the new carrier in Fiscal 1974 and very large amounts in annual operating costs for aircraft, missiles, and escort vessels in the future.

Examples of other general purpose weapons systems which can and should be eliminated or cut back include: (Fiscal 1974 authorization requests in parentheses).

Cancel SAM–D Army anti-aircraft missile ($194 million). This complicated system is of marginal utility, even for the NATO missions now chiefly proposed for it.

Eliminate F–14 program ($633 million). This plane is financially and technically troubled and represents little, if any, advance on the proven F–4.

Stretch out SSN–688 nuclear attack submarine program ($922 million), with two instead of five boats in Fiscal 1974 ($550 million savings).

Cuts such as these—and a much more critical look at other proposed new tanks, missiles, planes, and ships—will save large amounts now. More important, if we insist on simpler, more workable systems in the future, the effectiveness of our forces will actually be enhanced. The cuts outlined above, and similar cuts in other smaller programs, could readily save $2 billion in Fiscal 1974 authorization, even taking account of transition costs.

Manpower

Of particular importance in the general purpose forces area is reversing the continuing trend toward an imbalance in the teeth-to-tail ratio. The possible increases in military efficiency, detailed in the following section of this report, have greatest impact on the general purpose forces. Specifically, the 10 per cent cut in support personnel advocated there can be made with no harm to the capability of these forces.

We must review in the light of current conditions the reasons that we maintain our general purpose forces, i.e., the political and diplomatic objectives and policies they are designed to support. We must make these policies determine force levels and deployments and not, as so often has been the case in the past, the other way around. Reduced international tensions and acceptance of the hard-learned lessons of the limits on the usefulness of U.S. military power in foreign policy must be reflected in reduced forces and deployments.

The key practical areas here are deciding what forces we must maintain for Asia and what for European contingencies.

In recent years the level of forces actually deployed in Europe has been the most controversial issue as to general purpose forces. Clearly, the support for the NATO alliance must, in the United States' own self-interest, remain our highest conventional defense priority. However, it is neither militarily or diplomatically necessary, nor is it practically feasible permanently to maintain the present structure of United States forces in Europe. We must begin now, in consultation with our NATO allies, to plan a gradual but significant reduction in the number of United States forces in Europe. The place to begin the cuts is certainly in the overgrown support forces for the United States forces in Europe, as would be done by including European forces and bases in a 10 per cent cut in support manpower, stressing greater efficiency and the preservation of combat capability. We cannot wait until the completion of negotiations on balanced force reductions to initiate this review, nor can we permanently delay actual reductions as "bargaining chips" in those negotiations.

With respect to Asia, the case is much clearer that there must be cuts in committed forces to bring our defense policies in line with an updated view of our military role in Asia. If we now understand as a nation the folly of any political commitments which could entail engaging in a major land war in Asia, we have no continuing need for the ground divisions and tactical air wings which are now committed to Asian contingencies.

Independent estimates allocate at least three of our 16 ground divisions and 6–8 of our 38 tactical air wings to readiness for Asian interventions. These forces should be eliminated, with an estimated savings of at least $2 billion. Specifically, there is no longer any justification for continuing to maintan an American division deployed in Korea, as the South Korean ground forces enjoy about a two-to-one advantage over those of North Korea.

MILITARY EFFICIENCY (RECOMMENDED SAVINGS: $3.3 BILLION)

In addition to the savings gained by a demobilization of combat units, other savings can be realized by cutting support personnel levels, improving military efficiency and reducing manpower-related waste. Total savings could amount to $3.3 billion.

Reduce support personnel

At present only 15 per cent of military personnel are "combat" forces—the other 85 per cent provide engineering support, transport services, a logistic network, training facilities, and other non-hostile services. While the spending for combat troops has decreased, reflecting the reduction in troop levels following the end of U.S. ground combat in Vietnam, support spending has not decreased proportionately. We recommend a 10 per cent reduction in support personnel which could yield as much as $1.2 billion.

Reduce officer levels—"Grade creep"

One significant source of increased costs is the steadily growing number of higher grade officers in a smaller total force. There are now more field grade and flag officers (lieutenant colonel or commander and above) to command a force of 2.2 million than there were in 1945 when the military numbered 12.1 million. Since 1970 total defense manpower has decreased by 15 per cent, while the number of general and flag rank officers and comparably paid civilians has remained the same. A similar problem exists with respect to non-commissioned officers.

If, by the end of Fiscal 1974, grade distribution were to be restored to the grade pattern of Fiscal 1964—the last "peacetime" year—an annual savings of over $2 billion could be realized from this factor alone. Due to the costs of separation pay and retirement benefits, the first year savings from restoring grade patterns would be an estimated $400 million.

Reduce civilian bureaucracy

The Department of Defense employs one million civilians, or ten times the number employed by the Department of Health, Education, and Welfare. President Nixon recognized in a recent interview that the Pentagon civilians were in need of a "thinning down." Yet his proposed budget raises civilian employment by 31,000.

While DOD civilian personnel have been cut from their Vietnam War high, they have not been reduced in propotion to the cutback in military manpower. A 10 per cent reduction in the DOD civilian workforce would save at least $800 million.

No "recomputation"

The Administration proposes to tie military retirement benefits for certain retirees to the salary increases for active duty personnel, in addition to normal cost of living increases. While purportedly giving a fair shake to retired servicemen, this proposal, exceptionally costly over time, is inequitable for the civilian pensioner, the recipient of Social Security, and the taxpayer. Elimination of "recomputation" would save $390 million in Fiscal 1974, and an estimated $17 billion over the lives of the retirees affected.

Other savings

Vigorous implementation of simple operational efficiencies which even advocates of high levels of defense spending have re-

peatedly called for could easily achieve additional savings. Through a combination of increasing reliance on on-the-job training, reducing pilot training to operational needs, increasing average tours of duty, and improving maintenance procedures, at least $500 million could be saved.

PROCUREMENT OF STRATEGIC WEAPONS (RECOMMENDED SAVINGS: $3.0 BILLION)

Strategic context

Strategic weapons programs must be evaluated in 1973 in light of the Strategic Arms Limitations Agreements signed in Moscow in May 1972. The ABM Treaty, by limiting defensive missile systems to low levels, ensures the viability of our deterrent force. New offensive strategic weapons thus can no longer be justified as necessary to overcome potential Soviet ABM deployments. Furthermore, the capability to respond at appropriate levels in the event of limited Soviet nuclear aggression—the flexible response advocated by the Nixon Administration—has been materially enhanced and requires no new weapons developments. Our present strategic forces may now strike some military targets, including command posts and ICBM silos, without having first to overwhelm an ABM. Finally, the Interim Offensive Agreement freezes the number of large (SS–9 type) Soviet ICBMs at 313, significantly fewer than the number which Secretary Laird posed as a possible future threat to the Minuteman portion of our deterrent.

Despite this improved strategic climate, the Nixon Administration is planning to spend $750 million (30 per cent) more on procuring offensive strategic weapons in 1973 than was spent in 1972 and an additional $670 million (20 per cent) in 1974 over 1973. The Fiscal 1974 program also includes a number of new projects which, although costing relatively small amounts now, provide a foot in the door for very large expenditures in future years.

In the present strategic situation, we recommend the following minimum specific reductions:

Trident

The budget calls for more than $1.8 billion (DOD and AEC combined) for the Trident submarine ballistic missile system. The missile part of this program, costing $532 million, is divided into two phases: Trident I missile with a range of 4,000 nautical miles, which can also be retrofitted into the present Polaris-Poseidon system, and the Trident II missile with a range of 6,000 nautical miles. The ship part, costing about $1.3 billion, would design and build huge new submarines to carry the Trident II missile.

Trident is rationalized in two ways: (1) as a replacement for the "aging" Polaris submarine, and (2) as a hedge against the future development by the USSR of an antisubmarine warfare (ASW) capability which could threaten Polaris-Poseidon. Neither rationale justifies the procurement of mammoth Trident submarines, more than twice the size of Polaris and each costing $1.3 billion. The Polaris submarines will remain seaworthy until well into the 1990s, and at the present time the nature of any ASW threat to Polaris cannot even be predicted. When and if it arises, the Trident fleet could be more vulnerable than the present Polaris one because its greater unit size and its smaller number of ships could make it easier to destroy in a surprise attack, using some now unknown technology. The decision to place the $500 million Trident base in Bangor, Washington, still further reduces the value of this new ship by initially foreclosing its operation in the Atlantic.

Virtually all the potential benefits of Trident, and none of its drawbacks, can be obtained by retrofitting the 4,000 nautical mile Trident I missile on Polaris; this would put our subs in range of Soviet targets, even while still in U.S. territorial waters. The Trident program should be cut back to the development of the Trident I missile and to research on alternative submarine configurations including smaller vessels, with a saving of $1.3 billion.

Procurement of Minuteman III with MIRV's

The Fiscal 1974 budget proposes $768 million as the final installment for the MIRVing of the first 550 Minuteman missiles. Since no MIRVs are needed to overwhelm any Soviet ABM, further improvements to the Minuteman force should be deferred and the program halted after completing only those missile modifications now in process. Total savings would be about $677 million.

B–1 bomber

The 1974 budget calls for $474 million for the continued development of the new B–1 strategic bomber, a replacement for the present B–52s, which has less range and payload and is supersonic only at high altitudes. The envisaged eventual procurement of some 240 of these bombers could involve overall system expenditures of at least $30 to $40 billion. However, the later model B52Gs and Hs, of which we have more than 200, are now estimated to remain operational well through the 1980s. The B–52 replacement, if ever needed, could be a slower, longer endurance aircraft equipped with long-range missiles to avoid having to penetrate hostile air space. The program should be cut back to exploratory R&D on a variety of bomber system designs and the procurement of aircraft should be deferred, with a saving of $374 million.

ABM

The budget calls for new authorization of $672 million in Fiscal 1974 for ABMs, of which $172 million would be authorized for weapons outlawed by the SALT treaty. Total outlays of $1.74 billion in 1973 and 1974 are needed to complete the Safeguard deployment at the Grand Forks, North Dakota, site. The new program authority requested should be cut back to exploratory development on advanced ABM systems with no procurement of additional hardware, for a saving of $372 million.

AWACS

The 1974 budget calls for $210 million for continued development and production of Airborne Warning and Control Systems designed to provide highly sophisticated and invulnerable control systems for defense against Soviet bomber attack and for tactical air defense. The tactical system is too expensive and vulnerable to airplane attack to be worthwhile; the strategic system is unnecessary, as Soviet strategic strength is in missiles, not bombers. Since, by the ABM Treaty, the U.S. and the Soviet Union have recognized their inability to defend against missile attack, the expenditure of large sums of money for new defenses against bombers is very wasteful. The AWACS should be cancelled with a saving of $200 million.

Development projects leading to large future expenditures

The Fiscal 1974 budget calls for the initial development of a Strategic Cruise Missile ($15 million), a mobile ICBM ($6 million), and the deployment of a phase array radar for warning against submarine launched missiles ($31 million). None of these are justified. Cruise missiles are unnecessary when ballistic missiles have a free ride to targets in the Soviet Union; a mobile ICBM is necessary in view of the invulnerability of our submarine missile force with more than 5,000 warheads; and additional means of warning of submarine missiles is superflous because of the recent successful deployment of a satellite-based missile warning system. In addition, the program calls for spending $95 million for the development of advanced ballistic re-entry systems and technology. The project could be destabilizing and erode the agreed mutual deterrent balance, spurring the arms race. These four programs should be eliminated or reduced to very low levels with a saving of $122 million.

MILITARY ASSISTANCE PROGRAM (RECOMMENDED SAVINGS: $556 MILLION)

The United States must adjust the military assistance program to the new era which has opened in international affairs. The detente among the superpowers has downgraded the significance of political/military developments in regions which were formerly the chief arenas of Big Power confrontation. Moreover, U.S. experience in Indochina in the past decade has shown the limits of military power, direct and by proxy, even when applied in huge amounts, to complex economic, political, and social conflicts within developing nations.

The American people recognize that the United States has neither the resources nor the need to be the world's policeman. It is equally wrong to continue to seek to be the world's chief distributor of subsidized arms and ammunition. Our arms aid and sale policies have led us to arm both sides in local conflicts. They increase the danger that the United States will align itself against the hopes and aspirations of the majority of the world's people by arming authoritarian governments representing a narrow political-military-economic elite.

In the current fiscal year the Executive Branch estimates that military and related assistance and arms sales programs total more than $8.4 billion. Much of this assistance—some $4 billion—is made available through programs which require no Congressional appropriations, for example, Department of Defense foreign military cash sales, excess defense articles, and ship loans.

Some parts of our military assistance and sales programs are clearly in our national interest, and should be continued. But major cuts can be made.

FEASIBLE REDUCTIONS IN THE FOREIGN MILITARY ASSISTANCE PROGRAM

[In millions of dollars]

Program	Fiscal year 1974 budget request	Proposed	Savings
Military grant assistance (request includes $180,000,000 for Cambodia)	652	270	[1] 202
Military education and training	33	25	8
Military credit sales	525	200	325
Credit sales ceiling	(760)	(700)	(60)
Security supporting assistance	100	95	5
Total	1,310	590	540

[1] Eliminating the $180,000,000 request for military aid to Cambodia is included in our recommended Southeast Asia cuts, and not here.

Additional savings can be made by reducing Military Assistance Advisory Groups, missions, and military groups attached to U.S. embassies around the world. These groups, which promote U.S. military sales and services, and even the military aid program, too often play a role independent of the U.S. ambassador who is nominally in control. The Administration estimates MAAG/Mission/Military Group costs for Fiscal 1974 as follows: $15.8 million from the Military Assistance Program and $50 million from Department of Defense Funds. We recommended a 25 per cent cut this year leading to a total phaseout of the program. Total savings for aid to foreign nations and U.S. military missions: $556 million.

ROUTINE MORNING BUSINESS

The routine morning business transacted during the day is printed here by unanimous consent.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

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

REPORT ON BUDGETARY RESERVES

A letter from the Director, Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report on budgetary reserves, as of June 30, 1973 (with an accompanying report). Referred to the Committee on Appropriations.

REPORT OF BOARD OF TRUSTEES OF THE FEDERAL HOSPITAL INSURANCE TRUST FUND

A letter from the Secretary of the Treasury, Secretary of Labor, Secretary of Health, Education, and Welfare, and the Acting Commissioner of Social Security, transmitting, pursuant to law, a report of the Board of Trustees of the Federal Hospital Insurance Trust Fund, for 1973 (with an accompanying report). Referred to the Committee on Finance.

REPORT OF BOARD OF TRUSTEES OF THE FEDERAL SUPPLEMENTARY MEDICAL INSURANCE TRUST FUND

A letter from the Secretary of the Treasury, Secretary of Labor, Secretary of Health, Education, and Welfare, and the Acting Commissioner of Social Security, transmitting, pursuant to law, the 1973 annual report of the Board of Trustees of the Federal Supplementary Medical Insurance Trust Fund (with an accompanying report). Referred to the Committee on Finance.

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. ROBERT C. BYRD (for Mr. SPARKMAN):

S. 2182. A bill to consolidate, simplify, and improve laws relative to housing and housing assistance, and for other purposes. Referred to the Committee on Banking, Housing and Urban Affairs.

By Mr. BENTSEN:

S. 2183. A bill to implement the shrimp fishing agreement with Brazil. Referred to the Committee on Commerce.

By Mr. STEVENSON:

S. 2184. A bill to amend the Tariff Schedules of the United States to provide that certain forms of zinc be admitted free of duty. Referred to the Committee on Finance.

By Mr. WILLIAMS:

S. 2185. A bill to provide a $100 million increase in the authorized funding for the section 202 housing for the elderly and handicapped program. Referred to the Committee on Banking, Housing and Urban Affairs.

By Mr. CRANSTON:

S. 2186. A bill for the relief of Young Hae Lee Jameson. Referred to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BENTSEN:

S. 2183. A bill to implement the shrimp fishing agreement with Brazil. Referred to the Committee on Commerce.

Mr. BENTSEN. Mr. President, I am pleased to introduce legislation to implement the agreement concerning shrimping rights which was signed May 9, 1972, by the Government of the Federative Republic of Brazil and the Government of the United States. This agreement is of great importance in view of substantial American shrimping operations within the 200-mile limit which Brazil claims as its territorial waters and in view of the growing American need for additional sources of protein. This treaty, having a 2-year life, has been complied with by both the U.S. Government and U.S. fishermen in good faith since the agreement was concluded. However, there has been no executive mechanism or legislative authorization for all of the functions necessary to officially implement the agreement. My bill is designed to meet such needs.

The Department of State has advised that preliminary talks for extending the treaty would have to begin in early fall of this year. However, concern has been expressed over the United States not having yet officially implemented the treaty. Therefore, it is imperative that implementing legislation be passed prior to the commencement of these further talks with Brazil.

Mr. President, we are all familiar with the problems facing the U.S. fishing industry. I would like to point out again that this agreement with Brazil is important not only for the U.S. shrimping industry but also to insure an adequate supply of shrimp to the American consumer. The Congress must act to insure that proper implementing legislation is enacted to carry out the terms of the agreement. I urge the Senate to expedite action on this bill.

By Mr. STEVENSON:

S. 2184. A bill to amend the Tariff Schedules of the United States to provide that certain forms of zinc be admitted free of duty. Referred to the Committee on Finance.

Mr. STEVENSON. Mr. President, I am today introducing legislation to amend the tariff schedules to admit zinc ore free of duty.

There are few industrial material shortages resulting from international market fluctuations that can be alleviated through unilateral action by our Government. Such is the situation that exists, however, in the zinc smelting industry, a vital supplier of slab zinc metal. Its needs could be more easily met by amending the U.S. Tariff Schedules to admit zinc ore free of duty. This would be the effect of the bill which I introduce.

American industry needs zinc in the form of slab zinc metal. In the years between 1950 and 1970, the consumption of zinc rose from an annual level of 900,000 tons to 1.4 million tons. In that same period, domestic production decreased from approximately 900,000 tons to less than 800,000 tons per year. The growing disparity between industrial needs and the product of domestic smelters must be compensated for through costly zinc metal imports.

Zinc metal is produced by the smelting of zinc ores and concentrates. In early 1970, 14 zinc smelters were operating in the United States. During the period 1950 to 1970, U.S. zinc metal production ranged between 900,000 and 1.1 million tons per year. Domestic mine production of the vital ore and concentrate ingredients, however, has averaged only 500,000 tons. Smelter production has therefore depended on the importation of ores and concentrates from countries with excess mine production—particularly Canada, Mexico, and Peru. Such imports have ranged from 400,000 to 600,000 tons per year, entering with a statutory duty of 67 cents per pound of zinc ore.

The economics of this matter is simple: In an ore-short and metal-hungry economy like ours, we must import either ore and concentrates from which slab metal can be smelted or import the zinc metal produced by foreign smelters. Every ton of zinc imported as concentrates now costs approximately $200; every ton imported as zinc metal costs $400 per ton. The drain on our balance of payments is evident. As American smelters lie idle, metal imports must continue to grow.

Since early 1970 7 of 14 domestic smelters have closed. Two more are expected to close shortly, and one in my home State of Illinois is expected to reopen this year. The prospect remains, however, that in 1974 only six zinc smelters will be operating in this country with a capacity of approximately 700,000 tons per year—less than one-half of our present annual zinc consumption level.

It is estimated that if current trends continue the United States will have to import annually as much as 750,000 tons of zinc metal by 1975—a 50-percent increase over 1972 levels. Import of cheaper zinc ores and concentrates will drop to 200,000 tons—only one-third of the 1969 peak.

The short-supply situation which plagues our smelters, increasing both foreign exchange outflows and our dependence on foreign smelters, is aggravated by the current freeze on zinc metal prices. American smelters must bid for their ore supplies on the world market and ore import prices are free to rise. The inability of these firms to raise the prices of finished zinc metal products makes it difficult for them to offer adequate bids for ore on the world market. Japan and other smelting countries are outbidding U.S. processors. U.S. firms are unable to compete with other ore consumers who are free to pass on ore cost increases to their zinc metal customers.

We cannot alter the situation created by the imposition of the price freeze. We can, however, make it easier for U.S. smelters to acquire raw materials on the world market by removing from the books the duty on zinc ores and concentrates. American smelters would thus be able to offer bids more in line with world market conditions and provide better for our domestic metal needs with less strain on our balance of payments.

Mr. President, this tariff reduction must be accomplished by statute. The duty which has hindered smelters to date is an anachronism and should be removed. American mines are unable to meet the growing needs of our smelters and will have no less incentive to maintain maximum productive levels in zinc ores and concentrates if this tariff is removed. It is time to eliminate the artifi-

cial barrier on zinc ores and to review those other tariffs which may in fact be working against the public interest.

By Mr. WILLIAMS:

S. 2185. A bill to provide a $100 million increase in the authorized funding for the section 202 housing for the elderly and handicapped program. Referred to the Committee on Banking, Housing and Urban Affairs.

EXTENSION OF SECTION 202 HOUSING FOR THE ELDERLY AND HANDICAPPED PROGRAM

Mr. WILLIAMS. Mr. President, I introduce, for appropriate reference, a bill to increase the authorization of the section 202 housing for the elderly and handicapped program.

The purpose of this measure is to put the Senate on record in favor of the reinstatement of this program and its coexistence with the section 236 interest subsidy approach. Moreover, this bill provides unmistakable support for restoring 202 to full and effective operation.

Over the years, section 202 has, in my judgment, been one of the most successful housing programs ever enacted for the elderly. In fact, it never had a failure during its 12 years of existence.

Yet, the administration has decided to phase out this enormously effective program.

This decision, it seems to me, is especially shortsighted because housing is in such short supply for older Americans. And, 202 has throughout its history provided pleasant apartment units at prices which the elderly could afford.

Equally important, section 202 provided housing which was tailor made for older Americans. Because it was a specialized program for the aged, it was possible to develop flexible, comprehensive, and effective guidelines.

My proposal, I am pleased to say, was adopted as an amendment to the 1972 Housing Act, S. 3284. Unfortunately, no final action was taken on this omnibus housing package because of a legislative logjam in the House at the end of the 92d Congress.

Recent hearings by the Senate Committee on Aging's Subcommittee on Housing for the Elderly—of which I am chairman—had clearly demonstrated that shelter for older Americans requires sustained and specialized attention. And this is a major reason that I introduce my bill to continue the 202 program as one approach for responding to the unique and intensifying housing problems of older Americans.

For these reasons, I urge prompt consideration of this proposal.

Mr. President, I ask unanimous consent that the text of my 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. 2185

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Section 202(a)(4) of the Housing Act of 1959 is amended by striking out the first sentence thereof and inserting the following: "There is authorized to be appropriated for the purposes of this section not to exceed $750,000,000."

ADDITIONAL COSPONSORS OF BILLS

At the request of Mr. PELL, the Senator from Pennsylvania (Mr. SCHWEIKER) was added as a cosponsor of S. 796, to improve museum services.

S. 1907

At the request of Mr. BURDICK, the Senator from Minnesota (Mr. HUMPHREY) was added as a cosponsor of S. 1907, to establish an arbitration board to settle disputes between supervisory organizations and the U.S. Postal Service.

S. 1954

At the request of Mr. STEVENSON, the Senator from California (Mr. TUNNEY) was added as a cosponsor of S. 1954, the Federal Election Finance Act of 1973.

S. 2065

At the request of Mr. STEVENSON, the Senator from California (Mr. TUNNEY) was added as a cosponsor of S. 2065, the Campaign Gift Tax Act of 1973.

S. 2080

At the request of Mr. PELL, the Senator from Massachusetts (Mr. BROOKE), the Senator from Connecticut (Mr. RIBICOFF), and the Senator from Alaska (Mr. GRAVEL) were added as cosponsors of S. 2080, to provide for the establishment of rail passenger service development corporations, and to make available Federal assistance to encourage the development of improved rail passenger services in transportation corridors in the United States.

S. 2161

At the request of Mr. PERCY, the Senator from Tennessee (Mr. BAKER) was added as a cosponsor of S. 2161, relating to the employment and training of criminal offenders, and for other purposes.

S. 2162

At the request of Mr. PERCY, the Senator from Tennessee (Mr. BAKER) was added as a cosponsor of S. 2162, relating to voting rights of former offenders.

AMENDMENT OF COMMUNICATIONS ACT OF 1934—AMENDMENTS

AMENDMENT NO. 339

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

Mr. BENTSEN submitted amendments, intended to be proposed by him, to the bill (S. 372) to amend the Communications Act of 1934 to relieve broadcasters of the equal time requirement of section 315 with respect to Presidential and vice-presidential candidates and to amend the Campaign Communications Reform Act to provide a further limitation on expenditures in election campaigns for Federal elective office.

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

AMENDMENT NO. 340

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

Mr. HUMPHREY 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. 341

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

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

NOTICE OF HEARINGS ON H.R. 4083 AND H.R. 6713

Mr. STEVENSON. Mr. President, on Tuesday, July 17, the Subcommittee on Business, Commerce, and Judiciary of the Committee on the District of Columbia will hold hearings on H.R. 4083 and H.R. 6713. The hearing will begin at 10 a.m. in room 6226, Dirksen Senate Office Building. Inquiries about the hearing may be addressed to Ms. Adele Alexander, 456 Russell Senate Office Building, phone 225–2854.

NOTICE OF HEARINGS ON H.R. 8250, TO AUTHORIZE CERTAIN PROGRAMS AND ACTIVITIES OF THE DISTRICT OF COLUMBIA

Mr. INOUYE. Mr. President, on July 19, the Subcommittee on Fiscal Affairs of the District of Columbia Committee will hold public hearings on H.R. 8250, a bill to authorize certain programs and activities of the District of Columbia, in room 6226, Dirksen Senate Office Building, at 5:30 p.m.

Persons wishing to present testimony at these hearings should contact Mr. Andrew E. Manatos, Associate Staff Director of the District of Columbia Committee, room 6222, Dirksen Senate Office Building, by July 17, 1973.

NOTICE OF HEARINGS ON SENATE JOINT RESOLUTION 76

Mr. BAYH. Mr. President, the Subcommittee on Constitutional Amendments has scheduled hearings on Senate Joint Resolution 76, a proposed constitutional amendment which would grant representation in Congress to the District of Columbia. Specifically the proposed amendment would grant the District two Senators and as many Representatives as its population warrants.

The hearings are scheduled for Thursday, July 19, in room 2228, Dirksen Senate Office Building, beginning at 1:30 p.m. Any persons wishing to testify or submit statements for the hearing record should contact J. William Heckman, Jr., chief counsel of the subcommittee, room 300, Russell Senate Office Building, Washington, D.C. 20510, as soon as possible.

ADDITIONAL STATEMENTS

NOMINATION OF JOHN R. STEVENSON

Mr. FULBRIGHT. Mr. President, the Committee on Foreign Relations has received the nomination of Mr. John R. Stevenson, with the rank of Ambassador, to head the U.S. Delegation to Law of the Sea Conferences scheduled to be held in 1973 and 1974.

In view of the fact that Mr. Stevenson, former legal adviser to the Department of State, is now associated with a law firm in New York which has clients whose interests may be affected by treaties which may be negotiated at the forthcoming conferences, the Department has submitted a determination—with background papers—finding that the interest of Mr. Stevenson in his firm is not so substantial as to affect the integrity of his services.

In these circumstances, and after informal consultation with the Department of State, I felt that the material we have received relevant to the Stevenson nomination should be put in the CONGRESSIONAL RECORD so that it will be a matter of public record prior to the committee's consideration of the Stevenson nomination.

Parties interested in this nomination should communicate their interest to the Clerk of the Committee on Foreign Relations, Mr. Arthur Kuhl, prior to July 23.

I ask unanimous consent that the following papers be printed in the RECORD.

First. Determination by Secretary of State Rogers;

Second. Letter of May 9th from Acting Legal Adviser of the Department of State, Mr. Charles Brower, to Assistant Attorney General Dixon;

Third. Letter of May 10 from Acting Assistant Attorney General Ulman to the Acting Legal Adviser, Department of State.

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

DETERMINATION

Pursuant to the authority granted by Title 18, United States Code, Section 208(b), considering the annexed "Confidential Statement of Employment and Financial Interest" dated May 10, 1973 signed by John R. Stevenson and the annexed letters of Acting Legal Adviser Charles N. Brower and Acting Assistant Attorney General Leon Ulman, dated May 9, 1973 and May 10, 1973, respectively, I hereby determine that any financial interest which John R. Stevenson, his wife, his minor child John R. Stevenson, Jr., or Sullivan & Cromwell may be deemed to have in the United Nations Law of the Sea Conference or the preparatory session of the United Nations Committee on Peaceful Uses of the Seabed or in any preparations or negotiations in connection therewith is not so substantial as to be deemed to affect the integrity of the services of John R. Stevenson as a special government employee serving as Chairman of the United States Delegations to said Conference and session.

WILLIAM P. ROGERS,
Secretary of State.

DEPARTMENT OF JUSTICE,
Washington, D.C., May 10, 1973.

Hon. CHARLES N. BROWER,
Acting Legal Adviser,
Department of State,
Washington, D.C.

DEAR MR. BROWER: This is in response to your letter of May 9, 1973, asking for our review of the application of the conflict of interest statute (18 U.S.C. 201 *et seq.*) to John R. Stevenson, Esq., presently a partner of the New York law firm of Sullivan & Cromwell, while serving as Chairman of the United States Delegation for the Law of the Sea Conference. You inform us that it is expected that Mr. Stevenson will be designated "Special Presidential Representative for the Law of the Sea Conference" with the rank of Ambassador, an office subject to confirmation by the Senate. We also understand that he would be serving as an officer of the Department of State.

You state that in order to enable Mr. Stevenson to serve in the capacity as Chairman of the Delegation, he would be appointed a special Government employee for not to exceed 130 days during any period of 365 consecutive days. Your letter sets forth in detail the purposes of the Law of the Sea Conference and the duties Mr. Stevenson will be called to perform as Chairman of the Delegation. It states as follows:

"Mr. Stevenson has indicated to the Secretary his acceptance of the appointment and has made the following proposed arrangements with his firm: He would resign as a partner effective June 30, 1973, and as of that date would become counsel to the firm with the understanding that he would be compensated by the firm solely an agreed salary which is paid only for times other than those during which he is serving as Chairman of the United States Delegation at the Law of the Sea Conference or at the Preparatory Committee meeting this summer, is not in any way compensation for his services to the government, and is wholly unrelated to the employment contemplated herein. The reason for Mr. Stevenson withdrawing as a partner and becoming counsel to Sullivan & Cromwell on this basis is that the extensive absences which will be necessitated by his government service would make it difficult to meet the normal responsibilities of a member of the firm, and would make it inequitable for him to participate in firm profits. In addition, it is intended to ensure full compliance with both the letter and the spirit of the federal conflict of interest provisions and eliminate any possiblity of an appearance of conflict. Throughout the period of his special employment with the government, Mr. Stevenson would not represent any private client before the State Department and, in addition, he would not advise any partner of Sullivan & Cromwell in connection with any representation of any client, in respect of any matter relating to the law of the sea negotiations. Mr. Stevenson has advised me that his firm does have clients whose interests may be affected by any law of the sea treaty or treaties."

The conflict of interest statute distinguishes between regular officers and employees of the Government and a category of officers and employees designated in 18 U.S.C. 202 as "special Government employees." This latter category includes, among others, officers and employees appointed or employed to perform temporary duties, either on a full-time or intermittent basis, with or without compensation, for not to exceed 130 days during any period of 365 consecutive days. Special Government employees are excepted by the statute from certain of the prohibitions imposed upon regular employees.

The application to Mr. Stevenson of the provisions of the conflict of interest statute would be as follows:

1. 18 U.S.C. 208. *Acts affecting a personal financial interest.* The basic question presented here involves the applicability of 18 U.S.C. 208(a), which bars executive branch officers and employees, including a special Government employee, from participating personally and substantially in relation to a particular matter in which "he, his spouse, minor child, partner, organization in which he is serving as . . . employee" has a financial interest. Section 208(b) permits an agency to grant an officer or employee an ad hoc exemption if the interest is not so substantial as to affect the integrity of his services to the Government. An agency may also waive insignificant interests by a general rule or regulation.

Mr. Stevenson will continue in an employment relationship with Sullivan & Cromwell as counsel for that firm. You state that the firm has clients whose interests may be affected by any law of the sea treaty or treaties. The Civil Service Commission has set forth guidelines with respect to the waiver provision of section 208(b) applicable to special Government employees whose advice is of a general nature from which no preference or advantage over others might be obtained by any particular person or organization. Federal Personnel Manual Instruction 57 of November 9, 1965. These guidelines are based on the President's memorandum of May 2, 1963, entitled "Preventing Conflicts of Interest on the Part of Special Government Employees." *

You set forth the basis for your view that the Secretary of State may appropriately conclude that the services to be rendered by Mr. Stevenson as Representative would fall within the underscored language above. Under the Civil Service Commission Personnel Manual's guidelines and based solely on the situations set forth in your letter, we are not aware of any legal objection to the granting of a waiver by the Secretary of State, should he decide to do so.

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* The President's Memorandum of May 2, 1963, was revoked by E.O. 11222 of May 11, 1965, with the direction that the date of such revocation was to be the date of issuance by the Civil Service Commission of regulations under section 701(a) of the order. Sec. 703(e). Under section 701(a), the Commission was authorized to issue appropriate regulations and instructions implementing, among other things, Part III of the order, which relates to "Standards of Conduct for Special Government Employees."

The Commission guidelines state in part the following:

"The matters in which special Government employees are disqualified by section 208 are not limited to those involving a specific party or parties in which the United States is a party or has an interest, as in sections 203, 205, and 207. Section 208 therefore undoubtedly extends to matters in addition to contracts, grants, judicial and quasi-judicial proceedings, and other matters of an adversary nature. Accordingly, a special Government employee should, in general, be disqualified from participating as such in a matter of any type when its outcome will have a direct and predictable effect upon the financial interests covered by the section. The power of exemption, however, may be exercised in this situation *if the special Government employee renders advice of a general nature from which no preference or advantage over others might be gained by any particular person or organization.* The power of exemption may, of course, be exercised also where the financial interests involved are minimal in value." (Emphasis added.)

2. 18 U.S.C. 203. *Compensation of officers and others in matters affecting the Government.* In the case of a special Government employee such as Mr. Stevenson, the bar of section 203 is limited to compensation for services, performed by him or *another person,* in relation to any *particular matter* in which he has personally and substantially participated as a Government employee or as a special Government employee, or which is pending in the department or agency in which he is serving. Accordingly, Mr. Stevenson could not participate in any of the fees of Sullivan & Cromwell resulting from services rendered before the Department of State with respect to a particular matter by any of the members of that law firm during the period of his employment. Upon the basis of the facts set forth in the quotation from your letter reproduced above, section 203 would not apply.

3. 18 U.S.C. 205. *Activities of officers in claims against and other matters affecting the Government.* Mr. Stevenson could not appear actually or constructively before the Department of State in representation of any private client in any particular matter pending before the Department of State or in which he has participated personally and substantially through decision, approval, disapproval, recommendation, advice, or otherwise. Your letter states that Mr. Stevenson disclaims any intention of such activities. Upon that basis, Mr. Stevenson would not violate 18 U.S.C. 205.

4. 18 U.S.C. 207. *Post-employment restrictions and treatment of partners.* Upon completion of his services for the State Department, Mr. Stevenson, as a special Government employee, will be subject to the applicable post-employment restrictions of 18 U.S.C. 207 (a) and (b).

Section 207(c) relates to treatment of *partners* of *existing* Government employees, including a special Government employee. It prohibits such partners from acting as agent or attorney in connection with a particular Government matter only where (1) the government partner is *currently* a government employee, and (2) he participates in the matter personally and substantially or has official responsibility for it. As noted above, Mr. Stevenson will cease to be a partner of Sullivan & Cromwell on June 30, 1973, and thereafter will be a salaried employee in the capacity of counsel. On that basis, section 207(c) would not apply.

5. 18 U.S.C. 209. *Salary of Government officials payable only by the United States.* 18 U.S.C. 209(a) bars an officer of the executive branch from receiving, or anyone from paying him, any salary or supplementation of salary from a private source as compensation for his services to the Government. You should note that section 209, however, has no application to a special Government employee. Sec. 209(c).

Sincerely,

LEON ULMAN,
Acting Assistant Attorney General, Office of Legal Counsel.

THE LEGAL ADVISER,
Washington, D.C., May 9, 1973.

Hon. ROBERT G. DIXON,
Assistant Attorney General,
Washington, D.C.

DEAR MR. DIXON: The Secretary of State has asked John R. Stevenson, a partner of the New York law firm of Sullivan & Cromwell, to serve as Chairman of the United States Delegation for the Law of the Sea Conference. In connection with this appointment it is expected that Mr. Stevenson will be designated "Special Presidential Representative for the Law of the Sea Conference" with the rank of Ambassador, which will be subject to confirmation by the Senate.

The United Nations General Assembly has scheduled the first session of the Conference for two weeks in New York in November or December 1973 to deal with organizational matters, including the election of officers, and a second session of eight weeks to deal with substance in Santiago, Chile, in April–May 1974.

It is expected that the Conference will be attended by most of the more than 130 members of the United Nations. In addition, the General Assembly has scheduled two preparatory meetings for the Law of the Sea Conference, the second of which will be held for eight weeks this summer in Geneva, and is expected to be attended by 91 countries. It is contemplated that Mr. Stevenson would head the United States Delegation to the second preparatory meeting as well as to the Conference itself.

In order to enable Mr. Stevenson to serve in this capacity as Chairman of the Delegation with the indicated designation he would be appointed a special government employee for not to exceed 130 days during any period of 365 consecutive days.

Mr. Stevenson has indicated to the Secretary his acceptance of the appointment and has made the following proposed arrangements with his firm: He would resign as a partner effective June 30, 1973, and as of that date would become counsel to the firm with the understanding that he would be compensated by the firm solely an agreed salary which is paid only for times other than those during which he is serving as Chairman of the United States Delegation at the Law of the Sea Conference or at the Preparatory Committee meeting this summer, is not in any way compensation for his services to the government, and is wholly unrelated to the employment contemplated herein. The reason for Mr. Stevenson withdrawing as a partner and becoming counsel to Sullivan & Cromwell on this basis is that the extensive absences which will be necessitated by his government service would make it difficult to meet the normal responsibilities of a member of the firm, and would make it inequitable for him to participate in firm profits. In addition, it is intended to ensure full compliance with both the letter and the spirit of the federal conflict of interest provisions and eliminate any possibility of an appearance of conflict. Throughout the period of his special employment with the government, Mr. Stevenson would not represent any private client before the State Department and, in addition, he would not advise any partner of Sullivan & Cromwell in connection with any representation of any client, in respect of any matter relating to the law of the sea negotiations. Mr. Stevenson has advised me that his firm does have clients whose interests may be affected by any law of the sea treaty or treaties.

Mr. Stevenson served as Legal Adviser to the Department of State from 1969 through December 30, 1972 when he resigned to return to private practice. While he was Legal Adviser for the Department of State he served both as the United States Representative to the United Nations' Committee on Peaceful Uses of the Seabed, acting as a preparatory committee for the Law of the Sea Conference, and as Chairman of the Inter-Agency Law of the Sea Task Force in Washington. Because of Mr. Stevenson's broad experience in the law of the sea and close working relationship with the leaders of other countries involved in these negotiations, it is very much in the national interest that he head the United States Delegation to the Conference.

While it is not contemplated that Mr. Stevenson will serve as Chairman of the Inter-Agency Task Force as he did when he was Legal Adviser, undoubtedly he would be required, in his capacity as Chairman of the United States Delegation to the Conference, to make recommendations to the Secretary of State and the President on United States positions with respect to the negotiations and comment on recommendations of the Inter-Agency Task Force on the Law of the Sea.

The purpose of the Law of the Sea Conference is to reach agreement on a comprehensive law of the sea treaty or treaties establishing a legal regime for the oceans. This will involve the negotiation and preparation of treaty provisions dealing with the rights and obligations of states and their nationals in the oceans, including such questions as the permissible limit of the territorial sea, coastal states' jurisdiction with respect to fisheries and petroleum and mineral exploitation beyond the territorial sea, and an international regime with respect to the exploitation of mineral resources beyond coastal state jurisdiction, navigational and overflight rights beyond the territorial sea and in international straits, the prevention of marine pollution and the preservation of the freedom of scientific research in the oceans. Under usual rules governing diplomatic conferences, the agreement of two-thirds of the nations voting at the Conference will be necessary to the conclusion of any treaty or treaties prepared at the Conference. It is contemplated that any treaty adopted at the Law of the Sea Conference would be submitted to the United States Senate for its advice and consent to the ratification of such treaty.

It is my opinion that the employment of Mr. Stevenson as proposed herein would not present a problem under 18 U.S.C. §§ 203, 205, 207(a) and (b) or 209, and would not subject the partners of Sullivan & Cromwell to the provisions of § 207(c) (which sections collectively, in addition to 18 U.S.C. § 208, comprise the federal conflict of interest statutes potentially applicable to this matter). It is further my opinion that the Secretary of State may appropriately make a written determination under 18 U.S.C. § 208 (b) as clarified by Federal Personnel Manual Instruction 57 of November 9, 1965, precluding application of 18 U.S.C. § 208(a) in these circumstances insofar as it might otherwise apply, on the grounds that Mr. Stevenson will be rendering services of a general nature from which no preference or advantage over others might be gained by any particular person or organization. My grounds for so believing are as follows:

1. The legal principles being discussed at the Law of the Sea Conference, as outlined above, will be extremely general, indeed of virtually worldwide application, and not such as to afford the opportunity for actions favoring individual firms or individuals.

2. Because of the political considerations affecting all participants in the Conference, there is no possibility for a broad "trade-off" of one major United States interest for another; all major interests will have to achieve accommodation of some sort to assure adequate accommodation of the divergent interests of other countries. This fact in itself considerably narrows the opportunity for obtaining preferential treatment.

3. The major policy objectives of the United States in the Law of the Sea negotiations have already been determined by the President in considerable detail as a result of inter-agency analyses that, for the most part, occurred some time ago. This process has already resulted in promulgation by the President on May 23, 1970, of his Oceans Policy, which continues to be the basic guidance in these negotiations. Most of these decisions were made on the basis of a determination of likely United States interests during the time frame to which a treaty could be expected to apply, and this assessment is believed still to be basically accurate. Indeed, the House of Representatives has recently endorsed these negotiating objectives by an overwhelming vote, and a similar resolution has been introduced in the Senate. Our principal concern from here on in will be that of harmonizing optimum United States objectives with the interests and objectives of other States in ways that adequately accommodate all of the major United States interests concerned.

4. The positions taken by the United States Delegation to the Conference, which Mr. Stevenson would chair, and any changes in these positions, are and will continue to be approved by the President after full discussion within the Inter-Agency Law of the Sea Task Force, as well as the Delegation, both of which groups are composed of representatives of principal government agencies, particularly the Departments of Commerce, Defense, Interior, Treasury, and State, and the Council on Environmental Quality. Since each agency will be seeking to preserve the integrity of this established policy and assure protection of the particular domestic interests entrusted to it, the opportuniy for significant shifts of position for any reason will be minimal. The role of the Chairman, rather, will be to lend his subject matter expertise and diplomatic abilities to permit amicable compromise and sensible resolution of divergent points of view.

5. The United States position is considered by an advisory committee organized and operated in accordance with the Federal Advisory Committee Act (P.L. 92-463, October 6, 1972) and composed of representatives of private interests directly affected by the Conference, and of public representatives. The Committee is very broadly based, and is designed to represent all major segments of opinion on the subject. Members of this advisory committee also serve on the negotiating Delegation. The membership of this Delegation thus constitutes direct representation of all interests affected by the outcome of the Conference, and possesses the capacity to assure that no substantial changes in United States positions which adversely affect their interests can take place without the review and approval referred to in paragraph 4 above.

6. The development of our positions is subject to close congressional scrutiny by a large number of Committees with different concerns, including the Foreign Relations, Commerce, and Interior Committees in the Senate and the Foreign Affairs, Merchant Marine and Fisheries, and Armed Forces Committees in the House of Representatives. Members of Congress and their staffs are present on our delegation. It has been our assessment for some time that failure to achieve adequate accommodations of all major U.S. interests would seriously jeopardize the possibility of achieving the two-thirds vote necessary for advice and consent to ratification of a treaty.

7. Insofar as the purposes of the statute relate to the maintenance of public confidence, both at home and abroad, it would appear from private communications that all those concerned would greatly welcome this appointment by the Secretary.

I would appreciate very much if you would advise me whether you concur in my opinion that the Secretary of State could appropriately make a written determination under 18 U.S.C. § 208(b) so as to permit Mr. Stevenson to serve in this important position and that, assuming such determination is made, such employment would not present a problem under the federal conflict of interest statutes potentially applicable to this matter as mentioned above.

Sincerely yours,

CHARLES N. BROWER,
Acting.

STATE—USIA CONFIDENTIAL STATEMENT OF EMPLOYMENT AND FINANCIAL INTERESTS

(For use by special Government employees)

1. Name (last, first, initial): Stevenson, John R.

* * * * *

3. Birth date (month, day, year): October 24, 1921.

NAME AND KIND OF ORGANIZATION

Sullivan & Cromwell (law firm), New York, N.Y., Partner—see Schedule A.

* * * * *

4. Actions on behalf of foreign principals.—Have you ever been an agent or otherwise acted for a foreign principal under the terms of Foreign Registration Act of 1939? No.

MAY 10, 1973.

JOHN R. STEVENSON.

CONFIDENTIAL STATEMENT OF EMPLOYMENT AND FINANCIAL INTERESTS

For use by a special Government employee as required by section 306 of Executive Order 11222, dated May 8, 1965, Prescribing Standards of Ethical Conduct for Government Officers and Employees.

GENERAL REQUIREMENTS

The information to be furnished in this statement is required by Executive Order 11222, the regulations of the Civil Service Commission and the joint regulations of the Department of State, the United States Information Agency and the Agency for International Development, issued thereunder and may not be disclosed except as the agency head may determine for good cause shown.

The Order does not require the submission of any information relating to an employee's connection with, or interest in, a professional society or a charitable, religious, social, fraternal, recreational, public service, civic, or political organization or any similar organization not conducted as a business enterprise and which is not engaged in the ownership or conduct of a business enterprise. Educational and other institutions doing research and development or related work involving grants or money from or contracts with the Government are deemed to be "business enterprises" for purposes of this report and should be included.

The information to be listed does not require a showing of the amount of financial interest, indebtedness, or the value of real property.

In the event any of the required information, including holdings placed in trust, is not known to you but is known to another person, you should request that other person to submit the information on your behalf and should report such request in Part IV of your statement.

The interest, if any, of a spouse, minor child, or other member of your immediate household shall be reported in this statement as your interest. If that information is to be supplied by others, it should be so indicated in Part IV. "Member of your immediate household" includes only those blood relations who are full-time residents of your household.

SCHEDULE A

If appointed and confirmed, it is my intention to resign as a partner of Sullivan & Cromwell, effective June 30, 1973, and as of that date I will become counsel to the firm with the understanding I will be compensated solely by an agreed salary which is paid only for times other than when I am serving as Chairman of the United States Delegation at the Law of the Sea Conference or the preparatory meeting this summer and is not in any way compensation for my services to the government and is wholly unrelated to my employment as a special government employee. Throughout the period of my special employment with the government, I would not represent any client, and would not advise any partner of Sullivan & Cromwell in connection with any representation of any client, in respect of any matter relating to the law of the sea negotiations. Sullivan & Cromwell has clients whose financial interests may be affected to a presently unascertainable extent by any law of the sea treaty or treaties.

SCHEDULE B

Organization, kind of organization, and nature of interest and in whose name held

American Micro-Systems, Inc.; manufacturing—stock; my name.

Eastman Kodak Company; manufacturing—stock; my name.

MCI Communications; manufacturing—stock; my name.

Union Pacific Corporation; railroad—stock; my name.

DeVegh Mutual Fund, Inc., investment company—stock; my name.

Scudder Development Fund; investment company—stock; my name.

Smith, Barney Equity Fund; investment company—stock; my name as trustee for Patience F. Stevenson (wife) and John R. Stevenson, Jr. (son).

WATERGATE

Mr. JAVITS. Mr. President, I ask unanimous consent that a speech I delivered before the Genesee County Republican Committee Dinner on June 25, 1973, discussing the national implications of the Watergate affair be placed in the RECORD:

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

REMARKS OF SENATOR JACOB K. JAVITS

I have some observations on Watergate, what it was, what it is, and what it should teach us. It was an undertaking by some who put blind desire for the President's re-election above our laws, creating a crisis of political integrity and a threat to the security of our free institutions. Watergate created a moral crisis through which we are going even now. But, if we learn from Watergate we can weather that crisis and emerge from it with our free institutions strengthened and fortified—we can emerge from it a better country and a better people.

One thing is already clear: Watergate—which demands that we investigate it to the limit and prosecute whoever has violated the law no matter where it leads—will not dismantle the United States Government or the Presidency within it—nor will it dismantle the Republican Party.

Watergate can teach us a lesson—a lesson, in my view, in three parts.

First, it can teach us that the timespan, the financing and the rules under which we conduct our political campaigns must be formulated with considerations of the highest standards of honesty and decency, based on an acknowledgement that even in politics all is *not* fair.

Second, it can teach us that the organization of our government is such that it can, and must, be isolated from a national scandal such as Watergate so that it can function effectively in its responsibilities at home and abroad, even while investigations and prosecutions go forward. Under our system, a government cannot fall and a new election be held. Therefore, in the present circumstances, the Congress can make a vital contribution to meeting our responsibilities by regaining the authority, especially as to war and foreign policy, bestowed upon it by the Constitution—an authority which the Congress has for years given up or defaulted on. This is an opportunity for the Congress to serve the people with statesmanship and decisiveness.

Third, Watergate shows there has been something seriously, perhaps basically, wrong with the moral climate of our country when the perspective of so many in high places is so distorted as to countenance stooping to crime and mendaciousness in the waging of a political campaign and the search for political victories at any price.

Perhaps the last part of the Watergate lesson is the most important. For from that we must move to return to scrupulous adherence to the constitutional and ethical principles upon which our nation was based by the Founding Fathers. We have grown and prospered—we have become strong and respected

because of our past adherence to those principles. To leave any distance between them and us would be far more than folly—it would be unforgivable.

No doubt many of us will continue to be fascinated by the coming developments and revelations as the Watergate hearings and investigations continue. Let us not be so fascinated as to fail to learn the lessons of Watergate.

STATE GOVERNORS TAKE STEPS TO CONSERVE ENERGY

Mr. HUMPHREY. Mr. President, a little less than a month ago the Senate, by a wide margin, passed the Emergency Petroleum Allocation Act of 1973. This legislation included my amendment urging the establishment of State fuels and energy conservation offices. I suggested that such offices be established for the purpose of developing and promulgating a program to encourage voluntary conservation of gasoline, diesel oil, heating oil, natural gas, propane, other fuels, and electrical energy.

I subsequently informed all 50 Governors of the content and intent of this legislation, and it pleases me to note that many Governors agree and already are working along the lines.

I have been notified by 19 Governors concerning their efforts to confront the growing energy problem. It is reassuring to know that in many of these States, programs for the overview of the various energy problems already had been implemented. Let me give you a couple of examples of the type of actions underway:

In Delaware, Gov. Sherman W. Tribbitt has established the Delaware Energy Emergency Board, which has three objectives: First, to determine the depth and realities of the energy shortage for that State; second, to act as a clearinghouse for complaints that will be eventually funneled to the Office of Emergency Preparedness and the Office of Oil and Gas; and third, to develop a program for voluntary energy conservation by all Delawareans. Governor Tribbitt also sent me copies of the various staff reports that have been done for him concerning ways to save electricity and energy.

Gov. David Hall of Oklahoma reported that during the most recent session of his State's legislature, an Energy Advisory Council for Oklahoma was established to direct energy policy.

Two Governors, Linwood Holton of Virginia and Wendell Ford of Kentucky, reported that in the last month they have established separate bodies to review their States' energy policy. On June 15 Governor Holton announced the appointment of an Energy Resource Advisory Committee, and on June 22 Governor Ford created a Kentucky Energy Council.

Moreover, Governor Egan of Alaska informs me that he will soon establish a Committee on the Alaska Energy Situation. And Governor Walker of Illinois has said he is planning to establish an Office of Energy Conservation which will monitor steps toward energy evaluation and implement new programs.

Finally, even in those States which do not presently have official offices for the purpose of fuel policy review, there are definite steps which can be taken to accomplish the desired conservation. Gov. John A. Burns of Hawaii, a State which has not suffered from any pronounced fuel crisis, has nevertheless passed certain regulations which actively conserve energy. The posted speed limits in Hawaii are no higher than 55 miles per hour. State and county agencies have experimented with liquid petroleum to replace gasoline in some fleet uses. The news media have encouraged and promoted the use of the bicycle as well as bus ridership. Hawaii's State agencies have monitored agricultural fuel needs and suggested allocation adjustments based upon seasonal realities. These are all steps which I have advocated for a long time, and I am pleased to see that some States have taken affirmative action on them.

In conclusion, Mr. President, I would like to express my hope that all 50 States will implement programs for the purpose of conserving fuel and energy. The action Governors have taken in recent weeks is encouraging. I can only hope that all States will be conscious of this growing problem, and that they will take positive steps to make the energy shortage manageable. The reports from selected States I have mentioned suggest that constructive programs can be adopted. And with the full weight of each Governor's office, we will be better able to face up to this crisis.

KEYNOTE ADDRESS BY SENATOR MOSS TO AIAA/ASME/SAE/SPACE MISSION PLANNING AND EXECUTIVE MEETING

Mr. GOLDWATER. Mr. President this past Tuesday in Denver, Senator Moss keynoted a joint symposium on space program planning held by the American Institute of Aeronautics and Astronautics, the American Society of Mechanical Engineers, and the Society of Automotive Engineers.

The chairman of the Committee on Aeronautical and Space Sciences addressed the four points paramount in his mind at this critical juncture of the national space program. His remarks reflect the kinds of policy decisions weighed by the committee this year, and will, I believe, be of interest to my colleagues.

I ask unanimous consent that Senator Moss' keynote address be printed in the RECORD.

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

THE FUTURE OF SPACE: THE VIEW FROM CAPITOL HILL

Someone once suggested that each speech by a Senator should be entitled "The Universe: And Other Matters", so as to leave a little room for digression. The title suggested for my remarks today—The Future of Space: the View from Capitol Hill—is a bit more constraining. But it leaves me enough leeway to cover the four points I'd like to make.

First, despite a year with all the trappings of potential disaster, NASA is coming through in pretty good shape.

Second, now is the time for space planners—inside and outside the NASA family—to get serious about how best to use the space shuttle.

Third, the single, most important need for a healthy future space program is a substantially higher NASA budget request for Fiscal Year 1975.

Fourth, Congress is willing to leave overall planning for future space options to the Executive Branch, but cavalier disregard for specific Congressional decisions—such as we witnessed last January—is not likely to be so lightly accepted in the future.

I would like to address each of these points briefly.

One should not go too far into the past in a speech about the future. I'll go back just one year to set the stage for elaborating on my first point.

Last year the Administration proposed, and Congress fully endorsed, a balanced program which could be supported by an essentially level NASA budget over the next few years. This program included the continuation of active, though restricted, work, both in space sciences and in the direct application of space science and technology to the solution of present-day problems here on earth.

At the same time, it included developing and putting in place by the end of this decade the basic elements of a new space transportation system, including the space shuttle. Bolder options, such as the larger, more expensive automated planetary expeditions and manned earth orbital space stations, were consciously deferred.

After acceptance, and Fiscal Year 1973 funding by Congress of the first increment of this new, more stable, program, the Administration inexplicably chose to draw back. As part of reductions in numerous federal programs, the aeronautics and space budget plan for Fiscal Year 1973 was cut sharply, and the President put forward a 1974 budget far short of the "constant level" just approved by Congress.

Thus Congress was called upon to consider a budget which could be characterized—and was—as carrying forward the shuttle, Skylab, Apollo/Soyuz, and little else. Since there were virtually no new starts, the five-year runout projections vividly portrayed shriveling budgets for everything but the shuttle, while the total budget stayed at about $3 billion. Talk of the "shuttle squeeze" became so fashionable some thought it was the name of a new rock group!

Then came new troubles with ERTS–A; the tragic crash of the "Galileo" research aircraft; and Skylab's problems. Some began to wonder if NASA, so proud a few months before of the 1972 vintage year—100% success in space and in Congress—was not due for a random success.

By mid-May, NASA was in serious trouble, and the outlook was dark on Capitol Hill.

But then NASA turned the corner. ERTS kept working. Quick steps were taken—by the Administration and the Congress—to replace the "Galileo", Convair 990, and the largest unmanned spacecraft ever launched—the Skylab workshop—was fixed in orbit by, of all things, men!

Meanwhile, cooler heads prevailed on Capitol Hill. The authorization bill, after some repair, breezed through the House. We were able to just barely squeak through the Senate by a vote of 90 to 5! The appropriation bill, providing 99.5% of the funds that NASA requested, also passed.

The NASA program survived an extremely tenuous period virtually unscathed.

With this somewhat limited background, let me turn briefly to the near term NASA future, as I see it.

Mariner 9 obsoleted several generations of textbooks on Mars. In much the same tradition, the Fall 1973 launching of a mission to Venus and Mercury will extend our field of knowledge in a sunward direction. This mission will also provide the first practical dem-

onstration of the new technique of using the gravitational field of a planet to alter the direction, and improve the travel time, of a spacecraft on its journey to a second planet. Thus, the Venus-Mercury mission is of great importance in its own right and critical to the success of later flights to the outer planets.

NASA is planning, and I believe the Congress will continue to support, the 1975–1976 Viking missions to orbit and to land instrumented vehicles on Mars. It is, of course, critical that we place instruments on Mars if we are ever to resolve the question of life on that planet. Viking, and the Russian missions which we all expect, may well provide the answers and, of course, raise new questions.

Beyond Mars, two Pioneer spacecraft are even now on the way to Jupiter. These probes will provide vital data on the asteroid belt and the radiation environment of the largest solar planet. We must have this information before we design and fly two gravity-assisted missions to Jupiter and Saturn in 1977. These spacecraft will arrive at Jupiter in 1979 and at Saturn in 1981. Thus, they will open the path to full exploration of the outer planets of the solar system in the decades to come.

One of the most promising fields in the U.S. space effort, and one that is in high favor in Congress, is the earth applications program. This is the area in which the American space dollar offers the most immediate return in relation to the economy and the betterment of the human condition.

We often hear about the potential of orbiting satellites in surveying global resources: crops, timber, ore and fuel deposits, fish migration, and the status of water supplies. Orbital technology will also enable utilization of vastly improved methods of air and water pollution surveillance and of monitoring of the ecological threat to man's terrestrial environment. ERTS–A is proving these promises to be conservative. ERTS–B, which I will mention later, will continue this progress.

The earth physics program will tell us much more about our planet, including land mass movement, the nature of tidal action, the dynamics of ice migration, and the motion of the earth's crust. These data will be highly useful in improving our knowledge and the capability for prediction of earthquake phenomena. Even the occurrence of tidal waves and volcanic eruptions may be predictable in the orbited technology of coming decades.

Congressional leaders are well aware of the high potential of these earth applications programs. Within the limits of available resources, they will be maintained in an active state.

Because of the improved climate existing between this country and the Soviet Union, the Congress welcomes the joint Apollo/Soyuz mission now scheduled for 1975. As you know, in that mission an Apollo command/service module will rendezvous in orbit and dock with a Russian Soyuz spacecraft. This flight should open the way for more advanced cooperative efforts in the future, including the important capability for emergency rescue missions.

I want to mention specifically in respect to this ASTP mission, the need for prompt decision on *meaningful* experiments for the U.S. flight. Just this week many of you have received a letter from Jim Fletcher, NASA Administrator, inviting proposals for experiments to be utilized on the Apollo/Soyuz Test Program. There is space for about 400 pounds for experiments not now committed. The unique nature of this flight calls for meaningful investigations of interest to the Soviet Union and the United States and valuable for all mankind.

Time is short. Proposals should be delivered to NASA not later than 23 July—this month. I hope that your homework has been going on at full speed. NASA will screen your proposals and invite many of you to a workshop seminar in Houston during the week of 30 July, there to discuss objectives, the nature of experiments, fiscal and interface requirements, and compatibility with this mission.

Experiment funding has been authorized. An ASTP experimenters information package is available on request. Here lies further opportunity truly to learn and to apply the values of space.

Apollo/Soyuz is an important step in a program of international technical exchange with the Russians that, to date, has included moon rocks and soil, data from weather satellites, and specific medical information on the effects on astronauts and cosmonauts of the space environment.

Within this broad framework, cooperation in space research between the United States and the Soviet Union is of special significance. One of the most popular exhibits at the Paris Air Show this year was the exhibit of the planned Apollo/Soyuz Test Project. It has been little more than a year since President Nixon and Premier Kosygin signed the space agreement in Moscow on May 24, 1972. Enough time has elapsed so that we can now evaluate the extent to which the provisions of that agreement are being implemented.

The Apollo/Soyuz Test Project has reached the point where American and Soviet technical directors and their staffs are meeting almost monthly in Houston and Moscow to work out the details of compatible systems for rendezvous and docking. Between March 13 and 30, 1973, they met at the Lyndon B. Johnson Space Center in Houston and reaffirmed the date of July 15, 1975, when the Soyuz would be launched first from the Soviet Union with the Apollo to follow from Kennedy Center in Florida.

When Arnold W. Frutkin, NASA Assistant Administrator for International Affairs, testified before our Committee on March 22, 1973, he said that "Soviet interest in the success of the Apollo/Soyuz Test Project is clearly equal to our own, and veteran observers of the Soviet scene tell us that the close collaboration between members of the joint working groups is unmatched in their experience."

We all look for an increase in this cooperation and exchange of scientific and technical data, particularly when data becomes available from the surface of Mars.

I expect that the interchange of scientific and technological information will continue to contribute to the general detente between Russia and the United States in political and cultural fields. Cooperation between the two powers, even in science, is a dramatic departure from the atmosphere of mutual distrust that has marked relations during the past half-century.

Now to my second point. You will recall I said that everyone should bend his attention now to planning how to use the shuttle. If the shuttle survives the yearly series of hurdles that we set before large, long-term projects, it will be ready in 1980. In many ways, that's a long way off. But each of you knows it's just around the corner in space program planning terms.

We are not going to realize the benefits of the shuttle unless we use it as the shuttle, not as just another launch vehicle. The shuttle offers a true difference in kind in spacefaring. To use it for several years with payloads differing only in degree would be a tragedy for the taxpayer as well as for those who could reap much more from the scientific, military and applications missions in the early 1980's.

If the shuttle is to be fully used when it is ready, many steps must be taken in a timely fashion. Payload studies and designs must proceed now. In this connection, I welcome the payload efforts NASA is funding and the Space Science Board summer study now underway. Those are important, but only first steps.

Meetings of the type you are holding here in Denver this week are also highly important, and I hope the by-words "think shuttle" will pervade all your sessions, not merely those on Thursday.

A crucial element of readiness will be preparation of the Western launch and recovery site. That must also be timely. In saying this, I recognize the difficult program phasing and funding problems faced by the Department of Defense.

And, of high importance, prompt decisions are essential on funding and design of space tug vehicles. Until we provide properly designed "upper stages", to use an outmoded term, the shuttle will work under a great handicap.

All of these steps cost money, and a great deal of it. Providing the necessary funds, in the appropriate budgets, will not be simple; in fact, it may not be possible unless we move in the right direction now. And that leads to my third point.

The NASA budget must be raised.

As I mentioned a moment ago, the Congress endorsed last year the concept of a "contant level" NASA budget of $3.4 billion in 1971 dollars. If any of you can't remember what a 1971 dollar was, take my word that it looks a lot bigger now than it did then.

But NASA is down to about $3 billion in current dollars, well more than a half billon dollars *below* the "constant" budget in 1971 dollars. At that level next year, and in the next few years, something would have to go. And that "something" might well have to be the shuttle.

Dr. Fletcher has been frank to acknowledge this fact.

In testimony before the various Committees of Congress this year, including my own, Dr. Fletcher was quick to point out that NASA must have a higher budget next year to maintain a balanced program. Otherwise, he said, and I believe him, some major segment of traditional NASA effort would disappear.

Experimental communications satellites have gone already. The next loss would be greater in scope and long term impact, be it the shuttle, planetary missions, or one or more NASA centers.

I hope that no one—in NASA, the Administration, the Congress, industry or the academic world—will be lulled into a false sense of security by the unprecedented support a $3 billion budget received on "the Hill" this year. In large measure, that unprecedented support was based on uncommon frankness.

In addition to Dr. Fletcher's forthrightness about the need for bigger budgets, every statement I made in support of this year's level was clearly premised on a higher level in years to come.

As an aside, I might say that I even went to the unusual technique, unusual at least in the Senate, of using tables and charts to make the point as clearly as I know how.

Perhaps it was a result of these clear arguments, that there was no serious attempt to reduce the NASA authorization or appropriation in the Senate this year.

The NASA budget, I repeat, must go up. We cannot turn back.

I will be brief about my final point. To refresh your recollections, as they say in the Watergate hearings, let me remind you "at this point in time" what the fourth point was.

The Congress is not likely to hold still again for the kind of treatment accorded by impoundments, selective withholdings, or whatever term one chooses to use for the non-statutory rape of NASA programs by OMB last Winter.

This year over 100 million appropriated dollars were withheld from NASA. Besides, numerous programs, specifically approved

by the Congress, were slowed, stalled or stopped.

During review, authorization and appropriation of the NASA budget this year, the Congress mandated modest, but nonetheless significant and sincerely held changes in priorities. Without taking the time of this distinguished assembly to spell out all of them, let me mention just two.

Earlier, I referred to the astounding success of ERTS–A. The FY 1974 NASA program would have delayed ERTS–B until 1976, well beyond any reasonable life expectancy of ERTS–A.

The Congress will insist, in the language of my Committee's report, that NASA use $8 million out of its $3 billion, and I quote "to proceed immediately to bring ERTS–B into a ready status for launch in its present configuration in the event ERTS–A encounters major system failure."

A lengthy gap in this program will not be tolerable.

As a second example, on my recommendation, the Senate Space Committee added $2 million in authorization for NASA work on planning energy programs. The House Space and Senate Appropriations Committees specifically endorsed this initiative to ensure that the NASA family is doing what it can to apply its considerable talents to solutions to the energy crisis.

These and other decisions which we made must be heeded by space planners. The House-Senate Conference on NASA authorization, noting the disregard for Congressional setting of priorities last year, stated, and I quote, that it "strongly urged the funds provided by the Congress for NASA . . . be used to fully fund the programs to the level approved by Congress."

It would behoove the Administration to pay attention to these clear expressions of legislative intent.

If you've been keeping count, you know that I have now covered the four points I undertook to make.

One—NASA is getting through a bad year in good shape.

Two—It is time for professional organizations such as those represented here today, and others, to get serious about the shuttle.

Three—The budget must go up, and

Four—Congress has asserted itself and means what it says.

Let me close by wishing you the utmost success in the working sessions this week at this important conference. Much depends on the quality of your efforts here and back at your places of business. The Congress, and the American people, rely on you to continue the high level of excellence you have achieved in the past. The ingenuity and persistence of the Skylab crew is a tremendous example for all of us in furthering our space efforts toward a better tomorrow. It is in your hands and minds that the future of space truly lies.

Thank you.

ACTION ON GENOCIDE LONG OVERDUE

Mr. PROXMIRE. Mr. President, it was in 1950 that President Truman first submitted the Genocide Convention to the U.S. Senate for ratification. Hearings were held before the Foreign Relations Committee that year, but no action was taken. No action was taken for the succeeding 21 years either.

During the time that the convention has languished in the Senate, it has been ratified by 75 nations. This includes virtually every major nation in the world. The United States stands out as the single major abstainee on the list of nations ratifying the convention.

In May 1971, the Foreign Relations Committee finally reported the convention to the Senate floor, with the recommendation that the convention be ratified. Unfortunately, no action was taken in 1971 and 1972. However, in the spring of this year, the convention was again sent to the floor by the Foreign Relations Committee, and we now have an opportunity to act upon it.

Mr. President, let us not lose this opportunity. The Genocide Convention, which would make unalterably clear the opposition of the civilized world to the hideous crime of genocide, deserves to be ratified. I hope the Senate will be permitted to act upon it without further delay.

PRAYER OFFERED AT DINNER AT NATIONAL CONFERENCE OF CHRISTIANS AND JEWS AT PITTSBURGH

Mr. JAVITS. Mr. President, on Wednesday, May 30, 1973, I had the pleasure of addressing the National Conference of Christians and Jews at a dinner honoring Mr. and Mrs. Henry Lee Hillman of Pittsburgh, Pa. The Reverend John Baiz, D.D., rector of Calvary Episcopal Church of that city, offered the invocation and I ask unanimous consent to have it printed in the RECORD.

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

INVOCATION

O God of righteousness.

We thank you for the faith we inherit from common sources. It gives us the vision of a world where children of God are not ground down in oppression but lifted up in freedom.

We thank you for the gift of your love. It demands that the human person must not be bound in misery but liberated in joy.

We thank you for the abundance of the earth. Your gift makes possible a society of persons not equal in poverty but diverse in wealth.

We thank you for the pricking of conscience. It makes us lay the foundations for such a world, not tomorrow but today.

We thank you for the natural majesty and beauty of this land. They restore us, though we often destroy them.

We thank you for the great resources of this nation. They make us rich, though we often exploit them.

We thank you for the men and women who have made this country strong. They are models for us, though we often fall short of them.

We thank you for the torch of liberty which has been lit in this land. It has drawn people here from every nation, though we ourselves have often hidden from its light.

Help us, O Lord, to finish the good work here begun. Strengthen our efforts to blot out ignorance and prejudice, and to abolish poverty and crime. Hasten the day when all our people, with many voices, in one united chorus will glorify your Holy Name.

Bless this food to the nourishment of our bodies and this fellowship to the nourishment of our souls. In thine own Name we ask it. Amen.

ANALYSIS OF SUPREME COURT DECISION IN LAIRD AGAINST TATUM

Mr. ERVIN. Mr. President, when the Senate Subcommittee on Constitutional Rights conducted hearings in 1971 on Federal data banks, computers, and the Bill of Rights, testimony was heard from Mr. Ralph M. Stein which contributed significantly to the subcommittee's study of Government compilation of information and records on private citizens.

Mr. Stein served in the U.S. Army in military intelligence from October 1965 to October 1968 and subsequently participated in an exhaustive investigation of the activities of the U.S. Army. Mr. Stein now serves as editor in chief of the Hofstra University Law Review.

An excellent article by Mr. Stein on the Supreme Court opinion in *Laird* v. *Tatum* (408 U.S. 1) recently appeared in the Hofstra Law Review. I was privileged to present oral argument as a friend of the Court in this class action dealing with the chilling effect which Army surveillance of civilians has on first-amendment freedoms. In my opinion, the Supreme Court gravely erred in dismissing the case on the grounds that the plaintiffs had no standing to sue.

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

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

LAIRD V. TATUM: THE SUPREME COURT AND A FIRST AMENDMENT CHALLENGE TO MILITARY SURVEILLANCE OF LAWFUL CIVILIAN POLITICAL ACTIVITY*

The First Amendment was adopted to elevate and defend the central right of a free people: the right to peaceably dissent, to argue, to persuade, and to demonstrate. The United States Army was created to preserve and protect our society. *Laird v. Tatum*,[1] a class action challenge to military surveillance of civilian politics, demonstrates with frightening precision the degree to which the force of protection can and has imperiled the instrument of freedom.

There was no evidence in the record before the Supreme Court to show the extent to which lawful political activity was chilled and deterred by Army intelligence. The reasons are several. The action was initiated with a modicum of information; much that is known today was not known at the time of the District Court hearing. More important, individuals present in court who were prepared to relate their experiences monitoring civilian activity were not allowed to take the stand and, instead, took their story to the country through a press conference.

This Comment will explore the salient issues raised by *Laird v. Tatum* and will attempt to answer the following questions: Did the Supreme Court err in denying the political activists an opportunity to present witnesses at a District Court hearing and in deciding the issues on the original papers and appellate briefs? Was the Military Intelligence (hereinafter MI) program complained of an impermissible abridgement of First Amendment rights? Did Justice Rehnquist behave improperly by participating in the *Laird v. Tatum* decision? Last, to what extent has the Supreme Court's decision in this case affected future adjudication of First Amendment class action challenges to government programs of surveillance and data compilation related to lawful political activity.[2]

In January 1970, *The Washington Monthly*, a social and political science magazine, published "CONUS Intelligence: The Army Watches Civilian Politics," by Christopher H. Pyle, a lawyer and former captain in MI. Pyle stated that "[t]he U.S. Army has been closely watching civilian political activity within the United States. Nearly 1,000 plain-

Footnotes at end of article.

clothes investigators . . . keep track of political protests of all kinds—from Klan rallies in North Carolina to anti-war speeches at Harvard." [3] In his article, Pyle reproduced a portion of an MI intelligence summary which described a number of political activities and named participants and organizations.[4]

The reaction to Pyle's article was immediate. While newspaper reporters investigated Pyle's allegations, senators and congressmen queried appropriate officials in the Department of Defense and the Department of the Army to determine whether the military, as Pyle claimed, actually maintained "files on the membership, ideology, programs, and practices of virtually every activist political group in the country" [5] and conducted a program of surveillance.

A number of the persons and organizations mentioned in the MI summary reproduced in Pyle's article, together with other political activist individuals and groups, engaged the American Civil Liberties Union to initiate a class action challenge to the constitutionality of the Army's domestic intelligence program.

The action commenced by the activists, *Laird v. Tatum*, was dismissed by the Supreme Court after two and a half years of litigation on October 10, 1972.

The case raised a number of still unsettled and pressing constitutional issues, as well as questions concerning Mr. Justice Rehnquist's judicial propriety in participating in the *Laird v. Tatum* decision, the latter of a critical importance since the Associate Justice's vote decided the case against the plaintiffs.

I. HISTORY OF THE CASE

The *Laird v. Tatum* plaintiffs[6] filed their complaint in the United States District Court for the District of Columbia on February 17, 1970.[7] They named as defendants in their suit for injunctive and declaratory relief Secretary of Defense Melvin R. Laird and several high-ranking Army officials.[8]

The complaint, based almost exclusively on the Pyle article,[9] alleged that the MI program created an impermissable First Amendment chill, was *ultra vires* and exceeded the lawful needs of the United States Army in carrying out its constitutional and statutory role with regard to intervention in civil disorders.[10] The litigants sought a declaration that the Army's activity was unconstitutional and prayed for a preliminary and permanent injunction restraining the Army from engaging in the surveillance and data-compilation activities disclosed by Pyle.[11] Also sought in the same motion were a permanent injunction forbidding the defendants from applying security classifications to reports of civilian political activity and a mandatory injunction directing the defendants to produce for the court, but explicitly not for public disclosure, all documents and files pertaining to military surveillance of civilian politics.[12] A separate motion for a temporary restraining order was denied.[13]

In a memorandum prior to oral argument before the District Court, the plaintiffs alleged that "the Army's domestic intelligence program also involves the conduct of undercover operations by military agents within the civilian community. . . ." [14] This allegation, as will be discussed later, is of seminal significance in analyzing *Laird v. Tatum*.

Responding to the plaintiff's assertions in the several pre-hearing motion papers, the defendants stated that the Army's preparation for its civil disturbance mission necessitated that information be collected before a crisis, and that such collection was reasonable and implied by statutes which authorize the Army's civil disturbance function.[15] The defendants would not discuss the specific activities of the MI branch, but urged that the Army's conduct was constitutional and claimed that the *Laird v. Tatum* activists had failed to state grounds upon which relief could be granted. An affidavit filed by Under Secretary of the Army Thaddeus R. Beal did admit, however, that "As a result of a review of the intelligence activities of the U.S. Army it has been determined that certain records maintained by the Army were not useful and were not necessary in view of the Army's mission." [16] The Beal affidavit did not elaborate on the nature or scope of MI holdings concerning civilians.

On April 22, 1970, oral argument on the motion papers was heard in the District Court by Judge George L. Hart, Jr. Present in the courtroom were a number of former MI agents who were prepared to testify on behalf of the plaintiffs as to the extent and nature of MI operations; [17] three of these former agents were willing to discuss covert and clandestine infiltration operations conducted by MI personnel.[18]

Judge Hart refused to allow plaintiff's counsel, Professor Frank Askin of Rutgers University School of Law, and Melvin L. Wulf, National Legal Director of the American Civil Liberties Union, to present any witnesses. He insisted instead that oral argument was sufficient. Ignoring the claim of Professor Askin that the witnesses present in court were able to testify as to the existence of covert operations, Judge Hart concluded that MI activity seemed to be limited to the clipping of news media reports. Such activity, he maintained, whether engaged in by the Army or by the press, is equally constitutional. Hart, in dismissing the action,[19] found that no unconstitutional action by the Army was shown and that the complainants had not alleged any unlawful conduct.[20] On April 23, 1970 an appeal was filed. On April 27, 1971, the Court of Appeals for the District of Columbia remanded the case to the District Court for an evidentiary hearing.[21] Judge Wilkey, for the majority, found,[22]

Because the evil alleged in the Army intelligence system is that of overbreadth . . . and because there is no indication that a better opportunity will later arise to test the constitutionality of the Army's action, the issue can be considered justiciable at this time.

He acknowledged that the military has a legitimate need for certain information in order to effectively intervene in civil disorders. He noted also that "The questions are what type of information the military needs, how they should go about obtaining it, when they need it, and whether what the Army has done here has infringed any of appellants' rights." [23]

Whatever the Army had "done here" was limited, in the view of the court majority after examining the District Court record, to what "a good newspaper reporter would be able to gather by attendance at public meetings and the clipping of articles from publications available on any newsstand." [24] Since the testimony of witnesses was absent, the court concluded that "[t]here is no evidence of illegal or unlawful surveillance activities. We are not cited to any clandestine intrusion by a military agent." [25]

The court recognized, however, that "[t]he compilation of data by a civilian investigative agency is thus not the threat to civil liberties or the deterrent on the exercise of the constitutional right of free speech that such action by the military is. . . ." [26] The court ordered the case re-heard by the District Court to determine four principal issues: [27]

1. The nature of the Army domestic intelligence system made the subject of appellants' complaint, specifically the extent of the system, the methods of gathering the information, its content and substance, the methods of retention and distribution, and the recipients of the information.

2. What part, if any, of the Army domestic intelligence gathering system is unrelated to or not reasonably necessary to the performance of the mission as defined by the Constitution, statutes, military regulations, and as interpreted by actions under those written definitions of the mission.

3. Whether the existence of any overbroad aspects of the intelligence gathering system, as determined above, has or might have an inhibiting effect on appellants or others similarly situated.

4. Such relief as called for in accordance with the above established law and facts.

Judge MacKinnon dissented, finding that "the chill to this amorphous group . . . is grounded in the unrealistic and speculative fear that the Government will improperly use the information against them." [28] He asserted that the appellants lacked standing based on the admission of counsel during oral argument before Judge Hart that the plaintiffs were not cowed or chilled, but rather wished to represent those Americans who were supposedly so affected by the Army program.[29]

The Supreme Court granted defendants' petition for certiorari on the issues of justiciability and standing.[30] The government, in their briefs and before the Court, argued that the case lacked concreteness and evidence of a real injury to the rights of the plaintiffs.[31] The defendants also asserted that the issue was moot.[32] Sufficient public disclosure of clandestine MI activities by a large number of former military personnel had forced some admission of inappropriate activity by Army officials followed by assurances that such activity had been halted. The defendants offered the Army's assurances to show that the issue was moot; they also alleged that the responsibility for insuring the lawful functioning of MI operations resided in the Executive and Legislative branches.[33]

The plaintiffs urged the Supreme Court to affirm the Court of Appeals order for an evidentiary hearing.[34] Arguing that the record was insufficient for a valid determination of the constitutional issues,[35] the plaintiffs alleged that many of the defendants' assertions of fact about First Amendment injury were, in reality, contested and could not be decided absent an opportunity to present witnesses and documentary evidence.[36]

Prior to oral argument, an unusual brief *amici curiae* was submitted to the Court. The *amici*, twenty-nine former MI officers and enlisted personnel, urged the Court to allow the plaintiffs an opportunity to present witnesses and evidence in the trial court.[37] They informed the Court that far from limiting its activities to clipping newspapers, MI, among other things, infiltrated agents into Resurrection City,[38] had agents pose as newsmen with bogus identification cards to obtain information from unsuspecting civilians during protests,[39] had infiltrated the headquarters of the National Mobilization Committee to End the War in Vietnam,[40] had penetrated the Colorado Springs Young Adults Project,[41] and had assigned agents to stake out Martin Luther King's grave to determine who came to the graveside.[42]

On June 26, 1972, Chief Justice Burger delivered the majority opinion in a 5 to 4 reversal of the Court of Appeals decision, thereby affirming the dismissal of the action.[43] The Court acknowledged the "traditional and strong resistance of Americans to any military intrusion into civilian affairs." [44] but found that there had been no actual or threatened injury by reason of unlawful activities by the Military.

The Court noted,[45]

The [Army's] information itself was collected by a variety of means, but it is significant that the principal sources of information were the news media and publications in general circulation.

The Court majority, agreeing with the government's position, contended,[46]

Footnotes at end of article.

The system put into operation as a result of the Army's 1967 experience consisted essentially of the collection of information about public activities that were thought to have at least some potential for civil disorder. . . .

Of far greater import, however, was the Court's acceptance of the defendants' claim that *Laird v. Tatum* was nonjusticiable because the parties bringing the action had failed to show injury and thus lacked standing to sue. In the absence of injury, the issues raised required action by the Executive and Legislative branches if they perceived a need to respond to the allegations raised by the plaintiffs. The Court majority stated,[47]

[T]hey [plaintiffs] disagree with the judgments made by the Executive Branch with respect to the type and amount of information the Army needs and that the very existence of the Army's data-gathering system produces a constitutionally impermissible chilling effect upon the exercise of their First Amendment rights.

The political activists, in the opinion of the Court, sought a wide, self-conducted investigation of Army intelligence operations, utilizing the Federal judiciary as its agency of inquisition.[48]

Carried to its logical end, this approach would have the federal courts as virtually continuing monitors of the wisdom and soundness of Executive action; such a role is appropriate for the Congress acting through its committees and the "power of the purse"; it is not the role of the judiciary, *absent actual present or immediately threatened injury resulting from unlawful governmental action.*[49] [emphasis added]

The Court therefore concluded that the respondents lacked standing to bring the action. Mr. Justice Douglas, in a dissent in which Mr. Justice Marshall concurred, began by asserting that "Our tradition reflects a desire for civilian supremacy and subordination of military power." [50] Reviewing the role of the military, the Justice stated,[51]

[T]he Armed Services . . . are not regulatory agencies or bureaus that may be created as Congress desires and granted such powers that seem necessary and proper. The authority to provide rules "governing" the Armed Services means the grant of authority to the Armed Services to govern themselves, not the authority to govern civilians.

He continued, "The action in turning the 'armies' loose on surveillance of civilians was a gross repudiation of our traditions." [52]

Justice Douglas found that the majority's conclusion that the plaintiffs lacked standing to sue was "too transparent for serious argument." [53] Noting that the Army allegedly maintains files on all groups engaged in activist politics,[54] "uses undercover agents to infiltrate these civilian groups . . ." [55] and "moves as a secret group among civilian audiences, using cameras and an electronic ear for surveillance," [56] he concluded that, "One need not wait to sue until he loses his job or until his reputation is defamed. To withhold standing to sue until that time arrives would, in practical effect, immunize from judicial scrutiny all surveillance activities, regardless of their misuse and their deterrent effect." [57]

Mr. Justice Brennan, in a separate dissent concurred in by Associate Justices Stewart and Marshall, decried the denial to the plaintiffs of an opportunity to present evidence at the trial court level. Justice Brennan stated,[58]

Respondents may or may not be able to prove the case they allege. But I agree with the Court of Appeals that they are entitled to try.

Following the Supreme Court's June decision, the plaintiffs filed a petition for rehearing. They also filed a motion for withdrawal of the Court's opinion, so that Mr. Justice Rehnquist could consider a separate motion addressed to him requesting recusal because of his prior involvement in the case. The petition and motions were denied on October 10, 1972.[59]

II. THE HISTORICAL BACKGROUND

The issues raised by *Laird v. Tatum* cannot be meaningfully examined solely in their legal context. Two other areas must be explored in some detail before an attempt can be made to analyze *Laird*: use of federal troops in civil disorders; and the Army's domestic intelligence program.

A. The use of Federal troops in civil disorders

The defendants in *Laird* relied on statutory authorization by implication for their data-collection on civilian activities. They also viewed the MI program as a necessary preparation for the commitment of Federal troops in civil disorders. It is useful to review the history of Federal troop commitment to see if the statutory provisions cited allow this expansive interpretation.

Americans have always been wary of military forces. The third amendment is as much a recognition of the coercive nature of military force in a civil setting as it is a declaration of property rights. The debate over when and how to employ Federal forces to suppress civil disorder dates back to the founding days of the nation.[60] As early as 1792, fears were voiced that the use of federal troops would dampen civil liberties. "Congressman John Francis Mercer of Virginia rose in the new House of Representatives to denounce a bill to permit use of federal troops to control civil disorders, 'In no free country,' he said, 'can the [military] be called forth nor martial law proclaimed but under great restrictions.' " [61]

Two years after Congressman Mercer expressed his concern, President George Washington was faced with the Whiskey Rebellion, a Pennsylvania protest against the imposition of an excise tax many considered to be little different from the hated British Stamp Act.[62] Washington dispatched troops after writing,[63]

Not only the Constitution and Laws must strictly govern; but the employing of the regular troops avoided if it be possible to effect order without their aid . . . . Yet, if no other means will effectually answer, and the Constitution and Laws will authorise these they must be used as the Dernier resort.

Washington was quick to warn, however, that the necessary deployment of troops because of the inability of local government to keep order did not mean that the military authorities were to govern. "The dispensation of . . . justice belongs to the civil Magistrate and let it ever be our pride and our glory to leave the sacred deposit there unviolated." [64]

Although there were occasional departures from Washington's standard, the concept that the employment of Federal forces must occur only when such commitment is the "Dernier resort" was accepted by most presidents.[65]

As Washington correctly foresaw, occasions arise when the only means left to restore public order is the use of the Federal military might. Article I, Section 8 of the Constitution provides the authority for such use and three statutory provisions define the procedures for the President to follow in dispatching the Army.[66] The President may direct the commitment of federal forces upon a request by a state legislature, or a state governor if the legislature cannot be convened, to suppress civil disorder. Troops may be deployed by the President to combat a rebellion against the national government. Last, the Chief Executive may commit troops if state or national law is interfered with so as to result in a denial of constitutional rights to a part or a class of the state's population.[67]

Nowhere in these statutory provisions nor in any other legislation is there reference to or authority for pre-commitment activities on the part of the military.

B. *The Army's domestic intelligence program*

Until former Army Captain Pyle's January 1970 article appeared virtually no information had ever become public suggesting that the Army maintained a program of surveillance and data-compilation on civilians.[68]

In February 1970, Pyle and the author initiated a nationwide investigation of MI activities.[69] Although the Army assured critics that it had re-evaluated its intelligence needs with regard to civil disturbance preparation, Pyle, in a second article in July 1970, several months after the District Court hearings in *Laird*, charged,[70]

Despite over 50 Congressional inquiries, the threat of House and Senate hearings, and a lawsuit by the American Civil Liberties Union, more than 1,000 plainclothes soldier-agents continue to monitor the political activities of law-abiding citizens.

He asserted that the Army, finding that "the rising tide of criticism could not be ignored," [71] had issued a series of partial admissions. "In the jargon of the spy trade, such admissions are known as 'plausible denials,' because they are invested with just enough truth to mask an essential falsehood." [72]

Although a number of senators and congressmen threatened to hold hearings on the Army's intelligence program, only one, Senator Sam J. Ervin, Jr. (Democrat-North Carolina), actually held hearings. In February and March 1971, the Subcommittee on Constitutional Rights, chaired by Senator Ervin, heard witnesses on eleven hearing days.[73] Although the Subcommittee concerned itself with several issues, most of the hearing days were devoted to MI activities. The 2,164 pages of testimony, documentary evidence, and related materials published by the Subcommittee on Constitutional Rights are, at present, the only reference source on Army domestic spying.[74] No attempt to outline the extensive material contained in the two volumes published will be made here, but a summary of the hearings is a prerequisite to understanding the analysis of *Laird v. Tatum* which follows this section.

Hearings witnesses testified that an Army agent, in civilian clothes, had attended black studies classes at New York University to monitor one professor and his course material.[75] Agents had infiltrated racial,[76] campus,[77] and religious groups [78] and had gathered data on virtually every activist group in the United States.[79] Military intelligence agents attended both national political conventions in 1968, according to witnesses.[80] At the Chicago Democratic Convention, undercover men with bogus news credentials wandered about with a videotape camera and conducted phony news interviews with protest leaders to determine their future plans.[81] At the Miami Republican Convention, agents drifted aimlessly among the delegates on the convention floor after having been given vague and ill-defined orders to monitor political activity.[82] One witness related that he penetrated a church-sponsored youth group in Colorado because "one of the founders of the organization had been active in antiwar activities in Colorado Springs. . . ." [83] This same agent had orders to spy on local anti-poverty agencies.[84]

A black agent recounted his assignments to cover anti-war meetings in churches and to cruise the black areas of Washington, D.C. in a radio-equipped car, reporting in community activities.[85] On one occasion this former first lieutenant had to attend a children's Halloween party because refreshment ingredients for the party had been obtained from local stores by a known black militant.[86] According to this witness, Army in-

Footnotes at end of article.

telligence interest extended to the topic of birth control.

Agents from our unit were detailed to attend a conference of dissenting priests from throughout the Washington Archdiocese who were protesting the position that Archbisop O'Boyle had taken in reference to the birth control pill.[87]

To store the information collected by the special agents and provided by other agencies the Army maintained several computer data banks as well as local intelligence files at approximately 300 Army intelligence field and resident offices throughout the U.S. These data banks contained information on hundreds of thousands of American citizens, much of it obtained from informers and undercover agents. Many of those under surveillance were either young men and women or black Americans, a fact that will be shown to have special relevance in establishing a theory of First Amendment chill caused by the MI program.[88] To date, the Army has presented no evidence to show that its data banks and local field offices concerning civilians have been destroyed.

Many of the witnesses before the Ervin Subcommittee stated that the Army received much of its information through liaison with other agencies, particularly the Federal Bureau of Investigation. The author, while serving in MI in Washington, received hundreds of F.B.I. reports weekly on individuals and organizations involved in lawful dissent.[89]

The Department of the Army's principal spokesman before the Ervin Subcommittee was Robert F. Froehlke, then Assistant Secretary of Defense (Administration).[90] Froehlke acknowledged, "Clearly there is no precedent for the scope and intensity of information collection and analysis related to the civilian communities which occurred in the period in question." [91] He described in detail the civil disturbance picture during the period 1967–1970 and explained Army preparations for suppressing civil disturbances.[92] Dealing directly with the Army's involvement in monitoring civilian affairs, Froehlke depicted most of the Army's effort as directly related to tactical deployment of troops.[93] He acknowledged that covert operations had taken place with official approval in four instances.[94]

Froehlke admitted that "a civil disturbance related covert collection was authorized for an agent to enroll at New York University to monitor a special course entitled 'New Black Revolt,' in early 1968." [95]

Froehlke conceded that as the pressure to obtain information by agent observation increased, *"In some cases, the rather obscure demarcation between direct agent observation and covert collection was probably transgressed."* [96] [emphasis added]

Undersecretary Froehlke concluded his testimony by emphasizing the steps then being undertaken by the Department of the Army to limit Army intelligence collection to the minimal amount required for mission preparedness.[97]

In the context of this background, the legal issues can now be examined and weighed.

III. THE LEGAL ISSUES—THE SUPREME COURT AND LAIRD V. TATUM

The plaintiffs in *Laird v. Tatum* sought relief for alleged infringements of their First Amendment rights, and on behalf of other individuals and organizations claiming the same right to engage in lawful political activity without being surveilled by Army agents. In affirming the dismissal below, the Supreme Court has raised many issues which will affect future First Amendment adjudication.

A. The chilling effect

The rights protected by the First Amendment were recognized in *Dombrowski v. Pfister* to be a public interest "of transcendant value to all society, and not merely to those exercising their rights. . . ." [98] Any government policies or the acts of government officials which restrain, limit, deter or control individuals in the exercise of First Amendment rights directly conflict with the Supreme Court's finding in *New York Times Co. v. Sullivan* that the First Amendment embodies "a profound national commitment to the principle that debate on public issues should be uninhibited, robust and wide-open. . . ." [99]

The scope of public issues for debate is vast. Some topics are of limited impact and interest, others are far-reaching and charged with controversy and dissension. Throughout history, governments have attempted by various means to suppress dissent by citizens. The First Amendment was designed not only to allow dissent, but to protect and encourage this fundamental right.

In *Laird v. Tatum*, the plaintiffs did not assert that the Army attempted to directly prohibit protest, dissent, or speech. Rather, they maintained that the Army's system of surveillance and data-compilation exerted an unhealthy and inhibiting effect on the exercise of First Amendment rights which deterred Americans from enjoying those constitutional provisions. The absence of a direct intent to prevent speech or lawful dissent does not obviate First Amendment challenges, for as Justice Brennan stated in *Lamont v. Postmaster General*, "inhibition as well as prohibition against the exercise of precious First Amendment rights is a power denied to government." [100]

The question arising from Justice Brennan's statement is what government activity constitutes the impermissible inhibiting of First Amendment rights? In *Watkins v. United States*, the Court found that where people are identified with views that are "unorthodox, unpopular or even hateful to the general public," there is an injury covered by the First Amendment.[101]

Perhaps the greatest fear of the *Laird* plaintiffs was the possibility that they or their followers might be the subject of governmental sanctions as a result of their political activity. As the Court noted in *NAACP v. Button*, "The threat of sanctions may deter almost as potently as the actual application of sanctions." [102]

Sanctions for the exercise of First Amendment rights have been attempted. In *Dombroski v. Pfister*, the threat of prosecution under an overboard state statute was found to chill First Amendment rights. Justice Brennan noted that "Because of the sensitive nature of constitutionally protected expression, we have not required that all those subject to overboard regulations risk prosecution to test their rights." [103]

Other forms of governmental sanctions besides prosecution may also be employed. Security clearances may be denied, promotions may not come, positions may not be offered, employment may be terminated. To determine whether a First Amendment chill exists, we must look beyond the possibility or probability of prosecution and examine the complained of conduct with reference to the claimed necessity for such activity by government and the impact of the conduct on the complainants.

In *Lamont*, the Supreme Court invalidated a government scheme which required individuals desiring to receive certain types of mail from communist countries to affirmatively indicate such desire before receiving the mail. The case established the proposition that government cannot demand that people act affirmatively in response to government requests for information as a precondition for the enjoyment of First Amendment rights. As the lower court noted in *Heilberg v. Fixa*, a companion case decided by the Supreme Court with *Lamont*, the unwillingness of the individual to be identified in the eyes—and files—of government as one interested in unorthodox concepts, groups or individuals is part of a deterrent to the free expression of ideas.[104] Engagement in lawful protest under the eyes and camera lenses of government agents can be seen as an affirmative act of the type struck down in *Lamont*.

Recognizing that identification with a lawful, albeit controversial cause can deter freedom of expression, the court granted an injunction forbidding state law enforcement officers from attending and monitoring union meetings in *Local 309 v. Gates*.[105] Similarly, the Court recognized in *NAACP v. Alabama* that the compelled disclosure to government officials of membership lists can result in significant fears on the part of the organization's members that sanctions may follow and that these fears, admittedly not always rational, can act as a chilling deterrent on the members.[106]

The *Laird* plaintiffs asserted that the Army's nationwide program created a chilling effect and was so extensive in operation that it could be seen as a "dragnet which may enmesh anyone." [107]

Responding to the charges that MI surveillance created an impermissible chill on First Amendment rights, the government advanced a narrow interpretation of *Dombrowski*, arguing that no legal or criminal sanctions threatened any of the plaintiffs.[108] The Army's activity, according to the government, did not require disclosure of membership lists nor did MI operations entail the assumption of affirmative acts by the plaintiffs in order to exercise their rights. The government, noting that the plaintiffs acknowledged that the Army had a lawful civil disturbance mission, urged the Court to apply a balancing test to the situation at bar.[109]

The lack of an evidentiary record precludes discussion of the actual Army practices which led to the *Laird* plaintiffs' chilling effect claims in this part of the comment (see Conclusion). The government's contention that a balancing test should be employed raises the fundamental question whether First Amendment rights may be balanced against activities adopted in the pursuit of lawful governmental policies and practices.

The circumscription of First Amendment rights as a corollary to executing a valid governmental function has been found constitutionally repugnant "less under the guise of regulating conduct that is reachable by the police power, freedom of speech or of the press suffer." [110] The standard to be applied cannot simply be an inquiry into the nature and extent of the lawful state police power "but whether the means chosen to achieve a legitimate end are so sweeping that fundamental personal liberties are stifled." [111] The balancing test was clearly rejected by the Court in *United States v. Robel* where the Court declared,[112]

> Faced with a clear conflict between a federal statute enacted in the interests of national security and an individual's exercise of his First Amendment rights, we have confined our analysis to whether Congress has adopted a constitutional means in achieving its concededly legitimate legislative goal. . . . [W]e have in no way "balanced" those respective interests. We have ruled only that the Constitution requires that the conflict between Congressional power and individual rights be accommodated by legislation drawn more narrowly to avoid the conflict.

In attempting to create a concept of balancing interests in *Laird v. Tatum*, the defendants sought to rely not on statutory enactments which clearly contain neither reference to nor mandate for the MI domestic program, but on directives of Department of Defense and Department of the Army officials interpreting their scope of authority under the statutes.[113]

In *Laird*, we do not find a clear conflict

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between statutes and First Amendment rights. There is, however, a sharp and clear conflict between Department of the Army directives, the claimed authority for which is statutory, and the individual's First Amendment rights.

B. Justiciability, separation of powers and the standing question

The value of the First Amendment to the American concept of society and government has resulted in the creation of a standard for justiciability in First Amendment cases which is less restricted than one employed in cases not involving basic rights.[114] In *Reed Enterprises v. Corcoran*,[115] the Court found,[116]

Where the plaintiff complains of chills and threats in the protected First Amendment area, a court is more disposed to find that he is presenting a real and not an abstract controversy.

With reference to the relationship between sanctions and justiciability, the Court in *Wolff v. Selective Service Local Board No. 16* noted: [117]

It has been held repeatedly that the mere threat of the imposition of unconstitutional sanctions will cause immediate and irreparable injury to the free exercise of rights as fragile and sensitive to suppression as the freedoms of speech and assembly. . . . Since threat of the imposition of unconstitutional sanctions which precipitates the injury, the courts must intervene at once to vindicate the threatened liberties.

The Army's activity in itself may be a sanction against the exercise of First Amendment rights. The acknowledgement in *Heilberg v. Fixa*, that identification with unorthodox views by government can act as a deterent to lawful political participation makes obvious the concept that sanctions are not limited, as they were in *Dombrowski*, to possible or probable formal prosecutions. The very surveillance itself, especially at private meetings, is a form of forced disclosure of membership. It identifies persons at meetings whether or not they hold the unorthodox viewpoint espoused by a particular faction. Even if they do agree with the views of the speaker or organization there is clearly no right to compel such identification.

A determination of justiciability cannot await a finding that the challenged program is actually succeeding through design or chance in deterring lawful activity. Referring to the situation challenged in *Dombrowski*, the Court stated, "The chilling effect upon the exercise of First Amendment rights may derive from the fact of its prosecution, unaffected by the prospects of its success or failure." [118] If the view is accepted that a program of surveillance can, in some circumstances, be interpreted as a prosecution of a non-judicial nature, justiciability exists without a statement that the challenged activity has achieved its chilling effect.

Chief Justice Burger, writing for the *Laird* majority, found that "it is not the role of the judiciary, absent actual present or immediate threatened injury resulting from unlawful governmental action" to investigate an activity initiated and directed by the Executive Branch,[119] Departing from precedent in First Amendment cases, he denied justiciability, stating that: [120]

[W]hen presented with claims of judicially cognizable injury resulting from military intrusion into the civilian sector, federal courts are fully empowered to consider claims of those asserting such injury; there is nothing in our Nation's history or in this Court's decided cases, including our holding today, that can properly be seen as giving any indication that actual or threatened injury by reason of unlawful activities of the military would go unnoticed or unremedied.

The court improperly denied the plaintiffs the opportunity to prove their case because the majority refused to acknowledge that the plaintiffs, in their original complaint, had alleged actual First Amendment injury to themselves and, further, had alleged that the Army had conducted covert operations; they had been unable to substantiate these charges without witnesses. That no evidence existed in the trial court record to indicate covert infiltration of private events is attributable solely to the refusal of Judge Hart to permit witnesses to be heard in the District Court.

Plaintiffs maintained, in their brief before the Supreme Court, as did the *amici* in their brief, that evidence could and would be introduced at a trial court hearing to show both the nature of the chilling effect upon the plaintiffs and the extent of MI clandestine operations. The majority, while making no reference to these allegations, took note of material filed by the Solicitor General which included Army and Defense Department directives relating to MI activities and commented,[121]

[T]hese directives indicate that the Army's review of the needs of its domestic intelligence activities has indeed been a continuing one and that those activities have since been significantly reduced.

In fact, the degree of MI reduction in surveillance and data-compilation was highly contested by the plaintiffs in their brief and by the knowledgeable *amici*. The Court's reliance on the government directives did not, in any event, adjudicate the legality of the challenged program. Even if the practices of MI has been curtailed or halted.[122]

[T]he voluntary abandonment of a practice does not relieve a court of adjudicating its legality, particularly where the practice is deeply rooted and long standing. For if the case were dismissed as moot appellants would be "free to return to . . . [their] old ways."

The Army practices, while largely expanded in the 1967–70 period, began in 1917. The author personally had access to a vast number of reports on civilians from the 1940s and 1950s. The activity was deeply rooted; only the subjects which interested MI seemed to change, *i.e.*, left wing organizations in the 1950s, new left, black and youth groups in the 1960s.

The Court found that the plaintiffs lacked standing. To do this, the majority seized on a statement by plaintiffs' counsel during oral argument before Judge Hart.[123] Counsel had stated that the plaintiffs were not cowed or chilled, but rather represented those Americans who would not and could not put themselves under public scrutiny and feared MI surveillance. Obviously, the *Laird* plaintiffs were not so immobilized as to be unable to initiate a suit. In view of their pre-hearing assertion that they had been affected and inhibited by the Army's program, it is difficult to understand the Court majority's interpretation of and reliance on one statement. The Court used one oral statement to negate all of plaintiffs' claims of First Amendment injury, ignoring all of plaintiffs' other assertions.

Even assuming, *arguendo*, that the *Laird* plaintiffs, or other activists bringing a future suit based on a chilling effect claim related to government activities, are actually not themselves chilled, the Court's decision may significantly narrow the protection of First Amendment freedoms as a practical reality.

If activists cannot raise the question of the chilling effect unless they are personally cowed—and leaders are sometimes less vulnerable than average citizens—and such actions can be brought only by the personally chilled, can we expect many challenges to First Amendment inhibiting practices? As the brief *amici* pointed out to the Court, by requiring that litigants be either intimidated or demonstrate having been harmed in addition to intimidation, "the Government would place all dissenters in the classic 'Catch 22' dilemma: they can invoke their rights if they are immobilized by fear, but if they really were immobilized by fear, they would not invoke their rights." [124]

The reality, of course, is that political activism cannot exist without followers as well as leaders, and if average Americans are deterred from exercising their First Amendment rights, those rights cease to be a public interest "of transcendent value to all society." [125] As Mr. Justice Brennan noted in *Lamont*, "It would be a barren marketplace of ideas that had only sellers and no buyers." [126] The Supreme Court's ruling in *Laird* may lay the foundation stone for that marketplace.

C. The role of Mr. Justice Rehnquist

Before appointment to the Supreme Court, Mr. Justice Rehnquist was an Assistant Attorney General in the Department of Justice's Office of Legal Council.[127] In that capacity, he appeared on March 9, 1971 and March 17, 1971 at the Ervin Hearings to explain the Justice Department's role in MI surveillance of lawful political activity.[128] During the hearings, he testified at length about the legality of military intelligence operations and directly presented his viewpoint on *Laird v. Tatum*. At one point, in response to a question from Senator Ervin, he stated: [129]

"My only point of disagreement with you is to say whether as in the case of *Tatum v. Laird* that has been pending in the Court of Appeals here in the District of Columbia that an action will lie by private citizens to enjoin the gathering of information by the executive branch where there has been no threat of compulsory process and no pending action against any of those individuals on the part of the government."

Rehnquist's statement then is similar to the conclusion later reached by the Court majority in *Laird* and is based on the same theory of standing and chilling effect doctrine.[130]

The plaintiffs, in their motion to rescue Mr. Justice Rehnquist, cited Canons 2 and 3 of the Final Draft of the Code of Judicial Conduct.[131] They relied also on lower federal court decisions recusing other judges "under circumstances similar to those of Mr. Justice Rehnquist in the case at bar." [132]

Had Justice Rehnquist abstained from voting, the Court of Appeals decision would have been affirmed by the vote of an equally divided court. By casting the decisive vote, Mr. Justice Rehnquist prevented the activists from obtaining the evidentiary hearing they sought and upheld his seemingly preconceived position regarding the merits of the case.

Justice Rehnquist, on October 10, 1972, in an unprecedented action, issued a 16 page memorandum in which he denied the motion for recusal and explained his position.[133] Acknowledging that he had appeared as an expert witness during the Hearings,[134] he denied having any involvement in the *Laird* litigation while serving in the Department of Justice.[135] The Associate Justice maintained that he had been informed of the case as background preparation for his testimony as a Department of Justice representative at the Hearings.[136]

In his memorandum, Mr. Justice Rehnquist admitted supervising the preparation of a memorandum of law on *Laird v. Tatum* in response to a request from Senator Hruska, a member of the Subcommittee on Constitutional Rights.[137] Although no copy of the memorandum for Hruska is apparently available, Justice Rehnquist admitted that he "would expect such a memorandum to have commented on the decision of the Court of Appeals in *Laird v. Tatum* . . . ." [138]

He stated, however, that he would never

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participate, as an Associate Justice, in a case in which he had signed a pleading or brief or actively participated prior to being appointed to the Supreme Court.[139] Thus he found no grounds for mandatory recusal.

Mr. Justice Rehnquist proceeded to examine the question of discretionary recusal.[140] Discretionary recusal is indicated where a judge had a previous relationship with a party to a litigation to such a degree that impropriety would be suggested by the judge's failure to recuse himself.[141] He found, however, that he had no hesitation in concluding that my *total* lack of connection while in the Department of Justice with the *defense* of the case of *Laird v. Tatum* does not suggest discretionary disqualification here because of my previous relationship with the Justice Department.[142] [emphasis added]

The Associate Justice also stated that "none of the former Justices of this Court since 1911 have followed a practice of disqualifying themselves in cases involving points of law with respect to which they had expressed an opinion or formulated policy prior to ascending to the bench."[143]

Justice Rehnquist acknowledged that "fair minded judges might disagree about the matter,"[144] which he admitted was a "fairly debatable one."[145] The Justice urged as a countervailing argument that, when not disqualified, judges have a duty to sit which is equally strong to the duty to rescue when indicated.[146]

Mr. Justice Rehnquist's final argument for participating is intriguing.[147]

The prospect of affirmance by an equally divided Court, unsatisfactory enough in a single case, presents even more serious problems where *companion cases reaching opposite results are heard together here.* [emphasis added]

The Associate Justice noted that "the disqualification of one Justice of this Court raises the possibility of an affirmance of the judgment below by an equally divided court."[148] He then found that "the consequence attending such a result is, of course, that the principle of law presented by the case is unsettled."[149]

The Associate Justice failed to realize that affirmance by an equally divided Court in *Laird v. Tatum* would merely insure that the plaintiffs obtained an opportunity to present evidence and make a record upon which the Supreme Court could, at a later date, concretely base a substantive review. Further, there were no companion cases to *Laird v. Tatum* before the Court. Mr. Justice Rehnquist must have been aware of the enormous quantity of material unearthed during the Hearings, at which he himself testified, which strongly indicated that the *Laird* litigants could present evidence dealing with the issues raised by both the Supreme Court majority and the Court of Appeals dissent. Rather than settle a point of law, Mr. Justice Rehnquist's participation insured the continuance of a state of confusion.

It is also difficult to accept the analogies constructed by Mr. Justice Rehnquist to liken his participation to that by previous Justices. Justice Rehnquist was correct in stating in his memorandum that Chief Justice Hughes and Mr. Justice Frankfurter had both been involved in writing books, encouraging the enactment of legislation, and commenting on matters of legal cotroversy before coming to the Supreme Court.[150] Neither, however, had participated in a case as politically charged as *Laird v. Tatum,* and on behalf of the Executive Branch so soon before being appointed to the Court, as Justice Rehnquist did.

Such problems as may follow an affirmance by an equally divided Court are of little import compared with the serious ethical dilemma Mr. Justice Rehnquist's participation in *Laird v. Tatum* has posed for himself, the Court and the Constitution.

IV. CONCLUSION

An examination of the Ervin Hearings provides ample data upon which an analysis of the Army's activities can be made. The record reveals not an attempt by the Army to ignore or supplant civil and constitutional authority, but rather a program that can be characterized as at once coordinated and out of control, supervised and running free, benevolent and malign.

In July 1967, racial violence broke out in Detroit, Michigan, with such intensity that federal military assistance was urgently required to restore order with a minimum of bloodshed. Simultaneous outbreaks occurred, with varying degrees of intensity, in a number of cities. The Army was not prepared; it had little or no relevant tactical intelligence. So little information was available that the author, on duty in the Pentagon's Army Operations Center, received a frantic call for information from an Army staff officer in Detroit who stated that Lieutenant General Throckmorton, the Army commander on the scene, was positioning his airborne troops with the aid of an oil company road map.

Faced with the possibility of further outbreaks of violence at a time when troop strength in the United States was low because of the Vietnam war, the civilian and top military officers ordered MI to prepare for future civil disturbances and, if possible, predict further outbreaks. Very little guidance was given the General Staff MI analysts or the special agents in the field as to what preparation was necessary or what information was relevant and desired.[151]

In the two-and-one-half years between the Detroit riots and the first Pyle article, MI engaged increasingly in a widespread system of domestic surveillance and data-accumulation, largely without the kowledge and approval of civilian superiors.[152]

The United States Army Intelligence Command, the component responsible for most of the MI agents in the country,[153] issued increasingly ambitious and far-flung collection requirements.[154] Before the end of 1967, an initial concern with racial violence had led to requirements that special agents monitor virtually every form of dissent in the United States.

As direct agent coverage increased, other agencies, especially the Federal Bureau of Investigation, responded to Army requests for information by sending extensive classified reports reflecting information collected from covert and other sources on the politics of dissent.

To maintain this data, several computerized data banks were established. The largest and the most complete was at the United States Army Investigative Records Repository at Fort Holabird, Maryland.

A phenomenon known as bureaucratic accretion and the application of military institutional paradigms, a not surprising development, assured that the data banks would grow immensely. The majority of participants in the MI program saw their activities as being in the best interests of the American people, rather than as creating a threat to liberty. Of particular relevance is the warning by Mr. Justice Brandeis, dissenting in *Olmstead v. United States:*[155]

Experience should teach us to be most on our guard to protect liberty when the Government's purposes are beneficent. Men born to freedom are naturally alert to repel invasions of their liberty by evil-minded rulers. The greatest dangers to liberty lurk in the insidious encroachment by men of zeal, well-meaning but without understanding.

Such men largely directed and carried out the Army's program. In a disquieting minority of instances, individuals of relatively low rank undertook operations which, when made public, astounded and embarrassed their superiors.[156]

A large part of the MI effort involved monitoring youth and campus groups. Information from a number of agencies was regularly transmitted to the Army with reference to youth involvement in antiwar and campus activities. The Army is predominantly composed of young men and women. It is naive to deny the very considerable chilling effect which this Army activity exerts on a wide range of America's young men and women who might one day serve in the Army. Anonymity is a vital component of the right to protest for many.[157] Stripped of this anonymity by an intelligence system which recorded, but never deleted, many Americans would undoubtedly consider themselves to be identified with unorthodox viewpoints by government. Participation would diminish from the resultant chill of First Amendment rights. Had an evidentiary hearing been granted in *Laird v. Tatum,* the plaintiffs' allegations of chilling effect might well have been substantiated using this vast group alone.

The Army's activities exerted a chill on other groups too. One of the most informative experiences ever encountered by the author occurred in 1970, in Detroit, during the taping of an interview show. The host was a leading black militant, the audience represented diverse segments of black Detroit and the topic was MI surveillance. When questions were solicited from the audience, the first question, to the author's temporary confusion, was "Does the Army have a King Alfred plan?" The audience became visibly uneasy and distressed. The host explained that the "King Alfred plan" was the creation of black novelist John Williams in his work, The Man who Cried I Am. The fictional plan was a government operation for the annihilation of black Americans in a manner reminiscent of Hitler's genocidal schemes. Despite assurances by the author that no such plan existed, the audience's fear, irrational yet profoundly disturbing, demonstrated the effect a government program of surveillance can have on a minority group. Without an evidentiary hearing, the Supreme Court, of course, had no inkling that such a response to MI activities may be felt by a wide range of Americans.

It cannot be gainsaid, however, that the Army must have some pre-commitment information to avoid repetitions of the oil company road map fiasco in Detroit. According to Senator Ervin,[158]

The business of the Army . . . is to know about the condition of highways, bridges, and facilities. It is not to predict trends and reactions by keeping track of the thoughts and actions of Americans exercising First Amendment freedoms . . . . Regardless of the imagined military objective, the chief casualty of this overkill is the Constitution of the United States, which every military officer and every appointed official has taken an oath to defend.

In *Powell v. McCormick,* the Court affirmed that in our country living under a written constitution, no branch or department of the government is supreme; and it is the province and duty of the judicial department to determine in cases regularly brought before them, whether the powers of any branch of the government . . . have been exercised in conformity of the Constitution.[159]

The Supreme Court failed to live up to that standard in *Laird v. Tatum* by refusing to allow American citizens the opportunity to prove that the Army was not exercising its powers in conformity with the Constitution. There may not be a second chance to try this issue. All the former Army personnel who revealed information about the MI program were citizen-soldiers serving one tour of duty in wartime. Career professionals did not step forward as is understandable. With the end

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of the Vietnam war and the transition to a volunteer Army, it is likely that a future MI surveillance program could operate to the possible detriment of millions of Americans with little information, especially of a probative nature, reaching the American public.

Already, other actions are being dismissed based on the Supreme Court's decision in *Laird v. Tatum*.[160] Mr. Justice Douglas, whose opinions ring true with a love for First Amendment freedoms, said in his dissent in *Laird v. Tatum:*[161]

This case is a cancer in our body politic. It is a measure of the disease which afflicts us. Army surveillance, like Army regimentation, is at war with the principles of the First Amendment. Those who already walk submissively will say there is no cause for alarm. But submissiveness is not our heritage. . . . The Bill of Rights was designed to keep agents of government and official eavesdroppers away from assemblies of people. . . . There can be no influence more paralyzing of that objective than Army surveillance. When an intelligence officer looks over every nonconformist's shoulder in the library or walks invisibly by his side in a picket line or infiltrates his club, the America once extolled as the voice of liberty around the world no longer is cast in the image which Jefferson and Madison designed. . . .

FOOTNOTES

* The author gratefully acknowledges the support and advice of his friend and colleague, Christopher H. Pyle, Esq. The comments, criticisms and constant intellectual stimulation of Professor Burton C. Agata were invaluable.

[1] 408 U.S. 1 (1972).

[2] The author served in the U.S. Army in Military Intelligence from October 1965 to October 1968. From July 1967 to October 1968, he was assigned to the Counterintelligence Analysis Branch, Office of the Assistant Chief of Staff for Intelligence, United States Army, Washington, D.C. In that capacity he was the desk, or action, officer responsible for Left Wing/Anti-War and Civil Disturbance Analysis. Inevitably the analysis and conclusions in this comment are to a certain degree based on his experiences and perceptions stemming from that tour of duty. For the author's account of his experience in military intelligence *see* Stein, *The Expansion of Counter Intelligence,* in UNCLE SAM IS WATCHING YOU (1971). *See also* WHISTLE BLOWING 126–134 (R. Nader, P. Petkas, K. Blackwell, eds. 1972).

[3] Pyle, *CONUS Intelligence; The Army Watches Civilian Politics,* 1 THE WASHINGTON MONTHLY, (Jan. 1970).

[4] *Id.* at 5–6.

[5] *Id.* at 5.

[6] The individual plaintiffs were: Arlo Tatum, Executive Secretary of the Central Committee for Conscientious Objectors; Conrad Lynn, a private attorney; Benjamin N. Wyatt, Jr., also a private attorney; and the Reverend Albert B. Cleage, Jr., Minister of the Shrine of the Black Madonna in Detroit, Michigan. Organizational plaintiffs were: Women Strike for Peace; Chicago Area Women for Peace; the Vietnam Week Committee of the University of Pennsylvania; The Vietnam Education Group of Knoxville, Kentucky; Veterans for Peace in Vietnam; The American Federation of State, County and Municipal Employees; the Vietnam Moratorium Committee; Clergy and Laymen Concerned about Vietnam; and the War Resisters League.

[7] Tatum v. Laird, Civil No. 459–70 (D.D.C., 1970).

[8] The other defendants were: Secretary of the Army Stanley R. Resor; General William C. Westmoreland, Army Chief of Staff; and Brigadier General William H. Blakefield, Commanding General, United States Army Intelligence Command. None of them currently hold the above positions. The defendants were sued individually and in their official capacity.

[9] From the date of publication of Pyle's article to the time of filing of the complaint in *Laird* v. *Tatum* no further information had come to the attention of plaintiffs' counsel. Shortly after the complaint was filed, several individuals with personal and extensive knowledge of the Army's activity came forward, including the author. Pyle, an instructor at the U.S. Army Intelligence School at Fort Holabird, Baltimore, Maryland, had never been personally involved in the activity complained of, but he had picked up enough information from friends and acquaintances to write the January 1970 article.

[10] Complaint of Tatum *et al., supra* note 7.

[11] *Id.* at 2.

[12] *Id.* at 10.

[13] Plaintiffs' Motion for Temporary Restraining Order, Tatum v. Laird, Civil No. 459–70 (D.D.C., filed Mar. 12, 1970, denied Mar. 13, 1970).

[14] Plaintiffs' Memorandum In Support of Their Motion for a Preliminary Injunction and in Opposition to Defendants' Motion to Dismiss at 1.

[15] Defendant's Memorandum In Opposition to Plaintiffs' Motion for a Preliminary Injunction at 3–7.

[16] Affidavit of Thaddeus R. Beal.

[17] The author and two former agents were present in the courtroom and prepared to testify. Unfortunately, counsel for plaintiffs had not secured affidavits from the persons prepared to testify. As a result, Judge Hart, after refusing to hear witnesses, had no means of learning that serious charges of clandestine operations by the Army were being advanced by the litigants.

[18] Much of the material which the former agents were prepared to discuss during testimony was publicly revealed for the first time in a press conference immediately after the District Court hearing. *See* NEWSWEEK, May 4, 1970, at 35–36.

[19] Oral dismissal on April 22, 1970.

[20] Order of Dismissal, April 29, 1970.

[21] 444 F.2d 947, 958 (D.C. Cir. 1971).

[22] *Id.* at 955–6.

[23] *Id.* at 953.

[24] *Id.*

[25] *Id.*

[26] *Id.* at 957.

[27] *Id.* at 959.

[28] *Id.*

[29] *Id.*

[30] Petitioner's Brief for Certiorari at 2, Laird v. Tatum, 408 U.S. 1 (1972). The Court's jurisdiction was invoked under 28 U.S.C. § 1254(1).

[31] *Id.* at 2, 13–14, 32–33.

[32] *Id. passim.* In briefs and on oral argument before the Supreme Court, the government argued that such activities as had been determined by the Army to be unnecessary had been stopped and that there was no further cause for complaint. The defendants were hampered to a certain degree by a continuing series of revisions by former Army personnel, some of which were in direct conflict with the assurances and statements of Army officials. While these developments were not, of course, before the Court, they were a matter of considerable public, legislative and news media interest.

[33] Petitioner's Brief, *supra* note 30, at 33. The government had raised the separation of powers question at the District Court and the Court of Appeals level. The government urged the Court to accept the viewpoint that where a party seeking to represent a class similiarly situated failed to allege a specific personal injury the case lacked the clarity and focus required to maintain a case or controversy and was, in reality, a political question which the Legislative and Executive Branches were especially designated, under the Constitution, to decide.

[34] Respondents' Brief in Opposition, at 30, Laird v. Tatum, 408 U.S. 1 (1972).

[35] *Id.* at 15.

[36] *Id.* at 9.

[37] For Tatum, *et al.,* as *Amici Curiae,* Laird v. Tatum, 408 U.S. 1 (1972). Christopher H Pyle and the author participated in the writing of the Brief. Counsel for the *amici* were Professor Burke Marshall, Deputy Dean of the Yale Law School, and Professor Arthur R. Miller, Harvard Law School. It is the author's belief that this Brief is unique in that, for the first time, individuals with a common background but no organizational link with one another were brought together for the sole purpose of submitting an *amici* brief to the Supreme Court. The expenses incurred in this undertaking were shared by most of the *amici.*

[38] *Id.* at 17. Resurrection City was the Washington, D.C. tent encampment of the Southern Christian Leadership Conference's Poor People's Campaign. It was located between the Washington Monument and the Lincoln Memorial. The author, on duty in the Pentagon, received daily reports from, among others, an Army major, a black officer who infiltrated Resurrection City after assuming a false identity and with specific orders to attempt to influence Southern Christian Leadership Conference policy. A large number of other agents, who reported regularly, roamed the area in casual clothing with orders to glean as much information as possible from participants in the Poor People's Campaign.

[39] *Id.* Agents with phony press cards and portable videotape units were ordered to conduct interviews with civilians during protests in the hope that those interviewed would divulge future plans.

[40] *Id.*

[41] *Id.* at 17–18.

[42] *Id.* at 17.

[43] 408 U.S. 1 (1972). Joining the Chief Justice were Associate White, Blackmun, Powell and Rehnquist.

[44] *Id.* at 15.

[45] *Id.* at 6.

[46] *Id.*

[47] *Id.* at 13.

[48] *Id.* at 14.

[49] *Id.* at 15.

[50] *Id.* at 19.

[51] *Id.* at 18.

[52] *Id.* at 23.

[53] *Id.* at 24.

[54] *Id.*

[55] *Id.* at 25.

[56] *Id.*

[57] *Id.* at 26.

[58] *Id.* at 40.

[59] 93 S. Ct. 7 (1972).

[60] *See generally,* A. YARMOLINSKY, THE MILITARY ESTABLISHMENT (1971). This excellent study, especially chapter 11, is recommended for those desiring a more complete account of the military in American society.

[61] Id. at 153 (Footnote Omitted).

[62] S. MORISON, THE OXFORD HISTORY OF THE AMERICAN PEOPLE 340 (1965).

[63] 32 THE WRITINGS OF GEORGE WASHINGTON 153 (J. Fitzpatrick, ed. 1931).

[64] 34 THE WRITINGS OF GEORGE WASHINGTON 6 (J. Fitzpatrick, ed. 1931).

[65] The reluctance to commit troops is perhaps best illustrated by President Theodore Roosevelt's terse telegram to an Army commander during a bitter 1907 Nevada miners' riot: "Do not act at all until President issues proclamation. . . . Better twenty-four hours of riot, damage, and disorder than illegal use of the troops." B. RICH, THE PRESIDENTS AND CIVIL DISORDERS 129 (1941).

Not all Presidents have been as concerned with maintaining control over Federal forces. President Wilson's directive that National Guard commanders should respond to all state requests for aid—at the time the Guard was federalized—has been severely criticized as an abdication of Federal power, *Id.* (1941).

[66] The statutes apply to the military in general, not just to the Army. In practice,

however, the Army has been almost exclusively the branch of the Armed Forces which the President has called out for riot duty.

[67] 10 U.S.C. § 331 provides: Whenever there is an insurrection in any State against its government, the President may, upon the request of its legislature or its governor if the legislature cannot be convened, call into Federal service such of the militia of the other States, in the number requested by that State, and use such of the armed forces, as he considers necessary to suppress the insurrection.

10 U.S.C. § 332 provides: Whenever the President considers that unlawful obstructions, combinations, or assemblages, or rebellion against the authority of the United States, make it impracticable to enforce the laws of the United States in any State or Territory by the ordinary course of judicial proceedings, he may call into Federal service such of the militia of any State, and use such of the armed forces, as he considers necessary to enforce those laws or to suppress the rebellion.

10 U.S.C. § 333 provides: The President, by using the militia or the armed forces, or both, or by any other means, shall take such measures as he considers necessary to suppress, in a State, any insurrection, domestic violence, unlawful combination, or conspiracy, if it—

(1) so hinders the execution of the laws of that State, and of the United States within the State, that any part or class of its people is deprived of a right, privilege, immunity, or protection named in the Constitution and secured by law, and the constituted authorities of that State are unable, fail, or refuse to protect that right, privilege, or immunity, or to give that protection; or

(2) opposes or obstructs the execution of the laws of the United States or impedes the course of justice under those laws. In any situation covered by clause (1), the State shall be considered to have denied the equal protection of the laws secured by the Constitution.

[68] *See generally* J. JENSEN, THE PRICE OF VIGILANCE (1968). This is a fascinating study of military surveillance of civilian politics during World War I and is one of the only works to delve into this facet of military operations. Jensen examines the Army's fear of dissenters during the First World War and traces the steps taken by the fledgling MI Branch—then known as the Corps of Intelligence Police—to monitor and control dissent. The Army entered into an extensive liaison relationship with the American Protective League, a vigilante group which sought to identify and neutralize German sympathizers and pacifists. One of the most chilling examples of MI activity in the sensitive area of First Amendment rights occurred in Butte, Montana, in 1917, when a military intelligence party raided a union printing plant with the aid of civilian vigilantes and arrested labor leaders and seized pamphlets. Among the Army raiders was then Major Omar N. Bradley. Apparently the only factor to prevent the enlargement of the Army's largely clandestine domestic police role during World War I was the termination of hostilities and the resultant cutback in appropriations for the MI Branch. THE PRICE OF VIGILANCE is must reading for those interested in fully understanding the constitutional implications of the issues raised in *Laird v. Tatum*.

[69] The author and Mr. Pyle began their investigation, which is still in progress, in February 1970. In connection with this study, the author has travelled throughout the United States, Canada, and the Virgin Islands to interview scores of former Army agents, as well as civilians affected by the Army's program. Some sources came voluntarily forward while others were developed by Pyle and the author. Many have insisted on total anonymity in exchange for their cooperation.

[70] Pyle, *CONUS Revisited: The Army Covers Up*, 2 THE WASHINGTON MONTHLY, July 1970, at 49.

[71] *Id.* at 50.

[72] *Id.*

[73] *Hearings on Federal Data Banks, Computers, and the Bill of Rights Before the Subcomm. on Constitutional Rights of the Senate Comm. on the Judiciary*, 92d Cong., 1st Sess., pts. 1 and 2 (1971) [hereinafter I *Hearings* and II *Hearings* respectively].

[74] *See* STAFF OF SENATE COMM. ON THE JUDICIARY, SUBCOMM. ON CONSTITUTIONAL RIGHTS, ARMY SURVEILLANCE OF CIVILIANS: A DOCUMENTARY ANALYSIS, 92nd Cong., 2nd Sess. (1972). This report analyzes the Army's use of computers in connection with its MI program and is an essential appendix to the two Hearings volumes.

[75] I *Hearings* at 290.

[76] *See* statement and testimony of Christopher H. Pyle, I *Hearings* at 147. *See also* the author's statement and testimony, I *Hearings* at 244.

[77] Note 76 *supra*.

[78] I *Hearings* at 305 and at 285.

[79] I *Hearings passim*. Virtually all of the former MI personnel who testified reported massive data-gathering.

[80] I *Hearings* at 185, at 198, and at 274.

[81] *See* Pyle testimony in I *Hearings* at 147.

[82] I *Hearings* at 274.

[84] *Id.* at 308.

[83] *Id.* at 306.

[85] *Id.* at 288.

[86] *Id.* at 289.

[87] *Id.*

[88] *See* REPORT ON ARMY SURVEILLANCE, *supra* note 74; author's testimony, I *Hearings* at 264–265 for a representative but very incomplete listing of the organizations monitored by MI.

[89] Some reports concerned criminal activity which had no bearing on or relationship to the Army. A small percentage of reports, no more than five percent in the author's estimation, contained information relevant and necessary for the accomplishment of the Army's mission.

[90] Mr. Froehlke is now Secretary of the Army.

[91] I *Hearings* at 376.

[92] *Id.* at 382–4.

[93] *Id.* at 382–6.

[94] *Id.* at 387. The four acknowledged operations took place at the following events: the Democratic National Convention in Chicago in August 1968; the March on the Pentagon in October 1967; the June 1968 Washington Spring Project (better known as the Poor People's Campaign); and the presidential inauguration in January 1969. During these operations, agents were admittedly used to infiltrate groups in order to obtain information on personalities and activities associated with the event.

[95] *Id.*

[96] *Id.* at 388.

[97] *Id.* at 392 *et seq.*

[98] 380 U.S. 479, 486 (1965).

[99] 376 U.S. 254, 270 (1964).

[100] 381 U.S. 301, 309 (1965) (Brennan, J., concurring opinion).

[101] 354 U.S. 178, 197 (1957).

[102] 371 U.S. 415, 433 (1963).

[103] 380 U.S. at 486.

[104] 236 F. Supp. 405, 409 (N.D. Cal. 1964).

[105] 75 F. Supp. 620 (N.D. Ind. 1948).

[106] 357 U.S. 449 (1958).

[107] Herndon v. Lowry, 301 U.S. 242, 263 (1937); Appellants' Brief at 16, Tatum v. Laird, 444 F.2d 947 (D.C. Cir. 1971).

[108] Petitioners' Brief, *supra* note 30, at 24.

[109] *Id.* at 2 *et seq.*

[110] Ashton v. Kentucky, 384 U.S. 195, 200 (1966).

[111] Davis v. Francois, 395 F.2d 730, 734 (5th Cir. 1968).

[112] 389 U.S. 258, 268, n.20 (1967).

[113] 10 U.S.C. §§ 331–333 (1970). *See* I *Hearings* 375 *et seq.*, testimony of Under Secretary of Defense Froehlke. II *Hearings* contains numerous Department of the Army directives concerning the collection of information about civilian organizations and personalities by MI. It is interesting to note that the Army civil disturbance plans cite no authority in law. The author, based on his experience, believes that the challenged Army program arose largely because military officers, inadequately and insufficiently supervised by civilian superiors, consistently and disastrously misinterpreted the source and nature of urban strife and rioting. It appeared to the author that many of these high-ranking officers were convinced that urban rioting was initiated because of conspiratorial activity on the part of a number of protest groups and their leaders. Insulated from frequent and meaningful contact with civilian communities, many of the Army's top-ranking generals were unable to grasp and comprehend the complex political, socio-economical and historical background which contributed to the outbreak of tragic violence in American cities. The legal arguments advanced by the government at various stages of *Laird* as authority for the MI program were, in the opinion of the author, afterthoughts brought on by the need to litigate the questions raised. In 16 months of Pentagon duty, the author never heard any high-ranking officer or civilian superior enunciate, much less question, the existence of a legal authority for the Army's program of surveillance and data-compilation.

[114] National Students Association v. Hershey, 412 F.2d 1103 (D.C. Cir. 1969).

[115] 354 F.2d 519 (D.C. Cir. 1965).

[116] *Id.* at 523.

[117] 372 F.2d 817, 824 (2nd Cir. 1967).

[118] 380 U.S. at 487.

[119] 408 U.S. at 15.

[120] *Id.*

[121] *Id* at 8.

[122] Gray v. Sanders, 372 U.S. 368, 376 (1963).

[123] *See* Tatum v. Laird, 444 F. 2d 947, at 959 (D.C. Cir. 1971), where a portion of the transcript from the District Court hearing is reproduced.

[124] Brief for Tatum, *et al.*, as *Amici Curiae*, *supra* note 37, at 11. The "Catch 22" reference is to Joseph Heller's novel of the same name. In Heller's novel, an Army Air Force bombardier during World War II requested relief from combat duty because he thought everyone was planning to kill him. The only way out of flying for the bombardier was Catch 22 which specified that a concern for one's safety in the face of dangers that were real and immediate was the process of a rational mind . . . All he had to do was ask; (to be relieved from flying) and as soon as he did, he would no longer be crazy and would have to fly more missions.

[125] Dombrowski v. Pfister, 380 U.S. 479, 486 (1965).

[126] 381 U.S. at 308.

[127] Respondents' Motion to Recuse Mr. Justice Rehnquist *Nunc Pro Tunc* at 4, Laird. v. Tatum, 408 U.S. 1 (1972).

[128] *See* I *Hearings* at 597–654 and at 849–914.

[129] *Id.* at 864.

[130] 408 U.S. at 1–16.

[131] Canon 2. A judge should avoid impropriety and the appearance of impropriety in all his activities.

A. A judge should respect and comply with the law and should conduct himself at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.

Canon 3. A judge should perform the duties of his office impartially and diligently.

C. Disqualification.

(1) A judge should disqualify himself in a proceeding in which his impartiality might reasonably be questioned including but not limited to instances where:

(a) he has a personal bias or prejudice concerning a party, or personal knowledge of disputed evidentiary facts concerning the proceeding;

(b) he served as a lawyer in the matter in controversy, or a lawyer with whom he previously practiced law served during such association as a lawyer concerning the matter, or the judge or such lawyer has been a material witness concerning it.

[132] Respondents' Motion for Recusal, *supra* note 127, at 10.

[133] Memorandum of Mr. Justice Rehnquist (October 10, 1972), Laird v. Tatum, 93 S. Ct. 7 (1972).

[134] *Id.* at 8–9.

[135] *Id.* at 10.

[136] *Id.* at 9–10.

[137] *Id.* at 10.

[138] *Id.*

[139] *Id.*

[140] *Id.* at 11.

[141] *Id.*

[142] *Id.*

[143] *Id.*

[144] *Id.* at 14.

[145] *Id.*

[146] *Id.* at 15.

[147] *Id.*

[148] *Id.*

[149] *Id.*

[150] *Id.* at 12.

[151] The author, for example, was ordered by a superior officer to assume his duties with the simple command, "From now on, you're Mr. New Left in the Pentagon. Start a desk."

[152] The failure of the appointed civilian superiors in the Department of Defense and the Department of the Army to discover that the Army, and MI in particular, was running a nationwide surveillance operation has, of course, serious constitutional implications in itself with which this comment cannot deal.

[153] A small number of agents assigned to combat units came under the command of the Continental Army Command, Fort Monroe, Virginia. Most MI special agents were assigned to the U.S. Army Intelligence Command, Fort Holabird, Maryland. These agents, working out of field and resident offices throughout the country, were primarily involved in conducting routine background checks—known as Personnel Security Investigations—on individuals entering the Armed Forces and the Army in particular. This activity was not challenged by the plaintiffs in *Laird* v. *Tatum*.

[154] *See* II *Hearings passim* for a sampling of these mission requirements. *See also* testimony of former special agents and other Army personnel in I *Hearings*.

[155] 277 U.S. 438, 479 (1928).

[156] *See* the testimony of former Army Staff Sergeant John M. O'Brien in I *Hearings* at 100 *et seq*. O'Brien's revelation that he had been directed to monitor the activities of elected officials in the Chicago area, including U.S. Senator Adlai E. Stevenson III, shocked the entire nation and led to a court challenge to MI practices in the Chicago area. The action, *ACLU* v. *Laird*, 463 F.2d 499 (7th Cir. 1972) was brought by a number of political activists allegedly under surveillance by MI personnel in Illinois. The action was dismissed by the District Court after an evidentiary hearing in which much material was brought to public attention. The seriousness of the hearing was tempered somewhat when a career MI civilian intelligence officer, responding to O'Brien's charge that MI had harassed civilians by dispatching unordered pizza pie to the homes of political activists, firmly asserted that he and the members of his unit had ordered fried chicken instead for the activists. The dismissal was affirmed by the Court of Appeals for the Seventh Circuit with *Laird* v. *Tatum* being cited as controlling. The Supreme Court denied certiorari, 41 U.S.L.W. 3376 (U.S. Jan. 19, 1973).

[157] *See* Address by Senator Sam J. Ervin, Jr., March 2, 1970, in Appendix to Appellants' Brief at 68–69, Tatum v. Laird, 444 F. 2d 947. *See* A. WESTIN, PRIVACY AND FREEDOM (1967), the seminal work on the role of and need for privacy and individual autonomy in our society. *See also* A. MILLER, THE ASSAULT ON PRIVACY (1971), an excellent study of the threat to privacy posed by technological advances. Police surveillance is an increasing problem as police departments expand their capacity for intelligence operations of a type formerly conducted only by federal agencies in internal security matters. A study of the First Amendment problems inherent in such activities is well covered in F. Askin, *Police Dossiers and Emerging Principles of First Amendment Adjudication*, 22 STAN. L. REV. 196 (1970).

[158] Appellants' Brief, *supra* note 59, at 68–69.

[159] 395 U.S. 486, at 506 (1969).

[160] See *e.g.*, *Donohoe v. Duling*, 465 F. 2d 196 (4th Cir. 1972), a challenge to police coverage of protest meetings, which was dismissed on August 1, 1972. In *Donohoe*, 42 individual plaintiffs sought to represent those made timorous by the presence of police observers who photographed individual participants. The court majority, citing *Laird v. Tatum*, found that the plaintiffs had failed to show a chilling effect injury to themselves as a result of defendant's activities, and therefore they would not be permitted to represent those who were allegedly so affected.

[161] 408 U.S. at 28.

THE FUTURE OF THE AMERICAS

Mr. PERCY. Mr. President, my friend, Sol M. Linowitz, a distinguished lawyer, corporate executive, diplomat, and public servant, who is now chairman of the National Urban Coalition, recently addressed an inter-American meeting in Mexico City on new approaches he believes the United States should take in dealing with Latin America. Mr. Linowitz brings to his subject the wisdom and experience of a highly effective and respected American Ambassador to the Organization of American States.

I wish to associate myself with Ambassador Linowitz' solid rejection of the idea recently advanced that the United States withdraw from membership in the OAS. He also suggests interesting innovations in the area of trade and investment relationships with Latin America which merit further discussion and study.

I invite the attention of my colleagues to Ambassador Linowitz' address and ask unanimous consent that excerpts from his address be printed in the RECORD.

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

THE FUTURE OF THE AMERICAS

(Excerpts from an address by Sol M. Linowitz, before the Inter-American Meeting on "Science and Man in the Americas," Mexico City, June 27, 1973)

It is clear that the future of the Americas will in large measure depend on how effectively we can deal with the staggering problems of development—on how successful we are in helping Latin America rid itself of the social and economic inequities that darken so much of its immense potential.

Yet at the time when the need for cooperation and coordination of effort is greater than ever, the United States and Latin America seem to be pulling further apart. The Alliance for Progress has been superseded by a policy of noninvolvement in which slogans have replaced commitments. The tragic effect has been that at this critical time in hemispheric affairs, Latin America and the United States are pursuing separate paths—each with apparent disregard for the other.

Ironically, the abandonment of the Alliance for Progress has taken place at a time when—despite its problems and failures—it was managing to achieve an annual average of 2.4% real per capita growth and was showing gratifying signs of progress in a number of areas. During the decade of the sixties, the United States has contributed over 8 billion dollars in bilateral aid and was responsible for much of the 6.5 billion dollars in loans from international institutions such as the World Bank and the Inter-American Development Bank. More significantly, Latin Americans themselves contributed at least 90% of the capital required to fuel development and build up a sizeable infrastructure of public works projects and social programs.

On his recent visit to Latin America the United States Secretary of State indicated his recognition that a new policy for Latin America is long overdue—one which can again set forth the common objectives of the nations of the hemisphere and would restore the spirit of cooperation and mutual commitment. What should be the outlines for such a policy? Tonight I would like to focus on the basic ingredients for such a policy in five vital areas.

1. COMMON GOALS FOR THE FUTURE

It is urgently important that the countries of Latin America and the United States promptly agree upon common goals for the future of the Americas and the commitments necessary to achieve these goals through multilateral cooperation. We have long since passed the point where statements of good intentions and high motives will be sufficient to counter the tensions and antagonisms already aroused. What is needed is a new beginning in fact—a credible and realistic partnership which must begin at the top. The President of the United States has already announced his intention to visit Latin America later this year. Such a trip could be the occasion for a summit conference between the Presidents and Chief Executives of all the countries of the Americas in order to discuss openly and freely, goals for the future and commitments to be undertaken if the goals are to be achieved. From my participation in the summit conference at Punta del Este, Uruguay, in April 1967, I saw for myself what a real thrust toward hemispheric cooperation could result from such a summit conference at a time when it was sorely needed. In my judgment such a conference is even more necessary today in order to open up a whole new era of understanding and cooperation and to delineate the objectives for hemispheric cooperation.

2. REGIONAL COOPERATION

During his recent Latin American visit United States Secretary of State Rogers stated: "Our policy is to encourage regional cooperation." Essential to full and effective regional cooperation is clear agreement on the role of individual governments in multilateral inter-American institutions and responsibilities assumed by each nation by virtue of such membership. Above all else there must be full recognition of the principle of multilateralism whereby decisions are made on a truly multilateral basis, representing the concerted judgment of the members and divorced from the political control or influence of any one country. The OAS, the Inter-American Development Bank, and other inter-American institutions are able to make great contributions toward regional development and progress and hemispheric cooperation. They are staffed by dedicated international civil servants who must be assured of the full support of all member governments in proceeding toward common objectives.

Some regional efforts such as the Andean Pact and the Central American Common

Market—should properly involve regional cooperation without United States participation. But in the OAS, the Inter-American Development Bank, and other similar inter-American institutions, the clear need is for full United States participation and commitment on a truly multilateral basis.

Recently a suggestion was put forward that the United States might consider withdrawing from full membership in the OAS in order that the OAS might undertake to deal with hemispheric problems as a wholly Latin American instrumentality. In my judgment such a move would be an ill-advised step inimical to the best interests of both the United States and Latin America. For it would be regarded as a withdrawal by the United States from cooperation and commitment precisely at the moment when what is needed is increased commitment and cooperation by the United States in inter-American multilateral institutions such as the OAS.

A helpful step would be the participation of Japan and the European countries in lending institutions such as the International Development Bank. These nations have capital for investment in Latin America and could make available resources which could be well used for coordinated regional projects by the Inter-American Development Bank and the several regional counterparts. At the same time the participation of these countries would assure that such institutions are truly multilateral, not dominated by the political influence, express or implied, of the United States.

It is appropriate to add one further word about the responsibility of nations as members of multilateral institutions. Some Latin American countries—frustrated by the apparent tone deafness of the United States in responding to Latin American needs—have tended to make multilateral institutions sounding boards for complaints and charges. While their frustrations is understandable, such a cacophony of complaints hinders the effective operation of multilateral institutions and exacerbates differences. Multilateral institutions can function effectively only when member nations agree upon their objectives and work together effectively to further their progress.

3. TRADE

One of the foremost and urgent needs of Latin America has long been the growth of trade and industrial development. Here both Latin American countries and the United States can do much to assure essential progress. Latin American economic integration—the development of a Common Market—made considerable headway during the 1960's but has now come to a standstill. One of the most important steps Latin America could do to bring itself to a position of dealing on an equal basis with the United States would be to achieve the economic strength which regional integration can accomplish. Coordinated development of key industrial and agricultural sectors, withdrawal of quotas to flow of people, capital, and trade among countries—these are the essential keys to a better relationship with the United States, which has long championed integration of the development and trade of the region.

The United States could help to stimulate progress toward economic integratiton by offering to become a non-reciprocal member of a Latin American Common Market—opening up its own markets but not insisting on the same from Latin America. Such a step might stimulate the countries of Latin America to push forward with their regional integration program, to set their export goals, and to develop ways to reach them.

Increased trade has long been an essential goal for Latin America. For a number of years the United States has promised a trade preference for manufactured and semi-manufactured products of Latin America. The new Trade Bill put forward by President Nixon includes a proposal in that direction. But to Latin Americans it does not represent a clear and unambiguous assurance of the kind of general trade preference they have long been promised.

Today Latin America has a 2 billion dollar trade deficit with the United States. While the United States is plagued with its own balance of payments problems, there is no reason why it should make its mark at the expense of Latin America. I would therefore propose that the United States undertake to allow Latin American manufactured and semi-manufactured products to come into the United States free of all duties and quotas to the extent of the 2 billion dollar trade surplus which the United States has with the region. Such a step would be a significant one for Latin America and would be politically feasible in the United States, especially if Latin American countries would indicate their willingness to reduce their barriers against United States exports to the degree they benefit from increased exports to the United States.

4. UNITED STATES PRIVATE INVESTMENT IN LATIN AMERICA

It is essential to develop a clear understanding between the countries of Latin America and the United States as to the precise relationship of the United States government and United States subsidiaries operating in those countries. For conflict on this issue too often arouses antagonisms with widespread ramifications. It is time for the countries of Latin America and the United States to formulate together a Code of Conduct for Responsible International Companies. Such a Code would specifically set forth the rights a United States company would be able to expect and the duties it would have to the host country in which it seeks to operate. Provision would be made for recourse to an international tribunal for resolution of any dispute thereby avoiding unilateral action. Under such a Code, a United States company could, in good conscience, call upon the United States government for help if it had been wronged. By the same token, the United States would be in a position to insist that American companies fulfill their obligations to the host country.

During recent years various Latin American countries have, in pursuance of their national policies, imposed restraints and restrictions on United States companies and investments. Admittedly some such limitations have been helpful to the developmental effort. But it would be appropriate for Latin American countries to re-examine restraints and restrictions imposed, in order to be certain that they are actually proving of benefit in advancing the countries' goals. For clearly some such restrictions keep out vital goods, services, and needed capital with little or no concomitant gains for the local economy. In such instances, there would be value in removing the limitations and restrictions not only because they are not beneficial, but also because they constitute formidable psychological blocks to cooperation and serve as a deterrent to further United States investment.

In the light of its great development needs, Latin America should be able to obtain the benefit of United States investment and technology on a more mutually fair basis. Perhaps a clearinghouse could be established in the United States that would undertake to provide Latin American countries with direct access to technical assistance from smaller, non-international United States firms and individual technical experts that abound in the United States. In addition, the United States might try to help meet financial requirements by considering ways to facilitate floating of Latin American bonds on local exchanges in the United States, perhaps supported by some kind of a guarantee program. Steps such as these could be both timely and helpful and help to further cooperation.

5. RESPECT FOR DIFFERENCES

Of critical importance to the future of the Americas is the need to respect differences among nations and to recognize that Latin America is seeking to fulfill its own destiny in its own way. Basic to this concept is the recognition of the fact that each nation must have the freedom to determine for itself its own political, social, and economic system; and when a particular government has been freely chosen by a country, that choice must be accepted and respected.

This means that the United States must be careful not to try to elbow its way in or to lecture the countries of Latin America on what they must do and how they must do it. Recognizing our own problems and our own unfulfilled aspirations, we can only approach the problems of others with humility. For if with all of our wealth and know-how, we continue to have such major difficulties in dealing with our own urban ghettos and rural blight—if, with all of our technological and scientific knowledge, people in the United States are still hungry—if, with all of our commitments to democratic institutions, there are still those among us—even in very high places—who resort to undemocratic means—we should have some sense of the effort which will be required in Latin America as it seeks to achieve its own goals.

In Latin America today there are frequently recalled the words of the Spanish poet, Antonio Machado: "Traveler, there is no path, paths are made by walking".

The 270 million people of Latin America are today trying to make their own path. In doing so, they need the cooperation, the commitment, and the support of the United States. With the assurance of our true partnership and our commitment to one another, we can all take hope that we can yet move forward together toward a brighter tomorrow in a hemisphere free from war and free from want.

SOLUTIONS TO THE ENERGY CRISIS

Mr. HUMPHREY. Mr. President, the Christian Science Monitor in recent weeks has published a series of informative articles on energy. The articles, by Fred Singer, professor of environmental sciences at the University of Virginia, examine the ramifications of the current energy crisis. They explore the reasons for it and possible solutions to the problem.

One of the main points of the series is that there is no long-term energy supply crisis in the world. If we can only develop the technological know-how we can look forward to nuclear breeders and nuclear fusion; as well as the possibility of geothermal and solar power. Any one of these would supply the world's energy needs for thousands of years. Coal, shale, and tar sands also are available to meet our needs for several hundred years, long after we run out of petroleum and natural gas.

Hence, as Professor Singer states, there is no long term energy crisis. But there are immediate and serious problems, problems which demand immediate solutions. This series of articles examines in-depth these current problems and suggests ways we can get over this trying period.

I ask unanimous consent that this series of articles be printed in the RECORD.

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

FUELS LIFT LIVING STANDARD—BUT SUPPLY IS LIMITED

(By S. Fred Singer)

Probably no single event in human history has influenced our existence on this planet as much as the discovery of fossil fuels and the use of concentrated forms of energy.

Over the last 150 years human labor and animal labor have been increasingly replaced by machines which burn coal, oil, and gas. This "energy subsidy" has increased both the standard of living and the amount of leisure time for a sizable fraction of mankind.

In turn, the accumulation of capital and the availability of free time have allowed men to divert resources from basic necessities, such as food and shelter, in order to make investments in science and technology. The results of these investments have been spectacular, and have become available on an ever-shortening time scale. Within the life span of most of us have developed television, computers, and atomic energy; man has landed on the moon; the genetic code has been broken; and many diseases have been eradicated.

But in addition to improving our well-being and easing our battle against an unfriendly environment, these new developments, especially in medicine and agriculture, have led also to an immense explosion of population throughout the world. This, plus the increasing consumption of energy and materials, is producing an ever-increasing amount of environmental pollution.

To further complicate the situation, concern is also being voiced about the adequacy of energy supplies. Geological, technical, economic, and political problems—domestic and foreign—are pressing upon us, in addition to environmental and ecological problems. We shall try to look at all of these later—if not exhaustively then at least squarely. We may discern the forest, even if we miss quite a few trees.

FUELS GIVE "SUBSIDY"

Some basic facts about the effects of energy on our economy need to be restated often. A simple calculation brings home dramatically the importance of energy to everything we do. One gallon of gasoline produces the energy-equivalent of 25 man-days; and thus, the cost of a man-day of work is only a little more than a penny. This figure illustrates in a striking way the subsidy we receive from fossil fuels—a far greater subsidy than was ever obtained from human slavery.

Before the year 1800, energy available to human societies was limited to solar energy only recently radiated to the earth. Its most direct form was human or animal power; the energy came from food, that is, from the biological oxidation of compounds that were capable of storing solar energy.

SOLAR ENERGY USED

The burning of wood to provide heat, or the use of moving air or falling water to drive windmills or pumps, also represented the conversion of recently arrived solar energy. Such power sources could not be readily transported, and the energy could not be transmitted over any considerable distance. The amount that was available at any particular point was rather small.

This picture has, of course, changed completely since the 1800's, and it has assumed significant new dimensions in the past two decades with the advent of nuclear power. The most striking measure of these changes is increased per capita consumption of energy in the developed countries. There is a direct correlation between energy consumption and average income, with the cost of fuels itself being only a few percent of the income, about 3 percent in the U.S. today. This relationship demonstrates the subsidy received from the use of low-cost fuels.

To quote H. T. Odum, professor of ecology at the University of Florida, "Today beef and potatoes are made partly from oil" through the use of tractors and fertilizers. Any rise in the cost of fuels has a very direct effect on the cost of all necessities, and on the cost of living. An energy tax amounts to a regressive tax, hitting the poor especially hard.

The minimum consumption of energy is the food we need to stay alive, about 2,000 calories per day or a power level of 100 watts—the equivalent of an average light bulb. Today the per capita use of energy from all sources in the United States is 10,000 watts or about 100 times this minimum; and the figure is rising about 2.5 percent per year.

With some 200 million people, U.S. consumption is herefore 2 million megawatts, of which about 30 percent goes into the generation of electricity, and the rest is used about equally for transportation, households, and industry. Currently the United States accounts for about one-third of the world's energy consumption, although the rate of increase is faster in countries growing more rapidly than the United States.

Hand in hand with the advance in the rate of energy consumption has gone the introduction of the new sources of energy: coal was followed by oil, then gas, and then nuclear fuels. In contrast to fuel used before 1800, fossil and nuclear fuels represent energy that reached the earth millions and even some billions of years ago. Except during time of polictial conflict, it matters little where the new fuels are found; they can be purchased and transported readily, and the electrical energy produced from them can be transmitted over great distances.

In terms of human existence, this "energy revolution" occupies an incredibly brief span of time—and it will be over in a couple of centuries if we have to rely only on fossil fuels. The amounts of coal, oil, and gas that exist on the earth are, after all, finite; and even though new technologies can be developed to extract these fuels more efficiently, this still does not alter the fact that the supply is finite.

Even if we add other fossil fuels that do not presently constitute a resource, such as tar sands and oil shales, even if we add underground nuclear explosions to extract gas and oil more efficiently and completely, this still leaves us with a finite amount.

Fortunately, there are essentially inexhaustible energy sources: nuclear breeders and nuclear fusion; as well as the possibility of geothermal power and solar power. Any one of these would supply the world's energy needs for thousands of years or longer.

Coal, shale, and tar sands are available for several hundreds years—long after we run out of petroleum and natural gas.

There is, thus, no long-term energy-supply crisis in the world. But there are immediate problems.

SOLUTIONS TO OTHER PROBLEMS AT HAND

(By S. Fred Singer)

There is no real energy crisis in the world today and there may never be one.

That is, there is plenty of oil and gas in the ground to satisfy today's needs. Long before that oil and gas supply becomes exhausted, in about 50 to 80 years, there will be plenty of substittues available from coal and other fossil fuels, and from nuclear energy and other kinds of energy sources.

Yet in another sense, there are energy crises, or properly speaking "energy crunches." It is possible to identify at least four of these. It is important to keep them distinct, since they are due to different causes and require different remedies.

1. Let's look at the long-range "crisis" first. Oil and gas are likely to be limited within the United States, which will increasingly depend on oil imports.

DISTRIBUTION PROBLEM

There's also the problem of distribution. More than 60 percent of the world's oil reserves are in the Persian Gulf, although substantial supplies are known to exist in many other areas of the world. But with the possible exception of the Soviet Union, all consuming nations depend on imports.

In principle, this presents no problem; in practice it may. In principle, Middle East oil has the lowest production cost, about 10 to 20 cents per barrel, and should not cost a domestic refiner much over $1. In practice, the price is now as high as domestic oil, which sells for around $3.50 at the wellhead.

Right now oil and gas are more widely used than any other energy source, but this situation surely will change once the lowest-cost deposits become exhausted.

In a decade or two, long before we run out of oil and gas we will be relying more on coal, and perhaps oil shale and tar sands, to supply us with hydrocarbons.

The supplies of these fossil fuels are enormous. The coal supplies of the United States can take care of its energy needs for 200 to 300 years, and the oil shale supplies of the United States, or the tar sands of Canada and of Venezuela, can supply its needs for several hundred years also.

Energy also can be produced without fossil fuels. Nuclear energy certainly will take an increasing fraction of the electricity generation; from 4 percent today to more than 50 percent by the year 2000. It is is difficult at this stage to judge which of the many possibilities will turn out to be cheapest and therefore most successful: nuclear breeder reactors, nuclear fusion, solar, or perhaps geothermal power plants, which draw on the heat energy of the earth.

Any one of these energy soruces may develop so quickly and successfully that it will crowd out the others. It is possible, for example, that oil shale may be by-passed and may never become a resource. This almost happened to coal a few years back.

INVESTMENT NECESSARY

The long-range problem of energy supplies will not be met, however, unless the nation is prepared to make substantial investments today to develop alternative energy sources. And at this stage we have to cover our bets by putting money on all reasonable possibilities.

2. When we turn to short-range crunches, there are no real problems either, i.e., problems that are fundamental and lack a solution. It is important to understand that the shortages of natural gas that we have been experiencing, as well as the shortages in fuel oil last winter and gasoline this summer, do not indicate a general shortage of fossil fuels in the world.

These shortages really are misallocations, and they can be fixed by allowing the economic forces of the marketplace to operate more freely, as well as by proper planning.

To some extent these shortages were made worse by concerns about air pollution and the need for fuel with a low-sulfur content, like gas and "sweet" crude oil.

ELECTRIC-POWER SHORTAGE

3. Quite distinct from fuel shortages are the shortages in electric power. We have been experiencing brownouts and even blackouts, and we probably will see more of these in the next few years, especially in rapidly growing parts of the U.S. This inadequacy in electrical generating capacity again has little to do with a long-term fuel shortage. Instead it is caused by a combination of poor planning and just bad luck, by problems in siting power plants, problems in manufacturing nuclear reactors, and by environmental concerns that have introduced substantial delays and cost increases into the powerplant construction program. Again, this represents not an energy crisis but a temporary crunch.

OIL-IMPORT CRUNCH

4. The one problem most likely to cause a crisis is a medium-range problem. It is the problem of oil imports after 1976, or about

the time when the present agreements with the oil-producing countries expire. The crunch may last until 1985 or so, until substitute fossil fuels as well as alternative energy sources are brought into the market in sufficient quantity and at sufficiently low cost. The crunch need not become a crisis *provided we prepare ourselves immediately.*

The implications of the oil-import problem are threefold:

Higher prices for fuels and therefore a greater burden on the American consumer, particularly the lower-income consumer.

A greater outflow of U.S. currency to pay for the oil imports.

A potential threat to national security, in case energy supplies were to be cut off.

This medium-range oil-import problem is as much psychological and political as economic. Its solution will depend on attitude and resolve, on image as well as substance. There is much within the United States' power to see that a crisis never occurs.

A Way To Ease the U.S. Energy Crisis

(By S. Fred Singer)

A current problem making headline news is the scarcity of natural gas. Gas companies have not been able to service new customers, and pipeline companies in the last couple of years have had to apply curtailment of gas to industrial customers. To understand the problem we must first look at basic facts.

The most striking event in the United States has been not only the annual rise in fuel consumption, about 3 to 4 percent, or a doubling time of roughly 20 years, but also the rapid change in the "mix" of fuels. Natural gas, which was hardly used 50 years ago, has become a strikingly popular fuel, taking 18 percent of the energy share in 1950 and nearly 33 percent in 1970. Oil has increased from 40 percent to 44 percent over the last 20 years, while coal has slipped from 38 percent to 19 percent.

COAL USE DECLINES

Over the last 20 years the use of coal has disappeared for household and commercial applications and for transportation. But for natural gas, household consumption has quadrupled, industrial consumption has tripled, and electrical utility consumption has increased by a factor of six, all within 20 years.

The reason for these drastic changes is not difficult to find. The wellhead price of gas has been set and held at levels which must now be considered as too low, around 20 cents per 1,000 cubic feet. During all this time, the price of crude oil held reasonably constant, but it is three times that of gas in terms of its heating value. That's what counts: After all, fuels are used to produce heat.

Of course, electrical utilities use the less costly residual oil (left over after refining crude oil for more expensive gasoline). But it is still a little more costly than delivered natural gas, and so is coal—especially after the costs for air-pollution control are added.

A CLEAN FUEL

There is one other aspect to the use of natural gas: It is a clean fuel that can be burned without producing any appreciable pollution, and it can be burned very cheaply. Unlike oil and coal, it requires no storage and it does not require specialized burning equipment. It is therefore the ideal fuel for households and small commercial users, a premium fuel that is really worth more but costs less.

From the point of view of overall national efficiency, one would like to see gas burned by households and small users, while the dirtier fuels—residual oil and especially coal—should go to large industrial users and electric utilities.

The large users can afford the more complicated burners, as well as the engineers who keep them in adjustment and make sure that as little pollution as possible is generated. Because of the economies that come with large-scale operations, they can purchase and maintain at a lower cost the pollution-control equipment that removes soot, fly ash, and all particulate materials, as well as sulfur dioxide.

INTERSTATE REGULATION

Another switch that could be achieved for gas is from intrastate use to interstate use. Keep in mind that the regulation of natural gas by the Federal Power Commission applies only to gas that is produced in one state, say Texas, but then is shipped and sold in another state. Within the state of Texas the free-market price of gas is more than twice that of the interstate price. Not surprisingly, the producers prefer to sell to intrastate use, rather than make new interstate contracts at the regulated price. This distortion results in a use of gas which from a national point of view is not efficient.

However, the most serious consequence of strict regulation of well-head prices is the fact that the exploration and production of gas has become a marginal enterprise. Gas is usually discovered jointly in searching for oil. To stimulate exploration and production of gas, its price would have to rise greatly or the price of oil would have to rise moderately.

RESULTS SUGGESTED

In summary, a more realistic price for natural gas would go a long way toward achieving the following:

It would not only stimulate exploration and production of new gas, but would also direct existing gas into uses for which it is most uniquely fitted (such as home heating).

It would shift more gas into interstate use.

It would encourage utilities to use less gas and release it to the small user.

This shift (by the utilities) from gas, probably to greater coal use, would lead to lower overall operating costs, lower pollution costs, and therefore to more efficient national performance. Greater use of coal would also reduce the dollar outflow.

United States Faces Many Options in Natural-Gas Shortage

(By S. Fred Singer)

The federal government can deal with the natural-gas shortage in at least three ways:

More regulation, in the form of curtailments, rationing, or use taxes.

Less regulation, it could indulge in the manipulation of prices or subsidies which have been fixed until now.

No regulation. The pricing of natural gas could be left to free markets.

Regulation without change in price might consist of reserving gas to small users who cannot use oil and coal effectively, because it is too costly and too inefficient to install millions of small burners and pollution control devices.

SUBSIDY FOR CONSUMER

If large industrial users and utilities, which now consume roughly 60 percent of the gas, were curtailed, then more gas would be made available to residential and commercial users, who now consume roughly 25 percent of the total production. This policy would represent a clear subsidy to the consumer, as indeed the low price of gas over the last decades has represented a subsidy.

The problem with this approach is the long-term gas shortage. The nation has about reached the point where the costs of discovering and producing natural gas are too high in relation to the return. Further, at the current low price there is little incentive for private industry to develop cheaper processes for making synthetic gas from coal—possibly the best source after natural-gas supplies are exhausted.

FPC SETS PRICES

The second method involves pricing. The Federal Power Commission (FPC) currently sets field prices for natural gas in interstate use. Some analysts have advocated drastic changes, involving a doubling or even tripling of the price of gas at the wellhead. The intention is to provide incentives for production, as well as to "clear the market" and make it uneconomical for large industries and electric utilities to use gas, forcing them into oil and coal.

There are risks involved in this approach. It would increase supplies but it would also raise the cost to the consumer. Clearly, since so much of the delivered cost lies in distribution, it would not double or triple the cost but it might raise it by 10 to 30 percent.

But a price rise may be counterproductive if it also raises the cost of competing fuels—oil and coal. To the extent that this happens the market may not "clear."

AMENDMENT INVOLVED

The third approach would be deregulation, amending the Natural Gas Act and letting market forces operate so that gas achieves a competitive price level in relation to oil and coal. To a certain extent, the optional gas-pricing procedures now being heard before the FPC would stimulate such a free market without requiring any change in legislation.

Here again, to the extent that oil and coal become more competitive and therefore more desirable, their prices will rise somewhat, so that freeing the gas price may raise the cost of all fossil fuels.

One way to counteract such a general price rise, or to channel it for the general benefit of the U.S. public, might be to apply judicious subsidies. (Based on our generally unhappy experience with subsidies, one would want to introduce also an automatic phase-out, in say five to 10 years.)

REBATE POSSIBLE

But if the United States is interested in making coal more acceptable and if it wants to get industries and utilities to switch to coal, it might subsidize some item that forms a large fraction of the delivered cost of using coal.

It might, for example, subsidize sulfur removal, or one can conceive of a tax rebate to coal companies that spend large sums of money on reclaiming strip-mined land. Alternatively, the government might contribute a percentage of the cost, which rises as the degree of reclamation is increased or as the land is returned to more beneficial uses.

Clearly, in the best of all possible worlds, a free market would be preferred. But the fact is that we don't have a free market in fuels.

We certainly have a completely regulated market in gas. We have what amounts to quasi-regulation and monopolistic practices in oil. And the coal business is riddled with various restrictive regulations as well as subsidies, for example, in transportation.

EFFICIENCY NEEDED

I see nothing wrong therefore with the government's rationalizing the situation by some manipulation of this market; provided, of course, we keep in mind the general goals of achieving efficient use of energy in the United States and of achieving an equitable distribution of costs that will not discriminate against the poor.

There is another set of facts that refer to the long-range fuel-supply situation. To electrical utilities, especially, the low cost of fuel is only a partial consideration; availability over many decades is important also. Since domestic supplies of natural gas are clearly limited and are bound to become more expensive, coal represents an obvious alternative.

COAL PLENTIFUL

Coal happens to be plentiful in the United States: by a geological accident the U.S. has

sufficient reserves to last for several hundred years. (Not all of the coal is easily accessible, and much of it will not be minable because it would damage land that could not be reclaimed. But there are huge supplies of low-sulfur coal in the Dakotas, Wyoming, and Montana, where strip mining and land reclamation are not prohibitively expensive.)

The 500 million tons of coal mined in 1970 released the need for more than 2 billion barrels of oil and saved more than $5 billion in foreign exchange costs. Not only our balance of payments but national security will be enhanced if more gas and oil users switch to coal.

DEREGULATION—BEST ROUTE TO LOWEST-COST GAS?

(By S. Fred Singer)

In his energy message of April 18, 1973, President Nixon announced he would submit legislation to amend the Natural Gas Act to deregulate the wellhead prices on new supplies and on new contracts of natural gas.

However, this free-market approach is to be watched over by the secretary of the interior to make sure that it works out as intended.

Now we will have to see how Congress reacts to the proposal. The stumbling blocks may well be supposed price rises to consumers and "windfall profits" to producers.

Interestingly, the Natural Gas Act of 1938 did not envisage regulation of the price of natural gas at the input end of the pipeline; it only meant to regulate the transportation and the sale for resale by interstate pipelines to so-called jurisdictional customers. (Congress twice passed bills that would have effectively deregulated natural gas, but they were vetoed by Presidents Truman and Eisenhower.) In the 1954 Phillips case, the United States Supreme Court held that the act also applied to wellhead prices.

HISTORY OF REGULATION

The history of regulation of producers' prices by the Federal Power Commission is a long one and has resulted in the sale of gas at prices now judged to be artificially low. The consequences have been partly good by giving the consumer a subsidy, but partly bad by encouraging uneconomic uses of gas, which is a premium fuel, in applications where other fuels could have served.

Steadily increasing costs have discouraged exploration and production. As a result the reserve-to-production ratio in the United States has dropped to a level where less than 10 years' supply is in view.

How will the proposed plan work out? Ideally the price of gas will become high enough to "clear the market," so electric power plants and industries will switch to another boiler fuel—hopefully to coal where supplies of several hundred years are available.

COMPLETE SWITCH

A complete switch would triple the amount of gas for commercial and residential users who cannot readily switch to residual fuel oil or to coal.

Furthermore, part of the gas now in the intrastate market would be captured by the interstate market, and therefore become available to consumers outside the producing states Finally, increased incentives for exploration and production will raise the reserves further.

Since the wellhead cost of gas amounts to something like 10 to 20 percent of the homeowner's bill, a doubling of the wellhead price to 40 cents would increase his bill by only 15 percent. But since the new gas would be "rolled in" with low-priced gas on existing sales contracts, the increase should certainly be less, over the next several years at least.

COMPENSATING FEEDBACK

We cannot be sure, of course, where the wellhead price will end up; but there is a compensating feedback. If the price rises and enough industries switch out of gas, then the rise will moderate, provided also that oil and coal prices do not go up appreciably. Of course, any collusion among fuel producers would raise all fuel prices, to the detriment of the consumer.

Another concern is about "windfall profits." Congress may add some provision that would not permit price increases on flowing, gas or somehow tax away excessive profits derived from old gas wells.

In the balance, deregulation seems the best approach for the consumer. A plentiful domestic supply may do away with the need to import LNG (liquefied natural gas) from Algeria or from the Soviet Union at fancy prices and after tremendous capital outlays by the American oil and gas industry—all to be paid for in the end by the consumer.

PEAK DEMAND

Domestic LNG has been in use in the U.S. for a number of years, but as a way of storing gas to supply the peak demand the pipelines cannot handle. Under those conditions it is quite economical.

The danger is that large import programs and the huge capital investments necessary will force LNG into supplying "base load" gas rather than just "peak shaving." As an alternative, the consumer would actually save money by paying a little more for deregulated domestic gas.

ENERGY CRUNCH STIRS LNG INTEREST

(By S. Fred Singer)

A year ago LNG and SNG might have been mistaken for Vietnamese generals, Siamese twins, and perhaps new psychedelic drugs. By now most people recognize them as liquefied natural and synthetic (or substitute natural gas.

LNG is indeed natural gas. At least it starts out that way. But shipping any gas is costly because of its bulk. Overland transfer by pipeline costs 2 cents per 100 miles per 1,000 cubic feet and is economic only because 1,000 cubic feet of natural gas has a heat value of a million BTU (British thermal units), about the same as ⅙ of a barrel of oil (about 7 gallons), or about the same as 1/25 of a ton of coal (about 40 pounds).

But pipelines cannot yet span oceans, so natural gas is first liquefied at high pressures and extremely low temperatures. It must be conveyed in specially built insulated vessels, and of course it must be gasified at the receiving end.

NO OBJECTIONS

The procedure is so costly that there was no objection from our domestic gas producers to importing LNG. They saw it not as a competitor, but as a demonstration that domestic gas is a bargain, and perhaps as a magnet for pulling up the price of domestic natural gas. When the latter at 20 cents per 1,000 cubic feet at the wellhead (and about 70 cents average in Northeast cities) and with LNG at $1.40 to $2 at the city gate, there is quite a spread here. And LNG costs are likely to escalate further.

It is to the great credit of our public officials that they have resisted rushing into gigantic LNG deals with Algeria and with the Soviet Union. The latter. we are told, would require a $10 billion investment by us in plant and pipelines in the U.S.S.R.—a very expensive long-range commitment.

AGREEMENT ANNOUNCED

Early in June, Dr. Armand Hammer, chairman of Occidental Petroleum Corporation, announced an agreement of intent under which Occidental and El Paso Natural Gas Company would move LNG from the Soviet Union by tanker to the U.S. West Coast. The intent is to move some $10 billion worth of natural gas over a 25-year period. If consummated, it will require some $4 billion to construct a 2,000-mile pipeline, a liquefaction plant, and a fleet of tankers.

There could also be other costs involved: federal subsidies for tanker construction and federal guarantees for the capital investments. The memory of the Russian wheat deal where the U.S. paid three times over is still fresh in many minds; first, by selling too cheaply; secondly, by internal subsidies which were not necessary; and finally, by now paying a higher price for food.

WHO BENEFITS?

Energy economics is not so different from wheat economics. One must always ask: Who benefits and who pays? Domestic gas producers see a chance to raise their prices up to the LNG mark. A rise in gas prices will certainly tend to raise the prices of oil and coal, so those producers won't object. Gas pipeline companies have little incentive to keep prices low; at worst they simply pass the price increase along to the consumer, but they are likely to charge more any way.

Gas distributors are in a similar situation. Shipyards see a chance for new business and federal subsidies. Equipment manufacturers see a chance for a big new market. There are few who will stand up for the consumer, who pays for it all in the end.

Fortunately there are lower-cost alternatives to LNG. One result of the proposed deregulation of the wellhead price of natural gas will be a release of gas to the small users, commercial and residential, who might have been customers for LNG. Paying a little more for deregulated domestic gas will actually save the consumer some money.

ARCTIC SOURCES

Before the price of domestic gas rises too high, perhaps before 1980 gas may reach the continental United States from large Arctic deposits via a trans-Canada pipeline. (The trans-Alaska pipeline, unfortunately cannot handle gas economically.) And by that time also synthetic natural gas from coal will make its appearance.

The problems of coal gasification have been technical and economic. Optimists predict a price of about 60 cents per 1,000 cubic feet, pessimists closer to $1. Depending on price, it may not be too many years before SNG becomes competitive with natural gas, especially gas from offshore and from the Arctic.

Right now SNG is being made by a number of gas distributors who use naphtha, propane, or some similar light hydrocarbon as a feed stock. It is expensive, and it also increases the need for oil imports.

THE METHANOL PROCESS

Another approach, competitive to LNG, for using foreign natural gas is the "jumbo methanol process," described in a recent issue of the Oil and Gas Journal. The gas is turned into methyl alcohol (methanol), a liquid which can be transported at normal temperatures by pipeline or in ordinary tankers at very low cost. At the receiving end it can be turned into gas and piped to consumers, or it can be burned as a liquid. It might even make a good motor fuel and supplement gasoline. The great advantage is that it can use foreign natural gas resources which heretofore may have been wasted.

With respect to LNG, the advantages of methanol are not only delivered cost, safety, and ease of handling, but also the reduced need for initial capital. Put another way, LNG facilities and tankers would have to operate at full capacity; for methanol this will not be important. It could therefore be used more economically for peak shaving, that is, to satisfy peak demand which cannot be handled by the pipeline network. In addition, methanol can be piped and stored at low cost.

U.S. DEPENDENCE ON OIL IMPORTS GROWS

(By S. Fred Singer)

Within the last three years the United States has gone from close to self-sufficiency in oil to an ever-increasing dependence on

oil imports. In 1970 it imported 22 percent of its oil, almost all of it from Canada and Venezuela. By 1980 the percentage may rise to 50 percent, with most of the oil coming from the Persian Gulf.

The implications of this development in terms of outflow of dollars and in terms of national security could become serious for the United States, provided it does not prepare itself adequately. Sen. Henry M. Jackson, who chairs the U.S. Senate's National Fuel and Energy Policy Study, bluntly states, "This is the most difficult problem facing the nation today, either internationally or domestically."

Our dependence or imported oil has made unrealistic the oil import quota program that was supposed to limit imports to about 12 percent of domestic production. As far back as 1970 a Cabinet Task Force chaired by George P. Shultz, now Secretary of the Treasury, recommended to President Nixon that the mandatory oil import program be modified. In his energy message of April, 1973, the President recognized what is essentially a fact and abolished the quota program.

MANDATED IN 1959

The mandatory oil import program was set up by President Eisenhower in 1959 by executive order, the legal rationale being national security. This was identified with the welfare of the domestic oil industry, "the basis of the new program . . . is . . . national security, which makes it necessary that we preserve to the greatest extent possible a vigorous, healthy petroleum industry in the United States."

The program has been criticized as being both inefficient and inequitable. Those who were allowed to import cheaper foreign oil benefited; and a variety of exceptions and special allocations were set up, which led to special benefits and special problems.

For example, overland imports from Canada and Mexico were exempted. But since no pipeline links Mexican producing areas to the United States, the only method for bringing in Mexican crude oil was by tanker. That problem was solved by the "Brownsville Loop," sometimes referred to as "El Loophole," whereby Mexican oil was shipped to Brownsville, loaded on a truck, hauled across the border to Mexico and immediately brought back to the United States, reloaded on tankers, and shipped to the East Coast.

DISTORTIONS IMPAIR

Some of the distortions of the program have actually impaired security. For example, the import exception given to residual fuel oil has not only made the Eastern United States almost completely dependent on imports, but also has created an incentive to refine abroad. This "export of refining capacity" is not only detrimental to national security, but also leads to an outflow of more dollars.

This problem has been addressed in the energy message, where extra license fees are proposed for imported, refined products, so as to encourage domestic refinery construction.

In retrospect it is easy to be overly critical of the oil import program. It has been argued that had we imported in the 1960's larger quantities of much cheaper foreign oil, especially Middle East oil, the U.S. consumer would have saved on the order of $40 billion and today we would have an additional 40 billion barrel reserve in the United States.

DEPENDENCY LOOMS

But unrestrained import of cheap foreign oil under perfect competitive conditions would have wiped out domestic production, discouraged exploration, and made us completely dependent on foreign imports and vulnerable in case of cutoff.

The critics point out, however, that that situation is again approaching, except that this time the oil-producing countries have more financial resources and we have less available oil. In any case, countries like Japan are almost 100 percent dependent on imported fuel, and they are doing quite well. But we must also remember that oil production in the United States has furnished the consumer a great deal of low-cost natural gas, most of which was developed in connection with oil.

Coupled with the change in our oil position has been another very fundamental change, the emergence of a strong cartel of producer nations, the Organization of Petroleum Exporting Countries (OPEC). That group, founded in 1960, gained strength suddenly through a series of coincidental events:

A peaking out of U.S. oil production.

The closing of the Suez Canal after the 1967 conflict.

Sabotage of the trans-Arabian pipeline.

A sudden shortage of tanker capacity.

A military coup in Libya and excess income that led to a threat of a cutoff and demands for higher taxes.

TAXES INCREASED

Quickly, independents and then major oil companies buckled under. The Tehran agreements of February, 1971, provided increasing taxes to the producing countries, making the price of imported oil essentially equivalent to the U.S. domestic price of about $3.50 per barrel. When one realizes that Saudi Arabian oil can be produced at a cost of only 10 to 20 cents a barrel, it is easy to see that a large differential previously available to the consuming countries or to the oil companies now has been taken up by OPEC.

At this stage, the domestic producers are no longer threatened by cheap imported oil. Indeed, this is what has made it politically feasible for President Nixon to accept the 1970 recommendations of his own task force.

Unfortunately, however, the U.S. consumer directly or indirectly now must pay the higher price and OPEC receives a higher take.

STRENGTHENING THE GENERAL ACCOUNTING OFFICE

Mr. PERCY. Mr. President, on June 21, Senator ERVIN introduced a bill, S. 2049, which I have cosponsored, to strengthen the General Accounting Office. This measure is the result of research by Congress and the GAO into ways in which this crucially important investigative arm of Congress can become even more effective in saving Federal moneys and in prompting Federal agencies to effect these savings. S. 2049 would, among other things, authorize the Comptroller General to have direct access to the courts with his own counsel to resolve questions on which he and the Attorney General of the United States differ; it would also empower the Comptroller General to sign and issue subpenas to obtain negotiated contract and subcontract records and records of other persons and organizations outside the Federal Government to which he has right of access by law or agreement.

The General Accounting Office has repeatedly demonstrated the need for and the value of competent, impartial oversight of Federal spending practices. I believe that S. 2049 would increase GAO's contributions to responsible government.

Mr. President, I would like to call to the attention of my colleagues an article from the June 2 Christian Science Monitor by Lucia Mouat on the General Accounting Office. This article reviews the history of the GAO and comments on efforts in Congress, such as S. 2049, to strengthen it. I ask unanimous consent that Ms. Mouat's article be printed in the RECORD.

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

"FISCAL FBI" HUNTS BIG SPENDERS IN WASHINGTON

(By Lucia Mouat)

WASHINGTON.—Economy-minded congressmen such as Sen. William Proxmire and Rep. Les Aspin wouldn't be without it.

Neither would less well-positioned taxpayers if they knew what it was doing for them—saving their government $263 million in cash during 1972, for instance.

Operating in gray semianonymity for most of its half-century existence, it recently has been breaking into the black newsprint of Page 1 headlines several times a month.

Give up?

It's Congress's fiscal FBI—that investigative auditing agency with the somewhat stodgy name: the General Accounting Office (GAO).

Actually the more than 1,000 reports this federal financial sleuth issues each year on everything from cost overruns on defense contracts to sanitation conditions in food-processing plants are anything but stodgy in conclusions and impact.

Though carefully couched in the most discreet language and always accompanied by the criticized agency's own view of the facts and comments, these blue-and-gray-covered reports enjoy rare esteem in the capital city as accurate, objective, and increasingly influential.

INFLUENCE EXTENDS FAR

Technically, GAO's enforcement power is almost nil. However, in a city where information is as valued and often as tightly guarded as gold bullion at Ft. Knox, this auditing agency's influence extends far beyond its legal powers.

Often fact-finding alone spurs reform. In the GAO's annual finger-pointing at federal agencies in hundreds of specific cases of wasted taxpayer dollars, onetime exposure to the spotlight is usually enough.

Among the many savings last year for instance were more than $1 million when the Department of Defense (DOD) shifted to buying surplus American butter (rather than buying its European counterpart) and more than $131 million when the Army followed GAO's suggestion to reduce heavy-equipment purchases and instead repair equipment already on hand.

Sometimes, though, changes are long in coming. GAO officials suggest that here, their reports' efforts to stir thought along new lines, considering alternative means to desired ends, is service enough to Congress and the taxpayer.

A bulky report on health facilities' construction costs issued last fall is, so far, a case in point.

Over the years, GAO has slowly but steadily been extending the scope of its probes—all with Congress's approval.

Formally set up in 1921 to keep close watch over congressionally appropriated funds, the agency at first assumed a clerical preoccupation with whether or not agencies balanced their books and spent what they said they did for declared purposes.

EFFECTIVENESS SOUGHT

Twenty-three years ago, Congress authorized the GAO to look beyond mere fiscal accountability to efficiency and, three years ago, to delve even deeper—into the sensitive area of program effectiveness.

This ever-broadening interpretation of au-

diting is implicit in the original legislation, in the view of Elmer B. Staats, GAO's Comptroller General, and well within the bounds of at least the Latin definition of the term—oversight—which he prefers to use.

Strict fiscal accounting now takes 10 percent of the 4,800-member GAO staff's time. Establishment of intermal audits in various federal agencies and departments (about half have them so far) has helped to lighten this load.

Also, as the prospect of more lump sums of federal money going directly to state and local governments grows, the GAO has been working with these governmental units to establish sound, uniform audit standards.

The Comptroller General, a tall, red-haired Kansan who has a PhD in pubic administration from the University of Minnesota and enjoys the independence of a 15-year presidential appointment (he is midway through), is openly eager to move the office into areas in which the GAO is "more uniquely equipped" to serve Congress and which are more "relevant" to the national legislatures needs.

HOW ROLE IS VIEWED

He envisions the GAO's rule not as that of a "think tank" for Congress, assessing national program priorities and advocating one solution over another, but rather as one pointing out areas of waste, inexpensive alternatives, and of assessing whether or not specific programs meet their legislative objectives.

At a time when the legislative branch has been rapidly losing ground in its tug-of-war with the executive branch, the scope and clout of the auditing agency's role as a congressional helpmate are considered crucial.

Accordingly, an effort is reviving on Capitol Hill to strengthen the GAO's legal muscle as a fiscal investigator. One such effort passed the Senate in 1969 but was never even reported out by the House Government Operations Committee.

One of the GAO's major problems in collecting data for Congress is the stone wall of noncooperation it meets in some agencies.

Two of the biggest withholders of information are the Treasury (though the Comptroller General stresses that the situation is improving) and the Internal Revenue Service.

In the case of Treasury's refusal to provide the working papers behind the Lockheed loan transaction of the department's Emergency Loan Guarantee Board, congressional committee intervention secured the data, but as Mr. Staats says, "They [Treasury officials] still contend officially we have no legal right to it."

DIFFICULTY SPOTLIGHTED

Crux of the difficulty here is that when the GAO has a difference of legal opinion such as this with an executive-branch agency, it is effectively the Attorney General and the Justice Department which become the counsel for both. Almost invariably, according to GAO officials, the executive-branch version of the law gains the upper hand.

One current case in point involves GAO's relatively new job of gathering data on presidential campaign contributions and monitoring campaign media spending. Several times in the course of its investigatory work, the GAO came across repeated failures of finance Committees for the Re-election of the President to report certain contributions.

Interviewing a number of indivdiuals reported to have made such political gifts, GAO investigators in most cases were told in the affirmative that contributions had been made. Although the Justice Department has levied fines in a few instances, Mr. Staats repeatedly has called on the Office of the Attorney General to "take the initiative" in prosecuting more of the many alleged violations.

"How can you get separation of powers under such conditions?" asks Mr. Staats. "We think it's essential not to have to depend on the executive branch to say whether or not we can bring a case to court."

The GAO also seeks power to subpoena records of the many contractors who supply goods and services to the government. Although the law is quite clear on this point, insisting that such records be provided, reluctant contractors often opt for delays rather than outright refusals to stave off the GAO. "They don't say 'no' but they don't say 'yes.'" says Paul Dembling, GAO's general counsel.

CLUB IN THE CLOSET?

Bills introduced on the Senate side by Sen. Abraham A. Ribicoff (D) of Connecticut and Sen. Sam J. Ervin Jr. (D) of North Carolina would award the GAO both of these valuable legal tools.

In GAO's view, the mere possession would be a deterrent. As Mr. Dembling puts it, "Having a club in the closet could prove to be very useful."

No such legislation has yet been introduced on the House side, and it is considered less likely to vote the GAO the new powers. However, as one GAO staff member says, "The House voted to cut off funds for U.S. bombing of Cambodia this year—who knows what they'll do on the GAO?"

Proponents of a stronger GAO insist the congressional auditing arm will be no less discrete in treating information as classified (if it is) and/or including the agency's comments in reports than before.

As a former employee of the executive branch—serving as deputy director of the Bureau of the Budget under four presidents—Mr. Staats concedes he well understands agency reluctance:

"They are concerned that if we have the information physically it may get distribution or taken out of context." However, he says he has no sympathy for this position because he feels GAO precautions are such as to leave it no basis.

In the meantime, as GAO auditing functions have broadened at least in theory, so has the nature of the staff. In the last four years, more professionals, such as lawyers, engineers, sociologists, and the like, have been hired than accountants. In addition to a headquarters and 50 on-site audit offices in various governmental agencies in Washington, there are 15 field offices around the United States and 4 overseas.

BUDGET FAIRLY SOLID?

The GAO network operates on a $90-million-a-year budget, slim by some standards but generally considered fairly solid.

About 70 percent of the legislative agency's reports are self-initiated. Congressional requests from both individuals and committees have quadrupled over the last six years since Mr. Staats has been in office and now keep about 25-to-30 percent of the staff fully occupied.

Despite its reputation for accuracy and nonpartisanship, the GAO does have its critics. For the most part, however, they are few, and the criticism is muted.

Understandably, executive agencies sometimes bristle at charges leveled at them, but since GAO findings are usually based on their own records, they are often hard-pressed to refute them.

There are a few on Capitol Hill who say they think the GAO is too friendly with the executive branch. "I don't think they're really digging as much dirt out as they should be," says one Republican committee aide.

REPORTS DEBATED

If the reports are too cautious and bland for some, devoid of "purple language" and "desk pounding," Mr. Staats insists it is strictly intentional.

Though admitting this one subject on which there is constant internal debate, the Comptroller General sees it as the prerogative of the individual congressman to add such peppery adjectives when a report happens to suit his purposes.

The timing of reports is a more universal concern. Everyone would like to see them come out faster and be more closely timed to congressional appropriations and authorization decisions. With access delays a substantial factor, the average GAO report takes six to nine months before the agency's printing office (it has its own) puts out the final version. However, as Mr. Staats points out, so-called "letter" reports, a few pages long, can often be issued within a week or two, and GAO staff members can always brief congressional committee members well before any GAO reports are finished.

Some who commend the nonpartisanship of GAO reports themselves are critical of the politics involved in the congressional follow-through or lack of it.

Recalling the days in the mid-1960's when he served as a member of the House Government Operations Committee, and majority staff members greatly outnumbered the minority, Rep. Robert McClory (R) of Illinois says:

"The committee deliberately sidestepped investigations of discrepancies and irregularities which might reflect on the [Democratic] administration."

Whatever the politics of Congress's choices of action, Mr. Staats considers the GAO's objectivity and credibility among its main strengths. As time goes by in this political city, the GAO may find itself increasingly hard-pressed to preserve that reputation for neutrality. As it moves further into the sometimes subjective area of evaluation, it may trigger some charges of partisanship.

EXPORT CONTROLS: TOO LITTLE, TOO LATE

Mr. HUMPHREY. Mr. President, on July 11 the Subcommittee on Foreign Agricultural Policy held hearings on our export control policies.

The testimony we heard supported my concern over the recent imposition of export controls on our agriculture commodities.

Most of the witnesses strongly supported the assertion that the controls were "too little, too late" and that the consequences in terms of the disruption to production and future trade hardly justified such hastily conceived measures.

We are dealing with issues the implications of which are just now beginning to come to light.

The restraint of exports by the United States is being used as justification for the consideration of similar measures by Canada and the European Community. I will ask consent to include in the RECORD several news clippings from the Commodity News Service that offer evidence of the way some of our major trading partners are responding to U.S. control of exports.

Mr. President, we may have just established precedents for export restrictions which will haunt the international trade sphere for many years to come.

I would also like to mention issues in regard to our food-for-peace program.

Commodities placed under export controls are no longer available for emergency food aid under Public Law 480. As Mr. Ralph Ellis, former senior official in the Food for Peace Office of AID pointed out:

Unless existing statutory provisions are modified the immediate and urgent need for food, primarily grain, in Bangladesh, Indo-

nesia, central west Africa and war-torn Southeast Asia will not be met if it becomes necessary to institute controls on wheat and feedgrains. Unless remedial legislative action is taken, the great work of the voluntary and international agencies in using Food for Peace commodities for emergency relief, to combat hunger and malnutrition, especially in children and to carry out food for work projects, will be even further curtailed. This program (P.L. 480) which has served the United States and the world well by relieving hunger, building markets for American agricultural commodities and depicting in the most dramatic terms the efficiency of our incentive economic system, could be liquidated along with the expertise and competence the voluntary agencies have acquired in the use of food for work and for development.

Certainly the President's request for broader export control authority has vital implications for our food assistance programs.

We must not forget our commitments to the less developed countries who have come to depend on the United States for assistance in times of crisis. While we may experience temporary shortages of particular commodities in this country, the availability of our food aid means life or death for thousands of people around the world.

Speakers for the forest products industry produced considerable evidence showing the disadvantages of controlling exports of logs. Limitations of log exports were originally based on the need to dampen domestic prices of lumber. But we have seen a reducton of lumber prices in recent weeks without additional controls. According to spokesmen for the USDA Forest Service, the price for lumber has generally followed regular cycles and may be overreacting to the normal trends of the industry.

Also, I understand that we have worked out voluntary import restraint agreements with Japan on timber exports. Therefore, I am concerned that we might undermine such a reasonable approach by imposing mandatory controls when voluntary limitations seem to be working.

We may be facing a dominoes phenomenon—namely as soon as we clamp controls on soybean exports there may be a run on wheat and corn. Do we continue to run after the distortions caused by export controls with stopgap measures? We must ask where is all this leading us and where will it stop. Clearly better planning control and coordination is needed and the Foreign Agricultural Policy Subcommittee intends to use the information from yesterday's hearings to study each of these issues and to report on each to the Congress.

Mr. President, I ask unanimous consent that the news clippings referred to be printed in the RECORD.

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

CANADA STUDYING LATEST U.S. MOVE ON EXPORTS

OTTAWA, July 6.—The Canadian Government is urgently studying new U.S. moves when recently placed additional agri. products under export controls, trade minister Alastair Gillespie said today.

Last week the United States announced it was putting controls on the export of oilseeds and protein foods, and yesterday the U.S. administration listed 41 new agri. product which would be added to the control lists.

"We view with real concern the measures taken by the United States. We have this matter under urgent, urgent review at this present time," the minister told conservative Harold Danforth.

Last Friday, the Canadian Government took steps to place controls. Canada is a net importer of protein foods like soybeans from the United States but still exports a minimal quantity of soybeans and larger quantities of oilseeds such as rapeseed.

All applications for export permits were to be mailed by midnight Thursday. Gillespie said the government was "not yet in a position to indicate just what permits will be licensed or approved until we have all the information.

"I would expect in a very few days to know more about that situation so that we can make a further announcement in due course," he said.

EEC PLAN TO BAN CEREAL EXPORTS

BRUSSELS, July 9.—The European Commission is preparing the ground for the EEC to ban or tax the export of cereals.

It will ask the council of ministers to introduce a system under which such steps can be taken depending on the situation in the community and on the world market.

The commission's paper does not spell out in detail when the community should act to stop or limit cereal exports, but states simply that such a possibility ought to exist taking the situation on the two markets into account.

Commission sources said the proposal had been under consideration for some time, but admitted that the recent United States restrictions on the export of soybeans and other commodities had added urgency to it. The action to stop exports could be taken either by introducing special licences or by imposing an export tax.

The sources said prices on the Chicago forward market for cereals were already higher than the current market price in the community.

In the meantime, Mr. Pierre Lardinois, the commissioner responsible for agriculture, now plans to fly to the United States in about two weeks time to discuss the American export restrictions. The sources said he could not leave Brussels earlier because of a series of important discussions inside the commission on a possible review of the common agricultural policy, which was called for by the council of ministers last May, and because of a council meeting scheduled for next Monday and Tuesday.

THE CRITICAL ROLE OF GENERAL AVIATION

Mr. MOSS. Mr. President, to many citizens and Members of Congress the words "general aviation" connote only private pilots flying small single-engine aircraft for their own personal pleasure. And when we have to consider the future of our national air transportation system, there is a corollary attitude that perhaps the general aviation sector is the least important. There is also the impression that perhaps general aviation is the biggest stumbling block in coping with air transportation growth, congested airways, and midair collisions.

I would like to make two points to correct any such impressions about general aviation.

First, general aviation is the most productive and significant segment of our air transportation system by many measures. And, second, general aviation must not be shunted into the background of our future air transportation system because it cannot evolve with the increasingly congested and complex air traffic environment. General aviation must and will grow with the times.

To have some appreciation for the vital role played by general aviation accounts for:

Ninety-eight percent—134,000 out of 136,580—of the aircraft.

Ninety-five percent—698,000 out of 732,729—of the pilots.

Ninety-five percent—10,725 out of 11,261—of the airports.

Seventy-nine percent—25,997,000 out of 32,897,000—of the hours flown.

Eighty percent—41,384,006 out of 51,777,300—of the aircraft operations at just the 336 airports where control towers exist and count traffic.

Virtually 100 percent of the uncounted operations at the remaining 10,925 airports without towers.

The existence of 73 percent—246 out of 336—of the control towers.

Thirty-seven percent—92 million out of 246 million—of the passengers in intercity air travel.

Virtually 100 percent—85 million—of the passengers on local flights.

All of the industrial-aid flying.

All of the aerial application for agriculture and forestry.

Air transportation on demand by 43 percent—425—of the 1,000 largest business enterprises in the Nation.

Domestic sales of approximately $1.3 billion annually.

Export sales of approximately $150 million annually.

Employment of over 30,000 workers.

Faced with these enormous contributions, we must insure that general aviation keeps pace as we plan to cope with the problems of aviation growth. General aviation must remain fully integrated and not be relegated to ever smaller regions of airspace and airports, because training and equipment become outmoded.

As chairman of the Committee on Aeronautical and Space Sciences, I was pleased to report that NASA has established a new Office of General Aviation Technology. This represents a step to guarantee the long-term technical advancement of general aviation and insure its future. General aviation must be kept abreast of the rest of the aviation community to realize its full potential and contribute to our national air transportation system. Balanced development is mandatory.

A good case in point relates to legislation which I introduced earlier in this session, S. 1610, along with 18 cosponsors who have joined me to date. There has been some concern expressed that this bill is not in the best interest of the general aviation community, because it requires all aircraft—commercial as well as general aviation—to be equipped with devices to prevent midair collisions, a problem the National Transportation

Board has called "one of the most urgent and serious" facing our air system today.

Since I introduced my bill, I have accepted changes to permit general aviation aircraft to have transponder-based transmitters or pilot warning indicators, as well as fully cooperative collision avoidance systems. This equipment would add as little as $500 to $1,500 to the price of an aircraft. Based on statistics from the General Aviation Manufacturers Association, this represents only 1 to 3 percent of the average price of general aviation aircraft shipped in 1972. This is a small price to pay to further assure that general aviation will participate fully in our future air transportation system and not be confined due to public fears and discriminatory Federal actions to reduce the midair collision hazard.

Mr. President, let me repeat my central message. General aviation is a vital asset to this country and must be permitted to mature and flourish along with the rest of our air transportation system. For the further information of my colleagues, I commend their attention to a recent report issued by the General Aviation Manufacturers Association and ask unanimous consent that it be printed in the RECORD.

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

WHAT IS GENERAL AVIATION?

The role aviation has played in helping America achieve its position of world preeminence can hardly be overstated. In fact, the growth and success of our nation during its 200-year existence have always been closely related to the innovative abilities of its various forms of transportation.

Land, water, and air transportation systems have historically provided the lines of communication and distribution required to unite the nation and foster the development of its commerce.

Air transportation is a purely 20th century phenomenon. It has developed with almost incredible swiftness from scarcely-noted experiments on the hills of Kitty Hawk in 1903 to its role today as a vital public necessity which touches the lives of everyone.

Today, transportation as an industry, in its many public and private forms, accounts for fully 20 percent of the total gross national product of America. Air transportation makes a significant contribution to this total economic impact. General aviation employs some 120,000 persons in manufacturing, servicing and flying, and by the end of this decade, its economic impact, both direct and indirect, may reach $18 billion a year.

The term general aviation refers to all civil aviation activity except that of the scheduled airlines. Together, general aviation and the airlines make up America's balanced air transportation system, which is the safest and most efficient aviation network in the world.

Air service in America is available to almost everyone because the airlines and general aviation fulfill separate but compatible transportation roles. The general aviation fleet of some 140,000 business, commercial, and personal planes serves all of the nation's 11,000 airports, bringing the benefits and mobility of air transportation to virtually everyone, including millions of people who live outside of the metropolitan areas which the airlines serve through some 500 airports.

General aviation is air transportation on demand. It moves millions of passengers a year and tons of cargo and mail faster and farther than any earth-bound mode of transportation—and with almost unlimited flexibility.

Statistically, about 70 percent of all general aviation flying—some 20 million hours per year—is for business or commercial purposes. General aviation carries one in three intercity air passengers—about 70 million persons a year—and 60 percent of those passengers fly from airports that are not served by the airlines.

FIVE TYPES OF FLYING

General aviation comprises five basic categories or types of flying: business, commercial, personal, instructional and special purpose.

Because of general aviation's on-demand, go-anywhere characteristics, aircraft have become increasingly important business tools in recent years as American industry has decentralized and moved many operations away from metropolitan areas. Today, thousands of firms own a total of 40,000 general aviation aircraft to carry on their business more efficiently and profitably and many more thousands of businesses regularly charter or rent.

A recent survey showed that 432 companies of the *Fortune* 1,000 operated general aviation aircraft and very significantly it showed that those 432 companies accounted for 77 percent of the total group's sales and 84 percent of net profit.

The commercial category of general aviation includes mainly some 1,500 air taxi and commuter airline operations. These carriers, who provide scheduled service for passengers and cargo and on-call charter air transportation, link many small communities with each other and with metropolitan centers. They enable millions of airline passengers to make connections at major airports and they also carry tons of cargo and mail.

The commercial category also includes aerial application flying, which has been especially significant in making American agriculture more productive. By increasing farming efficiency through aerial application of pesticides and fertilizers, general aviation has helped to keep food prices down and helped to make a wide variety of produce abundant in supermarkets across the country.

Personal and instructional flying are also important parts of general aviation. Hundreds of thousands of men and women have discovered the fun and freedom of learning to fly and they use airplanes to help them get the most out of their leisure time.

The special purpose category of general aviation covers a broad range of activities from fire control and pipeline patrol to traffic surveillance and emergency aid. The transportation benefits and flexibility of general aviation have frequently been demonstrated in times of natural disasters such as floods, hurricanes and earthquakes.

EVERYONE BENEFITS

There are, of course, many public benefits derived from general aviation beyond emergency relief. In fact, because of aviation's vast, immeasurable impact on the U.S. economy and our way of life, everyone benefits from the nation's air transportation system, even those who don't use it directly.

General aviation planes and the airports they use contribute to regional development because of their role in attracting new industry and jobs to outlying areas. Regional planners recognize the importance of airports in generating economic growth, and industrial development consultants often cite the lack of an adequate airport as a chief reason for by-passing a community as a site for a new plant or business.

The U.S. balance of payments benefits too. Since 1965, the American general aviation industry has exported nearly $1 billion worth of aircraft, and today one of every four general aviation planes produced in this country is shipped abroad. As a result, 85 percent of the total world fleet of aircraft is American-made.

Along with its public benefits and transportation role, general aviation is also a good neighbor. Most general aviation aircraft need only modest facilities that can be planned for maximum compatibility with residential and industrial zoning. New technology in aircraft and engine design have significantly reduced operational noise and tomorrow's planes will be even quieter.

Air pollution, another major concern of communities both large and small, is virtually non-existent with general aviation. More than 90 percent of all general aviation flying is above 3,000 feet where emissions are negligible and do not affect the breathable atmosphere. Sulphur oxides, considered the most harmful pollutant, are refined out of general aviation fuels, and aircraft engines are more efficient, cleaner and better maintained than other types of transportation engines.

AIRPORTS ARE THE KEY

In recent years, there has been much discussion about "crowded skies" and airport congestion in the United States. There are about 140,000 general aviation airplanes and some 3,000 airliners in the U.S. today, and if every one of these aircraft were in the air at the same time and at the same altitude over the state of Montana, there would still be more than a mile between their wing tips.

It is not the number of airplanes that constitutes crowding and congestion, but the lack of landing facilities in busy population centers.

The problem can be solved in two ways—by building separate runways for general aviation aircraft at high density airports and by utilizing nearby reliever airports.

It makes little sense for general aviation aircraft to use long runways designed and constructed to handle large, heavy airliners. Some 94 percent of the general aviation fleet needs less than 3,000 feet of runway. By segregating air traffic with different approach requirements, airliners and general aviation aircraft can land simultaneously.

However, although general aviation does not need long runways, it does require first-class facilities in keeping with its role as an integral part of the nation's air transportation system.

GOVERNMENT'S ROLE IN AVIATION

High-speed, flexible air transportation is an indispensable factor in economic and social well-being of the entire nation. It is, therefore, in the public interest to maintain an aviation system that can accommodate the air travel needs of all people today and tomorrow through both public and private air transportation.

Since the early days of flying, our country's network of airports and navigation equipment has been developed and operated to provide air transportation in the public interest and for the public's benefit. And, since the Air Commerce Act was passed in 1926, the Federal government has been responsible for fostering the growth of air transportation through creation of the National Aviation System.

The pre-eminent role of the government in this regard is demonstrated by the fact that the National Aviation System is designed, operated, maintained and regulated by Federal authority in the public interest. No other form of transportation has this Federal involvement.

In 1970, Congress passed landmark legislation to provide necessary funds for improving the National Aviation System to meet future needs. Virtually all segments of civil aviation applauded the Airport/Airway Development and Revenue Acts of 1970 and the establishment of an Aviation Trust

Fund, supported by user charges, to pay for capital improvements to the system.

PUBLIC SHARES BENEFITS AND COSTS

Currently, the total cost of the National Aviation System is shared about equally by user charges paid into the Aviation Trust Fund and by general taxes. We firmly believe that a continuing allocation of 50 percent should be the minimum figure assigned to the public benefit of the system in view of air transportation's tremendous importance to the country's economy and to its international posture.

We who use the National Aviation System directly have often stated our desire to pay our fair share for operating and improving the system. But, since everyone benefits from air transportation, we believe everyone should share in supporting the National Aviation System through the continued allocation of general tax funds.

REMOVING ENVIRONMENTAL BARRIERS TO THE HANDICAPPED

Mr. PERCY. Mr. President, I note with great satisfaction that the problems facing America's handicapped citizens are receiving ever-increasing press and public attention. The Chicago Sun-Times recently carried a sensitive and informative article by Mr. Steve Fiffer on the inaccessibility of Chicago's public transportation systems to the handicapped. I ask unanimous consent that the article be included in the RECORD.

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

A HARD FIRST STEP FOR THE HANDICAPPED

(By Steve Fiffer)

Although David Wells never was captured during his six-month tour of duty in Vietnam, he still considers himself a "prisoner of war."

Honored in Washington last October as an "outstanding disabled veteran," Wells, 24, who lives at 5938 S. Lafayette, lost his left leg above the knee and suffered serious back injuries after being hit by shrapnel in September, 1968. Today, he frequently finds himself a prisoner in his own home because he can't afford an auto and can't negotiate public transportation. Cabs also are too expensive, so Wells must rely solely on his brother for transportation.

"I live at an ideal place for public transportation," he says. "The bus and L both stop outside my front door. But between the long stairway up to the L, the high first step onto the bus and the crowds which never seem to see me, I'm more frightened trying to use public transportation than I was when patrolling in Vietnam. Fortunately, my brother drives me downtown to my job. But there are plenty of things I'd like to be doing around town, and if I can't borrow his car or if he's not around to drive me, I'm forced to sit at home—a prisoner of the war."

Henry Jopes, 58, is another Chicagoan who considers himself imprisoned by the lack of accessible transportation. For 26 years, he relied on the CTA to get from his home on the Far West Side to his job as a medical technician at Northwestern University's Medical School on the Near North Side. Progressive muscular dystrophy has condemned him to crutches, and now he is unable to traverse bus steps or L stairways.

"I continued taking the bus to work, until I reached the point where I literally had to crawl up the bus steps," Jopes says. "Then I considered taking taxis to and from the medical school, but a round trip would have cost $10—something I couldn't afford on my slender salary, I even called to see how much it would cost to charter a limousine, that was even worse than cab fare."

No longer able to get to work, Jopes was forced to retire last October. Since that time, things have steadily worsened. Jopes recently filed for bankruptcy and must rely on a monthly welfare check to make ends meet. "This trouble has all been created by my inability to find inexpensive, accessible transportation to my job, which still waits for me," he sighs. "It's really frustrating to be stuck here at home, because I feel I still have so much to contribute."

Just how many David Welleses and Henry Jopeses there are sitting at home in Chicago is difficult to gauge. The national census does not ask for information concerning physical handicaps, so public officials and those involved in the rehabilitation of the disabled must rely on estimates from the National Institute of Health and the Social Security Administration. Chicago's Council of Community Services has estimated that over 300,000 people in the metropolitan area suffer from some temporary or chronic illness or injury which severely restricts mobility. Disabled veterans of the conflict in Vietnam constitute a sizable portion of this total. In addition, the city has over 350,000 elderly citizens, many of whom suffer mobility limitations from sickness, injury or the natural process of aging.

"It is sadly ironic that our society forces so many individuals like David Wells and Henry Jopes to stay at home," says Dr. Henry Betts of the Rehabilitation Institute of Chicago. "Centuries ago, parents of deformed or handicapped babies in Sparta abandoned their infants on the hills, and the Eskimos still abandon their aged on icebergs. We're supposed to be the most progressive of societies. But by designing the vast majority of facilities and services to meet the needs of the "average," young, able-bodied American, by creating an environment with architectural barriers which limit the mobility of millions of Americans, we have taken the disabled and aged off the hills and the icebergs and imprisoned them in their homes."

49th Ward Ald. Paul T. Wigoda, whose City Council Committee on Traffic and Public Safety recently began to examine the problems, adds: "Ours is an urban society where mobility is essential if one is to take advantage of the great majority of services. Nevertheless, almost every type of transportation—bus, subway, train, airplane and taxi—in every locality has certain physical barriers which drastically limit the mobility of a substantial segment of the population."

Wigoda recently introduced legislation which would extend special parking privileges to certified disabled drivers and insure that all new or remodeled curbs be ramped, to facilitate accessibility. But he acknowledges that it is equally important to eliminate the barriers presented by public transportation.

In order to negotiate public buildings and transportation systems like the CTA, mobility-limited Chicagoans must overcome a variety of barriers which most able-bodied travelers take for granted. Climbing up long stairways and high bus steps, riding escalators, moving through turnstyles and revolving doors, negotiating steep curbs and moving through crowds create serious problems for the ambulatory handicapped—the crutch-bound, the blind and the sufferers of arthritis or heart disease—and make travel impossible for the wheelchair-bound.

While auto modifications facilitate travel for some handicapped persons, most aged and disabled lack the physical or financial means to operate a car. Financial limitations also render travel by cab impractical.

Helen Goodkin of Access Chicago, a citizens group concerned with eliminating transportation and architectural barriers, says "As a group, the mobility-limited are income-poor. According to the Department of Transportation, 30 per cent of all Americans aged 65 or over live in households which fall below the poverty level. In addition, 59 per cent of the nation's chronically handicapped earn less than $3,000 per year." Recognizing the financial burden which travel levies on the elderly, the CTA offers round-the-clock reduced rates to those over 65, and Mayor Daley recently raised the possibility of free rides for senior citizens.

"The low income of the handicapped reflects the low employment of the handicapped, and a major reason for this unemployment is the lack of adequate transportation," argues Ald. Wigoda. He cites a Department of Transportation study, which estimated that if transportation no longer were a problem, 13 percent of the nation's chronically handicapped—190,000 Americans—could return to work.

"These people don't want to waste away at home," says Wigoda. "It's about time that we realize that by making the relatively minimal investment of time and money needed to get these individuals back to work, we'll be taking them off the welfare rolls and making taxpayers out of them."

A number of social-service and governmental agencies have attempted to set up special transportation systems providing door-to-door service for the aged and disabled. Such systems generally employ vehicles modified to accommodate wheelchairs and carry the mobility-limited from home to work, clinics or recreation centers. One of the most successful of these has been the YMCA's Senior Citizen's Mobile Service. Operated under a grant from the Administration on Aging, the service provided 30,000 free rides over a three-year period to elderly South Side residents. Another door-to-door minibus system, operated by Mutual Enterprises of the Handicapped in the Lincoln Park, Lakeview and Uptown areas, has encountered difficulties. Faced with the same inability to secure an operating subsidy which plagues the CTA and all transit companies MEH has been forced to charge as much as $3 per trip to its handicapped clients.

The experience of MEH has indicated that some governmental intervention is necessary. On April 6, the City Council committed $300,000 for the design and operation of a nine-bus door-to-door system for the elderly and handicapped. Complementing the city's investment will be $700,000 from the Department of Transportation.

"The mayor and the Department of Public Works deserve much praise for undertaking such an endeavor.," says August Christmann, president of the Congress of Organizations of the Physically Handicapped. "I only hope they continue such forward thinking in developing an equitable fare structure and in combining the specialized system with the larger public-transportation system."

The necessity of integrating a specialized transit system with accessible bus and subway service also is emphasized by Pastora Cafferty, the most recent addition to the board of Chicago's Urban Transportation Planning District. "I would hope that the city's proposed specialized bus system will serve as a feeder to major mass and rapid-transit lines," she said. "Of course, to make this work, it is imperative that any new additions to the subway system be 100-per cent barrier-free and that certain existing stations be remodeled wherever feasible."

The status of the new Central Area Rapid Transit, which includes plans for a new route running from near the John Hancock Center to the area of the Circle Campus and makes provisions for replacing the old Loop L structure with underground service, was of major concern to the 300 participants in Access Chicago, a conference held last December to discuss barriers

confronting the mobility-limited. One of the speakers at the conference was Harold Willson, a paraplegic, who almost single-handedly made sure that San Francisco's new Bay Area Rapid Transit System is 100-per cent barrier-free and accessible to the wheelchair bound.

Another speaker, Public Works Comr. Milton Pikarsky, whose department is designing Chicago's new subway, supported Willson's argument. "Planning cannot be effective without the co-operation of the user groups who will be affected by the plans," he said.

To Henry Jopes, who still sits at home, the city seems to be moving in the right direction. But the immediate travel problems still remain. "I'd love to help plan the new transportation system," says Jopes. "But how am I going to get to the planning sessions?"

Mr. PERCY. Mr. President, on March 6, Senator DOLE and I introduced S. 1105, the antienvironmental barriers bill, which would encourage the renovation of buildings and transportation systems to be accessible to the handicapped and the elderly. The response to the bill has been extremely enthusiastic. On April 3, I shared with my colleagues some of the many supportive comments that I had received about the antienvironmental barriers bill. Since that time, I have received dozens of additional letters expressing appreciation for the introduction of this type of legislation and indicating the desire of individuals and groups to have S. 1105 enacted into law.

Saralea Altman, of the National Rehabilitation Association of Southern California, comments:

By allowing a tax exemption for removing mobility barriers, small business owners and those who own smaller buildings will be more amenable to making the necessary renovations which will allow for greater employment of the disabled. At the same time, daily living will be made easier and disabled individuals can lead a more independent life.

Mrs. Ruth J. Ellis, of the Georgia Easter Seal Society for Crippled Children and Adults, Inc., writes:

As you are aware, public buildings built with federal tax funds must include accessibility features. Many of the states, also, have state laws with which any building built with state, county, or municipal tax funds must also comply. But to get privately owned buildings to adapt has always had the obstacle of expense. Your bill, therefore, would certainly give the incentive as well as being a tremendous help. . . . Your bill, to our way of thinking, would indeed be a boon toward making communities accessible for the handicapped—thus enabling them to be able to participate fully and in a contributive way as well. Accessibility benefits everyone!

Dean F. Ridenour, executive director of the National Paraplegia Foundation, remarks:

I personally know of two jobs which I would have been accepted for except that I could not get into the buildings in my wheel chair. Both of these situations could have been corrected very easily had the additional incentive been available.

John F. Snyder, president of the West Virginia Rehabilitation Association, writes:

Please be assured of this Association's enthusiastic support of Senate Bill 1105 and please be assured also of our appreciation for your insight and leadership in the continuing fight to increase opportunities for independence and improve the quality of life for all disabled citizens.

The president of the American Institute of Architects, S. Scott Ferebee, Jr., comments:

To our knowledge, the problem of removing architectural barriers in existing buildings in the private sector has not been previously addressed. The concept of income tax incentives is one we wholly support, primarily because it will stimulate action at all levels with a minimum of red tape.

This outpouring of support from across the country for S. 1105 has been gratifying. I am also greatly pleased by the introduction of similar legislation in the House by Congressman COHEN from Maine and Congressman BURKE from Massachusetts. I sincerely hope that Congress will now respond positively and approve S. 1105 and other legislation designed to guarantee to handicapped and elderly citizens the right to live in a barrier-free society.

TO GET THE RIGHT ANSWER ABOUT ENERGY, YOU MUST ASK THE RIGHT QUESTION

Mr. HUMPHREY. Mr. President, I wish to call to the attention of my colleagues a provocative article about energy by Emma Rothschild which appeared in the July 19 issue of the New York Review of Books. Ms. Rothschild states that the question we all are asking, "Is there an energy crisis" may be the wrong question. She says it may not be answered satisfactorily because it does not get to the central issue which is that the institutions and corporations responsible for distributing energy have behaved in a way which is "incompetent, or disingenuous, and usually both."

While one may agree or disagree with this thesis, the article is very interesting reading and provides new insights into this area of critical importance to us all.

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

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

WHAT IS THE "ENERGY CRISIS?"

(By Emma Rothschild)

I

President Nixon's energy policy, expounded in April and amended in each subsequent turn of economic policy, down to the imposition in June of Freeze Two, has failed so far to halt even the rhetoric of the "energy crisis." The President's energy message was received with judicious commendation by large and small US oil corporations. Nixon proposed the liberalization of oil imports, increased support for domestic production and refining, relaxation of controls on natural gas prices, reduced concern for environmental protection, and a new system of tax credits for oil and gas exploration. These suggestions inflated the already high price of oil stocks. The *Wall Street Journal* quoted the opinion of an oil analyst that "the [unpredictedly but ambiguously munificent] tax credit was the only surprise in the energy message."

Nixon's statement stayed close to the hopes and exhortations, even to the language, of the petroleum industry's corporate advertising. His major projects followed most of the recommendations of the American Petroleum Institute, the National Petroleum Council, the American Gas Association, and the other institutes and associations that had described America's energy crisis. The presidential message achieved a tone that mixed the calm and * * * major and minor, multinational and nationalistic, Eastern and Texan voices of different energy interests: it was less sophisticated, less farsighted perhaps, than the reflections of the Mobil corporation, as advertised on the "Op-Ed" page of the *New York Times*, but less strident than the pronouncements of, say, the "New England Oil Men's Association."

Such a mixture of political-corporate business as usual was unexpected only because of the expense and momentous anticipation that attended Nixon's energy "initiative." Early descriptions of the forthcoming energy plan had promised the most global and photogenic policies. Soon after the 1972 election, Secretary of Commerce Peterson proclaimed that "the energy strategies and programs the President presents next year will be fully equal to his initiatives to the Soviet Union and the People's Republic of China." The subsequent message was prepared with the help of some sixty government reports, a cabinet super-committee, an energy overlord, a White House energy coordinator trained by the US Navy, and, sporadically, Dr. Kissinger's secretariat.

The *Wall Street Journal*, in January, noted that Kissinger's staff had organized "paperwork" on the strategic aspects of energy policy, and planned to "float it around the State Department, Pentagon, CIA and other concerned agencies." Energy policy was presented as a major endeavor for the period "after Vietnam." As one "Kissinger staffer" revealed, "Suddenly we've realized we should worry about energy problems. We've been pondering which matters to stress over the next four years, and this is certainly one."

The rhetoric of political anticipation suggested questions which a US energy initiative could not hope to answer. The message was, as one government official put it, a "disappointment." Policies of Kissingerian balance were never very appropriate to the complicated and essentially economic problems of supplying oil, coal, and gas. The eventual energy message in fact minimized issues of national defense. Commentators noted that it failed to mention the word "Arab"; Kissinger himself, with some instinct for bureaucratic self-preservation, seems to have extricated his group from prominent involvement in such unpromising and disputed problems.

Most of the conflict over energy policy had to do with domestic economic issues. Government energy strategy, from Nixon's message down to recent Administration attempts to regulate persisting energy shortages, was divided over the merits of applauding "free" competition and intervening to control it—the same issue that has fractured economic policy, and particularly policy to control inflation. Delays in the presentation of the energy message were caused, reportedly, by such questions as whether oil imports should be allocated to companies by fee or, in a purer spirit of free enterprise, by auction. President Nixon's chief energy counselor was John Ehrlichman, who presumably found particularly keen distractions in early 1973. Ehrlichman spared the time, however, to reveal in an interview published in the May, 1973, issue of *Nation's Business* that his "role changed from the first to the second Nixon administration to the extent that he . . . now is able to give more time to going into major issues, like the energy problem, in depth."

Other disputes concerned different business lobbyists, such as the producers, refiners, and marketers of oil, and industries such as the chemical business which are large energy users. Officials disagreed over policies for moderating the demand for energy, as distinct from expanding its supply; the presidential message eventually dismissed energy conservation with vague encouragement, summarized by Treasury Secretary Shultz in his explanation that in conservation policy

"what we are trying to give is a sense of ongoing effort to address this problem."

The tone of these arguments also suggested a general retreat from the substance of environmental concern. This retreat, demanded by business, was signaled in Nixon's deprecation, earlier this year, of the "doomsday mentality," and in the remark of an Atomic Energy Commission official that the environmental movement is "seeing an analogue to the over-taking of the civil rights movement by the extremists several years ago." It was apparent also in fiscally conservative attacks on urban reorganization plans and on the northeast railroads, and in the continuing re-examination, sometimes reasonable and sometimes craven, of air quality and auto emission standards.

Such complexities made it almost impossible for government strategists to disentangle, for example, the time periods of the "energy crisis." Yet a confusion of time periods goes to the heart of energy difficulties. US energy "crises," as described in hundreds of corporate advertisements and official pronouncements, include: immediate problems of distributing gasoline, heating oil, and other fuels, on a month to month basis; questions of energy production and oil refinery capacity for the next three years; problems of world oil supplies for the next fifteen years, and of finding "alternative" fuels as a substitute for oil; and finally a long-range "crisis" of industrialization and natural resources. These problems are distinct, although the resolution of each has to do with prices and corporate decisions about prices.

Each problem raises different, grave problems of political evaluation. An immediate example of these problems is shown in the recent Administration proposal, now postponed for apparently political reasons, to reduce energy demand by raising gasoline taxes. Such a strategy, unless combined with selective tax increases, would discriminate against the poor, who might be forced to reduce recreational and vacation driving, since automobile commuting is compulsory for most US jobs. The development of alternative fuels, to take a longer term example, will raise even more difficult questions. Public policy should, in this case, weigh the power of US industries, such as the chemical or automobile or trucking businesses, which are dependent historically on cheap oil; the benefits to consumers of lavish oil use; and the cost of developing new coal or oil shale, particularly to people living in the Western states where such fuels would be mined. Yet these difficult evaluations have seemed, to the high officials of the Nixon Administration, as inconceivable as subtracting the moon from the stars, or oil shale from automotive mobility.

II

The immediate energy crisis of gasoline shortages, halted tractors, and emptied Colorado schools is now a subject for angry incredulity. Even President Nixon has suggested that present troubles do not constitute a "genuine" energy crisis. Armies of local, state, and federal officials address the question of whether energy shortages are "real"—finding no answers, while shortages, which are real in a most concrete sense, persist.

The question *is there an Energy Crisis?* may not be answered satisfactorily, because it is, in a sense, the wrong question. What can be shown is that the institutions and corporations responsible for distributing energy have behaved in a way which is incompetent, or disingenuous, and usually both. Questions about the reality of the energy crisis confront issues of corporate and competitive privacy. Independent gasoline marketers have been the main victims of present gas shortages, often unable to obtain supplies after large producers have supplied their own gas stations. Yet even the independents cannot prove deception in the general allocation of supplies.

There are few relationships more protected than the association, in petroleum distribution, among companies, their local depositories, their routing managers, their tanker drivers—and few decisions more obscure, even to most corporate employees, than the evaluation, in petroleum investment planning, of future demand and prices, of construction technology, and of the profitability of refinery building. Yet the cumulative effect of corporate behavior can now be seen much more clearly in the history of present energy disruptions.

Corporate crisis advertising is constantly critical of "environmentalist" or "doomsday" constraints, yet it has played quite openly on public anxieties about long-term dangers to the environment. Energy publicity relies on such images as electric lights that fail, frame by frame, or of the US "dangerously dependent" on barbaric foreign sellers of natural resources: these images, as will be seen, have very little to do with the business practices that cause energy shortages.[1]

Immediate fuel shortages are caused, evidently, by failures of distribution. When Denver ran out of heating oil there was oil in Pennsylvania, and when Long Island filling stations rationed gasoline, gas flowed freely in New Jersey. Some initial presumption of corporate disingenuousness is indicated by the financial scale of operations: the American Petroleum Institute and the American Gas Association alone spent $12 million on three recent energy campaigns, and individual corporate advertisers dispensed comparable sums—enough money, at least, to airlift heating oil to every school in Denver. Meanwhile proficiency in distribution has been among the proudest boasts of US oil companies, since an apologist for the Standard Oil Trust proclaimed in 1900 that "petroleum today is the light of the world. It is carried wherever a wheel can roll or a camel's hoof be planted. . . ." [2]

A study of energy use in *Scientific American* comments that the shortage of liquid fuels now presents "no real technological problem . . . along the distribution chain," and that "it is easier than keeping grocery shelves stocked." [3] Even supplying a satisfactory "mix" of petroleum products—heating oil in the winter, or industrial fuels, or gasoline in the summer "driving season"—is comparable to the challenge grocery stores face when they supply lemonade in July and turkeys in the fall. Further presumptive evidence for disingenuousness is shown, of course, in the by now notorious pattern of energy shortages, where rationed fuel distribution discriminates against and occasionally bankrupts independent and cut-price marketers, where along a single highway favored stations find supplies and independents lock their pumps.[4]

Public concern about the status of fuel distribution problems has forced the energy corporations to retreat to a more sophisticated rhetorical position. Corporate advertisements of the last few weeks have emphasized the "three year" problem of insufficient refinery capacity, and the technical difficulties of importing foreign oil. Yet these problems, as obscure and as private as imperfections in distribution, show the same pattern of deviousness and incompetence. Even the limitations of existing refinery capacity are surprisingly flexible. For several weeks during the recent "gas crisis," US refineries produced less gasoline than during gas booms. A June advertisement by the Amoco corporation displays this ambiguity, in a crisis "progress report" qualified to the point of meaninglessness: *"Primarily,* the situation is this: demand has outstripped our country's crude oil supply. (Even though Amoco refineries are running well ahead of last year. And at *practical* maximum with *available* crude.)" [5]

Another indication of the complexity of these questions was given in the press briefing which followed the presidential energy message. Deputy Secretary of the Treasury William Simon complained that "at present there are no new (US) refineries underway," and that "this is in a period where all the refineries are operating at 100 percent of their effective capacities." Later, Mr. Simon was asked to explain the new regulations allowing extra imports of crude oil.

Q. If the refiners are at 100 percent capacity, of what value and what will happen to the new crude oil that comes in here for refining?

Mr. Simon. There are refineries inland that are not operating at 100 percent.

Q. So your 100 percent was a very vague number?

Mr. Simon. No, it wasn't vague. A great majority of them are functining at 100 percent.

What these evasions indicate is that, predictably enough, refinery limitations are determined by economic and political costs, rather than by technological necessity.

The problem of refinery construction is similarly hedged with confusion. A major corporate explanation for the energy crisis is that only one new refinery has been built in the US in the last several years. A Mobil advertisement asks, "Why haven't oil companies built more refineries here?" and answers (with the standard qualifications, here italicized), "*Mainly* environmental and financial constraints . . . [which] have *effectively* kept oil companies from obtaining satisfactory sites for new refineries." Such constraints, of course, make refinery construction not impossible, but more expensive (and if oil prices increase dramatically fast, Mobil will presumably be prepared to build idyllically clean refineries). Even the emphasis on new refinery construction obscures the extent to which companies could, quietly if expensively, add new capacity to existing refineries if they wanted to (and as Atlantic Richfield has recently proposed).

What the "energy crisis" propaganda reveals is a corporate desire to increase prices, particularly at the level of retail and wholesale business, which has been less profitable to US oil companies than the production and first sale of crude oil. The timing of refinery construction can give some indication of the political component of the "crisis," and of the inflationary promise of present government policy. In the three weeks after Nixon's energy message, five major refinery construction projects were announced, with thirteen more expected, and the prospect of what *Barron's* calls a "bonanza" of doubled revenues for construction contracting firms. These projects were waiting, evidently, for political support; it should not be supposed that Exxon, for example, planned a $400 million expansion in the space of three weeks.

More generally, refinery construction problems show the inefficiency and irrationality of "free" energy investment. Oil companies were incompetent in failing to predict and plan for expansion of gasoline demand in the 1972–1973 national boom. They have been unwilling to build new refineries because they experienced excess capacity after a building splurge in the 1960s, which in a classic example of business overshoot, stimulated attempts to create more demand: campaigns to "Discover America" by buying more gasoline, the selling of excess gasoline at discount prices to the same independent retailers whom major suppliers are now attempting to crush. These failures provide the background to energy shortages: neither incompetence no disingenuousness is much in doubt.

The momentum of the present energy "crisis" comes down to a play to raise prices,

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a corporate demand for immediate price increases and for longer term government support. The play has succeeded so far, as shown in the recent contrite remark of a Cost of Living Council official that "if our regulations [against oil inflation] are causing a supply problem, we'll change them. We don't want to aggravate the situation." Gasoline prices have been frozen, in Freeze Two, at a level sometimes nine cents a gallon higher they they were in January, 1973.

A Wall Street analyst, observing higher prices, sees 1973 as "one of the classic growth years for the [oil] international."[6] Oil companies, with already inflated earnings, note that "product prices [have] generally recovered considerably" this year, and are gratifyingly "firm." *Business Week*, seeing "sharp" increases in refinery profits, quotes the opinion of a Phillips Petroleum executive, "There's such upward pressure on prices right now that there's a good opportunity coming in refining." The price of crude oil is also expected to increase, notably faster than the general rate of inflation. A prominent oil tycoon, in an intimate moment when his company's share price potential was in dispute, confided the industry's hopes to the *Wall Street Journal:* "We think we can continue to find oil and gas for the foreseeable future. We see tremendous increases in crude prices over the next five years and this should contribute to rising income."

Increases in the price of fuel are now accepted as inevitable, and even desirable. A Sierra Club representative quoted in *Business Week*, recently told US senators that "we invite the leaders of the resource extraction industries to join with us in supporting the free enterprise system . . . to overcome the 'energy crisis' by recognizing the proper and essential role of price in allocating resources and balancing supply demand." That such recommendations should seem either rational or equitable must be counted as a triumph for the energy industries' scheme to receive new "incentives." Corporate energy advertising (as in a eulogy by Mobil of the oil companies' "good track record" in predicting likely disruptions of supply—"Oil companies knew the shortage was coming. We knew how it could be averted") improved self-fulfilling prophecy to the point where corporations predicted what their own behavior would be if they did not receive adequate incentives to act in a specific way; and this confused but commercially effective prediction was, of course, not a prophecy but a threat.

III

The most conspicuous energy problem for the medium term of ten to twenty years—the problem which provides the energy crisis with much of its geopolitical allure—has to do with the supply of oil. As the American Petroleum Institute puts it, "A nation that runs on oil can't afford to run short," and as other energy advertisements continue, "Every man, woman and child in the USA" runs on a little over three gallons of oil every day. Traditional sources of cheap and convenient oil now present increasing problems, and the fields of Texas and Oklahoma, California, Louisiana, and Venezuela can no longer supply US demand. These changes seem to threaten financial and military vulnerability—Senator Hubert Humphrey pronounces that "the sheiks of Arabia [may] control the dollar," government officials see "serfdom" for the US, the *New York Times* fears, editorially, the "Gnomes of Araby" and their "stockpile of rootless dollars."

The military situation appears even more vividly menacing. More than a third of the world merchant fleet carries petroleum, and the need to protect oil tankers supports world production of naval destroyers: Admiral Elmo Zumwalt of the United States Navy finds an exciting challenge in preserving the "flow" of world oil, since "to the citizen of a less technologically oriented society there is nothing quite like a shipshape destroyer making a call."

In the rhetoric of the energy crisis, such vistas will develop imperceptibly from present disruptions of supply. Yet the constraints which influence the world petroleum market are different from those shaping US oil refining and distribution—although both "crises," like all problems of energy supply and demand, have to do with prices, and costs, and business interests. The immediate situation of US oil supplies is hardly terrifying: in 1972 the US, which is still the world's leading oil producer, supplied more than 70 percent of its own oil, while of the oil it imported, more than 70 percent came from Canada and Latin America.

In 1973, according to predictions in a "fact sheet" that accompanied the President's energy message, less than 14 percent of oil used in the US will be imported from the entire "Eastern Hemisphere," including countries outside the Middle East. The fact sheet was more concerned about expected future imports, and about expected dependence, in the 1980s, on the Organization of Petroleum Exporting Countries, or OPEC, a "cartel" which controls three quarters of "the free world's oil reserves": OPEC, which was formed in 1960, now comprises Iran, Iraq, Kuwait, Saudi Arabia, Venezuela, Qatar, Libya, Indonesia, Abu Dhabi, Algeria, and Nigeria.

Future dependencies will be determined, as the fact sheet points out, by the continuation or interruption of present trends in oil consumption and production. But the *shape* of future supply and demand is already evident, in the sense that the momentum of world oil production has shifted from the US to underdeveloped countries of Africa, Asia, and the Middle East. A general pattern seems clear, despite the confusion which surrounds the science of oil predictions. Of all oil produced in the first hundred years of the large-scale world oil industry, from 1870 to 1970, 40 percent was produced in the US; of oil produced between 1970 and the end of large-scale production (possibly around 2020), less than 10 percent is expected to be drilled for in the US. The US will meanwhile, at least for the immediate future, continue to consume 30 percent of all oil produced in the world. The US Geological Survey, noting that oil *reserves* are estimated on the basis of assumptions about prices, about economic, and technical feasibility, proclaims that "oil must be sought first of all in our minds"; yet it concedes also that "it is extremely difficult to envision circumstances which would make the United States ever again economically self-sufficient in oil and gas."[7]

The problems of oil importing are in no way peculiar to the US, and energy troubles are in fact notably more menacing in almost all foreign countries. Officials of the European Common Market have said (with what the *Wall Street Journal* describes as "a characteristic European style of rhetoric") that "he who is in possession of energy products is in possession of power. And this literally as well as figuratively . . ."; that "quite literally" the lights might soon go out all over Europe. Japan, which supplies 75 percent of its energy needs with oil, imports about 99.7 percent of the oil it uses, each day producing 15,000 barrels of oil and consuming 5,000,000. The US uses oil for only 46 percent of its energy needs, and its oil-based pattern of economic growth, which US corporations have exported around the world, was made possible historically by munificent American oil fields from Pennsylvania to California.

For other countries the entire development of an oil-dependent society has required access to cheap and convenient foreign supplies (as in Britain, which with lavish coal resources depends on oil for almost half of its energy, compared to less than a quarter in 1960, or South Korea, also supplied with indigenous coal, which uses oil for nearly half of its energy needs, compared to less than 10 percent in the early 1960s). More generally, oil consumption required a world trade in natural fuel resources comparable to that obtaining for the last eighty years in metals, minerals, and agricultural production, where poor countries supply richer countries with raw materials, at a price which reflects the subordinate political status of the producing nations.

Buying resources from the rest of the world has been less important in the richly endowed US than in other industrialized countries. Yet US preoccupation with such commerce and its economic costs is now increasing—because of energy needs, because of continuing US demand for strategic but imported minerals, because the commodities to be traded now include such "goods" as clean air and water. US companies build "dirty" refineries in the Caribbean, and Southern California utilities import "clean" low-sulphur oil from Indonesia, while Japan uses coal stripped in US mines, and plans refineries, steel plants, and other polluting factories for coastal areas of South Korea and Taiwan. World crude oil trade is part of this global commerce, and like other public or private commercial endeavors, it is influenced by economic decisions. For the US, as for Europe or Japan, petroleum importing is a matter not only of military vulnerability, but also of costs and prices, of the shape of the domestic economy.

Rich countries face three major threats in importing oil. First, their supplies could be cut off or cut back; second, they could come under diplomatic attack when, for instance, Arab OPEC nations attempt to weaken US and European alliances with Israel; third, their economic and financial institutions could be disrupted as exporting nations acquire huge sums of money. The third threat is seen, at least by world business, as the most alarming; yet each menace is affected by the price of oil, and by the perceived economic and social costs of supplying fuels from alternative sources.

In the case of the first two "political" threats, a strategic objective of oil consuming countries (acting jointly or in mutual hostility) is to exploit differences between more or less amenable oil exporting countries—and the capacity to exploit such divisions may depend on economic and price discrimination, on the willingness to forego cheap oil. (Political intervention to support or set up favorable regimes is also of course to be expected). The entire oil policy debate has to do with the fact that OPEC, and specifically Middle East oil, was sold in the past at bargain prices. Middle East oil, from Iran, Saudi Arabia, and other other countries around the Persian Gulf, has been and remains extremely cheap to develop and produce. It cost, recently, 10 cents a barrel to produce, compared to 82 cents a barrel for Indonesian oil, and $1.31 a barrel for US oil.[8] (A barrel contains forty-two gallons, so the production cost for a gallon of Middle East oil is one fifth of a cent.)

Middle East oil was also, in the 1950s and part of the 1960s, available at low royalties, barely higher than the royalties and taxes on US crude oil, and much lower than the taxes imposed in the US and Europe on oil consumption. When OPEC was formed, in 1960, producing countries shared oil revenues equally with oil companies. In 1948, according to OPEC statistics, this ratio had favored oil companies by 82 to 18; in 1970, the ratio favored producing countries by 70 to 30. OPEC taxes now account for approximately $1.50 of the $2.00 that a barrel of oil costs in the Middle East, an increase of almost 50

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cents a barrel in the last three years of price negotiations.

This past cheapness is a major reason for the pre-eminence of Middle East oil in world reserves—accounting for 65 percent of reserves in noncommunist countries, and 55 percent of all world reserves.[9] Middle East oil was convenient—economically, geologically, and to British and American oil companies, politically. Yet the observation of the US Geological Survey, that oil must be sought in the mind, applies to world oil exploration as well as to the US, at least for the next twenty years of oil production, during which physical limits to world production will not yet be of decisive importance.

Oil is being found, and reserves proved, in parts of the world less lavish geologically than Saudi Arabia. Exploration has followed political perceptions. Consuming countries and their oil corporations commit huge amounts of money to oil exploration in producing regions which, although not cheap and convenient, seem politically "stable." The most enthusiastic of all recent exploration, outside such "industrialized" areas as the North Sea and northern Canada, has been in the potentially amenable and non-Arab OPEC regions of Nigeria, and Indonesia, whose recent bonanza is seen on Wall Street as "extraordinarily fine." This desire for stability also explains much about the US and Japanese energy expansion into the Soviet Union. As one "American banker" in Hongkong told the *Far East Economic Review:* "To be frank, the Russians have a triple-A credit rating—which is something very few people have in this area, and you don't have problems like corruption in Siberia."

Oil importing countries make themselves more vulnerable to logistical and diplomatic attack to the extent that they are reluctant to accumulate expensive stockpiles of oil and to undertake the economically, socially, and politically much more costly task of developing contingency energy supplies. An OPEC shutdown could only be effective between the short term of perhaps three months, when stockpiles could meet a (reduced) demand for oil, and the time, six to twelve or more months later, when technological ingenuity or military intervention would replace fuel supplies. It could be effective only between the near future, when dependence on "Eastern" oil is still limited at least in the US, and the more remote period when energy importing countries develop permanent substitute fuels. A slowdown or cutback in OPEC supplies is more likely and more menacing than a total shutdown. OPEC countries and particularly the richer ones are justifiably concerned to limit depletion of the oil that is their major national resource. Yet even in the case of a slowdown, the vulnerability of consuming countries would largely depend on economic decisions about the cost of alternative energy resources.

The second, diplomatic, menace is mitigated, evidently, by similar preparations and price adjustments. Japan and the US display sharply different diplomatic attitudes in the Middle East. Until the last few months, they have depended on this region, respectively, for more than 80 percent and less than 5 percent of all their crude oil. Diplomatic threats, including the threat to the US posed by hostility to Israel, cannot reasonably be isolated from economic issues; these include the cost of investment in the fuel-producing regions, the involvement of US or European corporations in OPEC countries, the stability of domestic oil-intensive industries, even the balance of payments constraint, which encourages the US, for example, to export the products of its competitive arms industry to even more countries in Africa and the Middle East.

The third menace to oil supply, a threatened disruption of financial and economic institutions, is described by *Wall Street Journal* editorial writers, speaking for the financial world, as the "most serious aspect of the energy 'crisis.'" This menace derives from the fact that advanced oil importing countries pay large sums for the oil they buy—the US alone will probably spend some $15 billion a year in the 1980s. This expenditure would have serious consequences for the US balance of payments, and for the whole complex of economic policy trade-offs. Joseph Alsop has raised the prospect, in this context, of US dollars coming "to resemble confederate greenbacks." The economic measures needed to prevent payments deficits might involve an expansion of the arms industry and its exports, or a further increase in America's other major export trade, in agricultural products, which has been repudiated by Nixon's latest economic policy in the interests of price stability and domestic consumer choice.

More generally, if the money received by oil exporting countries is kept in short-term, liquid investments it will seem to threaten the stability of international financial arrangements, to the extent that states owning such investments will be able and willing to move funds rapidly from one currency or country to another. If the money is invested in long-term projects, advanced countries might lose control of certain domestic industries. Oil exporters may soon take over some refining and marketing operations that the oil corporations now control, or demand that petro-chemical plants and, as Saudi Arabia has suggested, aluminum factories be built in producing countries. Business interests anticipate such investments with mixed fear and relief, as bringing, on the one hand, the terrors of a foreign take-over of Texaco or comparable corporate landmarks, yet on the other, a salutary involvement of oil producing countries in preserving international business stability, as Kuwaiti-owned gas stations become vulnerable, perhaps, to US government expropriation.[10]

Even the most political of oil problems have to do with the actual price of barrels of oil. The constant menace is that oil exporting countries will, in the words of Professor Adelman of MIT, the American oil "optimist" and scourge of OPEC, "overcharge" consuming countries, will like "a hungry tiger" demand ever more "red meat" by imposing higher taxes. This fear is further complicated by the activities of international oil companies. *Business Week,* quoting the opinion of Gulf Oil's "director of economics" that "We have an interest in getting the crude out of the Middle East as fast as we can while there's still a profit in it," notes that the new Nixon energy policy in this situation gives "the best of both worlds to the big international oil companies." Meanwhile oil corporations, simultaneously producers and marketers of petroleum, can be expected to use the excuse of a crude oil crisis, and of notoriously tigerlike OPEC demands, to increase domestic oil product prices by as much as and probably more than the extent of cost increases—a technique used most effectively in Europe by US and foreign-owned companies during the last three years of publicized OPEC negotiations.

It is certain that crude oil prices will continue to rise: OPEC producers hope and intend that their tax component of crude prices will increase until the total cost of "cheap" OPEC oil is as high as the cost of alternative fuels available to oil importing companies. (New domestic fuels, such as oil made from shale rock, or by coal liquefaction, will become "competitive," according to the National Petroleum Council, when the price of crude oil rises to more than $5 a barrel, from its present price of between $3 and $4 a barrel.) Yet this process of substitution, which Nixon's energy policies have attempted, halfheartedly, to encourage, will involve domestic conflicts that, for Europe and Japan as for the US, go beyond even the troubles of inflation and economic policy.

Increases in the price of natural or synthetic oil will damage permanently some of the largest US industries, not only truck and auto transportation, but the manufacture of synthetic fibers, and the production of electricity in oil-powered plants. Meanwhile producing alternative fuels would also expose the true national costs of energy use, as Long Island or Osaka is compelled to process its own fuel; or as, in a denial of fairness, Colorado's shale mountains are devastated for the convenience of California, Welsh coal towns for southern England or for western France. If these social costs, or the expense of avoiding them, are accounted for, alternative fuels become yet more expensive than the Petroleum Council expects—and yet more inconvenient relative to foreign oil.

To see the economic basis of oil supply problems is not to deny the catastrophic potential of the conflict over oil. A momentously geopolitical language, predictions of material vulnerability, diplomatic and naval activity around such perennially disputed locations as the Straits of Malacca and the western Indian Ocean, all recall strategic fears described in the late 1930s. Japanese planners are justifiably concerned, for example, about tanker routes, about the Indonesian oil industry, which flourished in the late 1930s, about comparisons between the US oil embargo in 1941 and recent US-Soviet energy deals, about the control of world mineral commerce by foreign, and particularly US companies.

Now, as in the years before the Second World War, the worst dangers derive from conflict among advanced or oil importing countries—and sometimes from the perception more than from the reality of vulnerability. Former Commerce Secretary Peterson has warned of a "wild and cannibalistic scramble" among industrialized countries, for energy and external earnings. In such a situation, perceptions of a global energy crisis, reaching from today in US service stations to 1990 in Madagascar, seem particularly ominous, a self-fulfilling vision of technological and natural inevitability.

The rivalry of advanced countries, whether expressed in direct military confrontation or through special relationships to oil exporting countries, is a major but not of course the only danger of petroleum conflict. Senator Fulbright is almost alone in the US in warning publicly that "our present policy makers and policy influencers may come to the conclusion that military action is required to secure the oil resources of the Middle East, to secure our exposed jugular." Yet any military aggression by oil-producing countries would be made possible by US and European arms exports. The US is now planning to supply arms and advisers worth an expected $4.1 billion to Saudi Arabia, Kuwait, and Iran, while such a minor merchant as Britain enjoys a $625 million contract to improve the air force of Saudi Arabia.

One US commentator has described these endeavors as "a second essential pipeline to the US—a pipeline of continuing military equipment, spare parts, and training" (Michael Berlin, in *The New York Post,* June 1, 1973). The prospect of such a military "presence," given the evidence of earlier presences, must inspire only the deepest fear and pessimism. For US policy makers this presence supports both open and covert economic needs. It protects diplomatically supplies of oil which are still cheap compared to any domestic substitutes; but it also encourages the export trade in war materials which will become so valuable to the troubled US balance of payments.

Even where geopolitical conditions most recall the menace of 1940, oil commerce still

Footnotes at end of article.

has to do with economic relations. The second World War itself, while hardly a model for peaceful or long-term industrial adjustments, can provide examples of economic ingenuity in the use of fuels and minerals. Shortages of raw materials damaged the military effort of Nazi Germany only after several years of war. German engineers preserved resources by scrap recycling, conserving alloys, and devising substitutions. They used a Farben method for making oil out of coal, and invented the Lurgi process for coal gasification which now appears as an essential technique in America's struggle against the energy "crisis" of the 1970s and 1980s.

Whatever direction energy policy takes in the long run, it will face the question of how technological substitutions can be induced, in a situation less urgent than that which the Lurgi company confronted. But policy makers also need to evaluate the economic benefits involved in energy use. They will be forced to discriminate, either consciously or by default, between different industries which consume or waste energy. They will decide how much of the inconvenience of energy conservation should be borne by business and how much by consumers, how much by the rich and how much by the poor. Such questions have been buried in the capitulations and market ideology of recent domestic policy. Yet even if they are not raised they will be answered, in some more or less purposeful fashion.

These difficulties, and the general problem of "equating" distinct costs and benefits, can be seen in the development of alternative fuels, in energy conservation, and in the evaluation of energy use, all of which will be considered in a second article. Some small comfort may be found, perhaps, in long-range industrial trends away from intensive energy use and toward the increased sale of computer processes, or services, or telecommunications. Such trends will at least cast doubt on the view, implicit in present concern to secure energy supplies, by ever more disruptive means, that there is some equivalent between increased energy use and industrial growth, or even between energy use and progress.

FOOTNOTES

[1] Energy corporations are not of course alone responsible for publicizing the idea of an energy crisis, although as the agents directly responsible for fuel shortages, their intervention has particular force. A noncorporate but congenital view is given in a book, *The Energy Crisis*, by two scientists, Lawrence E. Rocks and Richard Runyon (Crown, 1972). These authors are influenced by the Meadows analysis in *The Limits to Growth*, and they believe that "the most profound issue we face today is an impending power shortage," that "an energy gap is opening up in America sufficiently wide to cause a total industrial collapse in one decade."

Their scenario for the "accelerating power crisis" surpasses even the methodology of *Limits to Growth* in moving from "would" to "*will*": "What *would* the United States be like if we suffered a massive power default, with no viable alternative energy sources? . . . At the beginning, the cost of gasoline and oil products *will* increase . . . there *will* be restrictions placed upon the use of luxuries. . . . Our entire network of interrelated institutions *will* feel the shock waves [of energy rationing]. Forgotten *will* be our lofty ideas of justice and democracy. . . ." This timetable, as much as that of Mobil or the National Petroleum Council, mixes different problems in a single gloomy fate—accepting also the equivalence of progress and energy consumption, and the necessity of technical rather than political solutions.

[2] Quoted by Ida Tarbell in *The History of the Standard Oil Company* (reprinted by Norton, 1969). The company apologist continues: "The caravans in the desert of Sahara go laden with Pratt's Astral, and elephants in India carry cases of 'Standard-White,' while ships are constantly loading at our wharves for Japan, Java and most distant isles of the sea."

[3] *Scientific American*, "The Economic Geography of Energy," September, 1971.

[4] Gasoline allocation is now to be supervised publicly. When Nixon's voluntary allocation scheme was announced in May, oil companies reacted with their customary unanimity, Exxon expressing "serious concern about the practicality of the plan" and Mobil "seriously concerned about [the plan's] legal implications." But Mobil subsequently retracted its legal concern; a company spokesman, groping after the Zieglerian locution "to inoperate," announced that the previous statement had been "withdrawn."

[5] Italics added: has demand outstripped supply or has it not, and is supply limited by refinery capacity or by the availability of crude oil? The main technical difficulty, in the very short term, of increasing crude oil imports is that some US refineries cannot process high sulphur foreign crude without expensive modifications. The main difficulty of increasing gasoline imports is that while many US and foreign-owned refineries in Europe have considerable excess capacity, they are organized to produce relatively little gasoline compared to heating and industrial fuels, and gasoline which suits small European rather than large American cars. These difficulties are costly to overcome—but it is a cause for grave alarm if they are beyond the competence of the corporations which for seventy-five years have lit the lights of Java and Japan.

[6] *Barron's*, June 11, 1973. The same analyst, in *Barron's* for June 18, explained further:

Q. If I read you correctly, we're in the throes of a bona-fide energy crisis. . . . If that's the case, why bother with oil stocks at all?

A. The bleak picture I painted was not for oil company profits. It was for tighter supplies, rationing and fundamental changes which will see more and more intervention in the industry's affairs by both producer and consumer governments. But all this can be true and rates of return on assets can still go up.

[7] *United States Mineral Resources* (Geological Survey, 1973). According to the oil industry's present estimates, total proved world oil *reserves* amount to 663 billion barrels, of which 38 billion are in the US. The Survey points out that in business use "the term *reserves* generally refers to economically recoverable material in identified deposits"; it classifies total oil or other mineral *resources* according to the distinct criteria of (economic) recoverability and (geological) certainty, with *"proved reserves"* classified as both cheap to recover and proved geologically. The rate at which resources become reserves depends, evidently, on factors of cost and technological optimism.

Past oil prophecies have been notoriously unreliable at least since the anxious expectations of economists in the 1900s about what was described as the "exhaustion of the American oil fields." Yet geological and explanatory techniques have improved notably in the last twenty years, while the volume of world exploration has also increased, with the land areas of the "lower 48" US states particularly well prospected; the (pessimistic) chief geologist of British Petroleum has written that "most sedimentary basins of the world have been explored to some extent, and a surprising number of them to a considerable extent."

Recent estimates have even seemed overoptimistic. Alaskan oil, for example, is now expected to supply, by 1980, less than a tenth of US oil demand, and substitute for a fifth of estimated imports. Yet as recently as May, 1970, the Department of the Interior wrote that "until July 18, 1968 [when the first major oil discovery on the North Slope was announced] many authorities, from government and industry, continued to forecast in varying degrees an impending 'energy gap' occurring on or about 1975 when indigenous supplies of petroleum would be insufficient to meet the growing demand. . . ." The Department continued, in an abruptly unfortunate metaphor, that the "contagious optimism" of July, 1968, subsequently "spilled over from the Prudhoe Bay Field to the whole of the North Slope, into the Canadian MacKenzie River Delta area, up to the Arctic islands, and southward into the Gulf of Alaska."

[8] Quoted by Jahangir Amuzegar, chief of the Iranian Economic Mission to Washington, in *Foreign Policy*, July, 1973.

[9] Oil reserves are counted in the *International Petroleum Encyclopedia*, 1972, published by the *Oil and Gas Journal*.

[10] The clamorous outrage which has greeted the prospect of OPEC investment recapitulates many myths of modern business. A basic assumption is that money earned from the sale of natural resources is not really deserved. As one international symposium put it, describing Saudi Arabia, "In the first place, their wealth is not the result of their own labor" (*The Changing Balance of Power in the Persian Gulf*, American Universities Field Staff, 1972). The oil just lies there in the ground, and nobody worked or sacrificed or accumulated in order to own it. Short term investments raise further prejudices. Oil exporting countries which keep their monetary reserves in liquid, easily accessible form, and move their "rootless stockpile" as currency after currency is devalued, are accused of "childish" caution—while such impeccably rooted dollars, as those managed by the treasurers of huge multinational corporations can evade most devaluations in the name of financial responsibility to shareholders.

STRONG SUPPORT FOR CONGRESSIONAL BUDGET REFORM

Mr. PERCY. Mr. President, on February 28, 1973, I sent a number of businessmen in Illinois a letter informing them of efforts in Congress to reform the legislative budget system. In this letter I noted the controversy over responsibility for recurrent Federal deficit spending, and the arguments in favor of a procedure requiring congressional consideration of spending legislation in light of overall national priorities and spending goals. A summary of my own bill to effect such a reform—S. 846—was also contained in the letter.

As a result of my letter, I received during March a large number of responses supporting the enactment of congressional budget reform. These letters came from all types of businesses, large and small, throughout Illinois. My constituents expressed their strong belief that the Congress must undertake to reform its responsibility for the Federal budget, and that efforts in Congress to establish a self-monitoring, self-regulating system for Federal spending are dictated by simple commonsense.

The Subcommittee on Budgeting, Management, and Expenditures of the Government Operations Committee is currently marking up a bill, S. 1541, to create a reformed congressional budget system. I believe it is imperative that

the legislation reported by that subcommittee and by the full Government Operations Committee establish for Congress a strict program of fiscal self-regulation.

Congress has been claiming for years that its constitutional role in the determination and implementation of Federal policy is threatened. I submit, Mr. President, that if we do not enact a congressional budget reform program that reflects a sober commitment to self-discipline, our complaints of usurpation of our role in the creation of Government policy and programs become empty rhetoric. We cannot expect to exercise leadership if our own actions are not responsible. And we certainly cannot expect to keep the confidence of people throughout the country who are heartened by our new efforts at fiscal reform and who support them so strongly.

Mr. President, I ask unanimous consent that a copy of my letter to my constituents and a selection of their responses be included in the RECORD at this point as an indication of the public's endorsement of congressional reform of its appropriations process.

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

COMMITTEE ON GOVERNMENT OPERATIONS,
Washington, D.C., February 28, 1973.

DEAR BUSINESSMAN: The current controversy over the President's budget and Executive impoundment of funds appropriated by Congress has overshadowed a serious problem that strikes at the heart of fiscal responsibility in government.

Some say the President has defied the will of Congress by calling for the elimination of various programs in his recent budget message and refusing to spend certain funds appropriated by Congress. But others say the fault lies with Congress, which has appropriated funds without regard to priorities or available revenues.

I believe that before Congress can pass judgment on the President's budget, it must put its own financial house in order by reforming its budgetary process. Presently there is no relationship between the procedures used for raising revenues and those used for spending them.

Our system in Congress of raising and spending revenues resembles a corporation that spends without regard to its income or priorities. It is as if the officers and executives wrote checks without reviewing the corporation's economic health or plans for the future. Most corporations that acted in such an irresponsible manner would soon face bankruptcy.

Yet this is the way the Congress spends the taxpayers' money. We do it through a system that is fragmented and antiquated. The system has gone virtually unchanged since the Civil War. Provisions for reform were made in the Legislative Reorganization Act of 1946, but they were ignored and finally repealed in 1970. It is time for a renewal effort to reform the system.

I have proposed a system that would require Congress to take stock of the government's anticipated income and set priorities before the spending begins. Under my bill, a Joint Committee on the Budget would be created, to consist of senior members of the four Congressional committees charged with raising and spending funds—Ways and Means and Appropriations in the House, and Finance and Appropriations in the Senate. The Committee would meet early each year to review the health of the economy and the President's budget and annual economic report. It would then set a spending ceiling for the next fiscal year based on estimated government receipts, and would assign spending limits to the Congressional committees and subcommittees responsible for spending.

By March 30, the Committee would report its recommendations to Congress in the form of a Joint Resolution. No appropriations bills would be passed until the resolution was accepted.

Adoption of this plan would restore order to the Congressional budgetary process. It would be a signal to the Executive branch of government that Congress is raising and appropriating funds in an orderly and responsible manner. Most of all, it would show the taxpayers that Congress is spending wisely and living within its means.

In 1968, I supported legislation that established a budget ceiling and resulted in an 8 billion reduction in the budget. As a consequence, we had a balanced budget in fiscal 1969, for the first time in many years. The proceedure that I am now suggesting provides a formal structure that can bring fiscal responsibility into the federal government in the years ahead. Without such action, we will never be able to truly control inflation.

Sincerely,

CHARLES H. PERCY,
U.S. Senator.

CHAMBER OF COMMERCE OF THE UNITED STATES OF AMERICA,
Washington, D.C., March 7, 1973.

Hon. CHARLES H. PERCY,
U.S. Senate,
Washington, D.C.

DEAR CHUCK: Congratulations on your letter of February 28 . . . the one addressed "Dear Businessman."

I read it with great pleasure, from start to finish.

I'm very happy you're staying so involved in this issue of budget control. Your description of current Congressional procedures was excellent—and points up clearly why Congress simply must improve its handling of the budget.

Stick in there and fight. We'll help every way we can on this issue, because we consider it a top priority for this Congress.

Cordially,

ARCH BOOTH.

CHICAGO, ILL., *March 12, 1973.*

Hon. CHARLES H. PERCY,
U.S. Senator, Illinois, Committee on Government Operations, U.S. Senate, Washington, D.C.

DEAR CHUCK: I do not write many letters. However, as I read your letter of February 28th, I wanted to write to say to you that I received it, I read it and I agree with you.

Keep up the good work.

Sincerely,

BENJAMIN C. WILLIS.

CONTINENTAL BANK,
Chicago, Ill., March 16, 1973.

Hon. CHARLES H. PERCY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR PERCY: I appreciated receiving your letter of February 28, 1973, concerning your proposal of a system that would require Congress to take stock of the government's income and set priorities before spending.

I have often wondered why such a system has never been instituted by Congress long before this. I agree that if we operated our personal finances, as well as our corporate finances, in the manner currently followed by Congress, we would all be bankrupt in very short order.

I hope that other members of Congress will also see the merits of such a system as you are proposing. I feel there is no more vital task confronting us all than establishing a better system of financial control, especially between those responsible for appropriations and those responsible for spending.

Sincerely,

ROBERT G. LOVELL,
Area Development Officer.

HOUSEHOLD FINANCE CORP.,
Chicago, Ill., March 5, 1973.

Hon. CHARLES H. PERCY,
U.S. Senate, Committee on Government Operations, Washington, D.C.

DEAR CHUCK: I cannot compliment you highly enough on your February 28th letter to businessmen concerning your proposal to establish responsible fiscal procedures in Congress. I feel that such action is one of the most important steps that Congress could take this session.

I have little respect for those in Congress who condemn the President for usurping the rights and prerogatives of Congress when Congress fails to act in a responsible way. As someone put it, many in Congress seem to be mainly concerned with their right to be irresponsible.

I wish you early success with your bill.

Sincerely,

ARTHUR E. RASMUSSEN.

HERITAGE BANCORPORATION,
Evergreen Park, Ill., March 6, 1973.

Re your bill for a joint Committee on the Budget.

Hon. CHARLES H. PERCY,
Member of the U.S. Senate, New Senate Office Building, Washington, D.C.

DEAR CHUCK: I heartily approve of your position on the above subject as stated in your letter "Dear Businessman" of February 28, 1973.

I grow to be more an admirer of yours very day. Please count on me for any assistance and support I can give you.

Yours very truly,

DONALD O'TOOLE,
Chairman of the Board.

RYERSON,
Chicago, Ill., March 9, 1973.

Senator CHARLES H. PERCY,
New Senate Office Building,
Washington, D.C.

DEAR CHUCK: I don't believe I've ever received a more welcomed form letter that you sent out February 28, directed "Dear Businessman".

The financial and reporting responsibility of the Congress and its understanding of what it is doing would restore order most importantly to the Congressional spending process as well as to the budgetary process.

I sincerely wish you success, Chuck, and if there is any way that I can be helpful—if you need some work done in planning this I would be glad to have my people do it for you or in any other way to accomplish this—please call on us.

Best personal regards.

Sincerely,

RAYMOND N. CARLEN.

CONSOLIDATED FOODS CORP.,
Chicago, Ill., March 6, 1973.

Hon. CHARLES H. PERCY,
U.S. Senate, Senate Office Building, Washington, D.C.

DEAR CHUCK: It is most gratifying to note in your letter of February 28 of your concern with Federal fiscal responsibility, and the corrective action you are proposing.

It makes a great deal of sense to me, and I commend you for it.

Sincerely yours,

WILLIAM A. BUZICK, Jr.,
Chairman of the Board.

NORTHBROOK CHAMBER OF COMMERCE,
Northbrook, Ill., March 28, 1973.
Senator CHARLES H. PERCY,
Senate Office Building,
Washington, D.C.

DEAR SENATOR PERCY: Your February 28th letter regarding the current controversy over the President's Budget has been read and re-read. Congratulations on the system that you proposed because the present process certainly needs to be restored to order.

Yours very truly,

CHET BLODEN,
Executive-Secretary.

CALUMET AREA INDUSTRIAL DEVELOPMENT COMMISSION,
Chicago, Ill., March 9, 1973.
Hon. CHARLES H. PERCY,
U.S. Senate,
Washington, D.C.

Senator, we are pleased that you are trying to bring some order to federal budgeting as outlined in your letter of February 28. It is crucial to the future of America that spending programs be reduced and this must first come from a balanced, well thought-out budget.

An attempt to place the government in a planning and budgeting system, like any businessman must do, is essential.

You have our support as again we are concerned with runaway government costs.

Regards,

J. EDWIN BALLARD,
Executive Director.

BOUTIN CLEANERS,
Lake Forest, Ill., March 10, 1973.
Hon. CHARLES H. PERCY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR PERCY: I appreciate the opportunity to respond to your letter regarding the budget and the seemingly irresponsible appropriations and spending on the part of Congress over the years, causing deficits year after year that have contributed immensely to the inflation we are having now.

I wholeheartedly agree that any business person indulging such practices would be bankrupt in a very short time.

Your proposal is one that will be concurred in by any sensible thinking person whether in business or not, as this disastrous trend cannot continue further.

In addition I would add, that estimated receipts is too much guess work, but if there happens to be a surplus why not apply it to the enormous debt we have and is costing us more than twenty billions of dollars annually instead of finding some ill excuse for spending it.

The thoughts above are those of many, many people with whom I am in daily contact, and believe me Senator, this subject is one we are all concerned about; however, too many people will not take the time to make their thoughts and wishes known to you and others in government.

Sincerely yours,

WALLACE M. BOUTIN.

TIME-O-MATIC INC.,
Danville, Ill., March 5, 1973.
Senator CHARLES H. PERCY,
Senate Office Building,
Washington, D.C.:

Thank you for your letter of February 28, addressed to businessmen.

Your proposal of a way to limit federal spending to an agreed-upon amount seems reasonable to me.

If measures of this kind are not adopted, we will see the continual devaluation of the dollar and corresponding inflation at home.

I would like to see us value the dollar realistically in terms of gold, make it redeemable, and keep it that way.

KEITH S. WOOD.

THE SAMPSON CO.,
Chicago, Ill., March 5, 1973.
Hon. CHARLES H. PERCY,
U.S. Senator, Committee on Government Operations, Washington, D.C.

DEAR SENATOR PERCY: I appreciated receiving your newsletter of February 28th concerning the Bill which you have proposed regarding the budgetary processes of our Federal Government. I simply wanted you to know that I am in total agreement with the need for such change and I believe that the proposal which you offer could provide an effective manner in which to deal with the problem.

It seems to me that fundamentally and from a long term point of view, governments are faced with the same considerations as individuals in adjusting expenditures to income. I believe that there comes a point in time at which this fact cannot be denied. I believe that if that time is not upon us right now, it is certainly very close.

Like many others I have great concern regarding our priorities. Ours is a tremendously diverse population from every point of view. The requirements for achieving a reasonable balance in dealing with the needs of these diverse elements, in my opinion, is a condition for the survival of our system. I believe that your proposal would result in a more effective system for recognizing this fact.

Please let me know if there is anything that I might do to bring about the passage of this legislation.

Best regards,

Sincerely,

THE SAMPSON CO.,
ROBERT L. SAMPSON,
President.

BELL & HOWELL,
Chicago, Ill., March 14, 1973.
Hon. CHARLES H. PERCY,
U.S. Senate,
Washington, D.C.

DEAR CHUCK: Your proposal on orderly government spending, as covered in your February 28 letter, came as another indication of the effective and sound contributions you continue to make in the government of this country.

The system you outline is nothing but good common sense—as is your proposal for job opportunities and reforms in the penal system.

Once again, we in Illinois should be constantly grateful for the quality of our representation through your office.

Warmest regards,

R. D. HIGGINS.

FLEXIBLE STEEL LACING CO.,
Downers Grove, Ill., March 5, 1973.
Subject: Government spending
Senator CHARLES H. PERCY,
U.S. Senate Office Building,
Washington, D.C.

DEAR SENATOR PERCY: We applaud your efforts and sincerely hope that your bill will be enacted without major changes. Government spending is one of the major reasons for our continued inflation and must be brought under control.

We support you and your bill and will do what we can to help you get it through Congress.

Cordially,

JOHN RAMSEY, *President.*

KROEHLER MFG. CO.,
Naperville, Ill., March 13, 1973.
Senator CHARLES H. PERCY,
Committee on Government Operations,
Senate Office Building,
Washington, D.C.

DEAR SENATOR PERCY: I received your letter of February 28 concerning your proposal to require Congress to take stock of the Government's anticipated income and set priorities before spending begins.

I surely agree with your position and heartily support it. If there is any way that we as businessmen can be of assistance to you, please let us know.

Sincerely,

RICHARD E. BUROW.

SANGAMO ELECTRIC CO.,
Springfield, Ill., March 6, 1973.
Hon. CHARLES H. PERCY,
The U.S. Senate,
Washington, D.C.

DEAR SENATOR PERCY: Your letter of the 28th of February describing your proposal to establish Congressional responsibility to be coupled to Congressional authority for raising and spending revenues comes as a very welcome sign. The irresponsible manner in which our appropriations have occurred in the recent past makes one shudder. It looked like the sure beginning of the end of our system of government.

I wholeheartedly back the President in taking a stand in this matter. If it works it will precipitate some legislation which hopefully will bring fiscal integrity back into the system.

Your effort is to be commended.

Good luck.

All the best,

G. A. DAUPHINAIS.

DEVOTO, BAAS, BROOKHOUSER & ASSOCIATES, INC., MANAGEMENT COUNSEL,
Chicago, Ill., March 7, 1973.
Hon. CHARLES H. PERCY,
The U.S. Senate,
Washington, D.C.

DEAR SENATOR PERCY: I salute you for your sponsorship of the bill concerning the Joint Committee of the Budget so Congress can be responsible in the financial area (as indicated in your letter of February 28th). If this could be explained to all voters, I feel sure they would give their unqualified support. What a sensible solution to an age old problem.

Sincerely,

DONALD E. DEVOTO,
President.

W. BRAUN CO.,
Chicago, Ill., March 5, 1973.
Senator CHARLES H. PERCY,
U.S. Senate, Committee on Government Operations, Washington, D.C.

DEAR SENATOR PERCY: Your February 28th "Dear Businessman" letter is excellent; it gets to the heart of the matter.

Because I'm in favor of a stronger Congress, one that does not abdicate its powers or responsibilities, I don't look with equanimity on what the President has done despite the fact that there is precedent for it in the past. President Nixon's objectives however are right.

Your proposal which has had favorable comment in recent time solved the problem of good ends versus bad means. Good Luck!

Incidentally, the Milton Friedmans are due at our home for dinner Friday night and if I think of it I'm going to mention your idea which this original and brilliant thinker undoubtedly knows about if he hasn't advocated it already.

As a maverick Republican who has supported you in the past, I say, keep up the good work for many years to come and hopefully perhaps on a higher level when our party gives you proper recognition in 1976.

Regards,

JULIUS BRAUN.

HINSDALE, ILL.,
March 7, 1973.
Hon. CHARLES H. PERCY,
U.S. Senate,
Senate Office Building,
Washington, D.C.

DEAR SENATOR PERCY: I received your letter of February 28 regarding the controversy of

the President's budget and Executive impoundment of funds appropriated by Congress.

I am thoroughly in agreement with your efforts to introduce legislation that would make the Congress responsible in budgetary vs. expenditure matters. I have felt for years that Congress continuously has appropriated funds for programs that were popular "votewise" but totally irresponsible as to where the money was coming from.

I urge you to back the President's efforts to put a ceiling on expenditures and restore some fiscal responsibility in the Federal Government.

Sincerely,

AUWELL FOGARTY.

WHETZEL CONSTRUCTION CO.,
Champaign, Ill., March 8, 1973.

Sen. CHARLES H. PERCY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR PERCY: We were extremely gratified to receive your letter of February 28, 1973. As you vividly pointed out, any corporation would be bankrupt if they operated under the government's present system of receipts and disbursements. We feel that not only businessmen, but all individuals would have more confidence in their government and might not feel the pain of taxes nearly as bad if they knew their money was spent with integrity. Your proposed system has our wholehearted support.

Thank you.

Very truly yours,
WHETZEL CONSTRUCTION CO.,
WILLIAM J. AUTERMAN,
Executive Vice-President.

COMMITTEE ON GOVERNMENT OPERATIONS,
Washington, D.C., February 28, 1973.

DEAR BUSINESSMAN: The current controversy over the President's budget and Executive impoundment of funds appropriated by Congress has overshadowed a serious problem that strikes at the heart of fiscal responsibility in government.

Some say the President has defied the will of Congress by calling for the elimination of various programs in his recent budget message and refusing to spend certain funds appropriated by Congress. But others say the fault lies with Congress, which has appropriated funds without regard to priorities or available revenues.

I believe that before Congress can pass judgment on the President's budget, it must put its own financial house in order by reforming its budgetary process. Presently there is no relationship between the procedures used for raising revenues and those for spending them.

Our system in Congress of raising and spending revenues resembles a corporation that spends without regard to its income or priorities. It is as if the officers and executives wrote checks without reviewing the corporation's economic health or plans for the future. Most corporations that acted in such an irresponsible manner would soon face bankruptcy.

Yet this is the way the Congress spends the taxpayers' money. We do it through a system that is fragmented and antiquated. The system has gone virtually unchanged since the Civil War. Provisions for reform were made in the Legislative Reorganization Act of 1946, but they were ignored and finally repealed in 1970. It is time for a renewal effort to reform the system.

I have proposed a system that would require Congress to take stock of the government's anticipated income and set priorities before the spending begins. Under my bill, a Joint Committee on the Budget would be created, to consist of senior members of the four Congressional committees charged with raising and spending funds—Ways and Means and Appropriations in the House, and Finance and Appropriations in the Senate. The Committee would meet early each year to review the health of the economy and the President's budget and annual economic report. It would then set a spending ceiling for the next fiscal year based on estimated government receipts, and would assign spending limits to the Congressional committees and subcommittees responsible for spending.

By March 30, the Committee would report its recommendations to Congress in the form of a Joint Resolution. No appropriations bills would be passed until the resolution was accepted.

Adoption of this plan would restore order to the Congressional budgetary process. It would be a signal to the Executive branch of government that Congress is raising and appropriating funds in an orderly and responsible manner. Most of all, it would show the taxpayers that Congress is spending wisely and living within its means.

In 1968, I supported legislation that established a budget ceiling and resulted in an $8 billion reduction in the budget. As a consequence, we had a balanced budget in fiscal 1969, for the first time in many years. The procedure that I am now suggesting provides a formal structure that can bring fiscal responsibility into the federal government in the years ahead. Without such action, we will never be able to truly control inflation.

Sincerely,

CHARLES H. PERCY,
U.S. Senator.

MARCH 5, 1973.

DEAR SENATOR: I agree with you wholeheartedly, please continue your fight to garner fiscal responsibility. Good luck and best regards.

I. MICHAEL WOLINSKI.

CANTEEN CORP.,
Chicago, Ill., March 7, 1973.

Hon. CHARLES H. PERCY,
U.S. Senate,
New Senate Office Building,
Washington, D.C.

MY DEAR SENATOR: I have received your letter concerning the current controversy over the President's budget and Executive impoundment of funds appropriated by Congress.

I like the suggestion which you have made which would require Congress to take stock of the Government's anticipated income and set priorities before the spending begins. This is the kind of thinking I would expect from an outstanding businessman like you and I hope that you are successful.

If I can be of any service, please let me know.

Sincerely,

MARLIN W. JOHNSON,

BBB,
Chicago, March 5, 1973.

Hon. CHARLES H. PERCY,
U.S. Senate, Committee on Government Operations, Washington, D.C.

DEAR SENATOR: I received your letter addressed to businessmen, dated February 28, 1973, in which you relate your thinking with regard to the legislative process as it relates to the fiscal management of the Government.

There is little question but that you have in this communication set forth the very essence of the problem. Your thinking is most constructive and represents, in my opinion, a very realistic approach to the handling of public finances.

I have in my own experience had an opportunity to see first hand the procedures involved and it is long past time when we began to treat with this area of Government responsibility in a realistic and down to earth manner.

I commend you for your efforts and sincerely hope that you will succeed.

Best personal regards.

Cordially,

EARL R. LIND.

ABBOTT LABORATORIES,
North Chicago, Ill., March 7, 1973.

Hon. CHARLES R. PERCY,
U.S. Senator,
New Senate Office Building,
Washington, D.C.

DEAR CHUCK: Your letter of February 28 addressed to Businessmen concerned a subject that in my opinion is as critical as any this country has faced in a long time. As a businessman, I am appalled at what appears to be fiscal irresponsibility in many sectors of government but especially at the Federal level. Here fault must be charged to both the Congress and the Administration.

Your efforts to bring the former group to its senses and to establish a rational system of control of expenditures are appreciated and worth the support of all of us. Continuation of the past practice of spending without regard to anticipated income and without concern for priorities is all but idiotic.

Good luck in your efforts in this vital area.

Sincerely,

CHARLES S. BROWN.

ATTORNEY AT LAW,
Chicago, Ill., March 16, 1973.

Senator CHARLES H. PERCY,
Senate Office Building,
Washington, D.C.

DEAR SENATOR PERCY: I received your letter covering your efforts to revise Congressional practices and procedures with respect to the budget. Certainly changes are necessary and I wish to commend you for your efforts in this area.

You may be sure that many of your constituents are concerned with the inflation in this country which goes unchecked and out of control. In no small measure the federal government's uncontrolled spending represents the key danger in our inflation situation, and now the world wide distrust of the dollar.

I hope in your move to restore fiscal responsibility in the federal budget you will also take a hard look at the expenditures involved in our continued retention of U.S. military troops and personnel and their families all over the world. Surely if this is so vital to world peace, those nations which have accumulated a glut of depreciating dollars should be willing to stand a major portion of the expense involved in maintaining these troops in their respective countries.

With every good wish for success in your continued efforts in our behalf.

Sincerely yours,

ALBERT R. BELL.

CNA FINANCIAL CORP.,
Chicago, Ill., March 27, 1973.

Hon. CHARLES H. PERCY,
U.S. Senate,
Committee on Government Operations,
Washington, D.C.

MY DEAR SENATOR PERCY: The goals of the proposed system for fiscal responsibility which you summarized in your letter of February 28, 1973 are indeed worthy of the support of all citizens of these United States. All corporations instinctively know that priorities must be met first and that a balanced budget is a necessity for their continued existence. It, therefore, is obvious that our largest corporation, the federal government, must adopt a formal structure for controlling its spending and to bring it in line with revenues raised.

This letter is to serve as evidence of my personal endorsement. If there is any way

in which I can aid your plan, please call upon me.

Sincerely,

ROBERT A. GARRITY.

CHICAGO, ILL.,
March 12, 1973.

Senator CHARLES H. PERCY,
Committee on Government Operations,
Washington, D.C.

DEAR SIR: Your letter of February 28 (Dear Businessman:) referred to your efforts to organize a system of matching and controlling federal revenues, appropriations and expenditures.

I strongly support your efforts in this direction.

I also wish to compliment you for your efforts in attempting to balance the budget. Our present currency problems stem from our federal domestic deficits as well as from our balance of payments deficits. These are related.

We must educate our legislators, union leaders and the public that "large" deficits on a continuing basis will lead to currency devaluation, trade wars and great international strife.

I also wish to suggest a system under which all laws passed by our Congress would bear a termination date of one, three, five or ten years so that it would force a review and renewal of all legislation over a period of time and possibly contribute to allowing legislation required for a short term to terminate automatically.

Thank you.

Sincerely,

J. NASTI.

CUTTING TOOL DIVISION, INC.,
Elk Grove Village, Ill., March 21, 1973.

Senator CHARLES H. PERCY,
Committee on Government Operations,
Washington, D.C.

DEAR SENATOR: Your letter of February 28th would be an answer to a businessman's prayer. We all hope and pray that you can devise a procedure to develop a priority rating of our country's needs based on availability of funds.

We are in a constant battle with our young employees, their low opinion of business or the establishment has been created by the way Congress has acted since the end of World War II. One pork barrel deal after another, welfare programs, that run into each other continuously spending more than they received. Is it any wonder that they don't believe us, when we are forced to say no, to extra fringes or benefits without additional output on their part, that would help generate the necessary funds.

Thank God, we finally have a President and Senators such as you, that are taking a stand and trying to bring this holocaust to an end.

Your bill on fiscal responsibility must pass. We would like to help you in any way possible.

Very truly yours,

ANTHONY GIANORIO.

BRESLER ICE CREAM CO.,
Chicago, Ill., March 19, 1973.

Senator CHARLES H. PERCY,
U.S. Senator,
Washington, D.C.

DEAR SENATOR PERCY: Your letter of February 28 reciting your recommendations on your Bill for a Joint Committee on the Budget sounds like a good business approach to having sufficient money for expenditures agreed to or anticipated.

We are hopeful that you can get your recommendations through Congress and perhaps we can get a budget that has more meaning and one that a responsible Congress can work within.

Sincerely,

BRESLER ICE CREAM CO.,
HARRY O. BRESLER,
President.

BATAILLE ASSOCIATES, INC.,
Barrington, Ill., March 8, 1973.

Hon. CHARLES H. PERCY,
U.S. Senator,
Senate Office Building,
Washington, D.C.

DEAR SENATOR PERCY: You are to be congratulated for your proposal to form a Joint Committee on the Budget.

It is hard to believe we have survived this long with no relationship between the procedures used for raising revenues and those used for spending them and is certainly reflected in our inflation.

Again, congratulations on taking a step in the right direction to correct a serious defect in our control of the budget.

Sincerely,

GERALD S. BATAILLE,
President.

MONMOUTH AREA
CHAMBER OF COMMERCE,
Monmouth, Ill., March 5, 1973.

Hon. CHARLES H. PERCY,
U.S. Senate,
Senate Office Building,
Washington, D.C.

DEAR SENATOR PERCY: Thank you for your letter of February 28, 1973, detailing your program for Congressional review of Federal spending, with the objective of setting spending priorities.

I applaud your proposal and prayerfully hope that it will win approval in the Senate and the House of Representatives. This is the type of control we need to stem inflation.

The biggest offender of overspending is the Federal government. I absolutely agree with President Nixon that we must cut back many of the programs that were established in good faith, but simply have not been effective. Perhaps there is not enough control between the point of funding these programs and receipt of the monies for their execution at the point of final expenditure, because of hassel between selfish individuals who are self-seeking.

Your system should help immeasurably and you are to be commended for your extremely realistic approach. Please continue to be a watch dog in the public interest in the Federal spending arena.

Sincerely,

ROBERT E. SHUNICK,
Executive Vice President.

CAMP BUCKSKIN

Mr. HUMPHREY. Mr. President, on July 10, the President signed H.R. 7445, the Renegotiation Act, which contained an amendment delaying for 4 months the effective date of the new HEW social service regulations.

These regulations would limit, reduce and shut down many extremely important programs such as day care, family planning, and alcoholic rehabilitation. States would be allowed to spend only $1.5 billion of the $2.5 billion authorized by Congress for these programs.

I would like to describe one such program to be affected by these new regulations. Camp Buckskin is located near Duluth in the northern part of Minnesota. This camp is established to help culturally deprived and underprivileged rural children who need assistance in reading skills, physical coordination, sportsmanship, and interpersonal relations.

Camp Buckskin began its program for the rural underprivileged in 1966 and its staff has been very encouraged by the remarkable progress it has seen in these young campers. Its particular pride is in its accomplishment of raising campers' reading levels by an average increase of 1.3 to 1.5 school years.

The camp has two 5-week sessions, with 100 campers each session ranging from age 8 to 13. The morning activities consist of arts and crafts, reading lessons, and swim instruction. The afternoon session is devoted to further lessons with emphasis on physical skills in sports such as soccer, volleyball, camping, and fishing. In the evening there are campfires, songs, and skits.

When HEW imposes its new restrictions and regulations, Camp Buckskin would lose 75 percent of its funds. While it has been suggested that mental health and education funds could be utilized, these funds do not apply to this particular type of program. Local officials advised me that the camp would have no alternative but to close its doors to these needy children.

Mr. President, I am not speaking of the average child from a middle-class community, but those children tucked away in rural areas whose general environmental advantages are fewer—their family incomes lower, diets poorer, social preparation for schooling lacking, and their proximity to the usual public services extremely limited. Now with the aid of Camp Buckskin some 200 children can happily engage in summer fun while at the same time improving their ability to receive a good education.

I would like to see these youngsters continue to receive the opportunity to learn invaluable skills and enjoy this summer fun.

Mr. President, I would hope that this 4-month extension of time before implementation of these regulations will afford Congress the time to enact legislation to prevent implementation by the Department of Health, Education, and Welfare of regulations which would eliminate important programs such as Camp Buckskin.

FLIGHT PAY

Mr. GOLDWATER. Mr. President, on June 28, 1973, the House voted to instruct their conferees on H.R. 8537 to disagree to the Senate amendment which would have extended some colonels' and generals' entitlement to flight pay for 7 months, an amendment which I sponsored in the Senate Armed Services Committee. Simply put, the purpose of this extension was to give the Congress sufficient time to consider another DOD proposal that would overhaul the entire flying pay structure. For some individuals, this action was a tactical victory—for others—like myself—it was a tragic mistake. The satisfaction gained

by Members instrumental in defeating this extension may well be outweighed by the overall loss to our Nation's defense.

Ridicule and personal abuse, while a potent tool, sets a dangerous precedent in dealing with such important matters as national defense; and may I add, this is not in the tradition of the Congress of the United States. Not only was the proposal subjected to ridicule, but facts were deliberately misrepresented. The purpose of this speech is to set the record straight; place the proposal in its proper perspective; and create a climate for considered, rational, and mature debate of an important DOD personnel proposal.

The purpose of flight pay is to induce qualified individuals to voluntarily specialize in a hazardous military aviation career. It is not meant to compensate for hazard or for specific hours of flying; it is offered as an incentive to attract and retain sufficient numbers of flyers to man our air forces. The payment of flight pay to officers who are prohibited by law from flying is a result of congressional action and not the result of Defense Department initiatives—or initiatives by the flyers themselves.

To explain the practice of paying flight pay to those flyers who are not permitted to fly, the legislative background of the situation must be considered. Prior to 1954, flight pay was paid to active flyers who satisfied established monthly flying performance minimums. This requirement to fly a minimum number of hours to qualify for flight pay resulted in high aircraft operations cost. In order to reduce these aircraft flying costs, Congress in the 1954 Defense Appropriations Act initiated a permissive "excusal" program. This program permitted aviators in remote assignments and the more experienced aviators—that is, those with 20 years of rated service or more—to be excused from meeting the flying hour minimums and still receive the incentive pay. Congress enacted a similar provision each year until 1962, when it expanded eligibility to those with 15 years of rated service or more. Again, the purpose of this provision was to reduce flying operations costs while specifically protecting the affected individual's incentive pay.

These 1954 and 1962 excusal provisions were permissive rather than mandatory. Because the services considered proficiency flying enhanced their ability to respond rapidly to fill wartime requirements, they were reluctant to exercise excusal. In fiscal year 1972, the Congress in the Defense Appropriations Act directed mandatory excusal of all aviators in nonflying positions except those allowed to engage in proficiency flying "in anticipation of assignment to combat operations." This legislation resulted in an increased number of excused flyers, but specifically authorized that their incentive pay be continued.

In short, the congressionally directed "excusal" policy, whether permissive or mandatory, is the reason why some flyers collect flight incentive pay without flying.

There have been strong allegations in the news that the Air Force payment of flight incentive pay to 65 general officers is a clear violation of law and an utter defiance of civilian authority. I have looked into this matter.

I have copies of 36 statutes on flight pay from its beginning in 1913 through section 715 of Public Law 92–570 which is the law that the Defense Department asked us to amend. It is interesting that 19 of these laws are annual appropriation acts. If anyone wishes to review the laws my copies are available. I have studied the laws and this is what I find.

There are two separate entitling laws on flight pay; one restricts flying by certain aviators.

First. Section 301 of title 37 entitles aviators in flying jobs who fly at least 4 hours a month.

Second. Public Law 92–570, section 715, entitles aviators who are in nonflying jobs, except colonels and generals, regardless of the amount they fly. Public Law 95–270 also restricts flying by aviators in nonflying jobs. It does not address aviators in flying jobs.

The Air Force has submitted for the record and sent to its commands a message designating which general officer positions require active flying and those which do not. They are now reviewing colonel flying jobs. You can argue their identification but their legal authority is clear. The Secretary of the Air Force has the responsibility and the authority to make that decision.

Generals and colonels in flying jobs are entitled to flight pay under section 301 of title 37. Here is the criteria the Air Force used to determine which generals and colonels must fly:

First. Generals and colonels exercising command and control of aircraft.

Second. Generals and colonels directly supervising aircraft operations or aircrew training/evaluation programs.

Third. Generals and colonels responsible for flight safety and operational readiness inspections.

Fourth. Generals and colonels who perform or directly supervise test evaluation of existing and proposed weapon systems.

Fifth. Generals and colonels with operational or training responsibilities in special agencies such as NASA, U.S. Air Force Academy, military attache duty or foreign advisory duties.

Sixth. Special requirements such as returned prisoners of war undergoing aircrew training.

Seventh. The individual who is directly responsible for the employment of airpower—the Chief of Staff of the Air Force.

Although some of these positions may change as requirements change, I repeat again, these are the flying leaders who run the Air Force. They include the commanders of the Strategic and Tactical Air Commands and their subordinate commanders. These are not armchair generals, rewarded for some unknown reason as was reported in the press. These are not officers who have no need to fly or are drawing flight pay as a privilege of rank. The officers in these positions are the fighter, bomber, and cargo pilots chain of command.

It was not the intent of Congress to stop the flying of these officers or to refuse them flight pay. The criteria, the positions identified, and the open message to the troops demonstrate total compliance with public law and congressional intent by the U.S. Air Force.

Now let me turn to another aspect of this issue—the all-volunteer force. Who in this body can foresee the future with such clarity as to assess the ramifications of our arbitrary action? Which one of you is prepared to stake his reputation on the Nation's ability to attract and retain the quality and quantity of volunteers to man our Nation's defense? Did any of us expect at the outset of the Polaris program that we would be required to pay a submariner a bonus? After raising the base pay of a private 266 percent in the past 6 years, did any of us think we would also be required to pay men a bonus to join the combat arms? And what will be our response to the sagging retention of military doctors?

In the first two cases we were forced to play catchup ball while hoping that nothing on the international scene would require us to deploy understrength combat division. Are we now willing to accept placing the services in a catchup position regarding flyers—our most skilled and expensive resources—one that takes a year to train, and 2 years to prepare for combat? The debate in the House focused on generals and colonels. These same officers were in the lower grades in World War II, Korea, and Vietnam—and not products of the volunteer era.

Today, the lieutenants and captains—our future colonels and generals—are members of the most aware, economically oriented generation of all time—and may I add, the first true volunteers to serve in the Armed Forces. What will their response be to our actions?

Gentlemen, as I stated at the beginning of my speech my only purpose today is to set the record straight and ask you to reflect on your previous actions in light of the facts laid before you. The question in each of our minds must be—are we willing to accept the risk—and pay the price if we are wrong?

As I stated previously, the Department of Defense has submitted a proposal to Congress which would revise the current incentive pay structure as it pertains to flying pay. This proposal was submitted only after a comprehensive and exhaustive study of all ramifications of the problem. The proposal has been referred to the Armed Services Committee and I urge the distinguished acting chairman of that committee to schedule early hearings on the proposal. I feel it is necessary that we move ahead as rapidly as possible on this problem so that the current uncertainties can be resolved and we can show the young lieutenants and captains that there is truly a "career" available in military aviation.

Mr. President, the people in the House who engineered the defeat of flight pay obviously are highly elated over what they feel is an outstanding accomplish-

ment. If these same people were consistent in opposing real wastes of money, I could better understand that, but to have them in such a grotesque, bizarre, and sadistic-like demonstration, defeat something that has been a part of military pay for many, many years, to me, is very, very dangerous.

To me, and I think to most every person who has ever served in uniform or out of uniform, leadership without the ability to demonstrate the proficiency in the job assigned does not accomplish the purpose of leadership. The particular actor in the comedy played on the floor of the House inferred that all colonels and generals, in fact, all Navy captains and admirals wearing wings receive flight pay. This is not so.

I ask unanimous consent that orders authorizing certain officers in certain jobs to receive flight pay be printed at this point in my remarks.

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

REVIEW OF GENERAL OFFICER POSITIONS

1. Provisions of section 715, P.L. 92-570, DOD Appropriations Act 1973, ends entitlement to flight pay for O-6's and above after 31 May 1973 who are "assigned to duties, the performance of which does not require the maintenance of basic flying skills." Those general officer positions requiring active flying have been identified and a review of 0-6 positions is in progress. Only the incumbents of the designated positions may actively fly. Rated general officers in non-designated positions are prohibited from performing duties in their rated specialty and from logging flying time. DOD has proposed an amendment to retroactively change 31 May 1973 date to 31 Dec. 1973 to allow Congress sufficient time to consider a new flight pay proposal. If the amendment is enacted by Congress all active and excused rated officer crew members, otherwise qualified, will be entitled to flight pay. If no action is taken by Congress the incumbents of the designated positions are the only generals who may receive flight pay.

2. Rated officers in general officer positions not specifically designated in paragraph 3 of this message as requiring active flying are prohibited from performing duties in their rated specialty and from logging flying time. HQ USAF is working a means to allow major commanders the flexibility needed when it is determined that a general officer in a non-designated position must perform crew member duties to properly evaluate a specific problem area associated with aircraft/aircrew operations.

3. The following general officer positions, by grade, are authorized to actively fly:

GRADE AND DUTY TITLE

O-10: Chief of Staff, USAF. Commanders (MAC, TAC, SAC, PACAF, USAFE, 7AF).

O-9: Commanders, ADC, ATC, USAFA. Numbered air forces, SAC (2, 8 & 15 AF), PACAF (5 & 13 AF).

O-7/8: Commanders, AAC, USAFSO. Numbered air forces, MAC (21 & 22 AF), TAC (9 & 12 AF), PACAF (13 AF ADVON), USAFE (3, 16 & 17 AF).

Air divisions: ADC (20, 21, 23, 24, 25 & 26 AD), TAC (832, 834 & 837 AD), SAC (1, 4, 12, 14, 17, 19, 40, 42, 45 & 47 AD), PACAF (313 & 314 AD).

Test centers: ADC (ADWC), TAC (SOF, TAWC, TFWC).

Operational/training wings: ADC (552), ATC (12, 64, 78, 82, 322), MAC (9, 60, 62, 63, 87, 436, 437, 438, 443), TAC (1, 4, 31, 35, 49, 58, 67, 313, 354, 363, 366, 474).

SAC (2, 7, 9, 22, 42, 43, 92, 93, 96, 97, 99, 301, 305, 306, 376, 380, 410, 416, 449, 509).

USAFE (10, 20, 26, 36, 48, 50, 52, 81, 86, 322, 401, 601).

PACAF (3, 8, 18, 374, 388, 405, 432).

DCS/Operations: HQ ADC, ATC, MAC, TAC, SAC, PACAF, USAFE.

Numbered air forces: MAC (21, 22 AF), TAC (9, 12 AF), PACAF (7 AF).

Miscellaneous: Commander, ArRS, Dir. Aerospace Safety, Commandant of Cadets, USAFA.

Note: No vice commanders are included.

4. Colonels occupying general officer positions designated in paragraph 3, above, are authorized to fly, to log flying time and will be paid accordingly.

5. A listing by position number will be forwarded by separate correspondence.

6. This message constitutes authority to initiate action effective 31 May 1973, to place the incumbents of the general officer positions designated in paragraph 3, above, in FSC 1; all other general officers will be placed in FSC 3B.

JOHN D. RYAN,
General, USAF,
Chief of Staff.

Mr. GOLDWATER. I ask unanimous consent at this point in my remarks to insert the legislative history of the subject we are discussing, flight pay. I sincerely hope that all of my colleagues will peruse this subject so that they will have a better understanding of the extreme hardship and injustice placed upon them to whom we have made certainly a moral commitment relative to flight pay.

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

LEGISLATIVE HISTORY OF FLIGHT PAY

FLIGHT PAY CHRONOLOGY

1. Act of 2 March 1913 (37 Stat. 704, 705): Initiated flight pay to pay for hazards endured. Rate set at 35% of pay and allowances.

2. Public Law 63-143 Act of 18 July 1914: established three classes of aviators. Set flight pay at 25%, 50%, and 75% of base and longevity pay (respectively).

3. Act of 4 June 1920 (41 Stat. 759, 768): broadens entitlement to all Services provided 50% extra pay.

4. Act of 10 June 1922 (PL 67-235) provided 50% extra flying pay for those participating in frequent and regular aerial flights.

5. Act of 2 July 1926: Continued 50% increase in base pay while on duty requiring frequent and regular participation in aerial flight.

6. Act of 26 April 1934 (48 Stat. 614, 618): Non air corps officers limited to $1440 flying pay per year.

7. Act of 16 June 1936 (PL 691): redefined peacetime flying officers.

8. Pay Readjustment Act of 16 June 1942 (PL 77-607): Increased rates payable, rates for aviation duty.

9. Career Compensation Act of 12 October 1949 (PL 81-351): defines as incentive pay for hazardous duty. Initiates monthly dollar rate by grade.

10. FY 1951 Defense Appropriation Act (PL 81-434): limits amount of flight pay for non flying officers (noncrew).

11. FY 1952 Defense Appropriation Act (PL 82-179): limits flight pay to personnel assigned to duties involving operational and training flights.

12. FY 1953 Defense Appropriation Act (PL 82-488): Same limits as FY 1972 Act.

13. FY 1954 Defense Appropriation Act (PL 83-179): Initiates excusal program for members in remote areas and those holding ratings for not less than 20 years.

14. FY 1955 Defense Appropriation Act (PL 83-458): continues provisions of PL 83-179.

15. Career Incentive Act of 1955: Rates changed to those in 37 USC 301. Rates computed on grade and longevity.

16. FY 1956 Defense Appropriation Act (PL 84-157): continues provisions of PL 83-179.

17. FY 1957 Defense Appropriation Act (PL 84-639): continues provisions of PL 83-179.

18. FY 1958 Defense Appropriation Act (PL 84-157): continues provisions of PL 83-179.

19. Act of 20 May 1958 (PL 85-422): adds grades of 0-9 and 0-10.

20. FY 1959 Appropriation Act (PL 85-724): continues provisions of PL 83-179.

21. FY 1960 Appropriation Act (PL 86-166): continues provisions of PL 83-179.

22. FY 1961 Appropriation Act (PL 86-601): continues provisions of PL 83-179.

23. FY 1962 Appropriation Act (PL 87-144): lowers eligibility for excusal from twenty years to fifteen years.

24. FY 1963 Appropriation Act (PL 87-577): continues provisions of PL 87-144.

25. Act of 7 September 1962 (PL 87-649): Broadens entitlement to flight pay to members of reserve components.

26. FY 1964 Appropriation Act (PL 88-149): continues provisions of PL 87-144.

27. FY 1965 Appropriation Act (PL 88-446): continues provisions of PL 87-144.

28. FY 1966 Appropriation Act (PL 89-213): continues provisions of PL 87-144.

29. FY 1967 Appropriation Act (PL 89-687): continues provisions of PL 87-144.

30. FY 1968 Appropriation Act (PL 90-96): continues provisions of PL 87-144.

31. FY 1969 Appropriation Act (PL 90-580): continues provisions of PL 87-144.

32. FY 1970 Appropriation Act (PL 91-171): continues provisions of PL 87-144.

33. FY 1971 Appropriation Act (PL 91-668): Continues provisions of PL 87-144.

34. FY 1972 Appropriation Act (PL 92-204): limits proficiency flying, does not permit proficiency flying by students in schools of ninety days or more, and entitles rated members in nonflying jobs to flight pay.

35. FY 1973 Appropriation Act (PL 92-570): continues provisions of PL 92-204 except provisions end entitlement for O-6 and above in nonflying jobs after 31 May 1973.

36. P.L. 92-482: entitles returned missing members to incentive pay for the period of hospitalization and rehabilitation not to exceed one year.

ACT OF 2 MARCH 1913 (37 STAT. 704, 705)

(Copy not available)

EXTRACT FROM HOOK COMMISSION REPORT

"Flying pay was first authorized by Congress in 1913 to pay individuals for the hazard which they endured in military flying. It was set at 35 percent (of pay and allowances)".

ACT OF 18 JULY 1914 (P.L. 63-143)

(Copy not available)

"Each aviation student authorized by this Act shall, while on duty that requires him to participate regularly and frequently in aerial flights, receive an increase of 25% in the . . . (pay of his grade).

"Each duly qualified junior aviator (below rank of O-3) shall receive 50% increase in base pay.

"Each duly qualified military aviator (O-6 and above) shall receive a 75% increase in base pay.

"Each duly qualified aviation enlisted member shall receive a 50% increase in base pay."

NATIONAL DEFENSE ACT OF 1920
(41 STAT. 759, 768)

(Copy not available)

"The National Defense Act of 1920 and the Pay Readjustment Act of 1922 provided 50 percent extra flying pay (of base and longevity pay) for those who participated in regular and frequent flights".

ACT OF 10 JUNE 1922 (P.L. 67-235)

(Copy not available)

Section 20 of this Act provided that officers, warrant officers, and enlisted personnel of all branches of the Army, Navy, Marine Corps and Coast Guard, were detailed to duty involving flying were to receive the same 50% increase of basic pay for flight as authorized for like duties in the Army.

ACT OF 2 JULY 1926 (P.L. 69-446)

(Copy not available)

(Amends section 20 of the Pay Readjustment Act of 1922:)

Officers, warrant officers, and enlisted men of all branches of the service participating in aerial flights to receive the same 50% increase in payment therefor as authorized for personnel of the Army by adding:

The bill also provides additional pay to enlisted men receiving distinguished flying cross. Additional pay of $2 per month for each such award was authorized to continue as added compensation throughout the active service of the recipient.

ACT OF APRIL 1934 (48 STAT. 614, 618)

(Copy not available)

(Excerpt from Hook Commission Report.)

"The War Department Appropriation Act of 1934 and each subsequent appropriation act has limited officers not of the Air Corps, but attached thereto on flying duty, to a maximum of $1440 per year of flying pay".

ACT OF JUNE 1936 (P.L. 691)

(Copy not available)

Act redefines a flying officer in time of peace as one who has received an aeronautical rating as a pilot of service-type aircraft, one who has received a rating as an aircraft observer. A peacetime observer so rated must previously have qualified as a pilot.

Army Air Corps officers temporarily appointed under the Act shall be entitled to flying pay (50% increase over base pay) pertinent to the grade to which temporarily assigned.

PAY READJUSTMENT ACT OF JUNE 1942

(Copy not available)

Section 18: Officers, enlisted men, members of the reserve forces, and National Guard shall receive increase of 40% of their pay when they are required to participate regularly and frequently in aerial flights.

When personnel of the National Guard are entitled to Army-drill pay, the increase of 50% shall be based on the entire amount of such armory drill pay.

PL 77-607 Pay Readjustment Act of 1942: An Act to readjust the pay and allowances of the Army, Navy, Marine Corps, Coast Guard, Coast and Geodetic Survey, and Public Health Service.

Section 2: The base pay for enlisted men shall be increased by 20% for aviation duty. The base pay for Officers shall be increased by 10% for aviation duty.

Effective from 7 December 1941 and shall cease to be in effect 12 months after termination of the present war is proclaimed by the President.

PUBLIC LAW 81-351

* * * * *

INCENTIVE PAY—HAZARDOUS DUTY

SEC. 204. (a) Subject to such regulations as may be prescribed by the President, members of the uniformed services entitled to receive basic pay shall, in addition thereof, be entitled to receive incentive pay for the performance of hazardous duty required by competent orders. The following duties shall constitute hazardous duties:

(1) duty as a crew member as determined by the Secretary concerned, involving frequent and regular participation in aerial flight;

(2) duty on board a submarine, including submarines under construction from the time builders' trials commence;

(3) duty involving frequent and regular participation in aerial flights not as a crew member pursuant to part (1) of this subsection;

(4) duty involving frequent and regular participation in glider flights;

(5) duty involving parachute jumping as an essential part of military duty;

(6) duty involving intimate contact with persons afflicted with leprosy;

(7) duty involving the demolition of explosives as a primary duty including training for such duty;

(8) duty at a submarine escape training tank, when such duty involves participation in the training; and

(9) duty at the Navy Deep Sea Diving School or the Navy Experimental Diving Unit, when such duty involves participation in training.

(b) For the performance of hazardous duty as prescribed in part (1) or (2) of subsection (a) of this section, members of the uniformed services qualifying for the incentive pay authorized pursuant to said subsection shall be entitled to be paid at the following monthly rates according to the pay grade to which assigned or in which distributed for basic pay purposes:

Pay grade [Monthly rate]

O-8	$150.00
O-7	150.00
O-6	210.00
O-5	180.00
O-4	150.00
O-3	120.00
O-2	110.00
O-1	100.00
W-4	100.00
W-3	100.00
W-2	100.00
W-1	100.00
E-7	75.00
E-6	67.50
E-5	60.00
E-4	52.50
E-3	45.50
E-2	37.50
E-1	30.00

(c) For the performance of any hazardous duty as prescribed in parts (3) to (9), inclusive, of subsection (a) of this section by officers and enlisted persons qualifying for the incentive pay authorized pursuant to said subsection, officers shall be entitled to be paid at the rate of $100 per month, and enlisted persons shall be entitled to be paid at the rate of $50 per month.

(d) The President may, in time of war, suspend the payment of incentive pay for the performance of any or all hazardous duty.

(e) No aviation cadet shall be entitled to receive any incentive pay authorized pursuant to this section.

(f) No member of the uniformed services shall be entitled to receive more than one payment of any incentive pay authorized pursuant to this section for the same period of time during which he may qualify for more than one payment of such incentive pay.

* * * * *

PUBLIC LAW 81-434

SEC. 601. The appropriations contained in this Act shall not be available for increased pay for flights by nonflying officers at a rate in excess of $720 per annum, which shall be the legal maximum rate as to such officers, and such nonflying officers shall be entitled to such rate of increase by performing three or more flights of a total duration of not less than four hours within each ninety-day period, pursuant to orders of competent authority, without regard to the duration of each flight.

* * * * *

PUBLIC LAW 82-179

RESTRICTION ON FLIGHT PAY

SEC. 633. No part of any appropriation contained in this Act shall be available for the payment of flight pay to personnel whose actual assigned duties do not involve operational or training flights.

Approved October 18, 1951.

PUBLIC LAW 82-488

FLIGHT PAY

SEC. 631. No part of any appropriation contained in this Act shall be available for the payment of flight pay to personnel whose actual assigned duties do not involve operational or training flights.

PUBLIC LAW 83-179

FLIGHT PAY FOR CERTAIN OFFICERS

* * * the jurisdiction of the Armed Forces for the purpose of proficiency flying except in accordance with regulations issued by the Secretaries of the Departments concerned and approved by the Secretary of Defense which shall establish proficiency standards and maximum and minimum flying hours for this purpose, but not to exceed one hundred hours during the fiscal year 1954: *Provided*, That, during the fiscal year 1954, without regard to any provision of law or executive order prescribing minimum flight requirements, such regulations may provide for the payment of flight pay at the rates prescribed in section 204 (b) of the Career Compensation Act of 1949 (63 Stat. 802) to certain officers of the Armed Forces otherwise entitled to receive flight pay (1) who have held aeronautical ratings or designations for not less than twenty years, or (2) whose particular assignment outside the United States makes it impractical to participate in regular aerial flights.

PUBLIC LAW 83-458

FLIGHT PAY FOR CERTAIN OFFICERS

SEC. 721. Notwithstanding any other provision of law, executive order, or regulation, no part of the appropriations in this Act shall be available for any expenses of operating aircraft under the jurisdiction of the Armed Forces for the purpose of proficiency flying except in accordance with regulations issued by the Secretaries of the Departments concerned and approved by the Secretary of Defense which shall establish proficiency standards and maximum and minimum flying hours for this purpose: *Provided*, That during the fiscal year, without regard to any provision of law or executive order prescribing minimum flight requirements, such regulations may provide for the payment of flight pay at the rates prescribed in section 204(b) of the Career Compensation Act of 1949 (63 Stat. 802) to certain officers of the Armed Forces otherwise entitled to receive flight pay (1) who have held aeronautical ratings or designations for not less than twenty years, or (2) whose particular assignment outside the United States makes it impractical to participate in regular aerial flights.

CAREER COMPENSATION ACT, 1949

* * * * *

INCENTIVE PAY—HAZARDOUS DUTY

SEC. 204. (a) [18] Subject to such regulations as may be prescribed by the President, members of the uniformed services entitled to receive basic pay shall, in addition thereto,

[18] Subsection (a) was amended by section 2 (4) of the Career Incentive Act of 1955, supra, to add clauses (10)-(12).

be entitled to receive incentive pay for the performance of hazardous duty required by competent orders. The following duties shall constitute hazardous duties:

(1) duty as a crew member as determined by the Secretary concerned, involving frequent and regular participation in aerial flight;

(2) duty on board a submarine, including submarines under construction from the time builders' trials commence;

(3) duty involving frequent and regular participation in aerial flights not as a crew member pursuant to clause (1) of this subsection;

(4) duty involving frequent and regular participation in glider flights;

(5) duty involving parachute jumping as an essential part of military duty;

(6) duty involving intimate contact with persons afflicted with leprosy;

(7) duty involving the demolition of explosives as a primary duty, including training for such duty;

(8) duty at a submarine escape training tank, when such duty involves participation in the training;

(9) duty at the Navy Deep Sea Diving School or the Navy Experimental Diving Unit, when such duty involves participation in training;

(10) duty at low-pressure chamber inside observer;

(11) duty as human acceleration or deceleration experimental subject;

(12) duty involving the use of helium-oxygen for a breathing mixture in the execution of deep-sea diving; and

(13) duty as human test subject in thermal stress-experiments.[19]

(b) [20] For the performance of hazardous duty as prescribed in clause (1) or (2) of subsection (a) of this section, a member of a uniformed service qualifying for incentive pay thereunder is entitled to pay at a monthly rate as follows:

[19] Clause (13) was added by section 1 of the Act of August 28, 1957, Pub. L. 85–208 (71 Stat. 484).

[20] Subsection (b) was restated generally by section 2 (5) of the Career Incentive Act of 1955, supra. That part of the table in subsection (b) relating to commissioned officers and enlisted personnel was restated by section 1 (6) of the Act of May 20, 1958, supra.

INCENTIVE PAY FOR HAZARDOUS DUTY PERFORMED UNDER SEC. 204 (A) (1) AND (2)

COMMISSIONED OFFICERS

Pay grade	Years of service													
	Under 2	Over 2	Over 3	Over 4	Over 6	Over 8	Over 10	Over 12	Over 14	Over 16	Over 18	Over 22	Over 26	Over 30
O–10	$165.00	$165.00	$165.00	$165.00	$165.00	$165.00	$165.00	$165.00	$165.00	$165.00	$165.00	$165.00	$165.00	$165.00
O–9	165.00	165.00	165.00	165.00	165.00	165.00	165.00	165.00	165.00	165.00	165.00	165.00	165.00	165.00
O–8	155.00	155.00	165.00	165.00	165.00	165.00	165.00	165.00	165.00	165.00	165.00	165.00	165.00	165.00
O–7	150.00	150.00	160.00	160.00	160.00	160.00	160.00	160.00	160.00	160.00	160.00	160.00	160.00	160.00
O–6	200.00	200.00	215.00	215.00	215.00	215.00	215.00	215.00	215.00	220.00	245.00	245.00	245.00	245.00
O–5	190.00	190.00	205.00	205.00	205.00	205.00	205.00	210.00	225.00	230.00	245.00	245.00	245.00	245.00
O–4	170.00	170.00	185.00	185.00	185.00	195.00	210.00	215.00	220.00	230.00	210.00	240.00	240.00	240.00
O–3	145.00	145.00	155.00	165.00	180.00	185.00	190.00	200.00	205.00	205.00	205.00	205.00	205.00	205.00
O–2	115.00	125.00	150.00	150.00	160.00	165.00	170.00	180.00	185.00	185.00	185.00	185.00	185.00	185.00
O–1	100.00	105.00	135.00	135.00	140.00	145.00	155.00	160.00	170.00	170.00	170.00	170.00	170.00	170.00

WARRANT OFFICERS

Pay grade	Years of service													
	Under 2	Over 2	Over 3	Over 4	Over 6	Over 8	Over 10	Over 12	Over 14	Over 16	Over 18	Over 22	Over 26	Over 30
W–4	$115.00	$115.00	$115.00	$115.00	$120.00	$125.00	$135.00	$145.00	$155.00	$160.00	$165.00	$165.00	$165.00	$165.00
W–3	110.00	115.00	115.00	115.00	120.00	120.00	125.00	135.00	140.00	140.00	140.00	140.00	140.00	140.00
W–2	105.00	110.00	110.00	110.00	115.00	120.00	125.00	130.00	135.00	135.00	135.00	135.00	135.00	135.00
W–1	100.00	105.00	105.00	105.00	110.00	120.00	125.00	130.00	130.00	130.00	130.00	130.00	130.00	130.00

CAREER COMPENSATION ACT, 1949—ENLISTED PERSONNEL

Pay grade	Years of service													
	Under 2	Over 2	Over 3	Over 4	Over 6	Over 8	Over 10	Over 12	Over 14	Over 16	Over 18	Over 22	Over 26	Over 30
E–9	$105.00	$105.00	$105.00	$105.00	$105.00	$105.00	$105.00	$105.00	$105.00	$105.00	$105.00	$105.00	$105.00	$105.00
E–8	105.00	105.00	105.00	105.00	105.00	105.00	105.00	105.00	105.00	105.00	105.00	105.00	105.00	105.00
E–7	80.00	85.00	85.00	85.00	90.00	95.00	100.00	105.00	105.00	105.00	105.00	105.00	105.00	105.00
E–6	70.00	75.00	75.00	80.00	85.00	90.00	95.00	95.00	100.00	100.00	100.00	100.00	100.00	100.00
E–5	60.00	70.00	70.00	80.00	80.00	85.00	90.00	95.00	95.00	95.00	95.00	95.00	95.00	95.00
E–4	55.00	65.00	65.00	70.00	70.00	80.00	80.00	80.00	80.00	80.00	80.00	80.00	80.00	80.00
E–3	55.00	60.00	60.00	60.00	60.00	60.00	60.00	60.00	60.00	60.00	60.00	60.00	60.00	60.00
E–2	50.00	60.00	60.00	60.00	60.00	60.00	60.00	60.00	60.00	60.00	60.00	60.00	60.00	60.00
E–1	50.00	55.00	55.00	55.00	55.00	55.00	55.00	55.00	55.00	55.00	55.00	55.00	55.00	55.00
E–1 (under 4 months)	50.00													
Aviation cadets	50.00													

(c) Officers and enlisted persons of the uniformed services who are qualified for the incensive pay authorized under subsection (a) are entitled to be paid at the rate of $110 and $55 per month, respectively, for the performance of any hazardous duty described in clauses (3) to (13) of subsection (a).

(d) The President may, in time of war, suspend the payment of incentive pay for the performance of any or all hazardous duty.

(c) No member of the uniformed services shall be entitled to receive more than one payment of any incentive pay authorized pursuant to this section for the same period of time during which he may qualify for more than one payment of such incentive pay.

PUBLIC LAW 157

FLIGHT PAY FOR CERTAIN OFFICERS

* * * order, or regulation, no part * * * available for any expenses of operating aircraft under the jurisdiction of the Armed Forces for the purpose of proficiency flying except in accordance with the regulations issued by the Secretaries of the Departments concerned and approved by the Secretary of Defense which shall establish proficiency standards and maximum and minimum flying hours for this purpose: *Provided*, That during the fiscal year, without regard to any provision of law or executive order prescribing minimum flight requirements, such regulations may provide for the payment of flight pay at the rates prescribed in section 204(b) of the Career Compensation Act of 1949 (63 Stat. 802) to certain officers of the Armed Forces otherwise entitled to receive flight pay (1) who have held aeronautical ratings or designations for not less than twenty years, or (2) whose particular assignment outside the United States makes it impractical to participate in regular aerial flights.

PUBLIC LAW 84–639

PROFICIENCY FLYING—FLIGHT PAY FOR CERTAIN OFFICERS

SEC. 616. Notwithstanding any other provision of law, executive order, or regulation, no part of the appropriations in this Act shall be available for any expenses of operating aircraft under the jurisdiction of the Armed Forces for the purpose of proficiency flying except in accordance with the regulations issued by the Secretaries of the Departments concerned and approved by the Secretary of Defense which shall establish proficiency standards and maximum and minimum flying hours for this purpose: *Provided*, That without regard to any provision of law or executive order prescribing minimum flight requirements, such regulations may provide for the payment of flight pay at the rates prescribed in section 204(b) of the Career Compensation Act of 1949 (63 Stat. 802) to certain members of the Armed Forces otherwise entitled to receive flight pay during the fiscal years 1956 and 1957 (1) who have held aeronautical ratings or designations for not less than twenty years, or (2) whose particular assignment outside the United States makes it impractical to participate in regular aerial flights.

AUGUST 2, 1957, PUBLIC LAW 85–117

PROFICIENCY FLYING—FLIGHT PAY FOR CERTAIN OFFICERS

SEC. 616. Notwithstanding any other provision of law, executive order, or regulation, no part of the appropriations in this Act shall be available for any expenses of operating aircraft under the jurisdiction of the Armed Forces for the purpose of proficiency flying except in accordance with the regulations issued by the Secretaries of the Departments concerned and approved by the Secretary of Defense which shall establish proficiency standards and maximum and minimum flying hours for this purpose: *Provided*, That without regard to any provision of law or executive order prescribing minimum flight requirements, such regulations may provide for the payment of flight pay at the rates prescribed in section 204(b) of the Career Compensation Act of 1949 (63 Stat. 802) to certain members of the Armed Forces otherwise entitled to receive flight pay during the fiscal year 1958 (1) who have held aeronautical ratings or designations for not less than twenty years, or (2) whoes particular assignment outside the United States makes it impractical to participate in regular aerial flights.

ACT OF 29 MAY 1958 (P.L. 85–422)

(Copy Not Available)

Armed Forces Salary Increase of 20 May 1958. PL 85–422: Amends the incentive pay table for flight pay in section 204(b) of the Career Compensation Act of 1949 by including the new officer grades of O–9 and O–10, and the enlisted grades of E–9 and E–8.

PUBLIC LAW 85–724, AUGUST 22, 1958

PROFICIENCY FLYING

SEC. 615. Notwithstanding any other provision of law, executive order, or regulation, no part of the appropriations in this Act shall be available for any expenses of operating aircraft under the jurisdiction of the Armed Forces for the purpose of proficiency flying except in accordance with the regulations issued by the Secretaries of the Departments concerned and approved by the Secretary of Defense which shall establish proficiency standards and maximum and minimum flying hours for this purpose: *Provided*, That without regard to any provision of law or executive order prescribing minimum flight requirements, such regulations may provide for the payment of flight pay at the rates perscribed in section 204(b) of the Career Compensation Act of 1949 (63 Stat. 802) to certain members of the Armed Forces otherwise entitled to receive flight pay during the fiscal year 1959 (1) who have held aeronautical ratings or designations for not less than twenty years, or (2) whose particular assignment outside the United States makes it impractical to participate in regular aerial flights.

PUBLIC LAW 86–166, AUGUST 18, 1959

FLIGHT PAY FOR CERTAIN OFFICERS

* * * the Secretary of Defense which shall establish proficiency standards and maximum and minimum flying hours for this purpose: *Provided*, That without regard to any provision of law or Executive order prescribing minimum flight requirements, such regulations may provide for the payment of flight pay at the rates prescribed in section 204(b) of the Career Compensation Act of 1949 (63 Stat. 802) as amended, to certain members of the Armed Forces otherwise entitled to receive flight pay during the fiscal year 1960 (1) who have held aeronautical ratings or designations for not less than twenty years, or (2) whose particular assignment outside the United States or in Alaska makes it impractical to participate in regular aerial flights.

PUBLIC LAW 86–601, JULY 7, 1960

PROFICIENCY FLYING

SEC. 514. Notwithstanding any other provision of law, Executive order, or regulation, no part of the appropriations in this Act shall be available for any expenses of operating aircraft under the jurisdiction of the Armed Forces for the purpose of proficiency flying except in accordance with the regulations issued by the Secretaries of the Departments concerned and approved by the Secretary of Defense which shall establish proficiency standards and maximum and minimum flying hours for this purpose: *Provided*, That without regard to any provision of law or Executive order prescribing minimum flight requirements, such regulations may provide for the payment of flight pay at the rates prescribed in section 204(b) of the Career Compensation Act of 1949 (63 Stat. 802) as amended, to certain members of the Armed Forces otherwise entitled to receive flight pay during the current fiscal year (1) who have held aeronautical ratings or designations for not less than twenty years, or (2) whose particular assignment outside the United States or in Alaska makes it impractical to participate in regular aerial flights.

PUBLIC LAW 87–144, AUGUST 17, 1961

PROFICIENCY FLYING

SEC. 614. Notwithstanding any other provision of law, Executive order, or regulation, no part of the appropriations in this Act shall be available for any expenses of operating aircraft under the jurisdiction of the Armed Forces for the purpose of proficiency flying except in accordance with the regulations issued by the Secretaries of the Departments concerned and approved by the Secretary of Defense which shall establish proficiency standards and maximum and minimum flying hours for this purpose: *Provided*, That without regard to any provision of law or Executive order prescribing minimum flight requirements, such regulations may provide for the payment of flight pay at the rates prescribed in section 204(b) of the Career Compensation Act of 1949 (63 Stat. 802) as amended, to certain members of the Armed Forces otherwise entitled to receive flight pay during the current fiscal year (1) who have held aeronautical ratings or designations for not less than fifteen years, or (2) whose particular assignment outside the United States or in Alaska makes it impractical to participate in regular aerial flights.

PUBLIC LAW 87–577, AUGUST 9, 1962

. . . any expenses of operating aircraft under the jurisdiction of the Armed Forces for the purpose of proficiency flying except in accordance with the regulations issued by the Secretaries of the Departments concerned and approved by the Secretary of Defense which shall establish proficiency standards and maximum and minimum flying hours for this purpose: *Provided*, That without regard to any provision of law or Executive order prescribing minimum flight requirements, such regulations may provide for the payment of flight pay at the rates prescribed in section 204(b) of the Career Compensation Act of 1919 (63 Stat. 802) as amended, to certain members of the Armed Forces otherwise entitled to receive flight pay during the current fiscal year (1) who have held aeronautical ratings or designations for not less than fifteen years, or (2) whose particular assignment outside the United States or in Alaska makes it impractical to participate in regular aerial flights.

ACT OF 7 SEPTEMBER 1962 (P.L. 87–649)

(Copy Not Available)

An Act to revise, codify, and enact title 37 of the U.S. Code, entitled "Pay and Allowances of the Uniformed Services".

Henceforth amendments will be with respect to title 37, USC rather than the Career Compensation Act of 1949.

Section 301(f): Members of the reserves or National Guard performing a hazardous duty as defined under this Act are entitled to a pay increase equal to 1/30 of the monthly incentive pay authorized for similar duty performed by active duty personnel of corresponding grade.

PUBLIC LAW 88–149, OCTOBER 17, 196?

PROFICIENCY FLYING

SEC. 514. Notwithstanding any other provision of law, Executive order, or regulation, no part of the appropriations in this Act shall be available for any expenses of operating aircraft under the jurisdiction of the Armed Forces for the purpose of proficiency flying except in accordance with the regulations issued by the Secretaries of the Departments concerned and approved by the Secretary of Defense which shall establish proficiency standards and maximum and minimum flying hours for this purpose: *Provided*, That without regard to any provision of law or Executive order prescribing minimum flight requirements, such regulations may provide for the payment of flight pay at the rates prescribed in section 301 of title 37, United States Code, to certain members of the Armed Forces otherwise entitled to receive flight pay during the current fiscal year (1) who have held aeronautical ratings or designations for not less than fifteen years, or (2) whose particular assignment outside the United States or in Alaska makes it impractical to participate in regular aerial flights.

PUBLIC LAW 88–446, AUGUST 19, 1964

PROFICIENCY FLYING

SEC. 514. Notwithstanding any other provision of law, Executive order, or regulation, no part of the appropriations in this Act shall be available for any expenses of operating aircraft under the jurisdiction of the Armed Forces for the purpose of proficiency flying except in accordance with the regulations issued by the Secretaries of the Departments concerned and approved by the Secretary of Defense which shall establish proficiency standards and maximum and minimum flying hours for this purpose: *Provided*, That without regard to any provision of law or Executive order prescribing minimum flight requirements, such regulations may provide for the payment of flight pay at the rates prescribed in section 301 of title 37, United States Code, to certain members of the Armed Forces otherwise entitled to receive flight pay during the current fiscal year (1) who have held aeronautical ratings or designations for not less than fifteen years, or (2) whose particular assignment outside the United States or in Alaska makes it impractical to participate in regular aerial flights.

PUBLIC LAW 89–213, SEPTEMBER 29, 1965

PROFICIENCY FLYING

SEC. 614. Notwithstanding any other provision of law, Executive order, or regulation, no part of the appropriations in this Act shall be available for any expenses of operating aircraft under the jurisdiction of the Armed Forces for the purpose of proficiency flying except in accordance with the regulations issued by the Secretaries of the Departments concerned and approved by the Secretary of Defense which shall establish proficiency standards and maximum and minimum flying hours for this purpose: *Provided*, That without regard to any provision of law or Executive order prescribing minimum flight requirements, such regulations may provide for the payment of flight pay at the rates prescribed in section 301 of title 37, United States Code, to certain members of the Armed Forces otherwise entitled to receive

flight pay during the current fiscal year (1) who have held aeronautical ratings or designations for not less than fifteen years, or (2) whose particular assignment outside the United States or in Alaska makes it impractical to participate in regular aerial flights.

PUBLIC LAW 89-687, OCTOBER 15, 1966

* * * available for any expenses of operating aircraft under the jurisdiction of the Armed Forces for the purpose of proficiency flying except in accordance with the regulations issued by the Secretaries of the Departments concerned and approved by the Secretary of Defense which shall establish proficiency standards and maximum and minimum flying hours for this purpose: *Provided*, That without regard to any provision of law or Executive order prescribing minimum flight requirements such regulations may provide for the payment of flight pay at the rates prescribed in section 301 of title 37, United States Code, to certain members of the Armed Forces otherwise entitled to receive flight pay during the current fiscal year (1) who have held aeronautical ratings or designations for not less than fifteen years, or (2) whose particular assignment outside the United States or in Alaska makes it impractical to participate in regular aerial flights.

PUBLIC LAW 90-96, SEPTEMBER 29, 1967

* * * of the Armed Forces for the purpose of proficiency flying except in accordance with the regulations issued by the Secretaries of the Departments concerned and approved by the Secretary of Defense which shall establish proficiency standards and maximum and minimum flying hours for this purpose: *Provided*, That without regard to any provision of law or Executive order prescribing minimum flight requirements, such regulations may provide for the payment of flight pay at the rates prescribed in section 301 of title 37, United States Code, to certain members of the Armed Forces otherwise entitled to receive flight pay during the current fiscal year (1) who have held aeronautical ratings or designations for not less than fifteen years, or (2) whose particular assignment outside the United States or in Alaska makes it impractical to participate in regular aerial flights.

PUBLIC LAW 90-580, OCTOBER 17, 1968

PROFICIENCY FLYING

SEC. 514. Notwithstanding any other provision of law, Executive order, or regulation, no part of the appropriations in this Act shall be available for any expenses of operating aircraft under the jurisdiction of the Armed Forces for the purpose of proficiency flying except in accordance with the regulations issued by the Secretaries of the Departments concerned and approved by the Secretary of Defense which shall establish proficiency standards and maximum and minimum flying hours for this purpose: *Provided*, That without regard to any provision of law or Executive order prescribing minimum flight requirements, such regulations may provide for the payment of flight pay at the rates prescribed in section 301 of title 37, United States Code, to certain members of the Armed Forces otherwise entitled to receive flight pay during the current fiscal year (1) who have held aeronautical ratings or designations for not less than fifteen years, or (2) whose particular assignment outside the United States or in Alaska makes it impractical to participate in regular aerial flights.

PUBLIC LAW 91-171, DECEMBER 29, 1969

APPORTIONMENT OF FUNDS, EXEMPTION

SEC. 613. (a) During the current fiscal year, the President may exempt appropriations, funds, and contract authorizations, available for military functions under the Department of Defense, from the provisions of subsection (c) of section 3679 of the Revised Statutes, as amended, whenever he deems such action to be necessary in the interests of national defense.

AIRBORNE ALERT EXPENSES

(b) Upon determination by the President that such action is necessary, the Secretary of Defense is authorized to provide for the cost of an airborne alert as an excepted expense in accordance with the provisions of Revised Statutes 3732 (41 U.S.C. 11).

INCREASED MILITARY PERSONNEL, EXPENSES

(c) Upon determination by the President that it is necessary to increase the number of military personnel on active duty beyond the number for which funds are provided in this Act, the Secretary of Defense is authorized to provide for the cost of such increased military personnel, as an excepted expense in accordance with the provisions of Revised Statutes 3732 (41 U.S.C. 11).

REPORT TO CONGRESS

(d) The Secretary of Defense shall immediately advise Congress of the exercise of any authority granted in this section, and shall report monthly on the estimated obligations incurred pursuant to subsections (b) and (c).

PUBLIC LAW 91-171, DECEMBER 29, 1969

* * * any provision of law or Executive order prescribing minimum flight requirements, such regulations may provide for the payment of flight pay at the rates prescribed in section 301 of title 37, United States Code, to certain members of the Armed Forces otherwise entitled to receive flight pay during the current fiscal year (1) who have held aeronautical ratings or designations for not less than fifteen years, or (2) whose particular assignment outside the United States or in Alaska makes it impractical to participate in regular aerial flights.

PUBLIC LAW 91-668, JANUARY 11, 1971

PROFICIENCY FLYING

SEC. 815. Notwithstanding any other provision of law, Executive order, or regulation, no part of the appropriations in this Act shall be available for any expenses of operating aircraft under the jurisdiction of the Armed Forces for the purpose of proficiency flying except in accordance with the regulations issued by the Secretaries of the Departments concerned and approved by the Secretary of Defense which shall establish proficiency standards and maximum and minimum flying hours for this purpose: *Provided*, That without regard to any provision of law or Executive order prescribing minimum flight requirements, such regulations may provide for the payment of flight pay at the rates prescribed in section 301 of title 37, United States Code, to certain members of the Armed Forces otherwise entitled to receive flight pay during the current fiscal year (1) who have held aeronautical ratings or designations for not less than fifteen years, or (2) whose particular assignment outside the United States or in Alaska makes it impractical to participate in regular aerial flights, or who have been assigned to a course of instruction of 90 days or more.

DECEMBER 18, 1971, PUBLIC LAW 92-204

PROFICIENCY FLYING

SEC. 715. No part of the appropriations in this Act shall be available for any expense of operating aircraft under the jurisdiction of the armed forces for the purpose of proficiency flying, as defined in Department of Defense Directive 1340.4, except in accordance with regulations prescribed by the Secretary of Defense. Such regulations (1) may not require such flying except that required to maintain proficiency in anticipation of a member's assignment to combat operations and (2) such flying may not be permitted in cases of members who have been assigned to a course of instruction of 90 days or more. When any rated member is assigned to duties, the performance of which does not require the maintenance of basic flying skills, all such members, while so assigned, are entitled to flight pay prescribed under section 301 of title 37, United States Code, if otherwise entitled to flight pay at the time of such assignment.

PUBLIC LAW 92-570, OCTOBER 26, 1972

PROFICIENCY FLYING

SEC. 715. No part of the appropriations in this Act shall be available for any expense of operating aircraft under the jurisdiction of the armed forces for the purpose of proficiency flying, as defined in Department of Defense Directive 1340.4, except in accordance with regulations prescribed by the Secretary of Defense. Such regulations (1) may not require such flying except that required to maintain proficiency in anticipation of a member's assignment to combat operations and (2) such flying may not be permitted in cases of members who have been assigned to a course of instruction of ninety days or more. When any rated member is assigned to duties, the performance of which does not require the maintenance of basic flying skills, all such members, while so assigned, except, after May 31, 1973, those of the rank of colonel or equivalent or above (0-6) in noncombat assignments, are entitled to flight pay prescribed under section 301 of title 37, United States Code, if otherwise entitled to flight pay at the time of such assignment.

PUBLIC LAW 92-482, 92D CONGRESS, H.R. 14909, OCTOBER 12, 1972

An act to amend section 552(a) of title 37, United States Code, to provide continuance of incentive pay to members of the uniformed services for the period required for hospitalization and rehabilitation after termination of missing status

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 552(a) of title 37, United States Code, is amended to read as follows:

"(a) A member of a uniformed service who is on active duty or performing inactive-duty training, and who is in a missing status, is—

"(1) for the period he is in that status, entitled to receive or have credited to his account the same pay and allowances, as defined in this chapter, to which he was entitled at the beginning of that period or may thereafter become entitled; and

"(2) for the period not to exceed one year, required for his hospitalization and rehabilitation after termination of that status, under regulations prescribed by the Secretaries concerned, with respect to incentive pay, considered to have satisfied the requirements of section 301 of this title so as to entitle him to a continuance of that pay.

However, a member who is performing full-time training duty or other full-time duty without pay, or inactive-duty training with or without pay, is entitled to the pay and allowances to which he would have been entitled if he had been on active duty with pay."

Approved October 12, 1972.

FEDERAL LANDS RIGHT-OF-WAY ACT OF 1973—ALASKA PIPELINE

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. ROBERT C. BYRD. Mr. President, what is the pending business before the Senate?

The PRESIDING OFFICER. The clerk will state the pending business before the Senate.

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.

The PRESIDING OFFICER. The pending question is on agreeing to amendment No. 226.

Mr. ROBERT C. BYRD. I thank the Presiding Officer.

ORDER FOR RECOGNITION OF SENATOR PROXMIRE ON MONDAY, JULY 16, 1973

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Monday, after the two leaders or their designees have been recognized under the standing order, the distinguished Senior Senator from Wisconsin (Mr. PROXMIRE) be recognized for not to exceed 15 minutes.

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

ORDER FOR ADJOURNMENT TO MONDAY, JULY 16, 1973, AT 9:45 A.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in adjournment until the hour of 9:45 a.m. on Monday next.

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

ORDER FOR RECOGNITION OF SENATOR MATHIAS ON TUESDAY, JULY 17, 1973

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Tuesday, after the two leaders and their designees have been recognized under the standing order, the distinguished Senator from Maryland (Mr. MATHIAS) be recognized for not to exceed 15 minutes.

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

ORDER FOR ADJOURNMENT FROM MONDAY UNTIL TUESDAY, JULY 17, 1973 AT 8:45 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 8:45 a.m. on Tuesday next.

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS. Mr. President, reserving the right to object, I wish to ask the acting majority leader a question. I understand there are 2 hours planned for debate on the Alaska pipeline bill on Tuesday morning, with the vote to occur at 11 a.m.

Mr. ROBERT C. BYRD. On Tuesday, I have just gotten consent for the distinguished Senator from Maryland (Mr. MATHIAS) to speak for 15 minutes. That is why I had to change the order for convening from 9 a.m. to 8:45 a.m. on Tuesday.

I wonder if we might get a decision on the request and then I will be glad to respond to the Senator.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, as I recall, on Tuesday, beginning at the hour of 9 a.m. the Senate will resume consideration of the Alaska pipeline bill. At not later than 10 a.m. a vote will occur on the amendment by the Senator from Colorado (Mr. HASKELL).

At 11 a.m. precisely the vote will occur on the amendment by Mr. GRAVEL and Mr. STEVENS.

I assume Mr. HASKELL probably will want to debate his amendment to some extent on Monday afternoon; but under the order he would be entitled, if he wanted to do so, to discuss it on Tuesday morning, prior to the vote on the amendment, which will occur not later than 10 a.m. on Tuesday.

Mr. STEVENS. I would like to inquire if the distinguished Senator from West Virginia would consider moving the time for the Alaska pipeline amendment offered by my colleague and myself to a later point in the morning?

The vote would take 15 minutes I assume, being the first vote of the day, on the Haskell amendment. We could assume the debate on the pipeline amendment would start no earlier than 10:15, and currently the vote is scheduled to take place at 11. We think we should have at least a half-hour on the side after the vote on the Haskell amendment to set forth clearly the various considerations regarding the Alaska pipeline amendment.

Would the distinguished Senator from West Virginia consider changing the unanimous-consent request to have a vote on the amendment offered by my colleague and myself to take place at 11:15? I may also mention that I have discussed previously the problem of one Senator who will be returning on a plane that lands at 10 minutes of 11, and this would make certain he would be present to vote.

Mr. ROBERT C. BYRD. I do not think that could be done today, because the 11 o'clock vote has been specified by the order. It has been stated in the RECORD. It has been stated in the majority whip's notice. But I am sure that on Monday it would certainly be worthwhile for the Senator to engage in conversations with other Senators, and I will be glad to do whatever I can to get a new order, if possible, to delay that vote 15 minutes.

Mr. STEVENS. There are not enough Senators here high now to make that determination, but I wanted the Senator from West Virginia to know of our attempt to have the vote 15 minutes later.

Mr. ROBERT C. BYRD. Yes. It may be that the vote on the Haskell amendment could be held earlier than 10 o'clock, but under the order it is to be held no later than 10 o'clock a.m. on Monday.

ORDER FOR RESUMPTION OF UNFINISHED BUSINESS ON TUESDAY NEXT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Tuesday next, immediately following the completion of the order for the recognition of Mr. MATHIAS, the Senate resume consideration of the unfinished business.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. STEVENS. Mr. President, I send to the desk an amendment to be printed.

The PRESIDING OFFICER. The amendment will be received and printed and will lie on the table.

Mr. STEVENS. Mr. President, I ask unanimous consent that there be printed at this point in the RECORD a statement provided to my office by the Congressional Research Service of the Library of Congress concerning the limitations of judicial review.

This memorandum pertains to the bill I introduced, S. 970, which is now in substance incorporated in the modification of amendment No. 226 which is before the Senate. It deals with the question of the constitutionality of the limitation of judicial review on the trans-Alaskan pipeline project.

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

LIMITATION OF JUDICIAL REVIEW UNDER S. 970

(By the Library of Congress, Congressional Research Service)

This responds to your request for information on the constitutionality of limiting further judicial review of the trans-Alaska Pipeline project, and on precedents for providing that administrative action be final and not subject to judicial review. S. 970, 93rd Congress, 1st session (1973), authorizes and directs the Secretary of Interior to issue permits for the construction of the pipeline across federal land, finds and declares that the environmental impact statement prepared pursuant to the National Environmental Policy Act "meets the requirements of such Act," and declares that findings, determinations, and decisions of federal officials "with respect to the legal authority to permit the construction of the trans-Alaska pipeline, shall be final and not subject to review in any court of the United States."

Article III, sec. 1 provides that "(t)he judicial power of the United States, shall be vested in one Supreme Court, and in such inferior courts as the Congress may from time to time ordain and establish." It has generally been assumed by Congress and by the Supreme Court that the power to create inferior federal courts implies the power to limit the jurisdiction of those courts. While there is much uncertainty over the limits of congressional power to restrict the jurisdiction of lower federal courts, case law suggests

that the Due Process Clause of the Fifth Amendment is one such limitation.

Enclosed are page proofs from 1973 edition of "The Constitution of the United States of America Analysis and Interpretation," Congressional Research Service, Library of Congress, Johnny H. Killian, editor, pp. 750–762. These pages contain analysis of the power of Congress to control the federal courts. As indicated therein at p. 761, the Portal-to-Portal Act of 1947, 29 U.S.C. 251–262, withdrew jurisdiction of federal courts to enforce claims for back pay arising under Supreme Court interpretations of the Fair Labor Standards Act. In the "Congressional findings and declaration of policy" (sec. 251) Congress stated that "the Fair Labor Standards Act of 1938, as amended, has been interpreted judicially in disregard of long-established customs, practices, and contracts . . . thereby creating wholly unexpected liabilities . . ." Sec. 252(d) provided:

"No court of the United States, of any State, Territory, or possession of the United States, or of the District of Columbia, shall have jurisdiction of any action or proceeding, whether instituted prior to or on or after May 14, 1947, to enforce liability or impose punishment for or on account of the failure of the employer to pay minimum wages or overtime compensation under the Fair Labor Standards Act of 1938, as amended, under the Walsh-Healey Act, or under the Bacon-Davis Act, to the extent that such action or proceeding seeks to enforce any liability or impose any punishment with respect to any activity which was not compensable under subsections (a) and (b) of this section."

The Portal-to-Portal Act was upheld as constitutional in numerous lower court decisions, including *Battaglia* v. *General Motors Corp.* 169 F. 2d 254 (2d Cir.), cert. den. 335 U.S. 887 (1948), a copy of which is enclosed. While upholding the constitutionality of the Act, the Second Circuit did caution that "the exercise by Congress of its control over jurisdiction is subject to compliance with at least the requirements of the Fifth Amendment."

Congressional power over public lands derives from Art. IV, sec. 3, cl. 2:

"The Congress shall have Power to dispose of and make all Rules and Regulations respecting the Territory or other Property belonging to the United States . . ."

While the Supreme Court has characterized this power as "without limitation," adding that "neither the courts nor the executive agencies could proceed contrary to an Act of Congress in this congressional area of national power," *United States* v. *California*, 332 U.S. 19, 27 (1947), the restriction imposed by the Due Process Clause has been held applicable to exercise of the power. *Cases* v. *United States*, 131 F. 2d 916 (1st Cir.), cert. den. 319 U.S. 770.

Of particular relevance to an attempt to amend the law to provide that the trans-Alaska pipeline project proceed without further delay occasioned by judicial review is the history of the Three Sisters Bridge project which was to be built across the Potomac River. Following several delays in the project occasioned by court reviews, Congress provided in Sec. 23 of the Federal-Aid Highway Act of 1968, P.L. 90–495, 82 Stat. 827, that the project should continue "(n)otwithstanding any other provision of law, or any court decision . . . to the contrary . . ." Notwithstanding that language, the United States Court of Appeals for the District of Columbia further enjoined work on the project pending compliance with pre-construction planning and hearing requirements of the law. *D.C. Federation of Civil Association* v. *Volpe*, 434 F. 2d 436 (D.C. Cir. 1970). The injunction was continued following a finding by the Court of Appeals that the Secretary has failed to comply with the requirements. 459 F. 2d 1231 (1971). The Supreme Court denied certiorari, 405 U.S. 1030 (1971). Chief Justice Burger, although concurring in the denial, suggested that Congress might "take any further legislative action it deems necessary to make unmistakably clear its intentions with respect to the project, even to the point of limiting or prohibiting judicial review of its directions in this respect." A copy of the Chief Justice's concurrence is enclosed.

Several factors relied on by the Court of Appeals in its 1970 decision construing sec. 23 of the Federal-Aid Highway Act of 1968 cast some doubt on the intent of Congress to preclude further judicial review of the Three Sisters Bridge Project. One such factor was the language of sec. 23 itself, which directed that "construction shall be undertaken as soon as possible . . . and shall be carried out in accordance with all applicable provisions of title 23 of the United States." The other factor was that the legislative history indicated that a primary objective of Congress was to reverse the decision of the District of Columbia government not to proceed with the project.

Below are listed other laws we have located expressly limiting judicial review of administrative action. We have cited court decisions interpreting these sections, and have enclosed copies of the headnotes therefrom.

Canal Zone Code, tit. 2, sec. 411, 64 Stat. 1038. Tolls set by Panama Canal Co., to take effect upon approval of President of the U.S., "whose action in such matter shall be final and conclusive." *Panama Canal Co.* v. *Grace Line, Inc.*, 35 U.S. 309 (1958).

Railway Labor Act, 45 U.S.C. 153(m), 48 Stat. 1191–1192. Awards of National Railroad Adjustment Board in employee grievances "shall be final and binding upon both parties to the dispute, except insofar as they shall contain a money award." *Union Pacific Railroad Co.* v. *Price*, 360 U.S. 601 (1959); *Elgin, Joliet & Eastern Ry. Co.* v. *Burley*, 325 U.S. 711 (1945).

Act of June 25, 1910, ch. 431, sec. 1, 36 Stat. 855, 25 U.S.C. 372. Ascertainment by Secretary of the Interior of legal heirs of intestate Indian "shall be final and conclusive." *Hayes* v. *Seaton*, 270 F. 2d 319 (D.C. Cir. 1959); *Heffelman* v. *Udall*, 378 F. 2d 109 (10th Cir. 1967); *Hallowell* v. *Commons*, 239 U.S. 506 (1916).

Adjusted Compensation Act, ch. 157, 43 Stat. 121, as amended by Act of July 3, 1926, ch. 751, sec. 310, 44 Stat. 826. Decision of Director of Veterans Bureau on claims for payment of adjusted compensation, and other decisions within his jurisdiction made "final and conclusive." *United States* v. *Williams*, 278 U.S. 255 (1929).

Sugar Act of 1948, 7 U.S.C. 1136. The facts constituting the basis for any payment, or the amount thereof authorized to be made under this subchapter, officially determined in conformity with rules or regulations prescribed by the Secretary, shall be reviewable only by the Secretary, and his determinations with respect thereto shall be final and conclusive. (Aug. 8, 1947, ch. 519, title III, sec. 306, 61 Stat. 932). *Mario Mercado E. Hijos* v. *Benson*, 231 F. 2d 251 (D.C. Cir. 1956).

Act of March 3, 1885, ch. 335, 23 Stat. 350. Provided that determination of payment by Treasury Department for loss of property by officers or enlisted men "shall be held as finally determined, and shall never thereafter be reopened or reconsidered." *United States* v. *Babcock*, 250 U.S. 328 (1919).

Servicemen's Readjustment Act of 1944, ch. 268, sec. 301, 58 Stat. 286. Findings of boards of review concerning discharge or dismissals from service were "to be final subject only to review by the Secretary of War or the Secretary of the Navy, respectively." *Gentila* v. *Pace*, 193 F. 2d 924 (D.C. Cir. 1951).

Rev. Stat. sec. 2930. Appraisals by customs official made "final." *Auffmordt* v. *Hedden*, 137 U.S. 310 (1890).

GEORGE COSTELLO,
Legislative Attorney.

Mr. STEVENS. Mr. President, I should like to direct to the attention of the Senator from West Virginia a question which pertains to the period of time between the vote on the Alaska pipeline amendment and on the bill, S. 1081. Pending the outcome of the vote on the amendment my colleague and I have offered, I have a subsequent amendment which deals with the procedural aspects of the possibility of a question as to the constitutionality of our amendment in the event it is adopted by the Senate and finally passed by the Congress and becomes law.

I would like to make certain there at least 10 or 15 minutes are definitely reserved for that amendment in the event our amendment does pass. And again, I do seek a unanimous consent agreement at this time. However, I think the distinguished Senator from West Virginia ought to know this. And I would like to have the record clear, for those who want to know what the business will be on Tuesday, that if our amendment does pass, I have a subsequent amendment which I consider very critical to the whole bill. This would take place, as I understand, between the time of the vote on the amendment, between 11 and 11:15 a.m. and noontime on the final vote of the bill.

Mr. ROBERT C. BYRD. The Senator is correct.

I think that the Senator is acting judiciously in indicating for the information of the Senate that he does have such an amendment in the event the Gravel-Stevens amendment is adopted.

During the time following the announcement by the Chair of the vote on the Gravel-Stevens amendment and the hour of 12 o'clock noon, any Senator may offer an amendment if he gets recognition from the Chair. And the Senator from Alaska could do that.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the program for Monday and Tuesday is as follows:

The Senate will convene at the hour of 9:45 a.m. on Monday. After the two leaders or their designees have been recognized under the standing order, the distinguished senior Senator from Wisconsin (Mr. PROXMIRE) will be recognized for not to exceed 15 minutes. At the conclusion of Mr. PROXMIRE's statement, there will be a period for the transaction of routine morning business of not to exceed 30 minutes, with statements limited therein to 3 minutes.

At the conclusion of routine morning business, the Senate will return to the consideration of S. 1081, the so-called Alaskan pipeline bill. At that time the question will be on the adoption of the amendment by the junior Senator from Alaska (Mr. GRAVEL). Debate will ensue thereon. By unanimous consent, of course, that amendment could be laid aside and other amendments could be called up or other business could be called up.

At 1:30 p.m. on Monday, the distinguished Senator from New York (Mr. BUCKLEY) will call up his amendment, and there will be 1 hour of debate thereon. A vote will occur on the Buckley

amendment at the hour of 2:30 p.m. The yeas and nays have already been ordered.

Following the disposition of the Buckley amendment on Monday, debate will resume on the amendment by Mr. GRAVEL. The debate on that amendment could consume the rest of the afternoon.

I would assume that the distinguished Senator from Colorado (Mr. HASKELL) would want to explain his amendment that afternoon, in view of the fact that he will have but little time to do so on the following morning, Tuesday.

The Gravel amendment could be laid aside temporarily on Monday afternoon for the purpose of Mr. HASKELL being recognized to call up his amendment; or he can discuss his amendment, if he gets recognition, without calling it up on Monday afternoon. But I should like to alert Senators to the fact that there may be some discussion of the Haskell amendment on Monday afternoon.

Conceivably, on Monday afternoon the war powers measure could be called up for some debate, with no action taking place thereon, but only in the event that the debate on the Alaskan pipeline bill and voting on amendments thereto should reach the point where there was no further action indicated. The leadership would merely like to alert Senators to the possibility of debate on the war powers bill being started on Monday afternoon, but again with the caveat that there would be no action on the war powers bill other than debate.

On Tuesday, the Senate will convene at 8:45 a.m. The distinguished Senator from Maryland (Mr. MATHIAS) will be recognized for not to exceed 15 minutes. If other Senators wish to speak on Monday, their orders will be placed ahead of order of Mr. MATHIAS, and the Senate will come in earlier than 8:45.

After the Senator from Maryland has completed his remarks, the Senate will resume the consideration of S. 1081, the Alaskan pipeline bill. I would assume that debate would continue on the Haskell amendment. In any event, a vote will occur on the amendment by Mr. HASKELL to the Alaskan pipeline bill not later than 10 o'clock a.m. on Tuesday.

The unanimous-consent agreement provides that debate on the amendment by Mr. GRAVEL and Mr. STEVENS would then resume after the disposition of the Haskell amendment, if the Haskell amendment has not been disposed of prior to Tuesday.

A vote will occur at 11 o'clock a.m. on the Gravel amendment. That is as the agreement now stands. The distinguished senior Senator from Alaska (Mr. STEVENS) has now indicated that it might be hoped that that vote could be delayed 15 minutes on Tuesday; but the present order for a vote to occur at 11 a.m. on Tuesday will have to remain until Monday for modification, if there is to be any change in the agreement in that regard.

Following the disposition of the Gravel amendment on Tuesday, debate will resume on the Alaskan pipeline bill. Other amendments will be in order at that time. However, a vote on final passage of the bill will occur no later than 12 o'clock noon. That will be a roll call vote.

On the disposition of the Alaskan pipeline bill on Tuesday, the Senate will take up the minimum wage bill, S. 1861.

Mr. President, in summation there will be yea-and-nay votes on Monday. At least one such vote has already been ordered for 2:30 p.m. The war powers bill may be called up at some point during the afternoon, for debate only. And on Tuesday there will be several yea-and-nay votes. At least three such votes are presently indicated for Tuesday, beginning no later than 10 a.m.

ADJOURNMENT UNTIL 9:45 A.M. ON MONDAY

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 the hour of 9:45 a.m. on Monday.

The motion was agreed to; and at 1:52 p.m. the Senate adjourned until Monday, July 16, 1973, at 9:45 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate July 14, 1973:

DEPARTMENT OF STATE

Ernest V. Siracusa, of California, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Uruguay.

DEPARTMENT OF DEFENSE

John L. McLucas, of Virginia, to be Secretary of the Air Force.

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 above nominations were approved subject to the nominees' commitments to respond to requests to appear and testify before any duly constituted committee of the Senate.)

IN THE AIR FORCE

The following officer to be placed on the retired list in the grade indicated under the provisions of section 8962, title 10, of the United States Code:

To be lieutenant general

Lt. Gen. Eugene B. LeBailly, [redacted] FR (major general, Regular Air Force) U.S. Air Force.

IN THE ARMY

The following-named officer to be placed on the retired list in grade indicated under the provisions of title 10, United States Code, section 3962:

To be lieutenant general

Lt. Gen. Charles A. Corcoran, [redacted] Army of the United States (major general, U.S. Army).

The following-named officer under the provisions of title 10, United States Code, section 3066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 3066, in grade as follows:

To be lieutenant general

Maj. Gen. James Francis Hollingsworth, [redacted] U.S. Army.

The following-named officer to be placed on the retired list in grade indicated under the provisions of title 10, United States Code, section 3962:

To be general

Gen. Alexander Meigs Haig, Jr., [redacted] Army of the United States (colonel, U.S. Army).

The following-named officer to be placed on the retired list in grade indicated under the provisions of title 10, United States Code, section 3962:

To be lieutenant general

Lt. Gen. Claire E. Hutchin, Jr., [redacted] Army of the United States (major general, U.S. Army).

The following-named officers for temporary appointment in the Army of the United States to the grade indicated under the provisions of title 10, United States Code, sections 3442 and 3447:

To be major general

Brig. Gen. John A. Wickham, Jr., [redacted] Army of the United States (lieutenant colonel, U.S. Army).

Brig. Gen. William B. Caldwell III, [redacted] Army of the United States (colonel, U.S. Army).

Brig. Gen. George S. Patton, [redacted], Army of the United States (colonel, U.S. Army).

Brig. Gen. Rolland V. Heiser, [redacted], Army of the United States (colonel, U.S. Army).

Brig. Gen. Samuel V. Wilson [redacted], Army of the United States (Colonel, U.S. Army).

Brig. Gen. Alton G. Post, [redacted], Army of the United States (colonel, U.S. Army).

Brig. Gen. Elmer R. Ochs, [redacted], Army of the United States (colonel, U.S. Army).

Brig. Gen. Hal E. Hallgren, [redacted], Army of the United States (colonel, U.S. Army).

Brig. Gen. Stan L. McClellan, [redacted], Army of the United States (colonel, U.S. Army).

Brig. Gen. John G. Waggener, [redacted], Army of the United States (colonel, U.S. Army).

Brig. Gen. Charles D. Daniel, Jr., [redacted] Army of the United States (colonel, U.S. Army).

Brig. Gen. Robert G. Gard, Jr., [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Brig. Gen. Edward C. Meyer, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Brig. Gen. Gordon Sumner, Jr., [redacted] Army of the United States (colonel, U.S. Army).

Brig. Gen. Richard L. West, [redacted], Army of the United States (colonel, U.S. Army).

Brig. Gen. Orville L. Tobiason, [redacted] Army of the United States (colonel, U.S. Army).

Brig. Gen. Eugene J. D'Ambrosio, [redacted] Army of the United States (colonel, U.S. Army).

Brig. Gen. John R. McGiffert II, [redacted] Army of the United States (colonel, U.S. Army).

Brig. Gen. John E. Hoover, [redacted], Army of the United States (colonel, U.S. Army).

Brig. Gen. Robert J. Baer [redacted], Army of the United States (colonel, U.S. Army).

Brig. Gen. John R. D. Cleland, Jr., [redacted] Army of the United States (colonel, U.S. Army).

Brig. Gen. Robert J. Proudfoot, [redacted] Army of the United States (colonel, U.S. Army).

Brig. Gen. L. Gordon Hill, Jr., [redacted] Army of the United States (colonel, U.S. Army).

Brig. Gen. Pat W. Crizer, [redacted], Army of the United States (colonel, U.S. Army).

Brig. Gen. Oliver D. Street III, [redacted],

Army of the United States (colonel, U.S. Army).

Brig. Gen. Marion C. Ross, xxx-xx-xxxx, Army of the United States (lieutenant colonel, U.S. Army).

Brig. Gen. Albert B. Crawford, Jr., xxx-xx-x... xxx-... Army of the United States (lieutenant colonel, U.S. Army).

Brig. John W. McEnery, xxx-xx-xxxx, Army of the United States (colonel, U.S. Army).

Brig. Gen. Thomas U. Greer, xxx-xx-xxxx, Army of the United States (lieutenant colonel, U.S. Army).

Brig. Gen. Eivind H. Johansen, xxx-xx-x... xxx-... Army of the United States (lieutenant colonel, 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

Maj. Gen. Ernest Graves, Jr., xxx-xx-xxxx, Army of the United States (colonel, U.S. Army).

Maj. Gen. Thomas M. Tarpley, xxx-xx-xxxx, Army of the United States (colonel, U.S. Army).

Brig. Gen. Samuel V. Wilson, xxx-xx-xxxx, Army of the United States (colonel, U.S. Army).

Maj. Gen. Ira A. Hunt, Jr. xxx-xx-xxxx, Army of the United States (colonel, U.S. Army).

Brig. Gen. Richard L. West, xxx-xx-xxxx, Army of the United States (colonel, U.S. Army).

Maj. Gen. Sylvan E. Salter xxx-xx-xxxx, Army of the United States (colonel, U.S. Army).

Maj. Gen. William R. Wolfe, Jr., xxx-xx-x... xxx-x... Army of the United State, (colonel, U.S. Army).

Maj. Gen. Joseph C. McDonough, xxx-xx-x... xxx-x... Army of the United States (colonel, U.S. Army).

Maj. Gen. Wilbur H. Vinson, Jr., xxx-xx-x... xxx-x... Army of the United tSates (colonel, U.S. Army).

Brig. Gen. Gordon Sumner, Jr., xxx-xx-xx... xxx-x... Army of the United States (colonel, U.S. Army).

Maj. Gen. Herbert E. Wolff, xxx-xx-xxxx, Army of the United States (colonel, U.S. Army).

Maj. Gen. Herbert A. Schulke, xxx-xx-xxxx, Army of the United States (colonel, U.S. Army).

Brig. Gen. Oliver D. Street III, xxx-xx-xxxx, Army of the United States (colonel, U.S. Army).

Maj. Gen. Charles R. Myer, xxx-xx-xxxx, Army of the United States (colonel, U.S. Army).

Maj. Gen. Robert M. Shoemaker, xxx-xx-x... xxx-... Army of the United States (colonel, U.S. Army).

Brig. Gen. Hal E. Hallgren xxx-xx-xxxx, Army of the United States (colonel, U.S. Army).

Maj. Gen. Charles J. Simmons, xxx-xx-xxxx, Army of the United States (colonel, U.S. Army).

Maj. Gen. Sam S. Walker xxx-xx-xxxx, Army of the United States (colonel, U.S. Army).

Maj. Gen. Daniel O. Graham, xxx-xx-xxxx, Army of the United States (colonel, U.S. Army).

Maj. Gen. John R. Thurman III, xxx-xx-... xxx-x... Army of the United States (colonel, U.S. Army).

Brig. Gen. Charles D. Daniel, Jr., xxx-xx-x... xxx-x... Army of the United States (colonel, U.S. Army).

Maj. Gen. Charles M. Hall xxx-xx-xxxx, Army of the United States (colonel, U.S. Army).

Brig. Gen. Elmer R. Ochs xxx-xx-xxxx, Army of the United States (colonel, U.S. Army).

Brig. Gen. Pat W. Crizer xxx-xx-xxxx, Army of the United States (colonel, U.S. Army).

Brig. Gen. George S. Patton, xxx-xx-xxxx, Army of the United States (colonel, U.S. Army).

Maj. Gen. Bert A. David, xxx-xx-xxxx, Army of the United States (colonel, U.S. Army).

Maj. Gen. William J. Maddox, Jr., xxx-xx-x... xxx-... Army of the United States (colonel, U.S. Army).

Maj. Gen. Henry R. Del Mar, xxx-xx-xxxx, Army of the United States (colonel, U.S. Army).

Brig Gen. Robert J. Proudfoot, xxx-xx-xxxx xxx-x... Army of the United States (colonel, U.S. Army).

Brig. Gen. John R. D. Cleland, Jr., xxx-xx-x... xxx-... Army of the United States (colonel, U.S. Army).

Brig. Gen. Orville L. Tobiason, xxx-xx-xxxx, Army of the United States (colonel, U.S. Army).

The following-named officer under the provisions of title 10, United States Code, section 3066, to be assigned to a position of importance and responsibility by the President under subsection (a) of section 3066, in grade as follows:

To be general

Lt. Gen. Richard Giles Stilwell, xxx-xx-xx... xxx-... Army of the United States (major general, U.S. Army).

IN THE NAVY

Adm. William F. Bringle, U.S. Navy, for appointment to the grade of admiral, when retired, pursuant to the provisions of title 10, United States Code, section 5233.

IN THE AIR FORCE AND NAVY

Air Force nominations beginning Byron A. Abbott, to be first lieutenant, and ending Timothy R. Saunders, to be first lieutenant, which nominations were received by the Senate and appeared in the Congressional Record on April 10, 1973;

Air Force nominations beginning Terry P. Kloss, to be captain, and ending Merry K. Colgrove, to be first lieutenant, which nominations were received by the Senate and appeared in the Congressional Record on June 12, 1973;

Air Force nominations beginning Jack Ables, to be lieutenant colonel, and ending Frank W. Young, to be lieutenant colonel, which nominations were received by the Senate and appeared in the Congressional Record on June 22, 1973; and

Navy nominations beginning Eugene William Albrecht, to be commander, and ending Walter E. Beam, to be captain, which nominations were received by the Senate and appeared in the Congressional Record on June 20, 1973.

EXTENSIONS OF REMARKS

FOUNDATION SUPPLIES LIST OF EXTRAS FOR BOTH PROFESSOR AND STUDENT

HON. J. J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 12, 1973

Mr. PICKLE. Mr. Speaker, 17 years ago a new idea in university education came to be at the University of Texas at Austin.

Called the Arts and Sciences Foundation, it was an idea to fill the breach in supplying the individual needs for the largest bulk of our university professors and students—those engaged in the broad field of the arts and sciences.

The idea has such a broad scope that people generally are not mindful of the need. But since World War II our universities have seen such a phenomenal growth that the individual and his efforts are in danger of being swallowed up, especially if he is not a member of a specialized or professional school such as engineering, law, or pharmacy.

If in the area of the arts and sciences a student or professor needs special funding for a need or project, that money is often not available under the present system.

Seventeen years ago at the University of Texas, the Arts and Sciences Foundation was created to fill this gap. The foundation secures its funds from voluntary contributions—and the needs it fulfills run a surprising gamut, from the sublime to the most mundane.

It has funded, for instance, major archeological expeditions, provided funds to move a distinguished faculty member and his family or his scientific equipment to the university, supplied scholarships to needy and deserving scholars, and provided travel money so that recognized experts could travel to national or international symposiums in their field.

I have been pleased to be a member of this worthy effort and to do what I can to help fill a vital, often overlooked need in our educational system.

A recent article in the Alcalde, the University of Texas alumni magazine, explains more about the Arts and Sciences Foundation, how it works, and what it has already accomplished.

I include the article in the RECORD at this time:

REACHING BEYOND THE GRASP

The past is all that man knows for certain. His curiosity about it is never ending. It was curiosity about the civilization of Ancient Greece that sent a University of Texas excavation team halfway across the world to begin digging into the ruins of Corinth several years ago.

This kind of research, although seldom visualized as a part of the day-to-day role of a university, can be as important and as significant academically as a dramatic discovery in the test-tube filled chemistry laboratory. It adds indisputable enrichment for the participants and a substantial degree of status for The University of Texas. Projects like this and others as important but less exotic are made possible by funds supplied by interested alumni of the Colleges comprising the field of Arts and Sciences. The unusual diversity of the programs which the A&S Foundation has partially or fully supported in recent years makes an interesting listing.

At the first of the list, perhaps, is the Corinth dig. By the end of 1971, the members of the dig had completed uncovering a