the Committee on Merchant Marine and Fisheries.

By Mr. PRICE of Texas:

H.R. 9301. A bill to amend the Internal Revenue Code of 1954 to provide tax relief for homeowners; to the Committee on Ways and Means.

By Mr. RODINO:

H.R. 9302. A bill to amend titles 18 and 28 of the United States Code to establish certain qualifications for the Office of Attorney General, and for other purposes; to the Committee on the Judiciary.

By Mr. ROONEY of New York:

H.R. 9303. A bill to name the U.S. Customs Court and Federal Office Building at 1 Federal Plaza, New York, N.Y., the "Paul P. Rao U.S. Customs Court and Federal Office Building"; to the Committee on Public Works.

By Mr. STEELE:

H.R. 9304. A bill making an additional appropriation for the fiscal year ending June 30, 1974, for the Department of Health, Education, and Welfare for research on the cause and treatment of diabetes; to the Committee on Appropriations.

By Mr. UDALL (for himself, Ms. BURKE of California, Mr. DELLENBACK, Mr. HOSMER, Mr. OWENS, Mr. RUNNELS, and Mr. WON PAT):

H.R. 9305. A bill to provide for a national fuels and energy conservation policy, to establish an Office of Energy Conservation in the Department of the Interior, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. CORMAN:

H.J. Res. 663. Joint resolution, a national education policy; to the Committee on Education and Labor.

By Mr. HARRINGTON:

H.J. Res. 664. Joint resolution, a national education policy; to the Committee on Education and Labor.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

276. By the SPEAKER: A memorial of the Legislature of the State of California, relative to the public employees program; to the Committee on Education and Labor.

277. Also, memorial of the Legislature of the State of California, relative to prosecution of interstate motor vehicle thefts; to the Committee on the Judiciary.

278. Also, memorial of the Legislature of the State of California, relative to escheat of intangible abandoned property; to the Committee on the Judiciary.

279. Also, memorial of the Legislature of the State of California, relative to Federal earthquake detection and prevention programs; to the Committee on Merchant Marine and Fisheries.

280. Also, memorial of the Legislature of the State of California, relative to earthquake hazard; to the Committee on Science and Astronautics.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BRASCO:

H.R. 9306. A bill for the relief of Claudette Angelia Dwyer; to the Committee on the Judiciary.

By Mr. FAUNTROY:

H.R. 9307. A bill for the relief of Wilmoth N. Myers; to the Committee on the Judiciary.

By Mr. GIBBONS:

H.R. 9308. A bill for the relief of M. Sgt. George C. Lee, U.S. Air Force; to the Committee on the Judiciary.

By Mr. MARTIN of North Carolina:

H.R. 9309. A bill for the relief of Faiz Ur Rahman Faizi; to the Committee on the Judiciary.

By Mr. NELSEN:

H.R. 9310. A bill to authorize the Carnegie Endowment for International Peace to use certain real estate in the District of Columbia as the endowment's Washington offices; to the Committee on the District of Columbia.

By Mr. VEYSEY:

H.R. 9311. A bill for the relief of Maj. William J. Pelham, U.S. Air Force; to the Committee on the Judiciary.

H.R. 9312. A bill for the relief of A. C. Brown; to the Committee on the Judiciary.

SENATE—*Monday, July 16, 1973*

The Senate met at 9:45 a.m. and was called to order by Hon. ROBERT C. BYRD, a Senator from the State of West Virginia.

PRAYER

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

Almighty God, who has given us this good land for our heritage, endowed it with rich resources of nature, and peopled it with diverse cultures, races, and religions to form "one nation under God"; so help us now to conserve and to use wisely both the natural human resources so lavishly bestowed by the Creator. Be with the leaders of this Senate as they plan for the days to come that their leadership may expedite the tasks ahead so that all Members may concert their best efforts for the well-being of the whole Nation.

We pause to ask Thy special blessing upon the President. Surround him with healing ministries and grant him peace of mind and the assurance of the people's prayers.

We pray in His name who is Lord and healer and guide. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The second assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., July 16, 1973.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. ROBERT C. BYRD, a Senator from the State of West Virginia, to perform the duties of the Chair during my absence.

JAMES O. EASTLAND,
President pro tempore.

Mr. ROBERT C. BYRD 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 Saturday, July 14, 1973, be dispensed with.

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

COMMITTEE MEETINGS AUTHORIZED DURING THE SESSION OF THE SENATE TODAY

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

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

THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the provisions of rule VIII be waived with respect to the consideration of unobjected to measures on the calendar.

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

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate turn to the consideration of Calendar Order Nos. 295, 296, and 297.

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

SUSPENSION OF DUTIES ON CERTAIN FORMS OF COPPER

The bill (H.R. 2323) to continue until the close of June 30, 1974, the suspension of duties on certain forms of copper was considered, ordered to a third reading, read the third time, and passed.

SUSPENSION OF DUTIES FOR METAL SCRAP

The bill (H.R. 2324) to continue until the close of June 30, 1975, the existing suspension of duties for metal scrap was considered, ordered to a third reading, read the third time, and passed.

SUSPENSION OF DUTY ON CAPROLACTAM MONOMER

The bill (H.R. 6394) to suspend the duty on caprolactam monomer in water solution until the close of December 31, 1973, was considered, ordered to a third reading, read the third time, and passed.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Does the minority leader wish to be recognized?

Mr. SCOTT of Pennsylvania. Only to admit that I do not know what caprolactam monomer is.

I yield back the remainder of my time.

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

Mr. PROXMIRE. Mr. President, I yield myself 10 of the 15 minutes, and I ask that the Acting President pro tempore inform me when my 10 minutes is up so that I may yield to the Senator from Vermont (Mr. STAFFORD).

(The remarks Senator PROXMIRE made at this point when he submitted amendment No. 342 to the Federal Elections Campaign Act of 1973 and the statement by Senator STAFFORD relating to it are printed in the Routine Morning Business section of the RECORD under amendments submitted to this bill.)

ORDER OF BUSINESS

Mr. PROXMIRE. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER (Mr. ABOUREZK). One minute remains to the Senator from Wisconsin.

ONE HUNDRED AND SIXTEEN WEAPONS WILL COST $53 BILLION OR MORE OVER NEXT 6 YEARS; WASTEFUL PROCUREMENT CONTINUES

Mr. PROXMIRE. Mr. President, I am today releasing a list of 116 weapons together with figures showing weapons costs will exceed $53 billion annually for at least the next 6 years. On the basis of these figures there is no doubt that the present Pentagon procurement program inflates defense costs and defeats efforts to control Federal spending.

An analysis of 116 major weapon systems in various stages of procurement shows that weapons costs alone will exceed $53 billion annually for at least the next 6 years.

This means there is no way for defense spending to be brought under control unless decisions are made soon to cancel or phase-out unnecessary and low-priority weapons.

GAO ASSISTED

The list of weapons and their costs was obtained with the assistance of the General Accounting Office and is considered to be the most comprehensive record compiled so far. Yet there are glaring omissions in the available information suggesting that weapons costs will actually be much higher than $53 billion per year.

Here is how the annual weapons costs are derived:

The Pentagon estimates it will cost $153.3 billion to complete 116 current weapon programs.

Congress appropriated $64.4 billion for the same 116 weapons through June 30, 1972, leaving $89.9 billion yet to be appropriated for the purchase of those weapons.

Assuming it will take an average of 6 years to complete work on the 116 weapons, the amounts yet to be appropriated for their acquisition will total $14.9 billion per year.

OPERATION AND MAINTENANCE COSTS MORE

The costs of acquisition are just part of the weapons picture. In addition to acquiring the items they have to be operated and maintained, personnel have to be trained to use and repair them, facilities have to be constructed to service them.

The costs of fielding and supporting weapon systems is estimated at from 5 to 10 times the costs of acquisition.

A weapon that cost $1 billion to procure will generally cost an additional $5 to $10 billion to field and support during the life of the weapon.

Using the conservative lower factor of 5, the costs of fielding and supporting the 116 weapons will total an estimated $766.5 billion; five times $153.3 billion equals $766.5 billion.

Assuming an average 20-year life cycle for each of the weapons, annual field and support costs will amount to $38.4 billion—$766.5 billion÷20=$38.4 billion.

The annual field and support costs added to the annual procurement costs add up to $53.3 billion for each of the next 6 years.

It should be emphasized that this is a conservative estimate. Not only is it based on the lower factor of 5, in the calculation of field and support costs, it does not take into account the probable impact of cost overruns, inflation, engineering and design changes and other factors which contribute to cost growth in weapon systems.

OLD AND NEW SYSTEMS NOT INCLUDED

The estimate does not include the field and support costs of weapons already procured and in the current inventory, nor does it include the costs of new systems to be announced in the future.

The estimate does not include the costs of major modification of the C–130 into the C–130 gunship or the modifications made on the B–52 bomber to carry the SRAM missile.

SOME COSTS EXCLUDED

The estimate does not include the costs of several major weapons on the list of the 116 whose costs are considered classified.

The Trident submarine program is named on the list of 116 weapons, but its costs are excluded on national security grounds. The costs of the Harpoon missile and the AN/BQQ5 sonar are also considered classified information. The costs of these three systems seem to be included in the cumulative totals of the 116 weapons, but there is no way of telling how much each of the three will cost individually.

In addition, the Safeguard ABM costs were excluded from the totals because of the uncertainty of the costs due to the SALT agreement being considered for ratification by the Senate at the time the list was compiled. The ABM costs are excluded from the cumulative totals.

Finally, the list of 116 weapons is an incomplete record. The Pentagon has intentionally omitted from the list all systems under development whose development costs will not exceed $50 million, and it omits all systems in production whose production costs will not exceed $200 million.

These omissions are the result of a change in cost reporting policy instituted in 1972. As a consequence of the new policy a number of weapons listed by the Pentagon as major systems in 1971 were dropped from the current list.

It is my belief that the list of 116 weapons is incomplete for an additional reason: The Pentagon has been unable or unwilling to identify all the major systems being procured.

For some time I have been asking the General Accounting Office to obtain from the Pentagon the costs of all major weapon systems. The GAO has done an excellent job of locating weapons under procurement and reporting their costs, despite the fact that a central inventory of major weapons and their costs does not seem to exist in the Defense Department.

The list of major weapons changes from year to year, partly because systems are dropped from the list when their procurement is completed or when they are cancelled before completion. But some weapons have been added because their existence was discovered by GAO for the first time although they have been under procurement for a year or more.

LETTER TO COMPTROLLER GENERAL AND SECRETARY OF DEFENSE

I have written to Elmer Staats, the Comptroller General of the United States, requesting that he continue GAO's efforts to compile a complete list of major weapon systems and their costs.

I have also written to James R. Schlesinger, Secretary of Defense, bringing these matters to his attention, suggesting ways to improve the Pentagon's system of reporting weapons costs to Congress, and urging that a complete inventory of weapons, their status and their costs be developed, updated regularly, and made available to Congress and the GAO.

I have also recommended to the Defense Secretary that the definition of major weapon systems be expanded so that the costs of all systems whose development or production will exceed $1 million are reported to Congress.

I am also recommending that life cycle cost estimates of major weapons be provided to Congress when the initial authorization for a new weapon is made. The life cycle cost should include all procurement costs of the program, and all field and support costs for the expected life of the program, usually estimated at 20 years.

AUTHORIZED IN THE PARK

Too often Congress is asked to authorize a new weapon on the basis of a partial understanding of the full costs of the program. We ought to know at the outset not only what the development and production costs will be, but how much it will cost to operate, maintain, train personnel, and construct facilities for each program during its expected life.

We have heard a lot about the increased costs of military manpower in recent years, and it is true that these costs have increased at an alarming rate, primarily because of pay raises and the costs of an all-volunteer force.

The largely unavoidable rise in manpower costs is all the more reason to pay close attention to weapons costs.

While the weapons cost estimates I have made are imprecise due to the absence of definitive information, it is clear that huge amounts of resources are being tied up for years to come.

There is no way to reduce the defense budget or avoid busting all efforts to control Federal spending unless tough decisions are made in the near future to trim the fat from the list of weapons.

I ask unanimous consent that the list of 116 weapons and the letters from me to the Comptroller General and the Secretary of Defense be printed in the RECORD.

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

SUMMARY OF MAJOR ACQUISITIONS OF THE DEPARTMENT OF DEFENSE—AS OF JUNE 30, 1972

Service	Number of weapon systems	Estimated cost through completion	Funds programed through June 30, 1972
Army	[1] (34)	$23, 296, 300, 000	$10, 710, 700, 000
Navy	[2] (60)	78, 065, 200, 000	28, 110, 500, 000
Air Force	(22)	51, 961, 800, 000	25, 625, 900, 000
Total	[3] (116)	153, 323, 300, 000	64, 447, 100, 000

[1] Although the Safeguard system is included in the total systems for the Army, no cost estimates or programed funds are included in the totals because of the recent SALT agreement which will affect substantially the future estimates.

[2] For Navy systems, the 60 systems reflect programs which do not have over 90 percent of the funds obligated.

[3] DSCS phase II program not included in the total systems although Army and Air Force portions of the cost estimated and programed funds are included in the total dollars. This system is managed by DCA.

SUMMARY OF DOD MAJOR ACQUISITION AS OF JUNE 30, 1972

DEPARTMENT OF ARMY

Weapon system	Estimated cost, through completion	Fund programed, through June 30, 1972
Cheyenne [1]	$453, 100, 000	$399, 100, 000
LOH	328, 700, 000	328, 700, 000
AH–16	475, 200, 000	464, 700, 000
UTTAS	2, 344, 500, 000	34, 100, 000
HLH	123, 100, 000	48, 300, 000
UX	123, 100, 000	42, 400, 000
Safeguard [2]		
Sam D	5, 240, 500, 000	386, 700, 000
Improved Hawk	758, 300, 000	415, 600, 000
Chaparral	397, 200, 000	356, 500, 000
Lance	776, 600, 000	597, 000, 000
TOW	651, 600, 000	459, 900, 000
Dragon	484, 700, 000	119, 400, 000
Stinger	476, 400, 000	9, 100, 000
LCSS	160, 600, 000	150, 300, 000
Pershing	1, 305, 900, 000	1, 163, 800, 000
M60A1	1, 940, 800, 000	1, 031, 900, 000
M60AO	402, 800, 000	297, 400, 000
Sheridan (M551)	426, 100, 000	426, 300, 000
SCOUT	244, 900, 000	17, 200, 000
MICV	249, 000, 000	10, 600, 000
M16 A1 Rifle	333, 800, 000	330, 200, 000
XM198 Howitzer	125, 300, 000	13, 400, 000
Bushmaster	235, 800, 000	11, 800, 000
Truck—2½-ton ABT	1, 277, 100, 000	1, 155, 900, 000
Truck, utility, 1¼-ton	160, 700, 000	
M561 Gama Goat	196, 200, 000	196, 200, 000
Truck, utility, ¼-ton	599, 600, 000	532, 800, 000
Truck, 5-ton ABT	1, 031, 100, 000	864, 200, 000
TACFIRE	218, 200, 000	78, 800, 000
AACOMS	1, 170, 900, 000	445, 600, 000
DSCS, phase II [3]	92, 900, 000	56, 600, 000
Autodin	237, 400, 000	210, 900, 000
NAVCON	67, 900, 000	24, 800, 000
TOS	186, 300, 000	30, 500, 000
Total	23, 296, 300, 000	10, 710, 700, 000

[1] Terminated subsequent to June 30, 1972.

[2] No cost estimate provided pending ratification of SALT agreement.

[3] This represents only Army portion of this tri-service program.

SUMMARY OF DOD MAJOR ACQUISITIONS AS OF JUNE 30, 1972—DEPARTMENT OF NAVY

Weapon system	Estimated cost through completion	Funds programed through June 30, 1972
LHA	$970, 000, 000	$951, 700, 000
DLGN–38	820, 400, 000	802, 300, 000
DD 963	2, 750, 300, 000	1, 447, 700, 000
CVAN 68/69	1, 316, 200, 000	1, 203, 300, 000
SSN–688	8, 096, 100, 000	2, 213, 500, 000
DLG AAW Mod	1, 006, 600, 000	682, 100, 000
DLGN 36	405, 300, 000	391, 100, 000
A O	398, 600, 000	100, 000
AD 37	556, 800, 000	116, 900, 000
AOR	297, 400, 000	210, 800, 000
AS–36	460, 700, 000	225, 800, 000
CVAN–70	951, 000, 000	
SCS	840, 200, 000	4, 700, 000
SES	708, 000, 000	60, 900, 000
PHM	604, 000, 000	10, 700, 000
PF	3, 134, 100, 000	12, 600, 000
DSRV	170, 600, 000	153, 300, 000
LAMPS	1, 080, 800, 000	119, 000, 000
P3C	2, 487, 000, 000	1, 409, 200, 000
AV8A Harrier	525, 500, 000	275, 200, 000
E 2C	878, 000, 000	509, 900, 000
A–7E	2, 776, 000, 000	1, 374, 500, 000
S–3A	3, 151, 800, 000	1, 085, 600, 000
F 14 A/B	5, 271, 600, 000	2, 757, 800, 000
E A6 B	1, 575, 600, 000	956, 700, 000
Condor	524, 800, 000	187, 500, 000
Sparrow E	339, 500, 000	313, 600, 000
Sparrow F	978, 900, 000	94, 700, 000
Phoenix	1, 113, 700, 000	444, 900, 000
A–4M	365, 500, 000	152, 800, 000
A–6E	1, 292, 000, 000	338, 200, 000
CH 53 E	652, 400, 000	4, 700, 000
VHIN	231, 700, 000	78, 200, 000
T 2 C	227, 800, 000	140, 100, 000
HARM	223, 000, 000	2, 100, 000
Agile	316, 400, 000	38, 300, 000
V C X	272, 500, 000	
V/STOL SCS Proto	72, 000, 000	
Advanced Prototype for V/STOL	115, 800, 000	1, 400, 000
VAST	435, 400, 000	257, 200, 000
Harpoon		62, 000, 000
Standard Missile (FR)	493, 500, 000	347, 600, 000
Standard Missile (MR)	381, 000, 000	142, 600, 000
Walleye	261, 200, 000	192, 500, 000
Snakeye	1, 483, 600, 000	1, 112, 900, 000
Rockeye II	551, 800, 000	257, 000, 000
Zuni	382, 400, 000	251, 600, 000
FEAR 2.75 Rocket	334, 300, 000	239, 200, 000
DIFAR	504, 400, 000	139, 500, 000
Poseidon	4, 751, 000, 000	3, 832, 500, 000
Trident (ULMS)		165, 000, 000
Mark 48	1, 957, 900, 000	583, 500, 000
Captor	325, 000, 000	40, 000, 000
AN/BQQ5		169, 600, 000
ANSQQ 23	171, 800, 000	171, 800, 000
Aegis	484, 100, 000	246, 600, 000
High Energy Laser	1, 155, 700, 000	25, 200, 000
Project Ceasar	1, 315, 200, 000	918, 700, 000
Sanguine	246, 400, 000	53, 400, 000
SSEP	343, 600, 000	131, 200, 000
Total	[1] 78, 065, 200, 000	28, 110, 500, 000

[1] Total includes costs of Harpoon, Trident, and AN/BQQ5 which are not listed individually for national security reasons.

DEPARTMENT OF AIR FORCE

Weapon system	Estimated cost, through completion	Funds programed, through June 30, 1972
AX	$84, 500, 000	$76, 900, 000
F–15	7, 802, 000, 000	1, 022, 300, 000
B–1	11, 112, 600, 000	689, 300, 000
C–5A	4, 650, 200, 000	4, 318, 800, 000
F–111 A/D/E/F	6, 994, 600, 000	6, 819, 300, 000
F–5E	297, 400, 000	169, 000, 000
T–43A	130, 800, 000	81, 700, 000
A–7	1, 324, 800, 000	1, 322, 500, 000
AWACS	2, 661, 300, 000	318, 200, 000
VCX	19, 000, 000	
I–41D	900, 000	800, 000
VH–1H	245, 800, 000	185, 100, 000
CX–X	18, 000, 000	
AABNCP	402, 200, 000	2, 800, 000
MMII CIII	11, 016, 900, 000	8, 398, 600, 000
Maverick	385, 300, 000	220, 200, 000
SRAM	1, 325, 900, 000	842, 800, 000
SCAD	928, 700, 000	19, 700, 000
Sparrow AIM 7F [1]	298, 000, 000	8, 000, 000
Sidewinder AIM 9–L [2]	112, 500, 000	7, 000, 000
AGM–45A	218, 000, 000	151, 400, 000
OTL–B	131, 300, 000	10, 500, 000
DSCS II [3]	154, 000, 000	141, 300, 000
Defense support	1, 647, 100, 000	819, 700, 000
Total	51, 961, 800, 000	25, 625, 900, 000

[1] This represents AF portion of the Sparrow F program which is Navy managed.

[2] This represents AF portion of this Sidewinder program which is Navy managed.

[3] This represents only AF portion of this tri-service program.

CONGRESS OF THE UNITED STATES,
JOINT ECONOMIC COMMITTEE,
Washington, D.C., July 13, 1973.

HON. JAMES R. SCHLESINGER,
Secretary of Defense,
Washington, D.C.

DEAR MR. SECRETARY: On Monday, July 16, I plan to deliver a speech in the Senate concerning the costs of military procurement.

With the aid of the General Accounting Office, I have calculated the annual costs of 116 major weapons systems at $53.3 billion annually. These figures are based on the costs of acquisition as well as assumptions concerning the costs of operations and maintenance and other life cycle field and support costs.

The figures and the totals are necessarily rough. As you know, there is a paucity of information about life cycle costs and there are a number of deficiencies in the estimates of acquisition costs. I have spelled out a number of the deficiencies and the omissions in the procurement cost estimates in my speech, a copy of which is enclosed for your information.

I hope you understand that my remarks are in no way intended as criticism of you. The purpose of my speech is to call attention to the huge amount of resources tied up in military procurement, a fact which will make it increasingly difficult to control the defense budget and overall spending.

The purpose of this letter is to suggest ways of improving DOD's reporting system so that Congress may have a better understanding of the costs of weapons programs it has authorized. My suggestions are incorporated in the following requests and queries:

1. Please provide me with a list of all major acquisitions by service, with a breakout showing the name of each major system, the prime contractor, estimated costs through completion, including RDT and E, procurement, military construction, and total cost through completion, and funds programmed through June 30, 1973, including RDT and E, procurement, military construction and the total funds programmed.

2. A similar list compiled by GAO omitted individual cost figures for three programs considered classified. These were Trident, Harpoon, and A N/BQQ5 Sonar. In addition, the list omits cost figures for safeguard ABM. Is it possible to provide the cost figures of these programs on an unclassified basis? If not, can you explain the basis for classifying cost figures for each of the programs for which cost figures are classified? Such an explanation should be in sufficient detail so that I may understand why costs are ever classified in general and why they are classified in these particular cases.

3. I understand that last year the definition of "major" weapons system was changed to mean any system under development whose costs of development are $100 million or more and any system under production whose costs of production are $200 million or more. I would like to formally request that this definition be changed to include all systems under development whose development costs are $1 million or more and all systems under production whose production costs are $1 million or more. I see no reason to maintain such a restrictive definition of major weapons systems. The effect of the current definition is to remove numerous expensive, multimillion dollar projects from the Pentagon's reporting system and to prevent Members of Congress and the public from understanding the full cost of procurement. If the definition is not changed in accordance with my recommendations, I would like to be provided with a separate table of all weapons systems under development whose development costs

will be in excess of $1 million but less than $100 million and all systems in production whose production costs will be in excess of $1 million but under $100 million, together with the same breakout of information as requested in paragraph 1 above.

4. Please provide me with "life cycle" cost estimates of any individual weapons systems that are available. If life cycle estimates are not available, please let me know whether the Department of Defense plans to develop life cycle estimates and whether any steps to develop such estimates have been taken.

5. Beginning next year, I would like to have life cycle cost estimates of all major weapons systems for which funds are requested for the following Fiscal Year. If it is not possible, in your view, to provide Congress with such complete estimates of weapons costs. I would like to have your opinion on the desirability and the feasibility of developing such cost estimates in the near future.

6. Please provide me with a list of all major weapons systems cancelled prior to production during the period Fiscal Year 1973 through Fiscal Year 1973 showing the name of each system, the prime contractor, the amount spent prior to cancellation, and the reason for cancellation of each system.

Once again, I want to stress the fact that I am not attempting to criticize you or place you in a bad light. My recommendations and requests are made in a constructive spirit and in the hope that the system of reporting weapons costs can be significantly improved under your administration. I will welcome your own comments and your cooperation. I would like to have the information requested by September 1, 1973.

Sincerely,

WILLIAM PROXMIRE,
Vice Chairman.

CONGRESS OF THE UNITED STATES,
JOINT ECONOMIC COMMITTEE,
Washington, D.C., July 16, 1973.

Hon. ELMER B. STAATS,
Comptroller General of the United States General Accounting Office, Washington, D.C.

DEAR ELMER: This morning, July 16, I gave a speech in the Senate concerning the total costs of military procurement.

With the aid of your office, I have calculated the annual cost of 116 major weapons systems at $53.3 billion for each of the next six years, including the cost of acquisition and all operations and maintenance and other field and support costs.

As you know, for some time I have been attempting to obtain a list of all weapons in the various stages of procurement and their costs. However, as you have pointed out, there seems to be no central procurement inventory within the Pentagon, and the Pentagon's definition of "major" weapons systems leaves much to be desired.

I am also dissatisfied with other aspects of the Pentagon's reporting system, particularly the lack of "life cycle" cost estimates. Such estimates would include costs of acquisition, operations and maintenance, personnel training, construction of facilities, and all other costs that can be reasonably attributed to each system during the expected life of the system.

I understand that your office has been making a major effort to obtain a comprehensive list of major weapons systems in procurement and to periodically revise the list. I want to encourage you to persist in these attempts until you are satisfied that a complete inventory of major weapons systems, periodically revised and updated, and the costs is available to your office and to Congress.

I would also like GAO to do a study of the feasibility of making "life cycle" cost estimates. I would like to know whether any such estimates have been made by the Department of Defense for individual systems, and if so, the names of the systems and the cost estimates, and whether there is any plan within the Department of Defense to develop this method of cost estimation, and an indication of the relative costs and benefits of making "life cycle" cost estimates.

A copy of the remarks I made in the Senate and of a letter I sent to the Secretary of Defense are enclosed for your information.

Sincerely,

WILLIAM PROXMIRE.

Mr. PROXMIRE. I feel very strongly that this revelation by the General Accounting Office is something that all Senators should be very well aware of when we consider the authorization and appropriation for the weapons program this year.

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

The PRESIDENT OFFICER. The time of the Senator from Wisconsin has expired.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will be a period for the transaction of routine morning business for not to exceed 30 minutes.

ORDER FOR ADJOURNMENT ON TUESDAY AND SUCCEEDING DAYS THIS WEEK

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business on Tuesday, Wednesday, Thursday, and Friday, of this week it stand in adjournment until 10 o'clock a.m. each succeeding day—Wednesday, Thursday, Friday, and Saturday, respectively.

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

Mr. ROBERT C. BYRD. I thank the Chair. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

ORDER FOR ADJOURNMENT UNTIL 8:30 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 8:30 a.m. tomorrow.

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

(Later in the day this order was changed to provide for the Senate to convene at 9 a.m. tomorrow.)

ORDER FOR RECOGNITION OF SENATOR STEVENSON TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at the conclusion of the remarks by Mr. MATHIAS on tomorrow, the distinguished Senator from Illinois (Mr. STEVENSON) be recognized for not to exceed 15 minutes.

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

QUORUM CALL

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

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

AUTHORIZATION FOR UNFINISHED BUSINESS TO BE TEMPORARILY LAID ASIDE DURING THE WEEK

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on any day during this week the distinguished majority leader or his designee may at any time have laid before the Senate any second track items or other business on which the 3-day rule has elapsed, or which has otherwise been cleared for action, and that on any day that the unfinished business is thusly temporarily laid aside for consideration of such other items, the unfinished business remain temporarily laid aside until the close of business that day or until the disposition of the item for which the unfinished business is temporarily laid aside or unless the majority leader or his designee may request the unfinished business again be brought before the Senate, whichever is the earlier.

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

The text of the unanimous-consent agreement is as follows:

Ordered, That, effective Monday, July 16, 1973 and throughout the week ending July 21, 1973, the majority leader or his designee is authorized at any time to have laid before the Senate any second track items of business or other business for which the 3-day rule has elapsed or which otherwise has been cleared for action, thus setting aside the unfinished business temporarily until the disposition of such second track item or until the majority leader or his designee asks to have the unfinished business laid down, or until the close of business on such day, whichever is the earlier.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

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

REPORT CONCERNING THE NEED FOR ENGINEERS ON UNINSPECTED TOWING VESSELS

A letter from the Secretary of Transportation, transmitting, pursuant to law, a report concerning the need for engineers on uninspected towing vessels (with an accompanying report). Referred to the Committee on Commerce.

PROPOSED LEGISLATION FROM SECRETARY OF THE TREASURY

A letter from the Secretary of the Treasury, transmitting a draft of proposed legislation to amend the Tariff Act of 1930 to grant additional arrest authority to officers of the Customs Service (with an accompany-

ing paper). Referred to the Committee on Finance.

PROPOSED LEGISLATION FROM UNITED STATES CIVIL SERVICE COMMISSION

A letter from the Chairman, United States Civil Service Commission, transmitting a draft of proposed legislation to amend certain provisions of title 5, United States Code, relating to pay and hours of work of Federal employees (with an accompanying paper). Referred to the Committee on Post Office and Civil Service.

REPORT ENTITLED "EFFECTS AND METHODS OF CONTROL OF THERMAL DISCHARGES"

A letter from the Acting Administrator, United States Environmental Protection Agency, transmitting, pursuant to law, a report entitled "Effects and Methods of Control of Thermal Discharges" (with an accompanying report). Referred to the Committee on Public Works.

PETITIONS

Petitions were laid before the Senate and referred as indicated:

By the ACTING PRESIDENT pro tempore (Mr. ROBERT C. BYRD):

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

"ASSEMBLY JOINT RESOLUTION No. 29

"Relative to Federal earthquake detection and prevention programs

"Whereas, The recent earthquakes in southern California and the disastrous earthquake in Managua, Nicaragua, in December of 1972, reaffirmed the constant threat of serious damage from earthquakes in California; and

"Whereas, Scientists are constantly reporting progress in providing early-warning systems and in constructing quake-resistant buildings; and

"Whereas, The National Oceanic and Atmospheric Administration (NOAA) has maintained an earthquake information center, and has developed programs on earthquake engineering, earthquake hazard assessment, and earthquake forecasting; and

"Whereas, Proposed federal budget cuts threaten to stop such research or compel the NOAA to give up its programs; and

"Whereas, The continuation of such experiments and research is vital to the health and safety of the residents of California; now, therefore, be it

"Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to provide sufficient moneys in the 1973–74 fiscal year federal budget to fund the earthquake detection and prevention programs of the National Oceanic and Atmospheric Administration or, alternatively, to ensure that such programs continue under other appropriate federal agencies; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Director of the Office of Management and Budget, to the Administrator of the National Oceanic and Atmospheric Administration, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

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

"SENATE JOINT RESOLUTION No. 4

"Relative to earthquake hazard

"Whereas, The President of the United States has sent to the Congress his proposed budget for the 1974 fiscal year and he has announced reductions in current levels of spending; and

"Whereas, The President has also announced his proposed reorganization of agencies with respect to their functions and program emphasis; and

"Whereas, Significant changes in overall federal efforts relating to earthquake hazard reductions are apparent in the proposed budget and reorganization announcements; and

"Whereas, The earthquake hazard to California, the nation's most populated State, is severe; and

"Whereas, The current federal efforts in earthquake engineering, seismology, geology, and disaster relief have reduced, are reducing, and must continue to reduce, the earthquake hazard to acceptable risk levels; and

"Whereas, A modest increase in federal efforts at this time should lead to significant reductions in the earthquake hazard in California as well as in many other states; now, therefore, be it

"Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President of the United States to assure the people of California that, at the very minimum, the current levels of scientific and engineering efforts relating to earthquake hazard reduction will be continued at budgetary levels not less than 10 percent over those originally proposed for fiscal year 1973; and be it further

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

A joint resolution of the Legislature of the State of California. Referred to the Committee on Labor and Public Welfare:

"SENATE JOINT RESOLUTION

"Relative to the Public Employees Program

"Whereas, The Congress of the United States adopted the Emergency Employment Act of 1971 which was signed into law by President Nixon on July 12, 1971; and

"Whereas, The California Legislature adopted the Employment Opportunities Act of 1971 signed by Governor Reagan December 30, 1971, for the purpose of facilitating the implementation of the Federal Emergency Employment Act; and

"Whereas, The Public Employees Program (PEP) has enabled financially distressed local governments to provide vitally needed services including education, environmental protection, police and fire protection services and innovative social services without increasing the burden to property taxpayers; and

"Whereas, PEP has allowed state and local government to provide meaningful job opportunities to the young and old, to Vietnam veterans, to minorities, to the hardcore unemployed, and to the technologically displaced; and

"Whereas, PEP has spurred the economy while at the same time increasing the self-dependency of the disadvantaged and reducing the welfare rolls by approximately 5,000 families; and

"Whereas, The PEP Program has provided more public service job opportunities in California than any other program. PEP employees are characterized as follows:

"1. Total persons employed as of August 1972, by state, city, and county governments totaled 26,635.

"2. Twenty-nine percent of PEP employees are Vietnam veterans.

"3. Eighty-eight percent of PEP employees are between the ages of 18 and 44.

"4. Eighty-six percent of PEP employees were unemployed prior to entering PEP. It is estimated that by June 30, 1973, 15,712 PEP enrollees will be in permanent positions with state and local governments in California.

"5. Fourteen percent of PEP employees were underemployed.

"6. Four thousand eight hundred seventy welfare recipients have been placed in the PEP Program; and

"Whereas, In addition to the PEP Program, California cities and counties have participated in various summer youth opportunity programs which have provided employment opportunities as well as recreation and other support services; and

"Whereas, The proposed 1973–74 federal budget proposes to terminate the PEP Program and drastically reduce the availability of funds for summer youth programs; and

"Whereas, The discontinuation and reduction of PEP funding will increase unemployment, cause the welfare rolls to grow and reduce essential public services; now, therefore, be it

"Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California memorializes the President of the United States and the Congress of the United States to assure the people of California that the Public Employees Program and various summer youth opportunity programs will extend through June 30, 1975; and be it further

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

A resolution adopted by the Marine Corps League, Department of Illinois, praying for the enactment of legislation relating to Fort Sheridan, Ill. Referred to the Committee on Armed Services.

A resolution adopted by the National Council of Catholic Women, Washington, D.C., praying for the enactment of legislation to guarantee full constitutional rights to the unborn child. Referred to the Committee on the Judiciary.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

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

S. 1875. A bill to amend the Vocational Rehabilitation Act, to extend and revise the authorization of grants to States for vocational rehabilitation services, and for other purposes (Rept. No. 93–318).

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

S.J. Res. 118. A joint resolution to express the sense of Congress that a White House Conference on the Handicapped be called by the President of the United States (Rept. No. 93–319).

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. DOMENICI:

S. 2187. A bill to authorize the Secretary of the Interior to establish a commission for the purpose of evaluating and reviewing regulations of the Department of the Interior which govern the relationship between the United States and the Indian people and to authorize and direct the Secretary of the Interior to revise those regulations in ac-

cordance with the policies set forth in this act. Referred to the Committee on Interior and Insular Affairs.

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

S. 2188. A bill to provide for the identification of a restructured rail transportation system in the Midwest and Northeast regions of the Nation in order to meet the present and future needs of commerce, the national defense, and the environment; the service requirements of passengers, mail, shippers, States, communities, and the consuming public; and for other purposes. Referred to the Committee on Commerce.

By Mr. TALMADGE (by request):

S. 2189. A bill to amend Section 602 of the Agricultural Act of 1954. Referred to the Committee on Agriculture and Forestry.

By Mr. ABOUREZK (for himself, Mr. MCGOVERN, Mr. BAYH, Mr. BURDICK, Mr. CHURCH, Mr. CLARK, Mr. COOK, Mr. HART, Mr. HATFIELD, Mr. HATHAWAY, Mr. HOLLINGS, Mr. HUGHES, Mr. HUMPHREY, Mr. INOUYE, Mr. KENNEDY, Mr. MANSFIELD, Mr. MCGEE, Mr. METCALF, Mr. MONDALE, Mr. MOSS, Mr. MUSKIE, Mr. RANDOLPH, and Mr. TUNNEY):

S. 2190. A bill to provide housing for persons in rural areas of the United States on an emergency basis. Referred to the Committee on Banking, Housing and Urban Affairs.

By Mr. MONDALE:

S. 2191. A bill to require public disclosure of all contacts made with the Internal Revenue Service concerning any individual or corporate tax case by any official or employee of the executive or legislative branch of the Federal Government. Referred to the Committee on Finance.

By Mr. ABOUREZK:

S.J. Res. 133. Joint resolution to provide for the establishment of the American Indian Policy Review Commission. Referred to the Committee on Interior and Insular Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DOMENICI:

S. 2187. A bill to authorize the Secretary of the Interior to establish a commission for the purpose of evaluating and reviewing regulations of the Department of the Interior which govern the relationship between the United States and the Indian people and to authorize and direct the Secretary of the Interior to revise those regulations in accordance with the policies set forth in this act. Referred to the Committee on Interior and Insular Affairs.

Mr. DOMENICI. Mr. President, last week I had the pleasure and great honor to speak to members of the Mescalero Apache Tribe in New Mexico on the occasion of their 100th anniversary on their south central New Mexico reservation.

At that time I promised to introduce the bill which I am introducing at this time for appropriate reference. I would like to share with my colleagues some of the thoughts I expressed to my Indian friends illustrating the need for legislation of the kind I am introducing today.

In the early years of the centenary celebrated by the Mescaleros in New Mexico last week, the Federal Government dealt with each Indian tribe on an individual basis, through treaties and agreements with each one. Then, from 1887 to about 1933, the Government changed its policies. It dealt with all tribes in the same way, essentially trying to impose upon them the farming pattern of life of their white neighbors, whether the individual tribe desired it or not.

It was only in 1934, just 39 years ago, that each tribe, band, or pueblo was permitted to adopt its own constitution for self-government—and thus allowed to develop a system which expressed its own beliefs and traditions, as our nation had done almost 200 years ago.

And while all this history was going on, certain things went on with it. Many Federal Government officials, probably more misguided than ill-intentioned, wanted to impose on the tribes the culture of the white citizen. They tried to stamp out all the old ways, which they felt were somehow foreign—and hence, wrong—for Americans.

They developed a system of education, for example, which instead of doing good, as education should do, often did much harm. Clearly, you cannot take children from their families and homes and educate them along new lines—without reference to what they have been taught to believe is good and true and beautiful—without creating a gap between the children and their past, a gap which many found impossible to bridge in their later lives.

Clearly, you cannot impose standards of health entirely from outside a group, no matter how good your intentions, without any reference to or regard for the native patterns of people.

Yet our Federal Government did these things.

It created situations of great stress, because it made all Indian tribes subject to decisionmaking that came from outside the Indian community.

What resulted was resentment, disdain and an unfortunate mutual disregard which often reigned between Indians and the very agency which was charged with their protection.

The most striking fact of all this history—which I hope is now coming to an end—is that Indian tribes remained intact despite the drastic interference they were often called upon to sustain.

To put it simply, Indians can be proud because they have prevailed, though often at great spiritual costs to themselves and to their leaders. In view of this history, what must we do today?

Mr. President, I maintain that we must pledge ourselves to Indian self-determination and self-reliance without termination or fear of termination of help from the Federal Government. I have pledged myself to these ends.

As a Senator from a State with one of the largest Indian populations in the country, I believe that I can be a part of working to pass laws that will benefit Indian people; laws that will preserve their cherished culture and traditions but will enable them to partake in the benefits of modern society, namely education, opportunity for them and their children to be what they want to be, and the opportunity to earn a good income.

In speaking with Indians about initiative that would accomplish these highly desirable objectives, I have noted that the most common, persistent, and consistent complaint they have concerns the rules, regulations, and policies of the Bureau of Indian Affairs. These rules, regulations, and policies, govern the entire relationship of the Federal Government to Indian people and as such they have a profound effect on the life of each Indian person.

The bill I am introducing today involves the modernization of these rules and regulations and policies. Many, if not most, of these regulations are out of step with the times and with other laws that govern the general population off the reservations. This is a massive undertaking and will require a great deal of effort, time, and expense. But it most certainly is a worthwhile project when we consider some of the outdated, senseless regulations that govern every aspect of this relationship.

There are scores of vivid examples of regulations that only harm the Indian people and only interfere with their progress. And there are BIA regulations that are in conflict with other Federal laws that they are governed by. Clearly, if we can revise these laws completely to make them workable and to make them laws that will work for you rather than against you, Indians will be able to move forward and contribute their great potential for the Nation's total benefit.

Other legislation before Congress and the legislation I am introducing today is important not only to Indians but also to the entire country. Indians have a beautiful heritage and culture that enriches the diversity of our America. By helping them to preserve and protect their heritage, their culture, and their lands, we also preserve that richness. This bill to modernize BIA rules, regulations and policies is critical to all these endeavors.

I urge immediate attention to this bill and its swift enactment. I ask unanimous consent that the 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. 2187

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 "Bureau of Indian Affairs' Regulations Review and Revision Act of 1973".

SEC. 2. The Congress hereby finds and declares that—

(1) it is the policy of the United States to recognize and carry out its treaty and trusteeship obligations to Indians;

(2) the historic and unique trust relationship between the United States and the Indians shall not hereafter be abridged without the consent of the Indians;

(3) this historic and unique trust relationship is the basis for the responsibility of the United States to protect lands, resources, and rights of Indians as well as to provide basic community services to Indians residing on reservations and in other areas considered to be within the scope of the trust relationship;

(4) self-determination among the Indian people can and must be encouraged without the threat of eventual termination of the trust relationship;

(5) the United States must strengthen the Indian's sense of autonomy without threatening his sense of community and must assure the Indian that he can assume control of his own life without being separated involuntarily from his tribal group;

(6) the United States is committed to a policy which will result in the establishment of a meaningful Indian self-determination policy which will permit an orderly transition from Federal domination of programs for and services to Indians to effective and meaningful participation of the Indian people in the planning, conduct, and administration of those programs and services for which the United States has a responsibility to provide by reason of the unique legal, social, and economic relationship existing between the United States and Indians and which arise out of the Constitution, treaties, statutes, Executive Orders, agreements, and judicial decisions of the United States.

SEC. 3. (a) The Secretary of the Interior shall take such action as may be necessary to establish a commission which shall be charged with the responsibility of conducting a review, and evaluation of all rules, regulations, and policies of the Department of the Interior which govern or involve the relationship between the United States and Indians with a view to determining to what extent (1) such rules, regulations, and policies are required to be altered, amended, modified, or repealed, (2) additional rules, regulations, and policies need to be promulgated or adopted, and (3) additional legislation is required to be enacted, in order to comply with, and implement, the findings and declarations set forth in section 2 of this Act.

(b) Such commission shall consist of seven members of whom not less than four shall be appointed from private life and shall be Indians. All appointments to the commission shall be made by the Secretary of the Interior. The commission shall select from among its members one such member to serve as chairman. A vacancy in the commission shall not affect its powers. Members of the commission who are officers or employees of the Government shall serve without compensation in addition to that which they receive by reason of their regular employment. Each member of the commission appointed from private life shall receive compensation at the rate of $150 for each day that he is engaged in the performance of his duties as a member of such commission. Each member of the commission shall be reimbursed for necessary travel expenses, including per diem in lieu of subsistence as authorized by law (5 U.S.C. 5703) for persons in the Government service employed intermittently, incurred in the performance of his duties as a member of the commission.

(c) The commission shall, from time to time, hold such hearings as it determines are necessary to enable it to carry its duties under this Act. At least thirty days before any such hearing, the commission shall notify by appropriate means as prescribed by the Secretary all interested parties of the time, place, date, and purpose of such hearing. All interested parties shall be granted an opportunity to testify or submit written statements. A record shall be made of all hearings and shall be available for inspection by interested parties. Such hearings shall be conducted in such manner, at such times, and at such places as the commission shall prescribe.

(d) The Secretary of the Interior shall make available to the commission full-time legal counsel acceptable to the commission; as well as such facilities, equipment, supplies, and personnel as are necessary to enable the commission to carry out its functions under this Act. He shall also make available all information concerning or supporting the rules, regulations and policies of the Department of the Interior, as referred to in subsection (a) of this section, as the commission may determine necessary to enable it to carry out its duties under this act. The Secretary shall assign as liaison to the commission the Assistant Secretary for Indian Affairs, to be assisted by such of his professional staff as the Secretary determines necessary to enable the commission to carry out its function under this Act.

SEC. 4. (a) It shall be the function of the commission to conduct a comprehensive review and evaluation of all rules, regulations, and policies of the Department of the Interior which govern or involve the relationship between the United States and Indians with a view to determining to what extent (1) such rules, regulations, and policies are required to be altered, amended, modified, or repealed, (2) additional rules, regulations, and policies need to be promulgated or adopted, and (3) additional legislation is required to be enacted, in order to comply with, and implement, the findings and declarations of the Congress contained in section 2 of this Act.

(b) The commission shall, from time to time, submit interim reports to the Secretary containing the findings and recommendations of the commission in connection with the carrying out of its function under subsection (a) of this section. On or before the expiration of the twelve-month period following the date of the enactment of this Act, the commission shall submit a final report to the Secretary containing the findings and recommendations of the commission in connection with the carrying out of such function. Within thirty days following the submission of its final report, the commission shall expire.

SEC. 5. (a) The Secretary shall, after considering each such report submitted to him pursuant to section 4, take such lawful action as necessary (1) to alter, amend, modify or repeal, any rule, regulation, or policy of the Department of the Interior, or (2) to lawfully promulgate or adopt additional rules, regulations, or policies, in order to comply with, and implement, the findings and declaration set forth in section 2 of this Act.

(b) On or before the expiration of the fifteen calendar month period following the date of the enactment of this Act, the Secretary shall submit a comprehensive report to the Congress concerning the actions taken by him pursuant to subsection (a) of this section, together with his recommendations for legislation which he determines is necessary in order to enable him to comply with, and implement, the findings and declaration contained in section 2 of this Act. Such report shall also include a copy of each report submitted to the Secretary by the commission pursuant to section 4 of this Act.

SEC. 6. There is authorized to be appropriated such sum as may be necessary to carry out the provision of this Act.

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

S. 2188. A bill to provide for the identification of a restructured rail transportation system in the Midwest and Northeast regions of the Nation in order to meet the present and future needs of commerce, the national defense, and the environment; the service requirements of passengers, mail, shippers, States, communities, and the consuming public; and for other purposes. Referred to the Committee on Commerce.

THE MIDWEST AND NORTHEAST RAIL SYSTEM DEVELOPMENT ACT

Mr. HARTKE. Mr. President, I introduce for appropriate reference a bill to provide for the identification of a restructured rail transportation system in the Midwest and Northeast regions of the Nation in order to meet the present and future needs of commerce, the national defense, and the environment; the service requirements of passengers, mail, shippers, States, communities, and the consuming public; and for other purposes.

I ask unanimous consent that a press conference of July 16, 1973, be printed in the RECORD.

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

REGARDING PROPOSALS TO SOLVE THE RAIL CRISIS

Throughout scores of hearings, interviews, conferences and private meetings with all sorts of government, industry and carrier people, I have continually warned of a national disaster, if the Penn Central and other bankrupt railroads go under. I do not care what they call it: liquidation, partial shutdown, or a cessation of operations in any form.

This is the domino effect. And last Friday, you began to see it starting to take formal, legal shape. I offer you a statement I made immediately upon learning that the *mainline*, Washington to New York had been further jeopardized with the hardly noticed bankruptcy declared Friday by the New Jersey Railroad & Canal Company. I predicted then that some 60 new bankruptcies may flow from the same causes . . . failure of the Penn Central to pay for the use of these rights of way. A new group of trustees very well might determine that the interests of their companies may require them to halt Penn Central use of the lines. That is a "shut-down horse" of a different color than the one we have been contemplating and that your readers have been reading about.

I emphasize that contrary to some reports, this is *not* a step to liquidation of the Penn Central. It may be caused by a calculated policy of the Penn Central management not to pay some of these charges. But the failure of these lines and companies is caused by a failure of income.

I have already traced in some detail the effects of the domino-like progression of disasters for my own state, and those details are available to you this morning on the press table.

And I have laid out details on the national scene, such as I have. Careful analysis so far indicates that a shutdown of the Penn Central alone would affect the entire national rail system, coast to coast, clog highways North, South, East and West, and push waterway and air carriers beyond their capabilities.

Employment nationally and the Gross National Product would drop 3% in less than eight weeks . . . and that is a very conservative estimate; and employment and the gross national product of the region East of the Mississippi would drop more than 5% in two months. Again, that is a conservative estimate.

A liquidation of this magnitude would require wartime emergency powers. Anyone who still thinks seriously that the nation and the economy could stand a blow of this proportion, especially at this time, is *not living in this world!*

ALTERNATIVE PROPOSALS

Now I want to extend every bit of cooperation to every agency of government and private enterprise that is trying to come up with permanent and interim solutions. Our committee has waded through miles of documentary evidence and commentary, stretching back much farther than the problem and time-frame of the moment.

1. I have been very critical of the Department of Transportation, and I warned Sec-

retary Brinegar in extensive conversations of what I would say and do.

Forgetting the inactivity and unfortunate proposals of the DOT in the past, I welcome today the 180-degree turn of the Department. As a matter of fact, the DOT would spend more than I think necessary on interim proposals: $85-million plus $40-million for bureaucratic studies, or *a total of $125-million,* while I would rely solely on existing funds and statutes to raise the $62.5-million that may be necessary to carry the bankrupt railroads until we get a long range solution going.

2. Secondly, I have had very open discussions with my friend Brock Adams in the House. I have studied his proposals carefully. I also have read in the press of reports by some unidentified House staff persons who find my proposals to be what they call "rear-end financing."

I do not want to dwell on the metaphor, but let me just say that I cannot see committing the American taxpayer to huge sums of outlays for railroads, until we know what we are buying. I see proposals for $5-billion in loa guarantees, before we have spent a dime on upgrading track, properties or assurances of service. And that does not include aid promised to waterways and trucks in some proposed legislation.

So I think my proposals are geared to *"what is",* to interim cash relief only as it is required, to long range solutions only as they are possible, with machinery that has a chance to move quickly.

Finally, let me say that I have support for these propositions across a wide spectrum of leadership in House and Senate, regardless of party; and I find increasing support among private parties with vital stakes in the problem.

I think these proposals I discuss with you this morning can move in this session. We already have moved on the $62.5-million in aid, while the DOT has only begun to admit that something of this sort is necessary.

Mr. HARTKE. Mr. President, I ask unanimous consent that the text of the bill and a description of the proposed legislative program to meet the Midwest and Northeast rail crisis be printed in the RECORD at this point.

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

S. 2188

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 "Midwest and Northeast Rail System Development Act".

DECLARATION OF POLICY

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

(1) Rail transportation service in the Midwest and Northeast regions of the United States is threatened with cessation or significant curtailment.

(2) The national interest demands that rail transportation service be maintained and improved within these regions.

(3) To assure the continuation and improvement of rail transportation service in the Midwest and Northeast regions, the present rail transportation system in these regions must be restructured in such a way as to produce a rail system which is adequate to meet the needs of commerce, the national defense, the environment, and the service requirements of passengers, mail, shippers, States, communities, and the consuming public.

(4) The first step in such a restructuring is to identify such a rail system following an intensive examination by specialized experts of the condition and utilization of existing plant, facilities, and rights-of-way and an evaluation of methods of improving their condition and utilization.

(b) PURPOSE.—It is the purpose of this Act to facilitate the restructuring of the present rail system in the Midwest and Northeast regions of the United States in order to meet the present and future needs for rail transportation in those regions by—

(1) creating a special Office in the Commission;

(2) directing the Office to conduct an investigation which surveys existing rail transportation operations and facilities, analyzes rail service needs, and studies methods of effecting economies in the cost of rail system operations;

(3) requiring the Commission to identify a restructured rail system which meets the rail transportation needs of the regions; and

(4) asking the Commission and the Secretary of Transportation to submit recommendations for achieving the restructured system identified by the Office and the Commission.

SEC. 3. As used in this Act—

(1) "Commission" means the Interstate Commerce Commission.

(2) "Council" means the Advisory Council for the Rail Emergency Region established pursuant to section 6 of this Act.

(3) "Director" means the Director of the Office.

(4) "Office" means the Rail Emergency Region Planning Office in the Commission established pursuant to section 4 of this Act.

(5) "Person" means an individual, a corporation, a partnership, a business trust, an association, an organization, or any group of individuals whether incorporated or not.

(6) "Rail emergency region" includes the States of Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, West Virginia, Ohio, Indiana, Illinois, and Michigan, the District of Columbia, and other areas designated by the Commission.

(7) "Secretary" means the Secretary of Transportation.

RAIL EMERGENCY PLANNING OFFICE

SEC. 4. (a) ESTABLISHMENT.—There is hereby established, fifteen days after the date of enactment of this Act, a new Office in the Commission to be known as the "Rail Emergency Planning Office." Such Office shall function continuously pursuant to the provisions of this Act and shall cease to exist on the second anniversary date of its establishment unless extended by law.

(b) ORGANIZATION.—The Office shall be administered by a Director, pursuant to the provisions of section 5 of this Act.

(c) DUTIES.—The Office shall—

(1) conduct the initial investigation of the present rail transportation system in the rail emergency region and prepare and publish a report on such investigation within six months from the date of enactment of this Act;

(2) prepare and submit to the Commission, the Congress, the Secretary, and the public, and cause to be published in the Federal Register its preliminary identification plan for a restructured rail system for the rail emergency region within eight months from the date of enactment of this Act;

(3) prepare and submit to the Commission a proposed final identification plan for a restructured rail system for the rail emergency region within ten months from the date of enactment of this Act;

(4) prepare and submit to the Commission recommendations, including alternatives, as to the most expeditious and feasible means, consistent with the policy of this Act, to bring into existence in the rail emergency region the restructured rail system identified by the Commission after the Commission has accepted, with or without amendment, the proposed final identification plan submitted pursuant to paragraph (3) of this subsection within eleven months from the date of enactment of this Act;

(5) prepare and submit to the Committee on Interstate and Foreign Commerce of the House of Representatives and the Committee on Commerce of the Senate detailed reports in writing on the fifteenth day of each month on the activities of the Office and provide to the members of such Committees and Subcommittees thereof such information as is requested;

(6) provide technical assistance, upon written request, to the Chairman of the Commission; and

(7) perform such other duties as may be necessary to accomplish the purposes of this Act.

DIRECTOR

SEC. 5. (a) APPOINTMENT.—The Director shall be appointed by the Chairman of the Commission with the concurrence of at least five members of the Commission and shall take office as Director upon the issuance of a resolution endorsing such appointment by both the Committee on Interstate and Foreign Commerce of the House of Representatives and the Committee on Commerce of the Senate.

(b) TERM OF OFFICE.—The Director shall administer the Office and shall be responsible for the discharge of the duties of the Office from the day he takes office until such date as the Office ceases to exist unless removed for cause by the Commission.

(c) COMPENSATION.—The Director shall be compensated at a rate to be set by the Chairman of the Commission 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 title 5, United States Code, relating to classification and General Schedule pay rates, but at rates not in excess of the maximum rate of GS–18 of the General Schedule under section 5332 of such title.

(d) POWERS.—The Director is authorized to—

(1) appoint, fix the compensation, and assign the duties of employees of the Office without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and to procure temporary and intermittent services to the same extent as is authorized under section 3109 of title 5, United States Code, but at rates not to exceed $250 a day for qualified experts. Each department, agency, and instrumentality of the executive branch of the Federal government and each independent regulatory agency of the United States is authorized and directed to furnish to the Director, upon written request made by the Director, on a reimbursable basis or otherwise, such assistance as the Director deems necessary to carry out his functions and the duties of the Office under this Act including, but not limited to, transfer of personnel with their consent and without prejudice to their position and rating;

(2) enter into, without regard to section 3709 of the Revised Statutes, as amended (41 U.S.C. 5), such contracts, leases, cooperative agreements, or other transactions as may be necessary, in the conduct of his functions and the duties of the Office under this Act, with any government agency or any person;

(3) personally, or by any duly designated employee of the Commission, hold such hearings, sit and act at such times and places, administer such oaths, and require by subpoena or otherwise the attendance and testimony of such witnesses and the production of such evidence as the Director may deem advisable for the purpose of carrying out the provisions of this Act. Subpoenas may be issued under the signature of the Director, and may be served by any

person designated by him and shall be enforced by the Commission. Witnesses summoned before the Office shall be paid the same fees and mileage that are paid witnesses in the courts of the United States. Such attendance of witnesses and production of evidence may be required from any place in the United States to any designated place of such hearing.

ADVISORY COUNCIL

SEC. 6. (a) ESTABLISHMENT.—There is hereby established an "Advisory Council for the Rail Emergency Region" which shall assist the Office and the Commission in the performance of their duties and obligations under this Act. Such Council shall remain in existence for the same period of time as the Office.

(b) MEMBERS.—The Council shall consist of fifteen individuals who shall be appointed by the Commission on the following basis—

(1) two, to be selected from a list of not less than four qualified individuals recommended by the Association of American Railroads or its successor, who shall be representative of railway management;

(2) two, to be selected from a list of not less than four qualified individuals recommended by the parent body of the American Federation of Labor and Congress of Industrial Organizations or its successor, who shall be representative of railway labor;

(3) two, to be selected from a list of not less than four qualified individuals recommended by the Chairman of the Committee on Interstate and Foreign Commerce of the House of Representatives and the Chairman of the Committee on Commerce of the Senate as having expert knowledge or experience in a scientific or technical discipline relevant to the development of a restructured rail system in the rail emergency region;

(4) four, to be selected from the lists of qualified individuals recommended by shippers, organizations representative of significant shipping interests including small shippers, organizations representative of railroad passengers, consumer organizations, environmental organizations, community organizations, and recognized consumer leaders;

(5) one, to be selected from a list of not less than two qualified individuals who are not employees of the Federal Government recommended by the Secretary of Transportation; and

(6) four, to be selected from lists of qualified individuals recommended by the Governors of the States in the rail emergency region, who shall be representative of the States.

The Commission shall select one of the members of the Council to serve as its President. As used in this subsection, "qualified individual" means an individual who is equipped by education, experience, known talents, and interests to further the policy of this Act effectively, positively, and independently if appointed to be a member of the Council. Each list of qualified individuals shall be accompanied by such biographical and other material on each person recommended and in such form as the Commission shall direct.

(c) COMPENSATION.—A member of the Council shall be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of functions vested in the Council and shall receive $150 per diem when engaged in the actual performance of functions vested in the council: *Provided*, That no such per diem shall be paid to any member who is an employee of the Federal Government or a State or who is appointed as representative of railway management or railway labor.

(d) FUNCTION.—The Council shall assist the Office and the Commission by meeting regularly, not less than one day each month, to confer upon and make specific recommendations concerning the submission—

(1) by the Secretary, of the preliminary core plan;

(2) by the Director, of the Office's preliminary identification plan for a restructured rail system in the rail emergency region;

(3) by the Commission, of the final identification plan for such system;

(4) by the Commission and the Secretary, of recommendations for the most expeditious and feasible means consistent with the policy of this Act for bringing into existence in the rail emergency region the restructured rail system identified by the Commission; and

(5) by the Council, of such material, views, and reports as the Director, the Commission, the Secretary, on a Committee of the Congress may request or as the Council may determine to issue concerning any matter relevant to the policy of this Act.

All recommendations of the Council, together with separate and dissenting views, shall be submitted in writing to the Office, the Commission, the Secretary, the Congress, and the President.

(e) STAFF.—The Office may provide the Advisory Council with such staff support as the Director deems appropriate.

REPORT OF THE SECRETARY

SEC. 7. Within forty-five days from the date of enactment of this Act, the Secretary shall submit to the Commission and the Office a report which shall contain his conclusions concerning essential rail services in the rail emergency region. Such report shall include his recommendations as to the cities and geographic zones within the rail emergency region at and between which rail service should be provided and the connections between and among the several lines of railroad which should be maintained. The Secretary may use as a basis for the establishment of such recommendations the standard metropolitan statistical areas as described in the latest census of the United States, groups of such areas, or counties or groups of counties having similar economic or geographical characteristics. The Secretary shall cause such report to be published in the Federal Register and shall serve a copy upon the Governor of each State in the rail emergency region and upon the public utilities commission or other official or board having jurisdiction over rail transportation in each such State. The Secretary shall make a copy available to each interested person, upon request.

INITIAL INVESTIGATION

SEC. 8. The initial investigation conducted by the Office pursuant to section 4(c)(1) of this Act shall include, but is not limited to, preparing—

(a) a detailed information survey of existing rail transportation operations (including patterns of traffic movement), traffic density over identified lines, pertinent costs and revenues of such lines, plant, equipment, facilities (including yards and terminals), and property suitable for rail transportation service in the rail emergency region;

(b) an economic and operational study and analysis of present and future rail service needs in the rail emergency region, taking into account such factors as——

(1) the nature and volume of the traffic now being moved, or likely to be moved in the future, by rail in this region;

(2) the extent to which available alternative modes of transportation could move such traffic as is now carried by railroads in the region;

(3) the relative economic, social, and environmental costs involved in the use of alternative modes of transportation, including energy utilization requirements;

(c) a study—

(1) of methods of effecting economies in the cost of rail system operations in the rail emergency region through—

(A) consolidation of lines, facilities, corporate entities;

(B) relocation;

(C) rehabilitation and modernization of equipment and track;

(D) abandonment of lines consistent with meeting service requirements; and

(E) any other methods; and

(2) of the added economic, social, and environmental costs, if any, of each method of effecting operational economies studied under paragraph (1) of this subsection, and the anticipated benefits of each such method;

(d) a report which the Commission shall cause to be published and make available to each interested person, upon request, summarizing in detail the initial investigation.

RESTRUCTURED RAIL SYSTEM PLAN

SEC. 9. (a) PRELIMINARY IDENTIFICATION.—(1) The preliminary identification plan for a restructured rail system, to be prepared and submitted by the Office pursuant to section 4(c)(2) of this Act, shall identify on a map of the rail emergency region the rail transportation system which in the judgment of the Director would best satisfy present and future rail transportation needs in the region.

(2) In identifying such a restructured rail system, the Director shall not consider any barriers or impediments to establishing or bringing into existence such a system, but shall provide an estimate of the costs and benefits of all consolidation, relocation, rehabilitation, modernization, abandonment, improvement, and other changes which are deemed appropriate in the preliminary identification plan.

(b) PUBLIC RESPONSE.—Following the submission of the preliminary identification plan, the Office shall solicit the views of other government agencies and the public with respect to such plan, on behalf of the Commission. The Director shall invite interested persons to comment thereon at a public hearing pursuant to section 553 of title 5, United States Code, to be held not less than forty-five days after the date of submission.

(c) PROPOSED FINAL IDENTIFICATION.—The proposed final identification plan for a restructured rail system, to be prepared and submitted by the Office pursuant to section 4(c)(3) of this Act, shall reflect evaluation by the Office of all responses received, testimony at public hearings, and the results of any additional study and review by the Director. It shall also include a projection of traffic volume, costs, and revenues for the restructured system, reported in such a way that the projected costs and revenues can be attributed to identifiable segments of main lines, secondary lines, and branch lines.

(d) FINAL IDENTIFICATION.—Within eleven months after the date of enactment of this Act, the Commission shall submit to the Congress and the President a final identification plan for a restructured rail system in the rail emergency region. The determination of the Commission shall be guided by the criteria set forth in subsection (a) of this section. The Commission shall include detailed cost estimates for establishing or bringing into existence such a system and shall evaluate the benefits of any proposed consolidation, relocation, rehabilitation, modernization, and other changes which are deemed appropriate.

IMPLEMENTATION OF RESTRUCTURED RAIL SYSTEM PLAN

SEC. 10.(a) RECOMMENDATIONS OF OFFICE.—The recommendations for bringing into existence the restructured rail system as detailed in the final identification plan, to be prepared and submitted by the Office pursuant to section 4(c)(4) of this Act, shall include—

(1) a comparison of alternative plans together with an evaluation of their relative advantages and procedural characteristics;

(2) the Director's conclusions regarding the possibility of successful reorganization

of each Class I railroad (as defined by the Commission) in the rail emergency region then in reorganization under section 77 of the Bankruptcy Act (11 U.S.C. 205); and

(3) an evaluation of the methods of financing each plan.

(b) RECOMMENDATIONS OF THE SECRETARY.—Upon the basis of his review of the preliminary identification plan submitted by the Office pursuant to section 4(c)(2) of this Act, the Secretary shall, not more than 30 days following publication of such plan, shall submit to the Office his recommendations for establishing the restructured rail system and shall cause them to be published in the Federal Register. Such recommendations of the Secretary shall be considered by the Director in preparing the recommendations of the Office in accordance with subsection (2) of this section.

(c) RECOMMENDATIONS OF COMMISSION.—Within one year after the date of enactment of this Act, the Commission shall submit to the Congress and the President recommendations for establishing or bringing into existence the restructured rail system for the rail emergency region, together with any recommendations for modifications in the final identification plan because of practical problems detailed in the submission. The recommendations by the Commission shall be guided by the criteria set forth in subsection (a) of this section.

AUTHORIZATIONS OF APPROPRIATIONS

SEC. 11. There is hereby authorized to be appropriated to the Commission for the use of the Office in carrying out the purposes of this Act such sums as are necessary, not to exceed $7.5 million. Such sums shall remain available until expended. The budget for the Rail Emergency Region Planning Office shall be submitted by the Commission directly to the Congress and shall not be subject to review of any kind by any other agency or official of the United States. Moneys appropriated for the Office shall not be withheld by any agency or official of the United States or used by the Commission for any purpose other than the use of the Office. No part of any other moneys appropriated to the Commission shall be withheld by any other agency or official of the United States to offset any moneys appropriated pursuant to this section.

DESCRIPTION OF PROPOSED LEGISLATIVE PROGRAM TO MEET THE MIDWEST AND NORTHEAST RAIL CRISIS

INTRODUCTION

The rail transportation problems in the Northeast and Midwest regions of the Nation are approaching crisis proportions. Trustees of the Penn Central Transportation Company, who are in charge of the Nation's largest railroad, are proposing to cease rail operations and sell the rail property if aid is not immediately forthcoming. Trustees of other railroads are proposing similar plans.

In order to avert the imminent prospect of a widespread shutdown in rail service throughout this vast region of the United States, with acute disruption to the economy and peril to the public health and welfare, this Committee has been intensively studying the situation by holding public hearings, listening to detailed information from railroads, and engaging in independent analysis of impending plans for solving the crisis.

The Chairman of the Surface Transportation Subcommittee (Senator Vance Hartke) has concluded that: 1) a long-range solution must begin to be formulated and; 2) immediately, interim steps must be taken to avert a shutdown of a vital rail system. The Chairman of the Surface Transportation Subcommittee has, therefore, proposed the following legislative program.

LONG-RANGE SOLUTION

1. The Midwest and Northeast Rail Systems Development Act

It is the stated purpose of this legislation to "facilitate the restructuring of the present rail system in the Midwest and Northeast regions of the United States in order to meet the present and future needs for rail transportation in those regions." To accomplish this purpose the legislation would create a special office within the Interstate Commerce Commission (the Rail Emergency Planning Office) which would be responsible for: 1) conducting the initial investigation of the present rail transportation system; 2) preparing and submitting a preliminary identification plan for a restructured rail system; 3) preparing and submitting a proposed final identification plan for a restructured rail system for the rail emergency region; and 4) preparing and submitting to the Commission recommendations as to the most expeditious and feasible means to bring into existence the identified restructured rail system.

During the initial investigation, the Rail Emergency Planning Office would receive and analyze the preliminary core recommendations of the Department of Transportation within 45 days from the date of enactment of the legislation. The Office would also survey existing rail facilities, ascertain their present capacity and utilization, explore traffic movement patterns of people and freight, and analyze the rail service needs of the region. The bill would specifically require the Office to study methods of affecting economies in rail system operations through relocation, consolidation, rehabilitation, modernization, abandonment, and so forth. The bill would also require the Office to project the cost benefits of each of these procedures. Within six months from the date of enactment of the legislation, the Office would publish a final report on its preliminary investigation. The Office would preliminarily identify a restructured rail system in the Midwest and Northeast regions that would meet the present and future needs of rail transportation in those regions within eight months from the date of enactment. Public hearings would then be held and comments received and evaluated. By the tenth month the Office would submit to the Commission a proposed final identification plan for a restructured rail system. Within one month following the submission of a proposed plan by the Office, the Commission would submit the final identification plan which would describe the proposed restructured system in detail and estimate the cost and benefits of any proposed consolidation, relocation, rehabilitation, modernization, or other changes.

Following the identification of the final plan, the Commission would be required to submit to Congress its recommendations for securing the identified system and offering any amendments to the system necessitated by practical considerations. To assist the Commission in the formulation of its recommendations, the bill would require the Secretary of Transportation to submit its recommendations to the Commission 30 days after publication of the preliminary identification plan.

To assist in the investigation and identification of a restructured rail system, an Advisory Council consisting of a representative group of rail management, labor, shippers, communities, and consumers would be constituted. This Advisory Council would assure broad-based participation in activities of the Office and the Commission. To assure Congressional involvement in the investigation and identification of a restructured rail system, the bill would require a rail emergency planning Office to submit monthly reports to the House Interstate and Foreign Commerce Committee and the Senate Commerce Committee. In addition, the appointment of the director of the Office is dependent upon approval by those committees.

The bill would authorize the appropriation of $7.5 million to assist the Commission in carrying out the purposes of the legislation. Money appropriated in accordance with the authorization could not be withheld or offset against other monies appropriated to the Commission.

2. Subsequent congressional action

With the knowledge of the kind of rail system in the Midwest and Northeast which should be created and with the estimate of the cost of its creation, as well as projected *operating* cost and revenues, Congress would be in a posititon to formulate final plans for moving from the present outdated, inefficient and bankrupt rail system to one which is modern, efficient, and financially supportable.

PROPOSED INTERIM MEASURES

1. Utilization of existing programs to improve the cash position of the bankrupt railroads

Through the Emergency Rail Services Restoration Act (the so-called Hurricane Agnes legislation) several of the bankrupt railroads in the Midwest and Northeast regions are eligible to obtain loans to replace funds they have expended, or plan to expend, for restoring rail services damaged or destroyed by Hurricane Agnes. Congress has appropriated the necessary funds and the Administration has tentatively committed those funds as follows: Penn Central, $17.28 million; Erie-Lackawanna, $3.978 million; Reading, $1.57 million; and Lehigh Valley, $4.2 million. This measure alone should improve the cash position of the Penn Central Transportation Company by more than $13 million.

By expediting the dispute between Amtrak and Penn Central Transportation Company regarding the amount of compensation which Amtrak owes Penn Central for serving the transportation of passengers in the mid-west and northeast, it is possible that cash position of the Penn Central could be further improved.

Under the National Rail Passenger Service Act, there is provision for federal loans to railroads to have agreed to pay the national rail and Passenger Corporation (Amtrak) for the right to cease operating their rail passenger services. Such loans provide another source for improving the cash position of the bankrupt railroads. Rather than using existing cash to pay their Amtrak obligations, eligible railroads could obtain a loan from the federal government and save their cash.

2. Amend the Emergency Rail Services Act of 1970 to facilitate granting of direct interim aid

On June 25, 1973, Senator Hartke introduced the "Emergency Rail Services Act Amendments of 1973". This bill (S. 2060) authorizes the Secretary of Transportation to contract with the trustees of any railroad in the case of an actual or threatened cessation of essential service for the continued provision of such services, and allows the Secretary to acquire by purchase, lease, or other transfer any equipment facilities, or operating rights over the tracks of such railroad. The present act authorizes the Secretary to take similar action only with respect to those railroads which have accepted loans from the Federal government. The amendment would broaden that authority to apply to any railroad which has actually ceased operation or is about to cease operations. Any such service contract, or acquisition would be subject to the approval of the reorganization court and the Interstate Commerce Commission.

Funds to pay for any service contract or

acquisition would be available through funds in the existing Emergency Rail Services Act, which authorizes the Secretary of Transportation to issue obligations to pay for acquisitions. While the present Act authorizes such sums as may be necessary to pay the principal and interest on any obligation so issued, S. 2060 places a ceiling of $250 million on such authorization. The Administration has also proposed the granting of direct aid to meet cash emergencies.

3. Essential Rail Services Continuation Act of 1973

S. 1925 would authorize the Interstate Commerce Commission to direct one carrier by railroad to operate over the lines of another carrier which is unable to transport the traffic offered it because:

(1) its cash position makes its continuing operation impossible; or

(2) it has been ordered to discontinue service by a court; or (3) it has abandoned service without obtaining a required certificate from the Commission. The Commission must issue just and reasonable directions to the operating carrier which covers the handling, routing, and movement of the traffic of the non-operating carrier.

The bill specifically limits the duration of such direction to 60 days (unless extended by the Commission because of extraordinary circumstances for an additional period of time not to exceed 180 days). The Commission is prohibited from issuing directions which would cause a carrier to operate in violation of the Federal Railroad Safety Act or which would substantially impair the ability of the operating carrier to service adequate its own patrons or otherwise meet its outstanding common carrier obligations. When issuing directions, the Commission would require the operating carrier to utilize those employees of the non-operating carrier for the directed operations involved. These are the only non-operating carrier employees that must be hired. Employees so hired would be afforded the same protection as if they were still employed by the non-operating carrier. If the operating carrier incurs costs not covered by revenues because of operations it was directed to engage in, the Commission, after audit, is directed to secure payment for such cost from the Secretry of the Treasury. The bill authorizes funds to be appropriated in such amounts as may be necessary to reimburse a directed carrier for such losses.

In the event railroads ceased operation prior to the authorization of direct interim relief or in the event that the Administration refused to extend such relief, S. 1925 would provide a means of assuring the continuance of essential rail service in the Northeast and Midwest.

This bill was passed by the Senate on July 14, 1973.

THE IMPENDING RAIL CRISIS

Mr. RIBICOFF. Mr. President, I am pleased to join with the distinguished chairman of the Senate Subcommittee on Surface Transportation (Mr. HARTKE) in his effort to preserve and maintain essential rail freight service in the Midwest and northeastern States.

Two weeks ago the trustees of the bankrupt Penn Central Roalroad announced their desire to cease all railroad operations. This follows the decision of the trustees of the bankrupt Lehigh Valley Railroad to liquidate that line. Four other major roads, the Boston and Maine, the Reading, the Erie Lackawanna and the Central New Jersey are also bankrupt and face a similar fate.

It would be a grave blow to this Nation's economy if these railroads—that serve over half the American people—are allowed to collapse. The Penn Central alone moves close to 1 million tons of freight every day through the Northeast. We simply do not have either the trucks or the highway capacity to absorb even a fraction of that load.

Farmers will not be able to get food for their animals and will not be able to deliver their goods to market. Industries that rely on railroads for either their raw materials or to ship out their finished product may not be able to live up to their commitments. For many, the only alternative will be to shut down.

Possibly the most critical aspect—as evidenced by this week's heat wave—is the impact a shutdown would have on our energy supplies. The power companies are already finding it difficult to meet peak summer demands. If their supplies of oil and coal—much of which is delivered by rail—are suddenly interrupted, we could experience a prolonged blackout covering the entire Northeast.

The administration and the Congress must act quickly. We must take whatever actions are necessary to preserve essential services, while at the same time creating a new and stable rail system that will meet the needs of the American people and economy.

The following steps can be taken now. First, loans must be available to the railroads under the Emergency Rail Services Restoration Act. Money for this program has been appropriated and can be used to relieve the cash shortage facing each line, particularly the Penn Central.

Second, the dispute between Amtrak and Penn Central over the amount Amtrak owes the bankrupt carrier for providing passenger service should be settled as quickly as possible and the funds given to Penn Central.

Third, legislation should be enacted to facilitate the granting of direct interim aid. The Congress should approve S. 2060, Senator HARTKE'S Emergency Rail Service Amendments of 1973. This bill would allow the Secretary of Transportation to contract with a failing railroad to continue its service and allow the Secretary to acquire by purchase, lease or other transfer whatever facilities or equipment that may be necessary to keep the railroad operating.

Fourth, the full Congress should pass S. 1925, the Essential Rail Services Continuation Act of 1973. This bill, which the Senate approved on July 14, would grant the Interstate Commerce Commission the authority to direct one carrier to operate over the lines of another that has shut down or abandoned service. At the present, if Penn Central ceased tomorrow, the ICC does not have the power to tell another line to operate on Penn Central's tracks.

These four proposals, if enacted and implemented quickly, could stave off the current crisis for a few weeks or months by pumping as much as $62.5 million into the troubled rail lines. We cannot, however, continue to rely on emergency measures, but must also develop long-term solutions to this most serious problem.

To meet that need we introduce today the Midwest and Northeast Rail Systems Development Act. Our proposal is designed to facilitate the restructuring of the present rail systems serving the Midwest and Northeast.

Under this bill a Rail Emergency Planning Office would be established within the ICC. The Office would be charged with: First, conducting an initial investigation of the present rail transportation system; second, preparing and submitting a preliminary identification plan for our restructured rail system; third, preparing and submitting a proposed final identification plan for a restructured rail system for the rail emergency region; and fourth, preparing and submitting to the Commission recommendations as to the most expeditious and feasible means to bring into existence the identified restructured rail system.

Within 6 months the Office would publish a final report on its preliminary investigation—outlining the possible restructured rail system. Public hearings would then be held on the proposal.

By the 10th month a final proposal reflecting public comments and suggestions would have to be submitted to the full ICC which would then submit it to Congress.

In order to assure that the people most affected by any plan are heard, an Advisory Council containing representatives of rail management, labor, consumers, shippers, and local communities will be appointed to assist the ICC and the Rail Emergency Planning Office. In addition, in order to keep Congress fully informed of its progress at each step, monthly reports would have to be submitted to the Senate Commerce Committee and the House Interstate and Foreign Commerce Committee.

The final rail system must reflect basic changes in our present public and private railroad policies.

Like those nations with great rail service, the United States must make a national commitment to support the railroads. Our citizens deserve nothing less than the best.

By Mr. TALMADGE (by request):

S. 2189. A bill to amend section 602 of the Agricultural Act of 1954. Referred to the Committee on Agriculture and Forestry.

Mr. TALMADGE. Mr. President, by request, I introdue a bill and ask unanimous consent that the bill and a letter from the Department of Agriculture be printed in the RECORD.

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

S. 2189

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Section 602 of the Agricultural Act of 1954, as amended, is amended by adding at the end thereof a new subsection as follows:

"(f) Appropriations available to the Secretary of Agriculture may be used to provide appropriate orientation and language training to families of officers and employees of the Department of Agriculture in anticipation of an assignment abroad of such officers and employees or while abroad pursuant to this Act or other authority: *Provided,* That the facilities of the Foreign Service Institute

or other Government facilities shall be used wherever practicable."

DEPARTMENT OF AGRICULTURE,
Washington, D.C., July 9, 1973.

Hon. SPIRO T. AGNEW,
President of the Senate.

DEAR MR. PRESIDENT: Enclosed for consideration of the Congress is a draft bill which would amend Section 602 of the Agricultural Act of 1954, by adding a new subsection thereto.

The Department recommends that this bill be passed.

This bill would provide that appropriations available to the Secretary of Agriculture may be used to provide appropriate orientation and language training to families of officers and employees of the Department in anticipation of an assignment abroad of such officers and employees or while abroad pursuant to the Agricultural Act of 1954, or other authority. This authority is available to other Foreign Affairs agencies through the Foreign Service Act of 1946, as amended.

Section 701 of the Foreign Service Act of 1946, as amended, provides authority to Federal agencies to utilize the facilities of the Foreign Service Institute for dependent training. There is, however, no authority for the Department of Agriculture to use its appropriations to pay for the cost of such training.

Because of the representational nature of the Agricultural Attache's position it is important that dependants of the Attache share in representing the United States abroad. The Attache's spouse is an important member of the Attache team and thereby occupies a significant role in the success of U.S. agricultural representational activities at posts abroad.

The spouse of other Department officials assigned abroad also has a significant role in representational activities in the country to which the official is assigned.

It is especially useful for the spouse of the Attache and of the other Department officials to know something of the culture and history of the area to which the Department representative is to be assigned, as well as have general orientation on foreign service requirements. Of equal importance is the increasingly greater emphasis being placed on language proficiency for those assigned officially abroad. The spouse must acquire a degree of skill to communicate in the language of the country to which the Attache or Department official is assigned. While her language skills and knowledge of the area need not be as highly developed as those of the Attache or other official assigned abroad, a lesser degree is justified and important to effectively represent the United States abroad.

A limited amount of dependent training has been accomplished through the Foreign Service Institute in Washington, D.C., without cost to this Department. The Institute has informed us that due to budgetary limitations they must request reimbursement for future dependent training. Furthermore, authority is needed to pay for training which is not feasible to obtain through FSI. Also, there is a need for training of dependents at posts abroad which cannot be met on a nonreimbursable basis.

The spouse of an Attache or other Department official serving abroad should not bear such expense, in view of her role in representing the United States abroad, but rather such cost should be borne by the Government.

It is estimated that the enactment of this proposed legislation would not result in additional costs, since the cost of about $30,000 annually can be absorbed within the total resources of the Department of Agriculture.

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

Sincerely,

J. PHIL CAMPBELL,
Under Secretary.

By Mr. ABOUREZK (for himself, Mr. MCGOVERN, Mr. BAYH, Mr. BURDICK, Mr. CHURCH, Mr. CLARK, Mr. COOK, Mr. HART, Mr. HATFIELD, Mr. HATHAWAY, Mr. HOLLINGS, Mr. HUGHES, Mr. HUMPHREY, Mr. INOUYE, Mr. KENNEDY, Mr. MANSFIELD, Mr. MCGEE, Mr. METCALF, Mr. MONDALE, Mr. MOSS, Mr. MUSKIE, Mr. RANDOLPH, and Mr. TUNNEY):

S. 2190. A bill to provide housing for persons in rural areas of the United States on an emergency basis. Referred to the Committee on Banking, Housing and Urban Affairs.

Mr. ABOUREZK. Mr. President, today Senator MCGOVERN and I are pleased to reintroduce the Emergency Rural Housing Act with 20 cosponsors.

These 20 cosponsors have agreed that there are huge gaps of housing need in rural America left unfilled by our present policies.

They have agreed that Federal housing policy must take into account the generally lower incomes, older populations, lack of private lending institutions, and shortage of housing catalyst agencies found in rural America.

What is more important, they have agreed that national housing policies cannot succeed until they shine a little light on the fact that 60 percent of this Nation's inadequately housed people live in rural areas and small towns.

The legislation proposes a number of basic concepts which I respectfully submit ought to be a part of any major housing legislation considered by the Congress this year.

These are the concepts:

First and foremost, that we must create a comprehensive rural housing delivery system. Both Farmers Home and HUD have shortcomings. Farmers Home is limited to towns of 10,000 population and under, operates a dozen major programs in addition to housing, suffers an incredible administrative overload, generally gravitates toward those with higher incomes, works with limited housing tools, and is predominantly farm-oriented. HUD has an overwhelming urban orientation and relies upon many institutions—such as public housing authorities or private lenders—which do not exist in anything like adequate quantity in rural America.

The Emergency Rural Housing Act creates a housing delivery system. As presently written, it would allow HUD and Farmers Home to continue what they are doing, and borrows from the model of REA to form locally controlled rural housing associations—similar to REA co-ops—to serve as housing vehicles where none existed before. Two REA concepts are fundamental: Local control, through elected boards of directors, of housing developed and managed by the associations, and areawide coverage.

The second fundamental principle is that the rural housing delivery system must be directly equipped with its own credit and subsidy mechanisms. It cannot be expected to succeed if it can process applications but must turn to a third party—HUD or Farmers Home—for its mortgage credit and subsidies. The legislation provides for direct credit and subsidy to the delivery system and does so in a manner which assures local control with Federal responsibility.

The third fundamental principle is establishing at the Federal level one person in charge of rural housing. The legislation would create an independent agency, the Emergency Rural Housing Administration, to administer the act. We were in something of an quandry in designing this legislation, because both of the agencies which come to mind as possibilities work under debilitating limitations of one kind or another. I recognize that there would be opposition to an independent agency, and remain willing to listen to alternative suggestions, but hold the fundamental principle intact: One Administrator with comprehensive rural housing responsibility to whom Congress can speak directly.

The fourth fundamental principle puts a premium on homeownership. The proposal makes homeownership available to the lowest practical reaches of the income scale and provides for rehabilitation and rental housing for those beyond that reach. Simply put, maximizing homeownership is the best way to minimize maintenance headaches, and its psychological benefits to Americans of all kinds cannot be understated.

The fifth fundamental principle is the minimum home concept. Instead of insisting that we cannot help someone until his income or our subsidies are adequate to finance a $25,000 home, this bill would make a small, but livable, weather-tight, leakproof, safe, heatable home with plumbing a reality for millions of rural Americans who now live in shacks, car bodies, tents, and hovels.

Mr. President, there are nearly 1 million rural American families with an average rentpaying capacity of $14 a month who presently need housing.

The overwhelming number of them are elderly.

It is time we had a national housing policy which speaks to the special needs of rural America, and a workable program which can fill them.

Mr. President, at this point in the RECORD I ask permission to insert a title-by-title analysis of the bill, the bill itself, and a recent Washington Post editorial on the subject.

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

S. 2190

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. This Act may be cited as the "Emergency Rural Housing Act of 1973".

FINDINGS

SEC. 2. The Congress finds that—

(1) after more than three decades of Federal activity in the housing field and more than two decades after the enactment of the Housing Act of 1949 which pledge this

Nation to a decent home and suitable living environment for every American family, there are millions of substandard, crowded, and otherwise deficient dwelling units which lack running water and sanitation facilities essential to health and decency;

(2) more than half of these units are in non-metropolitan areas;

(3) none of the existing housing agencies, public or private, function adequately in meeting the housing needs of the poorest people in small towns and rural areas;

(4) the administrative funds and grant and lending authorities of Farmers Home Administration are inadequate to the task, and its authorized capacity to subsidize dwellings falls far short of that required to provide housing for the poor;

(5) public housing exists in little more than token quantities in small towns and rural areas; and public housing legislation presently does not permit a subsidy adequate to meet the needs of the poorest of the poor;

(6) despite the moving rhetoric of the last two decades, the authority and funds to satisfy the housing needs of low-income families are not available;

(7) existing agencies operating under existing authorities could not meet the needs of millions of the rural poor even if all restraints on administrative funds were lifted, nor would they meet those needs, if there were no ceiling placed on grant and loan funds; and

(8) the ill health and human degradation that flow from this continuing neglect and denial of responsibility call for emergency action.

DEFINITIONS

SEC. 3. For the purpose of this Act—

(1) "Administration" means the Emergency Rural Housing Administration established under section 4 of this Act;

(2) "Administrator" means the Administrator of the Administration;

(3) "adjusted income" means the total income of an individual or family reduced by—

(A) 5 per centum of that income;

(B) $300 for that individual or for each member of that family; and

(C) $1,000 for that individual if he is physically disabled or mentally retarded or for each member of that family who is physically disabled or mentally retarded;

(4) "area responsibility agreement" means an agreement between the Administrator and a Rural Housing Association or other organization to provide minimal housing facilities for all eligible persons in an area;

(5) "eligible person" means an individual or family which (A) lives or desires to live in a rural area or small community, and (B) minimum housing facilities by any means other than assistance under this Act within two years after the date of application for assistance under this Act;

(6) the term "minimal housing facilities" means a safe, weatherproof dwelling which has running potable water, modern sanitation facilities including a kitchen, sink, toilet, and shower or tub, and which meets such other requirements as may be established by the Administrator with respect to square footage and other facilities or standards;

(7) "rural area" means any open country or any other such place in the United States; and

(8) "small community" means any place, town, village or city which has a population not in excess of 25,000 people.

ESTABLISHMENT AND DUTIES

SEC. 4. (a) There is established as an independent agency, the Emergency Rural Housing Administration. The management of the Administration shall be vested in an Administrator who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) It shall be the duty of the Administration to provide minimal housing facilities for all eligible persons in rural areas and small communities and to do so to the extent possible within a five-year period. The duties and powers of the Administration shall not be transferred to any other department, agency, or instrumentality of the United States.

(c) Section 5314 of title 5, United States Code, is amended by adding at the end thereof the following new clause:

"(60) Administrator, Emergency Rural Housing Administration."

POWERS

SEC. 5. The Administration shall have the power—

(1) to sue and be sued, and complain and defend, in its name and through its own counsel;

(2) to adopt, amend, and repeal such rules and regulations as may be necessary;

(3) to lease, purchase, or acquire by condemnation or otherwise, and own, hold, improve, use, or otherwise deal in and with, any property, rural, personal, or mixed, or any interest therein, wherever situated;

(4) to accept gifts or donations of services, or property, real, personal, mixed, tangible or intangible, in aid of any of the purposes of the Administration;

(5) to sell, convey, mortgage, pledge, lease, exchange, and otherwise dispose of its property and assets;

(6) to appoint such officers and employees as may be required without regard to the provisions of title 5, United States Code, governing appointments in the competitive service; and

(7) to enter into contracts, execute instruments, incur liabilities, and do all things which are necessary or incidental to the proper management of its affairs.

HOME OWNERSHIP

SEC. 6 (a) The Administration is authorized to make loans to eligible persons to finance the acquisition of land and the construction thereon of minimal housing facilities, or to finance the acquisition or rehabilitation of existing facilities in accordance with minimum housing facilities standards.

(b) At least 50 per centum of the principal amount of any loan made under this subsection shall be amortized over a period of not more than forty years, shall bear interest at a rate of not less than 1 per centum per year, and shall be secured by a first mortgage. The remainder of such principal amount may be evidenced by a note secured by a second mortgage which becomes payable and interest bearing only when and to the extent that the borrower's ability to repay exceeds that required to retire the first note at the maximum interest rate or upon the sale or other disposition of the property financed by the loan. The Administration shall determine the percentage rate, the amount of the principal deferment, and the other terms and conditions of any such loan, taking into account the adjusted income of the eligible person involved.

(c) The Administration may not require an eligible person who is a borrower to pay more than 20 per centum of his adjusted annual income on principal, interest, taxes, and insurance, but a borrower, in order to qualify for ownership may voluntarily agree to pay more.

(d) The Administration is authorized to make rehabilitation grants not in excess of $3,500 to owners who occupy substandard housing and whose income is too low to repay a loan on terms and conditions described in this section.

HOUSING DEVELOPMENTS

SEC. 7. The Administrator is authorized to acquire land and engage in the development of housing projects to be sold under section 6 or rented under section 8 of this Act.

RENTAL FACILITIES

SEC. 8. (a) The Administrator is authorized to provide financing to Rural Housing Associations which meet the requirements of section 9, for all or any part of the acquisition, construction, rehabilitation, operation, and maintenance of (1) minimal housing facilities in rural areas and small communities to be rented by eligible persons, (2) water and sewer facilities for such housing facilities, and (3) related community facilities for such housing facilities.

(b) Financing for the acquisition, construction, and rehabilitation of rental units and related facilities shall be in the form of a non-interest bearing loan and shall be repayable (1) in annual installments by the borrower during a forty year period from the making thereof, only to the extent that the income of the borrower attributable to the rental units and related facilities exceeds reasonable and necessary costs (such as taxes, utilities, maintenance, and other management and operating costs approved by the Administration), or (2) in the event that the rental units and related facilities are sold under section or otherwise disposed of.

(c) The Administrator is authorized to enter into contracts for annual assistance payments with a borrower under this section. Such contracts shall provide for payments to borrowers in amounts which do not exceed the difference between the total costs attributable to the rental project (taxes, utilities, maintenance, and other such management and operating costs) and total revenues accruing to the rental project. The aggregate amount of such contracts shall not exceed in the aggregate, $1,000,000,000 per annum.

(d) Rental payments required from, and the amount of assistance attributable to, any eligible person shall bear a reasonable relationship to the income of the eligible person, taking into account reasonable needs for food, clothing, medical care, education, and other necessities as determined by the Administration. In no case shall any such payment, including the reasonable cost of heat, water, and light, exceed 25 per centum of the adjusted income of the eligible person.

(e) Any lease or other occupancy agreement for facilities under this section shall include whenever feasible an option to buy in accordance with the provisions of section 6 of this Act.

LOCAL AGENCY AGREEMENTS

SEC. 9. (a) (1) To carry out the purposes of this Act, the Administration shall enter into area responsibility agreements with State-chartered Rural Housing Associations.

(2) Such Associations shall, pursuant to contracts with the Administration, determine the eligibility of persons seeking assistance under this Act; make and service loans and grants under section 6 of this Act; acquire land and develop housing projects under section 7 of this Act; own and operate, or make and service loans to and enter into contracts with public or private nonprofit organizations to own and operate, rental housing and related facilities under section 8 of this Act.

(3) Contracts entered into by the Administration with any local Rural Housing Associations shall require the Association to serve all eligible areas and eligible persons within its designated jurisdiction.

(4) The Administration shall not advance funds for purposes of making loans under this Act to any local Rural Housing Association in any State unless it determines that all areas in the State eligible for assistance under this Act will be within the jurisdiction of such an Association and that all such Associations will enter into area responsibility agreements.

(b) (1) A Rural Housing Association shall

be chartered for the purpose of contracting with the Administration in order to carry out the purposes of this Act. They shall be empowered: (A) to lease, purchase, or otherwise acquire, and own, hold, improve, use, or otherwise deal in and with, any property, real, personal, or mixed, or any interest therein, wherever situated; to accept gifts or donations of services, or property, real, personal, mixed, tangible, or intangible, in aid of any of the purposes for which the Association is established; (B) to sell, convey, mortgage, pledge, lease exchange, and otherwise dispose of its property and assets; (C) to sue and be sued, and complain and defend in its name through its own counsel; (D) to enter into contracts, execute instruments, incur liabilities, and do all things which are necessary or incidental to the proper management of its affairs.

(2) Such an Association shall be controlled by a board of directors, of which two-thirds of the membership shall be persons receiving or eligible for assistance under this Act. The board shall fairly represent the geographic area of the jurisdiction of the Association. Such boards shall be chosen by democratically conducted election with any person residing within the jurisdiction of the Association who is receiving assistance or is eligible for assistance under this Act being eligible to vote in such election.

(3) Interim boards of directors may be established for organizational purposes but such boards must be replaced in a manner established in paragraph (2) within one year of incorporation.

(c) When a State has failed to establish an Association described in this section within one year after the enactment of this Act, or the Administration finds that any Association which is established is incapable of carrying out or unwilling to carry out the purposes of this Act, then the Administration shall establish in that State or area, a comparable organization to carry out this Act.

(d) The Administration shall have access to the books or records, and any other papers of any Association which enters into an area responsibility agreement in order to insure that such Association is at all times operating in compliance with the provisions of this Act.

LIMITATIONS AND CONDITIONS

SEC. 10. (a) The Administration may not require, as a condition of assistance under this Act, the relocation of any eligible person in order to engage in or to facilitate the economic development of an area.

(b) Any construction or rehabilitation undertaken with funds authorized under this Act shall—

(1) be designed to require minimum maintenance over a useful life or not less than fifty years: *Provided*, That this limitation shall not apply to new or rehabilitated housing if the Administration finds that less permanent housing is in accordance with the basic purposes of this Act;

(2) be in accordance with plans developed with the active participation of the eligible persons involved.

PRIORITIES

SEC. 11. (a) The Administration shall, insofar as is practicable, furnish assistance under this Act to eligible persons with the lowest adjusted incomes first.

(b) To the maximum extent feasible, the Administration shall provide for homeownership rather than rental occupancy.

ANNUAL REPORT

SEC. 12. The Administration shall, within 60 days after the end of each fiscal year, prepare and transmit to the Congress and the President an annual report of the operation and activities of the Administration. Such report shall contain but not be limited to, the long range and annual goals, progress toward the attainment of those goals by area, and any problems which are being encountered in fulfilling the purposes of this Act.

BORROWING AUTHORITY

SEC. 13. (a) There is hereby established the Rural Housing Investment Fund (hereinafter referred to as the "fund") which shall be used by the Administration for carrying out the provisions of this Act. The Administration is authorized to issue to the Secretary of the Treasury notes or other obligations in such sums as may be necessary to carry out the purposes of this Act, in such forms and denominations, bearing such maturities, and subject to such terms and conditions as may be prescribed by the Secretary of the Treasury. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average interest rate on outstanding marketable obligations of the United States during the month preceding the issuance of the notes or other obligations. The Secretary of the Treasury is authorized and directed to purchase any notes and other obligations issued hereunder and for that purpose he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, and the purposes for which securities may be issued under that Act are extended to include any purchase of such notes and obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations required by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States. All amounts borrowed under this section by the Administration and all receipts, collections, and proceeds received by the Administration under this Act shall be deposited in the fund.

(b) The Administration shall utilize the fund—

(1) to make loans for homeownership under section 6 of this Act;

(2) to acquire land and engage in the development of housing projects under section 7 of this Act;

(3) to finance the acquisition, construction, and rehabilitation of rental housing and related facilities under section 8(b) of this Act; and

(4) to pay taxes, insurance, prior liens, expenses, necessary to make fiscal adjustments in connection with the application and transmittal of collections, and other expenses and advances to protect the security for loans and grants made under this section and to acquire such security property at foreclosure sale or otherwise.

APPROPRIATIONS

SEC. 14. (a) There shall be credited to the Rural Housing Investment Fund, by annual appropriations, the amounts by which nonprincipal payments made from the fund to the Secretary during each fiscal year exceed interest received from borrowers each year.

(b) There are authorized to be appropriated such sums as may be necessary to administer the provisions of this Act including the cost of administration incurred by Rural Housing Associations.

(c) There are authorized to be appropriated to the fund such sums, not to exceed $1,000,000,000, as may be necessary for grants under section 6(d) of this Act, such sums to remain available until expended.

(d) There are authorized to be appropriated such sums as are necessary to meet obligations for annual assistance payments contracts entered into by the Administration under section 8 (c).

(e) There is authorized to be appropriated not to exceed $500,000,000 in each fiscal year, reduced by any amounts paid into the Rural Housing Investment Fund in each such year, for repayment of principal on loans made by the Administration under this Act, to be applied to the retirement of notes or other obligations issued by the Administration under section 13(a) of this Act.

SECTION-BY-SECTION ANALYSIS OF THE EMERGENCY RURAL HOUSING ACT

Section 1.—Short Title.

EMERGENCY RURAL HOUSING ACT OF 1973

Section 2.—Findings.

Congress finds that an emergency situation exists in rural areas with regard to housing for low-income individuals.

Section 3.—Definitions.

Section 4.—Establishment and Duties.

Provides for the establishment of an independent federal agency called the Emergency Rural Housing Administration. Defines the ERHA's duties as providing minimal housing facilities to eligible persons in rural areas and small communities and to do so within five years to the extent possible. An eligible person as defined in Section 3 is an individual or family which lives or desires to live in a rural area or community and cannot with reasonable certainty obtain minimum housing facilities by any means other than from assistance under this Act within two years of the date of application for assistance. Provides for an Administrator of the ERHA by adding a new clause (58) to 5 U.S.C. 5314 to be appointed by the President by and with the advice and consent of the Senate. Provides that the Administrator's duties may not be transferred to any other department, agency, or instrumentality of the United States.

Section 5.—Powers.

Provides for the powers of the Administrator of the ERHA.

Section 6.—Home Ownership.

Authorizes the Administrator to make loans to eligible persons for the acquisition of land and the construction of minimal housing facilities or for the acquisition or rehabilitation of existing facilities. Provides that at least fifty percent of such loan shall be amortized over a period not exceeding forty years and at an interest rate of not less than one percent per year. The remaining balance of such a loan shall be evidenced by a note secured by a second mortgage which becomes payable and interest bearing when and to the extent that the borrower's ability to repay exceeds that required to retire the first note at the maximum rate of interest or upon the sale or other disposition of the property. Provides that the interest rate, the amount of deferred principal and the other terms and conditions of such loans will be set by the Administrator taking into account the adjusted income of the eligible person involved and precludes requiring a borrower to pay more than twenty percent of his adjusted annual income on principal, interest, taxes and insurance except when the borrower chooses to in order to qualify for the ownership program.

Authorizes grants of up to $3,5000 to homeowners unable to repay a loan for the purpose of rehabilitating housing.

Section 7.—Housing Developments.

Authorizes the Administrator to acquire land and develop housing projects which are to be sold or rented under the Act.

Section 8.—Rental Facilities.

Authorizes the administrator to finance all or part of the acquisition, construction, rehabilitation, operation and maintenance of minimal housing facilities to be rented by eligible persons, water and sewerage facilities for such housing, and related community facilities for such housing. Provides that the rental payments of the occupants and the amount of rent assistance provided shall bear a reasonable relationship to the income of the eligible persons taking into account other budget needs and in no case should any rent payment (including the rea-

sonable cost of heat, water and light) exceed twenty-five percent of the person's adjusted income. Provides that, when feasible, lease agreements should include an option to purchase at terms consistent with Section 6.

Financing for the acquisition, construction and rehabilitation of rental and related facilities shall be in the form of a non-interest bearing loan amortized over a forty-year period and repayable in annual installments to the extent that income attributable to the project exceeds operating and maintenance costs.

Authorizes the Administrator to enter into annual contribution contracts with the owners of rental and related facilities for the purpose of paying for any amounts by which the costs of operating and maintaining such facilities exceed income attributable to it. Such contracts may not exceed $1 billion per annum in the aggregate.

Section 9.—Local Agency Agreements.

Provides that the Administrator shall not into contracts with State-Chartered Rural Housing Associations. Such contracts shall authorize the Rural Housing Associations to determine eligibility of persons seeking assistance under the Act and make and service loans, grants, and contracts under Sections 6, 7, and 8 of the Act. The Rural Housing Association will be required to serve all eligible areas and persons within its designated jurisdiction. The Administrator is prohibited from advancing funds to any Rural Housing Association within a state for the purpose of making loans under the Act until all eligible areas within that state are within the jurisdiction of a Rural Housing Association. If after one year of the passage of the Act, a state has failed to charter Associations or the Administrator finds that any Association is incapable of carrying out or unwilling to carry out the purposes of this Act, then the Administrator shall establish in that state or area a comparable organization. Rural Housing Associations shall be governed by a board of directors, at least two-thirds of whom shall be persons eligible for or receiving assistance under the Act. Such boards of directors shall be elected by persons eligible for or receiving assistance under the Act. Interim boards of directors may be established for a period not to exceed one year from the date of incorporation for organizational purposes.

Section 10.—Limitations and Conditions.

Provides that the Administrator shall not require the relocation of any eligible person in order to engage in or to facilitate the economic development of any area. Provides that construction or rehabilitation undertaken must be designed to require minimum maintenance for at least fifty years except when the Administrator finds that less permanent housing is in accordance with the Act; and be in accordance with plans developed with the active participation of the eligible persons involved.

Section 11.—Priorities.

Establishes the priorities that, insofar as is practicable, persons with the lowest adjusted incomes shall be served first, and to the maximum extent feasible, ownership rather than rental occupancy will be provided.

Section 12.—Annual Report.

Provides that the Administrator shall prepare and transmit to the Congress and the President an annual report of the operation and activities of the Agency.

Section 13.—Borrowing Authority.

Establishes a Rural Housing Investment Fund.

Provides that for purposes of this Act the Administrator is authorized to issue notes or other obligations to the Secretary of the Treasury in such sums as may be necessary in such forms and denominations, bearing such maturities, and subject to such terms and conditions as may be prescribed by the Secretary and bear interest at a rate determined by the Secretary, taking into consideration the current average interest rate on outstanding marketable obligations of the United States during the month preceding the issuance of the notes or other obligations. Authorizes the Secretary and directs him to purchase such notes and for that purpose to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act and extends the purposes for which securities may be issued under that Act to include any purchase of such notes and obligations under this Act. Authorizes the Secretary to sell at any time any of the notes or other obligations acquired by him under this subsection and provides that all redemptions, purchases and sales by the Secretary of such notes or other obligations shall be treated as a public debt transaction of the United States.

All amounts so borrowed and all other receipts, collections and proceeds shall be deposited in the Rural Housing Investment Fund. The Administartor is authorized to utilize the fund to make loans for homeownership under Section 6, to acquire land and engage in the development of housing projects under Section 7, to make loans for the acquisition, construction, and rehabilitation of rental facilities under Section 8, and to protect the assets of the Fund.

Section 14.—Appropriations.

Authorizes an annual appropriation to reimburse the Rural Housing Investment Fund in an amount by which nonprincipal payments made from the Fund exceed interest received from borrowers each year. Authorizes an appropriation in such amounts as may be necessary to administer the Act including the cost of administration incurred by Rural Housing Associations.

Authorizes an appropriation not to exceed $1 billion for rehabilitation grants to homeowners unable to repay a loan. Such amounts appropriated are to remain available until expended. Authorizes an appropriation in such amounts as may be necessary to meet obligations for annual contribution contracts entered into by the Administration under Section 8 of the Act.

Authorizes an appropriation not to exceed $500 million, for the purpose of retiring notes and other obligations issued by the Administrator under Section 13 of the Act.

[From the Washington Post, Dec. 14, 1972]

THE QUALITY OF RURAL HOUSING

Poor housing—people "living" in dwellings that are clearly unlivable—is usually associated with inner-city America. This association may be understandable because urban America has the most concentrated population and because its tensions are most easily felt or seen. Yet, bad housing is largely a failure that plagues rural America; the nation's small towns and isolated villages have nearly two-thirds of our substandard housing. This does not mean only crowded shacks or shanties where the poor huddle close together on freezing nights; it can mean houses with no electricity, plumbing or sewage outlets.

Statistically, the bleakness of our rural housing problem is summarized by the Housing Assistance Coalition: "Areas containing half of the nation's poor and close to two-thirds of its worst homes have received less than 20 per cent of its public housing." More graphic are the words of Aaron Henry, the tireless president of the Mississippi NAACP who has long worked for the poor's housing: "There has been a lot of talk . . . about a housing crisis. But the word 'crisis' generally refers to a temporary situation, and, for people living in the nation's worst housing, there's nothing temporary about it."

Not long ago, the housing needs of the rural poor were given attention at a Washington conference involving 600 delegates. One of the sentiments of the conference was that the rural poor are isolated not only geographically but also politically: Rural congressmen, aligned with the local banks, power companies and agri-business, often care less about rural housing than big-city congressmen. Another irony is that urban taxpayers often pay heavily for the neglect of the rural poor; bad housing has been a major cause of the population exodus from small towns and farms to the cities.

Overall, the tragedy of rural housing is a combination of many deficiencies: confusion and disinterest among some 3,000 state and local government agencies, a lack of federal response, regressive tax policies, poor land-use plans, programs that benefit builders and speculators more than the poor. One of the few recent legislative attempts to face the problem, and at least try to solve part of it, came in the last session of Congress when Sen. George McGovern and Rep. James Abourezk (now a senator-elect) introduced bills calling for $7.5 billion in five years aimed at helping 2.5 million rural families. Both bills died. The legislation is expected to be introduced again in the next session.

There is no question that it, or a similar measure, is needed. As Richard J. Margolis, chairman of the Rural Housing Alliance, has noted: "If all of our 50 states were simultaneously struck by hurricanes, the resulting emergency—the deaths, the destruction, the shortage of water and sanitation, and shelter—would be no greater than the emergency we now confront in rural America. But rural America has never been declared a disaster area."

Mr. McGOVERN. Mr. President, I am pleased to join with Senator ABOUREZK today in introducing the Emergency Rural Housing Act. This bill reflects the hard work and determination of many people over many years. And it deserves the support of every Member of Congress who is concerned about the future of rural America.

We have heard and continue to hear a great deal about the problems of our cities, and justifiably so. But in the absence of any effective national growth policy, America's rural areas are consistently shunted aside as we ponder the great urban blight and the continuing suburbanization of America. Nowhere is that more evident than in our housing policies. With less than a third of the Nation's households, nonmetropolitan areas contain more than half of the Nation's worst housed. The incidence of substandard housing in metropolitan areas is 4 percent. In nonmetropolitan areas it is more than three times that—13 percent. And in the most rural areas it is almost four times that—15 percent. But the delivery of Federal housing assistance has been bent the other way.

HUD statistics indicate that, through the end of last year, less than 24 percent of all the public housing units under annual contributions contract were in nonmetropolitan areas. A rural housing alliance study released last year reported that nearly half the Nation's counties, containing almost one-fifth of its population, had no public housing program at all. Other housing assistance programs, except for Farmers Home Administration, do little better. HUD program statistics for the 30-month period from January 1970 through June 1972—a period of record achievements in the volume of Federal housing assistance—show that less than one-fourth of the units

were in nonmetropolitan areas. Even when one adds in the Farmers Home Administration program, rural and smalltown areas accounted for less than one-third of all Federal housing aid.

In the case of my own home State of South Dakota, a decidedly rural State, 27.8 percent of the State's population lives in substandard housing; 19.8 percent of all housing units in South Dakota are substandard and 20,310 housing units lack some or all indoor plumbing. Obviously, decent housing is a crying need that concerns a very sizable portion of the population. When you consider the fact that 68 percent of South Dakota's families earn less than $10,000 per year and 15 percent of the families in the State earn less than $3,000 per year, the need for Federal subsidy also becomes obvious.

The Emergency Rural Housing Act squarely faces the fact that programs and institutions designed for urban environments cannot be administered so as to serve rural ones as well. It follows the example of the successful rural electrification movement in calling on local people themselves to play a critical role in solving their housing problem. And finally, it asks Congress to make more than a rhetorical commitment and to underwrite a serious effort to wipe out indecent housing in rural and smalltown America.

By Mr. MONDALE:

S. 2191. A bill to require public disclosure of all contacts made with the Internal Revenue Service concerning any individual or corporate tax case by any official or employee of the executive or legislative branch of the Federal Government. Referred to the Committee on Finance.

DISCLOSURE OF EXECUTIVE AND CONGRESSIONAL CONTACTS WITH IRS ON INDIVIDUAL TAX CASES

Mr. MONDALE. Mr. President, I am today introducing legislation that would require the Internal Revenue Service to list publicly all contacts they receive from executive or congressional officials concerning individual tax cases.

The revelations in the Watergate hearings of White House attempts to have the IRS audit its political "enemies," or suspend investigations of its political friends, have shaken public confidence in the integrity of our Government.

The IRS—to its credit—has apparently resisted these attempts at political interference. The bill I propose would strengthen its hand in cases like this, by allowing IRS officials to tell any public official calling about an individual or corporate taxpayer that the call must be publicly reported.

This legislation would not discourage legitimate inquiries. If the official calling the IRS has a legitimate reason for doing so, he should have no objection to explaining that call to anyone who asks about it. Those who have nothing to hide have nothing to fear.

The bill would require the IRS to "compile and make available for public inspection and reproduction" a list of all contacts with the IRS by executive and congressional officials. The list would have to include "at least the name and affiliation of the individual making the contact, the name of the individual or corporation concerning whom the contact is made, and a one-sentence description of the nature of the contact." An up-to-date list would have to be made available at least every 3 months, with a cumulative list every year.

A list of this sort would be especially helpful to diligent reporters and public interest investigators. If there is ever a suggestion that IRS action on a tax case has been influenced by politics, the list of contacts this bill requires would be an excellent starting point for any investigation.

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

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

S. 2191

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SEC. 1. (a) The Internal Revenue Service shall, at least every three months, compile and make available for public inspection and reproduction a list of all contacts made with the Service by any official, Member, or employee of the Executive or Legislative branch of the Federal Government concerning any individual or corporate tax case. Internal contacts among Service officials and employees need not be included.

(b) The list required by subsection (a) shall be cross indexed under the names of both the person making the contact and the individual or corporation concerning whom the contact is made. A copy of each list shall be transmitted promptly to the Speaker of the House of Representatives and the President of the Senate. A cumulative list and index shall be compiled each year and made available in the same manner as the periodic lists.

(c) The list required by subsection (a) shall include at least the name and affiliation of the individual making the contact, the name of the individual or corporation concerning whom the contact is made, and a one-sentence description of the nature of the contact.

(d) As used in this section, "contact" means any oral, written, or electronic communication.

By Mr. ABOUREZK:

S.J. Res. 133. Joint resolution to provide for the establishment of the American Indian Policy Review Commission. Referred to the Committee on Interior and Insular Affairs.

Mr. ABOUREZK. Mr. President, I introduce, for appropriate reference, a Senate joint resolution to provide for the establishment of the American Indian Policy Review Commission.

If approved by Congress and enacted into law, this resolution would bring about a fundamental reform in the Federal relationship of American Indians.

I shall submit for the official record in the Senate on July 17, 1973, a statement setting forth the justification for such a resolution.

As chairman of the Subcommittee on Indian Affairs, I have scheduled hearings for this resolution before the subcommittee on July 19 and 20, 1973, at which time administration and private witnesses will present their views with respect to the resolution.

The hearings will be open to the public and will commence at 2 p.m. on both days and will be held in room 3110, Dirksen Senate Office Building.

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 335

At the request of Mr. CHURCH, the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 335, to promote development and expansion of community schools throughout the United States.

S. 1914

At the request of Mr. PERCY, the Senator from Tennessee (Mr. BAKER), the Senator from New Hampshire (Mr. COTTON), the Senators from Nebraska (Mr. CURTIS and Mr. HRUSKA), the Senator from Kansas (Mr. DOLE), the Senator from Hawaii (Mr. FONG), the Senator from Wyoming (Mr. HANSEN), the Senator from Pennsylvania (Mr. SCOTT), the Senator from South Carolina (Mr. THURMOND), the Senator from Texas (Mr. TOWER), and the Senator from North Dakota (Mr. YOUNG) were added as cosponsors of S. 1914, to provide for the establishment of the Board for International Broadcasting and to authorize the continuation of assistance to Radio Free Europe and Radio Liberty.

S. 1971

At the request of Mr. SCHWEIKER, the Senator from South Carolina (Mr. HOLLINGS), and the Senator from Minnesota (Mr. HUMPHREY) were added as cosponsors of S. 1971, to increase certain penalties for offenses involving the unlawful distribution of certain narcotic drugs, and for other purposes.

S. 2081

At the request of Mr. NUNN, the Senator from Nevada (Mr. BIBLE) was added as a cosponsor of S. 2081, to amend title IV of the Social Security Act to provide a method of enforcing the support obligations of parents to children who are receiving assistance under such title, and for other purposes.

SENATE JOINT RESOLUTION 118

At the request of Mr. WILLIAMS, the Senator from South Dakota (Mr. MCGOVERN), the Senator from Michigan (Mr. HART), the Senator from New Mexico (Mr. MONTOYA), the Senator from Alaska (Mr. STEVENS), the Senator from Florida (Mr. CHILES), the Senator from Nevada (Mr. CANNON), the Senator from Colorado (Mr. DOMINICK), and the Senator from Kansas (Mr. DOLE) were added as cosponsors of Senate Joint Resolution 118, a joint resolution expressing the sense of the Congress that a White House Conference on the Handicapped be called by the President of the United States.

FEDERAL ELECTION CAMPAIGN ACT AMENDMENTS OF 1973—AMENDMENT

AMENDMENT NO. 342

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

GOVERNMENT CONTRACTORS SHOULD NOT BE PERMITTED TO MAKE CAMPAIGN CONTRIBUTIONS

Mr. PROXMIRE. Mr. President, I send to the desk on behalf of myself and the Senator from Vermont (Mr. STAFFORD) an amendment to strike section 17 of S. 372, the Federal Elections Campaign Act of 1973. Section 17 would in essence repeal a restriction on campaign expenditures that has been on the books since July 19, 1940.

Mr. President, this action of the Committee on Rules and Administration would repeal a prohibition that bars campaign contributions, direct or indirect, by Government ocntractors.

Some may argue that section 17 simply amends this prohibitory statute, section 611 of title 18, but in doing so it guts the statute. Let me read the language of section 611 as amended by the Federal Election Campaign Act of 1971:

Whoever—

(a) entering into any contract with the United States or any department or agency thereof either for the rendition of personal services or furnishing any material, supplies, or equipment to the United States or any department or agency thereof or for selling any land or building to the United States or any department or agency thereof, if payment for the performance of such contract or payment for such material, supplies, equipment, land, or building is to be made in whole or in part from funds appropriated by the Congress, at any time between the commencement of negotiations for and the later of (1) the completion of performance under, or (2) the termination of negotiations for, such contract or furnishings of material, supplies, equipment, land or buildings, directly or indirectly makes any contribution of money or other thing of value, or promises expressly or impliedly to make any such contribution, to any political party, committee, or candidate for public office or to any person for any political purpose or use; or

(b) knowingly solicits any such contribution from any such person for any such purpose during any such period;

shall be find not more than $5,000 or imprisoned not more than five years, or both.

Back in 1940 former Senator Harry Byrd, Sr., in describing the need for section 611 put it this way:

We should prohibit those who have government contracts, contractors who deal with the government, contractors who make great sums out of government contracts, from making contributions to political parties for any purpose whatsoever.

This is exactly what section 611 does. This is what the Rules Committee provision would strike and repeal.

Now how about section 17 of S. 372? What does it do? Does it really gut section 611? Let me read the language added to section 611 by this amendment:

It shall not constitute a violation of the provisions of this section for a corporation or a labor organization to establish, administer, or solicit contributions to a separate segregated fund to be utilized for political purposes by that corporation or labor organization if the establishment and administration of, and solicitation of contributions to, such fund do not constitute a violation of section 610.

Section 610 as amended by the Federal Election Campaign Act of 1971 permits "the establishment, administration, and solicitation of contributions to a separate segregated fund to be utilized for political purposes by a corporation or labor organization." It says nothing about Federal contractors. It does not prohibit them from making political contributions through "segregated funds" even though such indirect contributions are specifically prohibited by section 611.

Consequently section 17 of S. 372 plainly repeals the language in section 611 prohibiting campaign contributions "indirectly" by Government contractors, corporate or union, by excluding "separate segregated funds" from the section 611 prohibition. We all know that direct corporate or union contributions, even if no Government contracts are involved, violate the law. This is prohibited by section 610. Consequently the only acts the section 611 as revised by section 17 would prohibit are direct donations by corporations or labor unions—already outlawed by section 610—and direct or indirect contributions by individual, as opposed to corporate or union, contractors. If this is not gutting section 611, I do not know what is.

Why the sudden turnaround? Why is great pressure suddenly being applied to gut a section of the law that has been on the books since 1940? This effort to gut the law seems particularly puzzling since the Congress tightened the section 611 prohibition in passing the Federal Election Campaign Act of 1972 a short 17 months ago. Congress did so by defining more precisely the period of time during which contributions are prohibited.

The answer to this question is simple. Finally the 1940 law is being enforced. Common Cause went into the courts and forced TRW, Inc., a major defense contractor, with over $200 million in Government contracts, to dissolve a so-called Good Government Fund. Common Cause claimed that the fund violated the 1940 act by making indirect contributions to political candidates. Before the issue could even be decided by the U.S. District Court for the District of Columbia, TRW, Inc., had dissolved the fund. In wake of this action a number of other corporate political funds and committees were dissolved.

While some corporations "saw the light" others said the law was too vague and would require legislative or judicial clarification. For example the Hughes Active Citizenship Campaign—an offshoot of the Hughes Aircraft Co.—claimed that they were complying with the law, but that further clarification was necessary.

An attempt at clarification was not long coming. And unfortunately it was a regression to the pre-1940 days. On September 27, 1972—less than 5 months after the Common Cause lawsuit was filed—a bill was quietly reported from the House Rules Committee that would have destroyed the effectiveness of section 611 by allowing campaign contributions indirectly by defense contractors. It was reported without hearings, despite a public pledge by the House leadership that no amendment to campaign reform legislation passed earlier in the year would be permitted without public hearings. It was placed on the suspension calendar and barely squeaked by on a two-thirds vote—294 to 124. The Washington Post called it "another striking example of legislation by stealth," because the House membership was not aware until too late what was going on.

The same sort of effort was made in the Senate during the waning days and hours of the 92d Congress. The bill was reported from the Senate Rules Committee on October 4—2 days after it passed the House. A bare quorum accomplished this act with three in favor, one opposed, and one abstention. When our leadership refused to schedule the bill it was added as a last-minute rider to a minor tariff bill late in the session. Fortunately Senators STAFFORD and AIKEN, together with this Senator, were able to block this last-minute attempt to squeeze the bill by in the preadjournment confusion.

My colleagues should be interested in some of the national editorial comments on this attempt to weaken campaign spending reform. Here are a few samples:

Apparently when it comes to getting money, Congressional Democrats and Republicans stand together in defiance of public opinion and the canons of sound public policy—Washington Post

. . . outrageous, sly and cynical raid on the law by loophole seekers—New York Times.

The amendment has a great potential for evil and should be stamped out—Cleveland Plain Dealer.

Given the choice between reducing the possibilities of political influence-peddling and increasing the number of potential sources of campaign funds, Congress will choose the latter—Greensboro (N.C.) Daily News.

What disturbs us most about the loophole, however, is that it further expands a system of raising political contributions that we view as both corrupt and corrupting—Dayton Journal Herald.

The people are entitled to know what elements their elected representatives are representing. And they have every reason to expect restrictions against the ability of those most powerful elements to buy an office—Kansas City Times.

If there had been no other evidence of the influence that campaign money has had on public affairs, the handling of this bill would suffice—Louisville Courier-Journal.

The whole business smells. Worse, it shows that the wrong attitudes toward campaign spending control are still alive and kicking in Congress—St. Petersburg (Fla.) Times.

Now some Senators may ask, even at a time when the word "Watergate" with all its implications is sending a collective chill up the national spine, why is this prohibition necessary? Why should not we repeal it so that companies can make campaign contributions even though they have Government contracts. After all, the story goes, these are contributions made by individual employees to a separate company account, fund, or committee for the candidates of their choice. Why is this so bad?

Well, if this were the case there would be no violation of existing law. If individual workers or executives were truly earmarking funds from their salaries for individual candidates then the Govern-

ment contractor himself would not be making the decisions directly or indirectly as to where the money goes. And the law is very specific on this point. The contribution has to be made by the representative of a company entering into a contract with the United States to be illegal.

Others will say that we should put all corporations on the same footing, whether they be Government contractors, or not. I violently disagree with this suggestion. For many years now I have been pressing for much stronger conflict-of-interest laws where Government contractors are concerned. For example we should sharply curtail the flow of experts between Government jobs and employment with companies who have a direct interest in Government decisions. This leads to the most pernicious kind of influence. To my mind campaign contributions by Government contractors, direct or indirect, fall into the same mold.

Mr. President, the American people are beyond any question of a doubt disillusioned with our political system as a result of Watergate and associated wrongdoing. Recently I sent out a questionnaire on campaign spending reform. The people of Wisconsin reflected this disillusionment by speaking out in support of all sorts of reform with an overpowering voice. Eighty-six percent of those who answered favored barring corporations, associations, and other profit-making organizations from making campaign contributions through the loopholes currently used. These representative voters—and there were more than 10,000 of them—were not asking us to forego weakening present law, as section 17 would do. They favored a stronger law. Any Senator who votes in support of this attempt to turn back the pages to the bad old days will be voting against the overwhelming conviction of the people of the United States. Anyone who votes to turn back the clock in this way wil be voting for a continuation of the type of corporate coercion and influence peddling that apparently took place in the American Airlines case. Now is the time to work for the strengthening, not the sapping, of our political system.

Mr. President, I yield the remainder of my time to the Senator from Vermont (Mr. STAFFORD).

The PRESIDING OFFICER (Mr. ABOUREZK). The Senator from Vermont is recognized.

Mr. STAFFORD. Mr. President, I thank the Senator for yielding. I associate myself with the remarks of the Senator from Wisconsin (Mr. PROXMIRE), and I pledge to join his effort to strike section 17 from S. 372 when the matter comes before the Senate for action.

The Senator from Wisconsin (Mr. PROXMIRE) has eloquently and accurately presented the history and purpose of the section of the law designed to prevent those organizations that do business with the Government from making political contributions to candidates and political parties. He has also presented an accurate picture of the activities that have taken place last year and this year concerning the efforts to tear away that safeguard against political financing corruption.

I will try not to go over the same ground in my remarks, but I think it is important to understand what is being proposed for the approval of the Senate.

The provision that prohibits Government contractors from establishing, administering, and soliciting contributions to a separate, segregated fund to be utilized for political purposes has been law since 1940. There were never any objections to it until steps were taken to see that the section of the law was obeyed. Now we have strong efforts to eliminate, or at least to effectively circumvent, that prohibition.

Who wants to permit those who do business with the Government to make political contributions? Who favors the proposed change in the law?

News stories and editorials tell us that both corporations and unions want to change the law. Lobbyists for both corporations and unions tell us privately they want to change the law. The same news stories and editorials and lobbyists tell us that officeholders and officials of both major political parties want this proposed change in the law.

But, who has testified for the proposed change in the law? Where are the public arguments by the proponents of this change? Where is the public testimony that has been subjected to examination by those opposed to the change?

The report of the Senate Committee on Rules and Administration tells us—on page 5—that the present law appears to discriminate against those corporations and labor unions that have Government contracts. The committee report further argues that the law should be changed in the interest of fairness. Fairness to whom? Certainly not to the public.

I agree that the present law discriminates against corporations and unions that have Government contracts by preventing them from making political contributions in the same manner as those corporations and unions that do not do business with the Government. That discrimination is deliberate, and it is justified.

The most eloquent argument I have heard in support of that discrimination was made more than 40 years ago by the late Senator Harry F. Byrd. It is worth repeating here today. At a time when Congress was making its first real effort to exercise some control over political contributions, the late Senator Harry F. Byrd said:

> We should prohibit those who have government contracts, contractors who deal with the government, contractors who make great sums out of government contracts, from making contributions to political parties for any purpose whatsoever. . . . The greatest source of corruption in American politics today is the use of money obtained from those who make profit out of contracts with the government.

Like all words of wisdom, that statement is as true today as it was more than 40 years ago. Events of recent months have demonstrated the evils of a system that permits big money to seek big power. The entire world knows of those evils.

Yet, at a time when all public opinion polls and virtually every other indicator of public sentiment suggest that Americans want tighter control on campaign financing, the Senate of the United States is being asked to legalize a system of political contributions that can only lead to greater temptation, greater potential for corruption, and greater distrust on the part of the American public of their political system.

Mr. President, at this point I ask unanimous consent to have printed in the RECORD an editorial from the New York Times of July 11, 1973; the Review and Outlook commentary on "Shakedowns and Bribes" from the July 11, 1973 edition of the Wall Street Journal, and a column by David S. Broder that appeared in the Washington Post on July 11, 1973. Each of these articles deals with campaign financing, the need for reform, and the proposals of reform that are being offered to the Senate.

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

[From the New York Times, July 11, 1973]

LOOKING BACKWARD

Like a major earthquake, the Watergate scandal has transformed the political scene. But politicians, like other human beings, prefer to look backward and cling to old ways. The members of the Senate Rules Committee, in particular, seem unable to comprehend how much the ground has moved under their feet.

While tens of millions of Americans have sat transfixed for hours before their television screens listening to testimony about secret political contributions, attaché cases stuffed with hundred dollar bills, and dirty political tricks financed by cash from concealed sources, the Rules Committee has quietly been meeting to draft amendments to weaken the Federal Election Campaign Act.

When that law went into effect on April 7 last year, it established reporting procedures that were intended to take some of the mystery out of how political campaigns are financed. Each new revelation about the financing of last year's campaign—mostly before April 7—has brought fresh proof of the need to strengthen rather than weaken the new law and extend the reforms.

American Airlines, for example, has disclosed to Watergate Special Prosecutor Archibald Cox that it contributed $55,000 in corporate funds to the Nixon campaign. Such contributions are illegal under the new law, as indeed they were under the old but unenforced Corrupt Practices Act of 1925. Eastern Airlines has announced that it refused a similar solicitation from the Nixon campaign, but Mr. Cox reportedly has in his possession a secret list compiled for the White House of other corporations that did contribute.

A stockholder's suit against International Telephone and Telegraph Corporation has brought to public attention a memorandum from a former I.T.T. official detailing how he was pressured by his corporate superiors to contribute to Lyndon B. Johnson's Vice-Presidential campaign in 1960 with the understanding that he would be reimbursed out of corporate funds if he filed a fake expense account. Political observers agree that I.T.T. is hardly unique in this devious practice.

Another lawsuit is pending in an effort to uncover the whole story of the substantial contributions made by the dairy lobby immediately before and after President Nixon ordered an increase in dairy price supports. Investigation is also under way into the contributions to the Nixon campaign by the Teamsters Union after a Presidential commutation unexpectedly released former Teamsters president James R. Hoffa from prison.

Against the background of these developments it is astounding that the Senate Rules Committee has the temerity to report out two amendments to the new law that would narrow its scope. The first would remove the requirement that each contributor list his name, address and occupation. Instead, only his name would be reported. Undoubtedly, the existing requirement is now somewhat burdensome to campaign treasurers, but once it is widely known, it will become a matter of simple routine. It is no more onerous for the contributor than providing identification to get a check cashed. If addresses and occupations are not listed, the reports on contributions become much less meaningful.

Another amendment would repeal a section of the law forbidding any individual member of a corporation or union which holds a Government contract—as some unions do under the manpower training program—from making donations to a company-controlled political fund. These funds too easily become vehicles for some of the abuses which the Watergate investigations are bringing into view.

There is need for a strengthening of the existing law and combining it with provision for new sources of campaign financing from public funds. The objective is to achieve a balance between many modest contributions from individual citizens and limited public subsidy for some campaign expenses. There is no need for a return to the mystification and corruption-breeding practices permitted by the old weak law.

Members of the Senate who think they can slip back to the bad old days are misreading the public's post-Watergate sophistication. They run the risk of being retired from public life altogether.

[From the Wall Street Journal, July 11, 1973]

SHAKEDOWNS AND BRIBES

American Airlines is getting high marks for candor for admitting that corporate funds were used in a $75,000 kitty that went to the Committee to Re-Elect the President. We think the marks would be more deserved were it not for suggestions by "insiders" that the airline was about to be found out anyway.

Common Cause, a "citizens lobby" that focuses a great deal of its non-partisan attention on miscreants of a Republican persuasion, was hot on the trail of a donor list that might have disclosed the gifts. Also, the incident should not pass without someone noting that it would have been perfectly possible for Americans to rebuff this bit of illegality in the first place. Still, we do rate the airline's candor far higher than that of the re-election committee and its minions, who claim no knowledge of anything unseemly about the contribution.

We find it hard to know where to begin a discussion of this wearying subject, except to say that we have little sympathy for anyone whose political machinations carry him beyond the law or propriety. Corporate executives seek to make a case that politicians blackmail them into illegal campaign contributions. The politicians insist that they are constantly being offered slightly soiled dollars that they can refuse only on penalty of losing an election. Civil servants insist that they would remain pure and free of involvement in these political games were it not for the pressures applied to them by the political operators higher up.

Let us take the first claim. American Chairman George A. Spater insists that the political fund-raising system in this country is beset with evils. Some other businessmen claim that it falls little short of extortion; the fund-raisers, so we are told, have a habit of suggesting that helping a politician win can mean favors that are important to corporations.

We have very little trouble imagining such goings on. Government's power to bestow favors or inflict injury on corporations has been growing steadily for years as succeeding Congresses have expanded a web of federal regulation and supervision in matters ranging from the worthiness of auto bumpers to the fidelity of televised glimpses of breakfast food. There are all sorts of ways for bureaucrats to cause businessmen problems.

But we doubt that many businessmen would come to real disaster from refusing improper advances from political fundraisers. Put another way, we suspect that there is about a 50–50 split on which side makes the first pass.

In our system, no politician—even the President—is powerful enough to fix every federal problem a donor might encounter. The fact that civil servants and even some political appointees don't always bow to pressures from higher up has been one of the more reassuring disclosures from the Watergate hearings. We suspect that those big donors who expect a quid pro quo often get less than their money's worth.

But civil servants are not entirely blameproof either. Some, we suspect, play their own political games, helping or attacking the friends of this or that elective official to achieve ends of their own. We have no illusions, particularly after Watergate, that the inner workings of politics are simple or the methods and motivations of politicians anything less than complex.

We also have no simple solutions. But the recent revelations do encourage us to think that maybe the tough disclosure requirements in the Federal Election Campaign Act of 1971 have proved to be more effective than anyone imagined they would be. We now learn that the Senate Rules Committee has moved to water down those requirements, a prospect that could scarcely seem less appropriate. If anything, the requirements should be strengthened.

In the final analysis, tough disclosure requirements probably serve as well as anything as a remedy. What we may be seeing now is not so much the ills of the system but the 1971 remedy finally at work to purge some of the ills. Let's stick with it awhile and see.

[From the Washington Post, July 11, 1973]

"INCUMBENTS' RE-ELECTION ACT OF 1973"

(By David S. Broder)

The only thing more dangerous to democracy than corrupt politicians may be politicians hell-bent on reform. We have had a large dose of corruption in Watergate and now, by God they mean to make us take our medicine.

Waving the banner of reform, they have already pushed through the Senate, with a minimum of debate or public attention, a bill that would basically alter the American political calendar. A companion measure, with similarly sweeping changes in the financing of federal campaigns, is scheduled for Senate action before the end of the month and—barring public protest—will also probably gain easy passage.

Both of them are described in the noblest, most altruistic rhetoric as measures to purify politics. Both have some provisions that may be very desirable. But make both bills law and it becomes virtually impossible ever again to defeat an incumbent for Federal office. If that is not the intention of the sponsors, it is the kind of coincidence that makes one suspicious.

The first bill, already passed by the Senate at the urging of its powerful Democratic whip, Sen. Robert C. Byrd of West Virginia, has as its ostensible purpose the shortening of election campaigns.

It prevents any congressional or senatorial primary being held before the first Tuesday in August and says that no presidential nominating convention may begin before the third Monday of that month.

Byrd says that by shortening the general election campaign period to about two month, his bill would "reduce campaign expenditures and renew the waning interest of citizens in the electoral process."

Noble and desirable, right? The only problem is that there is precious little reason to think that any challenger limited to an eight-week campaign would stand a snowball's chance in hell of defeating an incumbent representative, president or senator who has had two years, four years or six years to gain name recognition and familiarity, to propagandize his constituents at public expense and to organize his re-election campaign.

Hubert Humphrey knows from bitter personal experience in 1968 what it is like to try to heal intra-party wounds and organize a general election campaign after a nominating convention as late as that required by this bill. But Humphrey, the incumbent senator of 1973, did not raise the objections once loudly voiced by Humphrey the frustrated presiential contender.

Conceivably, an occasional challenger could overcome the disadvantages of the short campaign period by mounting a real blitz in those few weeks. But the companion measure, now awaiting Senate action, is carefully contrived to eliminate even that slight danger to incumbents.

Along with some quite desirable changes in other aspects of election law, it includes an overall spending limit of 20 cents per eligible voter for the general election. For House races where that limit would be most restrictive, a minimum of $90,000 per district is specified.

That, too, sounds just dandy. But what is the effect of limiting a challenger to $90,000 and a short campaign when his incumbent opponent has had two years or more of federally-financed newsletters, television reports, trips home, and district office staff members to propagandize his contituents? The effect is to re-elect incumbents.

Indeed, even Common Cause, the reform-minded citizens group that is pushing for new election laws, concluded a study of the financing of last year's Senate races with the observation that "the consistently disproportionate distribution of funds between challengers and incumbents is a far more serious problem today than the total amounts being spent."

If the "reformers" in Congress wanted to address themselves to that real problem, they could easily do so. They could vote government-subsidized mailings for all federal candidates or provide public financing, equally, for the campaigns of incumbents and challengers alike.

But, for some strange reason, they are not doing that. Instead, the bill awaiting action (S. 372) moves in the opposite direction, by weakening the existing statutory ban on contributions from people in companies and unions engaged in government contract work —contributions which, inevitably would increase the incumbents' already intimidating campaign treasuries.

What these two bills amount to is the Incumbent's Guaranteed Re-Election Act of 1973. Since it is in the incumbent senators and representatives power to vote themselves this boon there is no reason to doubt they will do so.

Lord save us from such reformers.

Mr. STAFFORD. Mr. President, if we have learned anything from the events of recent months regarding political campaign financing it is that the mixture of big money and politics is an explosive and dangerous mixture. It is a mixture that can do only violence to our system of politics and government.

The argument is made by the proponents of S. 372 that their proposed changes will create a broader base of contributors to political campaigns. But,

who will these new contributors be? They will be big business and big labor organizations.

Our system needs broader participation by individual citizens who are willing to demonstrate their trust in the American political system by investing their own contributions in political candidates and political parties of their choice. The law permits that kind of political participation. We need no change in the law to broaden the base of political contributors. What we need is a change in the political climate. A change that will attract greater participation by individual Americans.

Yet, at a time when the need to purify the political atmosphere is overwhelming, we are being asked to create the potential for new political clouds.

Mr. President, our political system cannot stand this kind of reform at this point in our history. At a time when we are all being overwhelmed with evidence that demonstrates that big money leads to abuse of the political system, we must act to tighten controls on campaign financing. Certainly we cannot weaken those controls, as the committee has proposed.

AMENDMENT NO. 347

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

Mr. BENTSEN. Mr. President, I am submitting today an amendment to S. 372, amending the Federal Elections Campaign Act which would make the Comptroller General a permanent member of the Federal Election Commission established under this bill. Under S. 372 the Federal Election Commission would operate as an independent agency responsible for the enactment of the provisions of the act.

At present the bill before the Senate calls for a commission of seven members, four of whom are to be selected from individuals recommended by the joint leadership of the House and Senate. I am including the Comptroller General as a permanent member for two principal reasons. First, the GAO has already had significant experience carrying out the requirements of the 1971 Federal Elections Campaign Act and has vigorously pursued its responsibilities under that law. Second the Election Commission will rely heavily upon the assistance and facilities of the GAO and the cooperation and participation of the Comptroller General, therefore, is essential in order for the Commission to function effectively.

Mr. President, the Federal Election Commission will face an immediate, tremendous task in recording, accounting, and policing the campaign committees that will participate in the 1974 Federal elections. The participation of the Comptroller General on the Commission will provide a continuity of experience and will insure immediate and full cooperation between the GAO and the Election Commission. The effectiveness of the law will be greatly enhanced by this amendment and I urge the Senate to give it prompt and favorable consideration.

AMENDMENT OF TRUTH-IN-LENDING ACT—AMENDMENT

AMENDMENT NO. 343

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

Mr. MOSS submitted an amendment, intended to be proposed by him, to the bill (S. 2101) to amend the Truth-in-Lending Act to protect consumers against inaccurate and unfair billing practices, and for other purposes.

CONSERVATION OF CERTAIN FISH AND WILDLIFE—AMENDMENT

AMENDMENT NO. 344

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

Mr. TALMADGE submitted an amendment, intended to be proposed by him, to the bill (S. 1983) to provide for the conservation, protection, and propagation of species or subspecies of fish and wildlife that are threatened with extinction or likely within the foreseeable future to become threatened with extinction, and for other purposes.

REVISION OF SPECIAL PAY STRUCTURE RELATING TO MEMBERS OF THE UNIFORMED SERVICES—AMENDMENTS

AMENDMENT NO. 345

(Ordered to be printed, and referred to the Committee on Armed Services.)

FOREIGN DUTY PAY

Mr. GRAVEL. Mr. President, S. 368, the Uniformed Services Special Pay Act of 1973, would correct many inequitities in our present military pay structure, and if enacted will constitute an important step toward assuring the success of an all-volunteer armed force. There is one important inequity which S. 368 fails to correct, however, so I am today submitting an amendment to rectify this situation.

Section 305(a), title 37, United States Code, prohibits any serviceman who is a resident of the State, territory, or possession in which he serves from receiving hardship duty pay.

As a consequence of this restriction, a resident of Alaska, in the military, assigned to a station in Alaska, receives less pay than other men in his unit. This is also true for residents of Hawaii, Puerto Rico, the Virgin Islands, and U.S. possessions.

Deprived of this additional pay, a man is less well off than his fellow servicemen who are residents of any one of the other States. Yet, he faces the same high cost of living his fellow servicemen face. But with less money. While it is true that he is stationed in his home State, home could be any distance away—500 to 1,000 miles—and he suffers the same hardships as those from other States.

Most military posts in Alaska are hardship posts. The serviceman is faced with a higher cost of living in terms of food, housing, and other essentials, than he is in the lower 48 States. Many of these posts are remote, which, translated into dollars and cents, means that the serviceman's pocketbook is adversely affected, notwithstanding the PX and commissary privileges.

The criteria for receiving this special pay should be isolation and hardship, factors much more relevant than residence. My amendment would correct the present inequity of the law, and I hope that it will receive favorable consideration by the Senate.

AMENDMENT NO. 346

(Ordered to be printed, and referred to the Committee on Armed Services.)

EQUAL COMPENSATION FOR VETERINARIANS

Mr. GRAVEL. Mr. President, today I submit an amendment to S. 368, the Uniformed Services Special Pay Act of 1973, to provide compensation to veterinary officers of the Army, Air Force, and Public Health Service equal to that which would be provided physicians and dentists.

Specifically, my amendment provides the following for veterinarians:

First. Four years constructive credit for the purpose of computing basic pay;

Second. Special pay at the rates of $100 a month for each month of active duty if less than 2 years of active duty has been completed; and $350 a month for each month of active duty if at least 2 years of active duty has been completed; and

Third. Four years constructive credit for the purpose of determining grade, position on a promotion list, seniority in grade, and eligibility for promotion.

The need for this amendment is explained fully in a letter from Dr. David Howe, president of the Alaska State Veterinary Medical Association. I ask unanimous consent that Dr. Howe's letter be printed at this point in the RECORD, followed by a copy of the amendment itself.

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

THE ALASKA STATE
VETERINARY MEDICAL ASSOCIATION,
Anchorage, Alaska, April 24, 1973.

DEAR SENATOR GRAVEL: The Alaska State Veterinary Medical Association, with assistance from American Veterinary Medical Association, the Association of American Veterinary Medical Colleges, and concerned individuals in our profession, are actively working to create a system of compensation for the uniformed services that will attract the highest quality of veterinary officers in sufficient numbers to meet the needs of the U.S. Army, Air Force, and Public Health Service.

Several members of Congress have introduced bills that propose compensation systems for the health professions but they do not provide adequate incentives for veterinary officers. We anticipate that the Department of Defense will not oppose these bills. The following remarks provide background information on this situation.

Veterinary officers of the U.S. Army, Air Force, and Public Health Service receive $100 special pay monthly, in addition to other allowances, as partial recognition of the salary differential between civilian and military veterinarians. The AVMA was instrumental in having this $100 special pay for veterinarians included in Public Law 83-84, June 29, 1953. The amount was identical to the amount then received by physicians and dentists who earlier had been awarded special pay by Public Law 80-635, August 5, 1947.

Public Law 84-118, June 30, 1955, continued veterinarians at the $100 per month

level, and marked the start of "separate handling" of physicians and dentists by increasing their special pay. With enactment of Public Law 89–132, October 2, 1963, the level for physicians and dentists is $100 per month for the first two years' service, $150 per month for the next four years, $250 per month for the next four years and $350 per month thereafter. The $100 per month special pay for veterinarians has been unchanged for 20 years.

A bill (HR 16924) passed by the House of Representatives in the 92nd Congress (1972) contained provisions for $100 per month special pay for physicians and dentists for the first two years of active duty and $350 per month thereafter, rather than scaling up to $350 per month after 10 years as at present. The $100 per month special pay for veterinarians entering on active duty after July 1, 1973, *would be discontinued.* This bill was not considered by the Senate and thus was dead for that session of Congress.

The proposed legislation also contained a "bonus" provision whereby health professionals could receive a bonus of *up to* $15,000 annually for each year of non-obligated service up to six years. The actual amount would vary by professional category. One proposal for implementation of the bonus plan would award selected veterinarians with not more than five years' service a bonus of $5,000 annually for agreeing to serve six additional years. The amount of the six-year bonus would decrease depending upon the number of years already served on active duty by the officer, with the effect that veterinary officers with over nine years of active service would not be eligible to enter into a bonus contract. Some effects of the bonus plan would be:

1. Only a fraction (300 officers) of the approximately 850 Army and Air Force veterinary officers would be eligible for selection to receive a bonus in any given fiscal year.

2. The Secretary of Defense could cease offering a bonus contract to any officer at any time without cause.

3. Although graduate training has been the single most successful recruiting tool, officers in a training or obligated status would not be eligible under the provisions of the proposed bill.

4. Because of the six-year limitation on payments, there would be an unavoidable exodus of officers with 10 to 12 years' service following the termination of bonus payments. These would include the officers with board certification and graduate training, just entering their professional prime.

Veterinary Corps officers are given three years' constructive credit *for promotion* only. Between 1954 and October 31, 1966, Veterinary Corps officers entered the service as first lieutenants and were promoted to captain when their combined time in service and three years' constructive credit coincided with the total commissioned service of the line officer at the time of the latter's promotion to captain. Subsequent to 1966, the rapid promotion of line officers to captain (three years or less total service) enabled veterinarians, with their three years' promotion credit, to enter the service as captains. There has been a serious disadvantage, however, in that the veterinary officer with 7 to 8 years of professional education useful to the uniformed services reaches 25–26 years of age and has *no credit for pay purposes.* By contrast, the line officer who was promoted to captain at age 24, already had over two years' service for pay and, at the same age of the entering veterinary officer, already had compiled 3 to 4 years for pay purposes. This gave the line officer an advantage of from $140 to $230 per month over the military veterinarian that was not equalized by the veterinarian's $100 per month special pay.

Students in the current first-year classes of veterinary medicine have an average of 3.63 years of collegiate training prior to acceptance by a college of veterinary medicine. This means that upon completion of their professional training, they will have had 7.63 years of college education. Medical and dental officers, who spend a similar amount of time in college, receive four years' constructive credit for promotion *and* pay *and* retirement, in recognition of their professional education.

There is a high level of professional talent in the veterinary services of the Army and Air Force. Of 335 regular Army and Air Force Veterinary Corps officers, 238 or 61.8% are trained at the masters degree level postdoctorally. Ninety-nine or 25.6% hold certification by veterinary specialty boards as testimony to their professional excellence. Thirty-six or 9.3% have been trained at the Ph. D. level beyond the doctor of veterinary medicine degree.

Legislation which adversely affects any segment of the profession adversely affects the profession as a whole. It is for this reason that the AVMA, the dean of the colleges of veterinary medicine, and others in the profession are joining enthusiastically to stimulate legislation that will provide the following for military veterinarians:

1. Four years' constructive credit for promotion *and* pay by amending Section 205a (7), Title 37, U.S. Code to include veterinarians.

2. Special pay for veterinarians on a comparative level with physicians and dentists. This can be accomplished by including veterinarians along with physicians and dentists in Chapter 5 of Title 37, U.S. Code, Section 302, Special Pay.

Proposed legislation (HR 310 and S368) has been introduced in both houses of the 93rd Congress relating to special pay, similar to the provisions of HR 16924 in the 92d Congress. It will be necessary to amend these bills or to support new legislation if veterinarians are to receive appropriate professional recognition.

The Alaska State Veterinary Medical Association support this effort and urges your assistance in securing a fair and adequate pay for the uniformed veterinarian.

Sincerely,

DAVID HOWE, D.V.M.,
President, ASVMA.

AMENDMENT NO. 346

On page 1, between lines 4 and 5, insert the following:

SEC. 2. (a) Section 205(a) of title 37, United States Code, is amended by striking out the word "and" at the end of clause (8), and redesignating clause (9) as clause (10) and adding after clause (8) a new clause (9) as follows:

"(9) for an officer of the Veterinary Corps of the Army, an officer of the Air Force designated as a veterinary officer, or a veterinary officer of the Public Health Service—four years; and".

(b) Such section is further amended by striking out "clauses (2)–(9)" in the first sentence following clause (10), as redesignated by subsection (a) of this section, and inserting in lieu thereof "clauses (2)–(10)".

On page 1, line 5, strike out "SEC. 2" and insert in lieu thereof "SEC. 3".

On page 1, line 7, strike out "Section 302 is" and insert in lieu thereof "Sections 302 and 303 are".

On page 2, line 15, strike out the quotation marks.

On page 2, between lines 15 and 16, insert the following:

"§ 303. Special pay; veterinarians

"(a) An officer of the Army who is in the Veterinary Corps, an officer of the Air Force who is designated as a veterinary officer, or a veterinary officer of the Public Health Service, who is on active duty for a period of more than thirty days is entitled, in addition to any other pay or allowances, to special pay at the following rates:

"(1) $100 a month for each month of active duty if he has not completed two years of active duty in a category named in this section; or

"(2) $350 a month for each month of active duty if he has completed at least two years of active duty in a category named in this section.

The amounts set forth in this section may not be included in computing the amount of an increase in pay authorized by any other provision of this title or in computing retired pay or severance pay."

On page 15, line 7, strike out "SEC. 3" and insert in lieu thereof "SEC. 4".

On page 15, line 13, strike out "SEC. 4" and insert in lieu thereof "SEC. 5".

On page 16, line 7, strike out "SEC. 5" and insert in lieu thereof "SEC. 6".

On page 16, between lines 22 and 23, insert the following:

SEC. 7. (a) Section 3287 (a) (2) of title 10, United States Code, is amended by—

(1) redesignating items (A), (B), (C), and (D) as items (B), (C), (D), and (E), respectively;

(2) inserting a new item (A) as follows:

"(A) Four years, if he is appointed in the Veterinary Corps."; and

(3) striking out "chaplain, in the Judge Advocate General's Corps, or in the Veterinary Corps" in item (B), as redesignated by clause (1) of this subsection, and inserting in lieu thereof "chaplain or in the Judge Advocate General's Corps".

(b) Section 8287 (a) of such title is amended by—

(1) redesignating clauses (2), (3), (4), and (5) as clauses (3), (4), (5), and (6) respectively;

(2) inserting a new clause (2) as follows:

"(2) four years, if he is appointed in the Regular Air Force with a view to designation as a veterinary officer;"; and

(3) striking out "chaplain, judge advocate, or veterinary officer" in clause (3), as redesignated by clause (1) of this subsection, and inserting in lieu thereof "chaplain or judge advocate".

On page 16, line 23, strike out "SEC. 6" and insert in lieu thereof "SEC. 8".

On page 17, line 1, strike out "2 (1)" and insert in lieu thereof "3 (1)".

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

AMENDMENT NO. 348

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

Mr. HATHAWAY submitted amendments, 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.

NOTICE OF HEARING ON FEDERAL PAPERWORK BURDEN

Mr. McINTYRE. Mr. President, the Subcommittee on Government Regulation of the Senate Select Committee on Small Business will continue its hearings into the Federal paperwork burden and the impact on small business on July 23, 1973, beginning at 10 a.m. in room 4200 of the Dirksen Senate Office

Building. The witness list will be released by the subcommittee at a later date.

At this hearing the subcommittee will examine into the reporting requirements imposed on small broker-dealers by the National Association of Securities Dealers and the Security Investors Protection Corporation.

Further information regarding this hearing can be obtained from the offices of the Senate Select Committee on Small Business, extension 5–5175.

ADDITIONAL STATEMENTS

THE NEED FOR FIREFIGHTER LEGISLATION

Mr. McINTYRE. Mr. President, as a result of recommendations from the National Commission on Fire Prevention and Control, my distinguished colleague from Washington, Senator MAGNUSON, has introduced legislation which would assist firemen in their struggle against the ravages of fire. The Fire Prevention and Control Act of 1973 would improve upon existing Federal programs, create within the Department of Housing and Urban Development a U.S. Fire Administration to assist State and local government in reducing the incidence of death, personal injury, and property damage from fire and increase effectiveness and coordination of fire prevention and control agencies at all levels of government. I wholeheartedly endorse Senator MAGNUSON in his efforts to aid these brave men who face danger each and every day of their lives.

Recently, I received a letter from the supervisor of fire service training for the Department of Education, State of New Hampshire, Mr. Barry Bush. He states a most cogent argument expressing the need for such legislation in New Hampshire. The best way I can conceive to show our firefighters we care would be to act on this legislation as soon as possible.

Mr. President, I ask unanimous consent to have printed in the RECORD a letter from the New Hampshire Department of Education. I am sure my colleagues will agree that the need for this legislation is imperative.

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

JULY 6, 1973.

Hon. THOMAS J. McINTYRE,
U.S. Senate,
Washington, D.C.

DEAR SENATOR McINTYRE: At this time, I would like to take the opportunity to request your support for Senate Bill S. 1769, and House Bill H. 7681, the Fire Prevention and Control Act of 1973, introduced in the Senate by Senator G. Magnuson and in the House by Representative Wright Patman.

As you are aware, the Presidential Commission on Fire Prevention and Control has made its report to the President and is recommending a very comprehensive program for the Fire Service. Senate Bill S. 1769 and House Bill H. 7681 is, in fact, designed around the 20 member Commission's report.

I cannot overemphasize the fact that in our State alone, there are some 8,000 firefighters who receive little or no training, the protective clothing is inadequate or nonexistent in many cases, that our emergency Fire Service communications between Fire Departments and throughout the State is a hodgepodge and needs coordination to allow inter-department communications in times of emergencies. That our State Fire Marshal's Office is totally overburdened and lacks the ability to be effective, and that there is little general comprehensive direction given for the Fire Service of our State.

Our State has, within our existing funds and resources, tried to alleviate this situation and enter the 20th century. However, our plight is woefully in need of massive federal assistance. In just the training area alone, our total budget for 8,000 firefighters is $44,000. Of this amount we have been able to stretch our training to some 1,000 firefighters; however, our instructors lack the necessary training aids to carry out instruction. In many cases, they do not even have the necessary training manuals and through much personal sacrifice have taught courses for no pay whatsoever. Our Fire Chiefs Association has studied the problems of our State Fire Service and most can be directly related to lack of budgetary support.

As you may know, the Fire Service is the only governmental agency that utilizes its funds to the greatest potential, no other area can do more if they are given the opportunity. The men and women of the local fire departments have proven their ability to get the most for the money appropriated to them. They operate on shoe string budgets through limited town appropriations, bake sales, donations, raffles, etc., and are protecting the lives and property in our communities.

The Fire Service not only protects the lives of the citizens of the communities, but is the only governmental agency that protects the local tax base. It does well to consider the valuation of a city or town and then look at the amount expended to protect that investment.

It must be pointed out that in our State, in 1970, there were some $5,240,000 in fire losses. The figures include only insured losses on straight fire policies. The loss figures do not take into acount fire losses incurred on homeowners or multiperil commercial policies. Further, there is no consideration given to the indirect fire losses such as loss of tax base, loss of key employees, loss of customers, loss of payroll, loss of engineering data, etc. These indirect losses are figured to be 2 to 3 times the direct loss rate.

In other words, New Hampshire lost some 10 to 15 million dollars in 1970 due to fires. Our part-time instructors have been witnesses where proper training could have saved tens of thousands of dollars in fire losses at fires. By supporting this bill and the funding requested with it, our State will be able to begin to provide its citizens the level of fire protection they deserve.

Thank you very much for your time and consideration. Should you desire any further information, please feel free to contact me at any time.

Very truly yours,

BARRY BUSH,
Supervisor, Fire Service Training.

CAPTIVE NATIONS WEEK— JULY 15–21

Mr. BEALL. Mr. President, July 15 marked the beginning of Captive Nations Week for 1973. Pursuant to a joint resolution of Congress adopted in 1959, Public Law 86–90, we, as freedom-loving Americans, focus the attention of all nations on the sorry plight of a few. More than 100 million people in the East European nations of Albania, Bulgaria, Czechoslovakia, Estonia, Hungary, Latvia, Lithuania, Poland, and Rumania have been forcibly denied their precious God-given right to self-determination. As the leader of the free world, the United States must reaffirm its commitment to the ideals of freedom, liberty, and the inalienable right to self-government which our institutions embody.

The popular outbursts against domestic tyranny that have characterized these nations' captivity attest to the yearnings of the people for escape from authoritarian, foreign rule. The valiant struggle so long maintained by these oppressed peoples in their fight against virtually insuperable odds deserves our greatest respect. We cannot desert these nations by straying from the ideals of justice that they hold as dear as we do here in America.

We are presently making great strides in the direction of detente with the Soviet Union. In the interest of peace and brotherhood we must constantly strive to coexist amicably with all peoples of all ideologies. But we will never abandon the principles and beliefs which are the cornerstone of our governmental institutions. We will never abandon our dedication to particular freedoms enumerated in the Bill of Rights. We, as a nation, are dedicated to the promotion of liberty and the right to self-determination everywhere on the globe.

The people of East Europe will someday be free. We in the United States, as the world's symbol of liberty, must do our part to keep their flame of hope alive, not only during this week or this year, but until these nations are delivered from this awful tyranny.

CHILD ABUSE PREVENTION AND TREATMENT ACT

Mr. HUMPHREY. Mr. President, I voted for passage of the Child Abuse Prevention and Treatment Act, S. 1191, by the Senate on July 14, 1973. I wish to take this opportunity to urge that this vital legislation be enacted by Congress without delay.

It is imperative that this first step toward providing effective protection for thousands upon thousands of maltreated children in America be taken as quickly as possible. There is sufficient cause for decisive action when it is estimated that at least 60,000 cases of child abuse are reported annually, while thousands more go unmentioned. We must halt a profoundly critical social disease reflected in estimates that at least 700 children are killed in this country every year by their parents or surrogates, and that one out of every two "battered" children dies after being returned to his or her parents.

Increased public awareness of this social malady is reflected in the fact that in the last decade nearly every State has revised its child abuse reporting laws. But we know all too well that this is only a beginning; that far too often the permanent psychological or physical damage has already been done; and that the crucial job of treatment and follow-up protection and family counseling services remains to be addressed.

The harsh fact is that our knowledge of the extent of what should be more correctly termed the "maltreatment syndrome in children" remains totally inadequate. We may have been shocked by

revelations of hospital emergency room cases of children with body trauma, bruises, abrasions, cuts, lacerations, burns and scalds, and broken bones or dislocated shoulders. But the story has yet to be told of extensive cases of children without these symptoms of physical abuse, but with numerous minor physical evidences of emotional and nutritional deprivation, neglect, and abuse. And we are only beginning to recognize the dimensions of the child abuse cycle, where the victim of emotionally crippled or distraught parents will himself have emotional and psychological crippling which is passed on to succeeding generations with a sense of rejection and violence.

It is an unconscionable act of personal and social irresponsibility to be satisfied with the explanation that the maltreatment syndrome in children is simply a symptom of the pressures and tensions of modern society. It is no excuse that the battered child is but one form of the violence that is all too prevalent in society today. No one questions that there is a good measure of truth in these assertions. But no one dare accept them as final answers; rather, they should be a decisive stimulus to action on behalf of those in our society who are innocent of its ills and least able to protect themselves from the aberrational behavior spawned by social disintegration.

However, firm action on child abuse prevention and treatment demands leadership at the national level. It is clear that Congress must provide this leadership in the absence of definitive action by the administration. Federal support for programs dealing with child abuse has been available primarily through title IV–B of the Social Security Act, which authorizes child welfare services, including child protective services. But the administration has only budgeted $46 million for all IV–B activities in fiscal 1974—identical to the funds available in the last fiscal year—and of this limited amount, only $507,000 was spent in fiscal 1973 on activities related to child abuse. Moreover, the Department of Health, Education, and Welfare has revealed that it has no information about the effectiveness of child abuse prevention and treatment programs in the respective States. and a last-minute announcement by HEW, subsequent to the introduction of S. 1191, of its intention to earmark $4 million for activities related to child abuse in fiscal 1974, failed to indicate the source of these funds, whether they constituted new moneys, and any specific and comprehensive plan for their expenditure beyond certain general-purpose information gathering and feasibility study intentions.

The Child Abuse Prevention and Treatment Act, of which I am an original sponsor, can prepare the way for pinpointing Federal responsibilities, marshaling resources, and developing a comprehensive and sustained program of action to address this crucial social problem. It provides for the establishment of a National Center on Child Abuse and Neglect within HEW's Office of Child Development. The center would compile, analyze, and publish current research on child abuse, and would serve as a national clearinghouse of information on programs dealing with child abuse and neglect.

Most importantly, the bill authorizes grants, administered through the Center, for extensive demonstration programs designed to prevent, identify, and treat child abuse and neglect. The purposes for which these grants are specified indicate a clear recognition of the serious need for the training of personnel to deal with child abuse, for the establishment of multidisciplinary approaches to deal effectively with the full scope of child abuse causes and treatment problems, and for innovative projects, such as support of parent self-help organizations.

Finally, S. 1191 provides for the establishment of a National Commission on Child Abuse and Neglect, to include parents, public officials, and those with professional training and experience. The Commission is given a specific 1-year mandate to report to the President and Congress on the effectiveness of child abuse and neglect reporting laws, existing prevention, and treatment programs, the actual national incidence of child abuse and neglect, the adequacy of 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. The Commission is given effective powers to get at these vital facts, and is to include recommendations for further legislation, as appropriate, in its findings and conclusions.

Mr. President, I was gratified that the report on this legislation by the Senate Committee on Labor and Public Welfare clearly recognized that further action is necessary to assure the development of effective State programs on child abuse prevention and treatment, meeting specific standards. It is intended that this be accomplished under legislation that would require a State plan for activities related to child abuse as a condition for receiving funds for child welfare programs authorized under title IV–B of the Social Security Act.

On March 26, 1973, I introduced S. 1364, the National Child Abuse Prevention Act of 1973, which specifically requires that States submit to the Secretary of Health, Education, and Welfare comprehensive plans for child abuse prevention and treatment. My bill would amend the Elementary and Secondary Education Act of 1965 to add a new title on child abuse, authorizing $60 million in grants over a 3-year period for effectively coordinated programs targeted on critical needs in this area. These needs, for which explicit standards are set forth, include adequate State laws on child abuse reporting and child welfare, programs designed to train professionals in the appropriate techniques of child abuse prevention and treatment, education programs to sharpen public awareness of the high incidence of child abuse and neglect, and a central registry at the State level to coordinate information on relevant court actions.

S. 1364 provides for a comprehensive and responsible definition of child abuse, and it sets forth specific requirements, protections, and followup procedures in the reporting of child abuse or neglect.

I urge that careful consideration be given to the provisions of my bill, the National Child Abuse Prevention Act, in the development of further legislation on this vital issue. It is essential that such comprehensive measures be undertaken to assure that a multidisciplinary network of protection is developed in each community to implement the good intentions of the law. Effective counseling and assistance must be provided to parents. Law enforcement, medical, and social service sector responsibilities must be fully coordinated. But of highest importance, no effort must be spared to guarantee the right of every child to life, and to the opportunity for a future of hope and decency.

SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR WOMEN, INFANTS, AND CHILDREN

Mr. PERCY. Mr. President, several weeks ago I had the privilege to chair—together with the senior Senator from Kentucky (Mr. COOK)—a series of hearings on maternal and infant nutrition held by the Select Committee on Nutrition and Human Needs.

We heard from a long list of outstanding doctors and scientists all of whom stressed the vital importance of good nutrition during pregnancy and the early years of life for the optimum physical and mental development of the child.

The evidence presented to the committee indicated that various nutrition intervention programs designed to supplement the diets of pregnant and lactating women and their offspring have had a very positive impact on the nutritional status of the target population.

Nearly a year ago, under the leadership of the junior Senator from Minnesota (Mr. HUMPHREY) and the senior Senator from New Jersey (Mr. CASE) we authorized the USDA to conduct a 2-year $40-million demonstration project aimed at measuring as precisely as possible the efficacy of a supplemental feeding program for women, infants, and children, the WIC program.

We have had to wait a long time for the regulations for this program, but they were finally published by USDA in the Federal Register last week.

Local agencies which are chosen to participate will distribute supplemental foods to eligible persons and will keep medical records to be used to evaluate the effect of the food on the health and well-being of the women, infants, and children who take part.

In order to launch the program quickly, the regulations will not be open for comment, but are effective immediately. USDA hopes some programs will be in operation by early this fall.

This is an important program which needs our support. In light of the evidence already amassed by the Select Committee on Nutrition in the hearings on maternal and infant nutrition I know my colleagues will want to bring this pilot program to the attention of their constituents.

I ask unanimous consent that the USDA's press release announcing the publication of the regulations together with the text of the regulations be printed in the RECORD.

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

PILOT SPECIAL SUPPLEMENTAL FOOD PROGRAM STARTS FOR WOMEN, INFANTS, AND CHILDREN

WASHINGTON, July 9.—The U.S. Department of Agriculture (USDA) today announced the start of a new pilot Special Supplemental Food Program for Women, Infants and Children (WIC).

The WIC Program, authorized by Public Law 92-433, will be administered by USDA's Food and Nutrition Service (FNS).

FNS will provide cash grants to health departments or comparable state agencies to make supplemental foods available to pregnant and lactating women, infants, and children up to four years. The system of delivery may include the distribution of food at health clinics, the issuance of food vouchers redeemable at retail stores, or any other method a state may select.

The pilot program will operate through June 30, 1974, in selected areas. It may be carried out in any area, without regard to whether the area is operating a Food Stamp Program or a Food Distribution Program.

Project areas will be required to maintain medical records on participants, and the information will be used to evaluate the effect of the supplemental food on the women, infants and children who take part.

A local agency may apply for the program if:

It provides health services to residents of areas in which a substantial number of persons have low incomes;

It serves women, infants, and children;

Its staff includes competent medical personnel to examine persons receiving health services; and

Its facilities include equipment for conducting evaluation tests.

Participants are eligible for the pilot program if:

They live in an approved project area;

They are eligible for medical treatment at reduced cost from a local agency serving the project area in which they live; and

They are determined by competent medical personnel of the local agency to be in need of supplemental food.

The following foods will be authorized for distribution:

To infants—iron-fortified infant formula, infant cereal, whole milk, and fruit juice.

To children—milk, cheese, cereal, fruit or vegetable juice, and eggs.

To pregnant or lactating women—milk, cheese, cereal, fruit or vegetable juice, and eggs.

Final regulations for the operation of the program are scheduled to be published in the Federal Register on Friday. To expedite the introduction of the program, comments and suggestions will not be sought on these regulations.

The five regional offices of the Food and Nutrition Service will immediately start to contact state health departments, to advise them of operating details of the new program, and to determine their interest in participating in it.

TITLE 7—AGRICULTURE: CHAPTER II—FOOD AND NUTRITION SERVICE, DEPARTMENT OF AGRICULTURE

SUBCHAPTER A—SCHOOL LUNCH PROGRAM: PART 246—SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR WOMEN, INFANTS AND CHILDREN

Pursuant to the authority contained in the Child Nutrition Act of 1966, as amended (42 U.S.C. 1771 et seq.) regulations for the operation of the Special Supplemental Food Program for Women, Infants and Children are hereby issued.

Public Law 92-433, approved September 26, 1972, added a new section 17 to the Child Nutrition Act of 1966 (86 Stat. 729). This section authorized the establishment of a Special Supplemental Food Program. The Department has chosen to call this the Special Supplemental Food Program for Women, Infants and Children (WIC program) to prevent confusion with the supplemental food program which is currently being operated as an adjunct of the Food Distribution Program (7 CFR 250.14).

The WIC program is established on a pilot basis through June 30, 1974. Although the WIC program will supply nutritious foods to participants, a major object of the program is the collection and evaluation of data which will medically identify benefits of this food intervention program. In addition, data will be collected and analyzed to measure the administrative efficiencies of various methods of making food available to participants.

To achieve the maximum amount of information in a minimum period of time, the Department is encouraging diversity in the design and operation of the WIC program in individual localities. A minimum number of requirements are imposed. Local health clinics are required to demonstrate that they serve low income populations considered to be at nutritional risk and that they have the necessary facilities and other resources to effectively carry out the WIC program. State departments of health (by whatever name identified) must accept the responsibility for the system of making foods available to participants and for supervising all participating health clinics in the State.

Interested health clinics must apply to their State department of health but FNS will select those which will participate in the WIC program. The criteria for selection fall in two general categories: Demonstrated need for the program and the ability to meet program objectives.

Pregnant or lactating women, infants and children under age four are eligible to participate if they live in an approved low income area served by an approved health clinic, are eligible for reduced cost medical treatment from that clinic and are determined by professionals on the staff of the clinic to need the supplemental foods.

The Department has prescribed the foods and the maximum monthly quantities of each food which are to be made available to participating individuals. These foods are intended to supplement the regular diet of participants—not to be a complete diet in themselves. However, they are nutritious and are especially high in those nutrients known to be lacking in diets of people who are eligible for the WIC program.

Infants can receive over 100 percent of the Recommended Dietary Allowances (RDA) of the National Research Council of the National Academy of Sciences for protein, calcium, iron and Vitamin C and about 90 percent of the RDA for Vitamin A from the authorized supplemental foods. Calories will also be fully supplied up to about age 3 months and will be about three-fourths of lactating women can receive about one-RDA thereafter. Children one year of age, but less than four years of age can receive more than 100 percent of RDA for protein, calcium, iron, and Vitamins A and C, and about two-thirds for calories. Pregnant or lactating women can receive about one-fourth of RDA for calories and between 60 percent to over 100 percent of RDA for the nutrients mentioned above.

It is the policy of the Department to publish a notice of proposed rulemaking and afford interested persons 30 days to submit comments before final rules and regulations are formulated for Food and Nutrition Service Programs. However, in view of the need for issuing final regulations for the WIC program on or before July 6, 1973, as ordered by the U.S. District Court for the District of Columbia on June 20, 1973, it is hereby determined that it is impractical, unnecessary and contrary to the public interest to give notice of proposed rulemaking. Although public comment was not solicited, these regulations were formulated after discussions with members of the Department of Health, Education and Welfare and with medical consultants.

Applications for participation in the pilot WIC program will be accepted immediately. Any inquiries should be directed to the appropriate FNS Regional Office listed in § 246.15 of this part.

Sec.

AUTHORITY: Sec. 10, 80 Stat. 889, as amended; sec. 9, 86 Stat. 729; 42 U.S.C. 1786.

§ 246.1 General purpose and scope.

(a) This part announces the policies and prescribes the general regulations for a pilot Special Supplemental Food Program for Women, Infants and Children (WIC) program. Under the WIC program the Department shall provide cash grants to the health department or comparable agency of a State to enable such agency to make nutritionally desirable foods available to pregnant or lactating women, infants and children through local public or nonprofit private health agencies. The WIC program shall operate through June 30, 1974, in selected States and areas.

(b) The Department shall also collect data to evaluate the effect of food intervention upon populations which are at nutritional risk. Further, the Department shall evaluate WIC program operations for administrative effectiveness and efficiency.

§ 246.2 Definitions.

For the purposes of this part and of all contracts, instructions, forms, and other documents related hereto, the term:

(a) "Adequate medical records" means those records listed under § 246.11(d).

(b) "Administrative costs" means all costs, except expenditures for food, directly attributable to WIC program operations and also means costs indirectly attributable to the WIC Program (those costs shared with other programs) if such costs are allocated under an approved cost allocation plan as described in the Office of Management and Budget Circular A-87.

(c) "Birth weight" means weight of an infant in grams determined within two hours of birth.

(d) "Children" means persons at least one year of age but less than four years of age.

(e) "Competent professionals" means physicians, nutritionists, registered nurses, dietitians, or State or local medically trained health officials, or persons designated by physicians or State or local medically trained health officials as being competent professionally to evaluate nutritional risk.

(f) "Department" means the United States Department of Agriculture.

(g) "Designated evaluation visit" means a visit to the local agency during which participants selected in accordance with FNS instructions will complete the tests needed to obtain the information required for the FNS evaluation of the effect of food intervention.

(h) "FNS" means the Food and Nutrition Service of the Department.

(i) "FNSRO" means the appropriate Food and Nutrition Service Regional Office.

(j) "Infants" means persons under one year of age.

(k) "Lactating women" means women for a period of six weeks post partum and also means women who are breast-feeding an infant.

(l) "Local agency" means a health clinic which is operated by the State agency, a political subdivision of the State, or a private, nonprofit organization.

(m) "Low birth weight" means a birth weight less than 2,500 grams.

(n) "Low income" means an income below the poverty level as determined by the 1970 U.S. Census subject to annual revision for changes in the cost of living.

(o) "Nutritional risk" means one or more of the following:

(1) For pregnant or lactating women—

(i) Known inadequate nutritional patterns;

(ii) High incidence of anemia;

(iii) High rates of prematurity or miscarriage; or

(iv) Inadequate patterns of growth (underweight, obesity, or stunting).

(2) For infants and children—

(i) Deficient patterns of growth (when compared to the standards for height and weight established by H. C. Stuart and published by Waldo E. Nelson, et al., in the Textbook of Pediatrics, 9th Edition, 1969, W. B. Saunders Co., Phila., Pa.);

(ii) High incidence of nutritional anemia; or

(iii) Known inadequate nutritional patterns,

(p) "Participants" means persons to whom food is made available under the WIC program.

(q) "Pregnant women" means persons determined by competent professionals to have one or more fetuses *in utero*.

(r) "Project area" means a geographic subdivision within a State determined by the local agency as the area to be served by the WIC program.

(s) "Secretary" means the Secretary of the United States Department of Agriculture or his authorized representative.

(t) "State" means any one of the 50 States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam or American Samoa.

(u) "State agency" means the State health department or comparable agency of the State government.

(v) "Supplemental food" means any food authorized to be made available under the WIC program.

(w) "WIC program" means the Special Supplemental Food Program for Women, Infants and Children authorized by section 17 of the Child Nutrition Act of 1966, as amended.

§ 246.3 Administration.

(a) Within the Department, FNS shall act on behalf of the Department in administering the WIC program.

(b) Within the States, the State agency shall be responsible for the operation of the WIC program within the State. The State agency shall accept applications from local agencies which desire to participate in the WIC program. The State agency shall be responsible for the design and operation of the system for making supplemental foods available to participants, including adequate safeguards against misuse. The State agency shall be responsible for forwarding to FNSRO those applications from local agencies which demonstrate the capability of operating under the WIC program in accordance with this part and all instructions issued hereinunder. The State agency shall monitor all program activities by local agencies and shall promptly notify FNSRO of any problems, program irregularities or illegal activity discovered thereby. The State agency shall account to FNSRO for all funds granted under the WIC program and shall be responsible for allocating the funds available for administrative costs between the State agency and local agencies.

§ 246.4 Use of funds.

(a) Federal funds made available to any State agency for the WIC program shall be used by the State agency or by local agencies either to purchase supplemental foods for participants or to redeem vouchers issued for that purpose, except that an amount not to exceed 10 per centum of the total funds so made available may be used for State and local agency administrative costs.

(b) The use of funds for administrative costs shall be subject to the following conditions;

(1) Applicant local agencies and State agencies shall submit budgets for administrative costs with the WIC program applications;

(2) The formula, if any, for allocating these funds between the State agency and local agencies shall be determined by the State agency;

(3) The aggregated administrative costs of the State agency and all local agencies shall not exceed 10 per centum of the total amount of the WIC program funds made available to the State agency.

(c) Funds shall not be used for any purposes by or on behalf of a local agency until a WIC program agreement has been completed between the State agency and such local agency.

(d) Upon demand by FNS, the State agency shall promptly return to FNS any funds which have not been used for the WIC program.

§ 246.5 Eligibility of local agencies.

A local agency is eligible to apply for participation in the WIC program if:

(a) It provides health services to residents of an area in which a substantial proportion of the persons have low incomes;

(b) It serves a population of women, infants or children which is at nutritional risk;

(c) Its staff includes competent professionals who interview or examine persons receiving health services;

(d) It has the personnel and expertise, and its facilities include the equipment necessary for performing the measurements, tests and data collection specified by FNS for the WIC program; and

(e) It maintains or is able to maintain adequate medical records.

§ 246.6 Application by local agencies.

Any eligible local agency interested in participating in the WIC program shall file a written application with its State agency. Applications need not be in any particular form, unless otherwise required by the State agency, but must include the following:

(a) The name, address and telephone number of the health clinic; the name of the official who shall be responsible for supervising WIC program operations at the local level; the name and address of the organization which sponsors the health clinic, if any, and the sources of funding for the health clinic. A private nonprofit organization must also include the number of the certificate issued by the Internal Revenue Service granting tax-exempt status.

(b) The types and numbers of competent professionals on the staff, by field of specialization, who will examine or interview persons to determine eligibility for the WIC program.

(c) The types of health services offered by the health clinic to pregnant or lactating women, infants and children; and a brief description of the financial, residential and other socio-economic criteria applied to determine the eligibility of such individuals for each type of health service, including treatment.

(d) Description of type of laboratory facilities available and a statement indicating whether or not blood, serum or plasma can be processed for transportation to a designee of FNS.

(e) A list specifying which of the following data are presently maintained on pregnant or lactating women, infants and children: height; weight; head circumference (infants only); hemoglobin; hematocrit; serum or plasma concentrations of iron, albumin, vitamin A, and ascorbic acid; and percent saturation of transferrin. Also, indicate any other laboratory tests routinely performed and any other pertinent medical data routinely recorded.

(f) The boundaries of the geographic subdivision which the local agency proposes as the project area.

(g) An estimate of the total population of the proposed project area.

(h) Data showing the percentage of the population of the proposed project area with low incomes and any other significant information on economic conditions affecting the proposed project area.

(i) Data which indicates the rate of nutritional risk within the proposed project area including information such as the incidence of nutritional anemia; the number and rate of pregnancies, especially teenage pregnancies; the incidences of prematurity and miscarriage; the percent of low birth weight infants, infant morbidity and mortality rates; and the incidence of any additional health problems known to exist among women, infants and children in the proposed project area.

(j) An estimate of the number of pregnant or lactating women, infants, or children which the local agency expects to serve monthly under the WIC program with an indication of the racial and ethnic composition of the expected participants.

(k) A brief description of the method which the local agency recommends to the State agency for making supplemental foods available to expected participants.

(l) A description of any feeding program of a similar nature which is already in operation. Include number of participants served by age group or other category, costs and items of food provided, delivery system used, administrative costs, and an explanation of the expected relationship between the current program and the WIC program.

(m) The estimated monthly cost of purchasing supplemental foods for expected participants and a brief description of the estimating techniques employed to calculate this figure;

(n) The estimated monthly administrative costs of the health clinic by general type of expenditure, a brief justification for each such budgeted expenditure and, if the total administrative costs exceed the funds which will be made available for such costs, the sources and amounts from each source which shall be used to fund such costs.

(o) A statement that the information furnished in the application is true and accurate to the knowledge of the signer.

(p) The signature of the official in the local agency who shall be responsible for supervising local WIC program operations.

§ 246.7 State agency action on applications.

(a) The State agency shall transmit to FNSRO each application from a health clinic which demonstrates the capability of operating under the WIC program. The transmittal shall include the following information:

(1) The name and address of the State agency and the name and telephone number of the person within the State agency who shall be responsible for the WIC program;

(2) A listing of the WIC program operation duties to be performed by the State agency and those to be performed by the local agency;

(3) A description of the techniques which shall be used to monitor the activities of the local agency and the frequency with which they shall be employed;

(4) The estimated administrative costs of the State agency and a brief justification for each of the budgeted expenditures;

(5) If the 10 per centum of the WIC program budget which may be used for administrative costs are to be divided between the State agency and local agency, specify the method by which these funds shall be allocated;

(6) If estimated administrative costs exceed 10 per centum of the estimated total WIC program budget, including such administrative costs, the source of additional funds above the 10 per centum shall be specified and the amounts to be provided by each source shall be indicated;

(7) A description of the method or delivery system selected by the State agency for making supplemental foods available to participants;

(8) A description of any activities which shall be carried out as an adjunct of or concomitant to the WIC program (for example, any nutrition education effort) and such activities shall be separately identified in the budget;

(9) Any other information which the State agency wishes to include; and

(10) The signature of the official in the State agency who shall be responsible for all WIC program operations within the State.

(b) The State agency shall promptly notify in writing each local agency whose application is not transmitted to FNSRO of the reasons therefor.

§ 246.8 Selection of local agencies.

(a) *General.* FNS shall select local agencies for participation in the WIC program on the basis of information contained in each application and in the accompanying transmittal of the State agency. Each application and the accompanying transmittal shall be thoroughly appraised and, for the initial selection, shall be ranked among all applications received by FNSRO as of August 15, 1973. Local agencies shall be selected which, in the judgment of FNS, are most suited to the accomplishment of the purposes of this part. The number of local agencies selected shall be dependent upon the funds available to FNS.

(b) *Criteria for selection.* In selecting local agencies for participation in the WIC program, FNS shall consider:

(1) The severity of nutritional risk and other health problems which affect residents of the proposed project area;

(2) The percentage of residents in the proposed project area with low incomes and other factors which could affect the ability of such residents to secure adequate nutrition;

(3) The number of expected participants in each category eligible persons and any demographic characteristics which could affect the WIC program evaluation;

(4) The expertise which the health clinic has in conducting necessary anthropometric measurements, in performing hemoglobin tests, and in processing blood, serum, or plasma for transportation to a designee of FNS.

(5) The experience of the health clinic with similar feeding programs and the expertise of its staff in managing programs in addition to the normal health care programs.

(6) The feasibility of the proposed method of making food available to participants, the acceptability of the monitoring system, and the utility of both systems for program evaluation;

(7) The adequacy and suitability of the manner in which grant funds will be handled and administered and program activities monitored by the State agency.

(c) *Notification.* Each State agency shall be notified in writing by FNS of the action taken on each application transmitted by that State agency. The notification shall list the amount of funds which FNS shall make available to the State agency. In addition, FNS shall publicly announce all selected local agencies and the amount of funds made available to each State agency.

§ 246.9 Agreements.

(a) The State agency shall enter into a written agreement with the Department before any funds are made available by FNS under this part. The agreement shall incorporate, by reference or otherwise, the terms and conditions set forth in this part. The agreement shall be executed by the appropriate State agency official and by the Administrator of FNSRO on behalf of the Department. The original and two copies of the agreement shall be forwarded to FNS. The agreement shall include:

(1) *Opening statement.* An expression of the willingness of the State agency to administer the WIC program until June 30, 1974.

(2) *Identification.* The name of the State agency charged with primary responsibility for the WIC program.

(3) *Applications.* An assurance that the WIC program shall be operated only by local agencies selected by FNS and that such operations shall conform to the methods stated in applications and transmittals which were approved by FNS.

(4) *Records.* An assurance that all required records shall be maintained and retained in accordance with the requirements of this part and shall be made available as required by this part.

(5) *Reports.* An agreement to submit to FNS on a regular and timely basis any reports, including a report of expenditures, as required by this part and any instructions issued hereunder.

(6) *Safeguards of information.* An affirmation that information concerning individual participants will be released only to persons directly connected with the WIC program.

(7) *Public information.* A statement that WIC program regulations, instructions, and other documents which do not pertain to individual participants shall be made available to the public upon request.

(8) *Nondiscrimination.* An assurance that the State agency shall comply with the requirements of the Department's regulations respecting nondiscrimination (Part 15 of this title) to the end that no person shall, on the ground of race, color or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under the WIC program and a further assurance that no person shall be subjected to any discrimination under the WIC program because of creed, political beliefs or sex.

(9) *Fair hearing.* An assurance that persons aggrieved by any determination of a local agency shall be afforded a prompt opportunity for a fair hearing as specified in this part.

(10) *Program promotion.* A guarantee of assistance to the Department in its efforts towards WIC program promotion and nutrition education.

(11) *Compliance.* An agreement to comply with the provisions of this part and the instructions issued hereunder including the requirement that WIC program funds be withdrawn from a Federal Reserve Bank only in amounts necessary to meet actual current disbursement needs.

(12) *Miscellaneous.* Any additional provisions that are required by law or may be necessary for WIC program administration, operation or evaluation.

(b) The State agency shall enter into an agreement with each local agency in the State selected for participation in the WIC program. The agreement shall be in writing and shall contain such terms as the State agency deems necessary to insure that:

(1) The local agency operates in conformity with the methods stated in the application and transmittal which were approved by FNS;

(2) The actions of the local agency will be in accordance with this part; and

(3) Data will be collected by the local agency and made available as required this part.

§ 246.10 Payments to States.

FNS will issue a Letter of Credit to the appropriate Federal Reserve Bank in favor of each State agency having an agreement with the Department under this part to administer the WIC program. The State agency shall obtain funds needed through presentation by designated officials of a Payment Voucher on Letter of Credit to a local commercial bank for transmission to the appropriate Federal Reserve Bank, in accordance with procedures prescribed by FNS and approved by the U.S. Treasury Department. Withdrawals (advances) against the Letter of Credit shall be made only in amounts necessary to meet actual current disbursement needs. The advanced funds shall be used without delay to pay the currently approved costs. Advances made by the State agency to local agencies shall conform to the same standards of timing and amount as apply to advances by FNS to the State agency.

§ 246.11 Records and reports.

(a) *General.* All records relating to the WIC program shall be retained for three years following the end of the applicable Federal fiscal year or the termination of the program, whichever is sooner. However, the Department may, by written notice, require retention of any records deemed by it to be necessary for resolution of an audit or of any litigation. If the Department deems any of the program records to be of historical interest, it may require the State or local agency to forward such records to the Department whenever such agency is disposing of them. All food records, fiscal records and medical records shall be available during normal business hours for representatives of the Department and of the General Accounting Office of the United States to inspect, audit and copy, provided that medical case records of individual participants shall remain confidential.

(b) *Financial records.* Each State and local agency shall keep complete and accurate records of all amounts received and disbursed for the WIC program. All of the cost allocation data shall also be maintained.

(c) *Food records.* Each local agency shall keep a file of the food authorizations issued each month to each participant. If a local agency actually dispenses food to participants, the agency shall keep accurate and complete records of the receipt, disposal and inventory of such foods.

(d) *Medical records.* The local agency shall record during each designated evaluation visit, at a minimum, the following data: height (first visit only for pregnant or lactating women); weight, head circumference (infants only); and hemoglobin determinations. In addition, the following information is to be recorded at the local agency after delivery of an infant: The duration of the pregnancy and birth weight of the infant. If birth weight is not determined within two hours of delivery, the weight in grams may be determined within 5 days, but the interval between birth and weighing must be specifically noted. It may also be required at each designated evaluation visit that blood be drawn and processed for transportation to a designee of FNS.

(e) *Reports.* State agencies and local

agencies shall submit monthly reports on forms specified by FNS. Such reports shall be submitted on or before the 20th of the month following the month for which data are reported. Reports shall be mailed in accordance with instructions from FNS. Reports shall concern the use of funds received under this part, the participation in the WIC program, and the data necessary to permit evaluation of administrative performance and of the effect of food intervention upon participants.

§ 246.12 Eligibility of persons.

Pregnant or lactating women, infants and children shall be eligible for the WIC program if:

(a) They reside in an approved project area;

(b) They are eligible for treatment at less than the full charge customarily made for such services by the local agency which serves the project area wherein they reside; and

(c) They are determined by a competent professional on the staff of the local agency to need the supplemental foods described in § 246.13.

§ 246.13 Supplemental foods.

(a) The following kinds and specifications of foods shall be available under the WIC program:

(1) For infants:

(i) Iron fortified infant formula with at least 10 milligrams of iron per liter of formula at standard dilution (which supplies 67 kilocalories per 100 milliliters, i.e., 20 kilocalories per fluid ounce).

Substitute

Whole fluid milk fortified with 400 International Units of Vitamin D per quart, or evaporated milk fortified with 400 International Units of Vitamin D per reconstituted quart, may be substituted for iron fortified infant formula for infants after six months of age.

(ii) Infant cereal which contains a minimum of 90 milligrams of iron per 100 grams of dry cereal.

(iii) Fruit juice which contains at least 30 milligrams of vitamin C per 100 milliliter.

(2) For children and pregnant or lactating women:

(i) Whole fluid milk fortified with 400 International Units of vitamin D per quart; or evaporated milk; or skim milk, low fat milk or non-fat dry milk. All milk products other than whole fluid milk must be fortified with 400 International Units of vitamin D and at least 1500 International Units of vitamin A per fluid quart.

(ii) Cereal (hot or cold) which contains a minimum of 30 milligrams of iron per 100 grams of dry cereal.

(iii) Fruit or vegetable juice, or both, which contains a minimum of 30 milligrams of vitamin C per 100 milliliters.

(iv) Cheese (natural cheddar or pasteurized processed American).

(v) Eggs.

(b) Supplemental foods shall be made available in amounts up to the following maximum quantities:

Foods	Units[1]	Maximum number of units per month	
		Infants	Children and pregnant or lactating women
Iron fortified infant formula	13-fluid-ounce can of conc, liquid[2]	31	31.
Whole fluid milk	Fuid quart	([3])	
Evaporated milk	13-fluid-ounce can	May be substituted for whole fluid milk at the rate of 1 can per quart of whole fluid milk.	
Skim or low-fat milk	Fluid quart		May be substituted for whole fluid milk on a quart-for-quart basis.
Nonfat dry milk	4-pound package		1 package may be substituted for each 20 quarts of whole fluid milk.
Cheese	Pound		May be substituted for whole fluid milk at the rate of 1 lb. per 3 quarts.
Eggs	Dozen		2½.[4]
Infant cereal	8-ounce package	3	
Cereals (hot or cold)	do		4.
Juice, single strength	46-fluid-ounce can[5]	2[6]	6.

[1] Different size units may be made available provided that the total volume or weight per month remains the same.

[2] Dry or ready-to-use forms may be made available in equivalent amounts.

[3] May be substituted for formula beginning at age 6 months at the rate of 1 quart per can of concentrated formula.

[4] An equivalent amount of dried egg mix (2 lb.) may be substituted.

[5] Frozen, concentrated fruit juices may be made available in 12 oz. cans at the same rate or in an equivalent volume in other size cans.

[6] 15 4-oz. cans of infant juices may be substituted.

§ 246.14 Fair hearing procedure.

Each State agency participating in the WIC program shall establish a hearing procedure under which a person or his or her parent or guardian can appeal from a decision made by the local agency respecting the eligibilty of such person for supplemental foods. Such hearing procedure shall provide:

(a) A simple, publicly announced method for a person to make an oral or written request for a hearing;

(b) An opportunity for the person to be assisted or represented by an attorney or other person in presenting the appeal;

(c) An opportunity to examine, prior to and during the hearing, the documents and records presented to support the decision under appeal;

(d) That the hearing shall be held with reasonable promptness and convenience to the person and that adequate notice shall be given to the person as to the time and place of the hearing;

(e) An opportunity for the person to present oral or documentary evidence and arguments supporting his or her position without undue interference;

(f) An opportunity for the person to question or refute any testimony or other evidence and to confront and cross-examine any adverse witnesses;

(g) That the hearing shall be conducted and the decision made by a hearing official who did not participate in making the decision under appeal;

(h) That the decision of the hearing official shall be based on the oral and documentary evidence presented at the hearing and made a part of the hearing record;

(i) That the person and any designated representative shall be notified in writing of the decision of the hearing official;

(j) That a written record shall be prepared with respect to each hearing, which shall include the decision under appeal, any documentary evidence and a summary of any oral testimony presented at the hearing, the decision of the hearing official, including the reasons therefor, and a copy of the notification to the family of the decision of the hearing official; and

(k) That such written record of each hearing shall be preserved for a period of 3 years and shall be available for examination by the person's representative at any reasonable time and place during such period.

§ 246.15 Miscellaneous.

(a) Any State agency or any local agency may be disqualified from future participation if it fails to comply with the provisions of this part and its agreement with the Department or the State agency. This does not preclude the possibility of other action being taken through other means available where necessary, including prosecution for fraud under applicable Federal statutes. If FNS determines that any part of the money received by a State agency, or food purchased or vouchers redeemed with WIC program funds were, through State agency or local agency negligence or fraud, misused or otherwise diverted from the WIC program purposes, the State agency shall, on demand by FNS, pay to FNS a sum equal to the amount of the money or the value of the food or vouchers so misused or diverted. Further, if FNS determines that any part of the money received by a State agency, or food purchased or vouchers redeemed with WIC program funds, were lost as a result of thefts, embezzlements, or unexplained causes, the State agency shall, on demand by FNS, pay to FNS a sum equal to the amount of the money or the value of the food or vouchers so lost. The State agency shall have full opportunity to submit evidence, explanation or information concerning alleged instances of noncompliance or diversion before a final determination is made in such cases.

(b) Requests for information or assistance on the WIC program and all applications, transmittals, agreements or other documents required by this part shall be sent to the FNSRO serving the State as listed below:

(1) Connecticut, Delaware, District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia: U.S. Department of Agriculture, FNS, Northeast Region, 707 Alexander Road, Princeton, New Jersey 08540.

(2) Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, Puerto Rico, South Carolina, Tennessee, Virgin Islands: U.S. Department of Agriculture, FNS, Southeast Region, 1100 Spring Street NW., Atlanta, Georgia 30309.

(3) Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, Ohio, Wisconsin: U.S. Department of Agriculture, FNS, Midwest Region, 536 South Clark Street, Chicago, Illinois 60605.

(4) Arkansas, Colorado, Louisiana, Montana, New Mexico, North Dakota, Oklahoma, South Dakota, Texas, Utah, Wyoming: U.S. Department of Agriculture, FNS, West-Central Region, 1100 Commerce Street, Room 5–D–22, Dallas, Texas 75202.

(5) Alaska, American Samoa, Arizona, California, Guam, Hawaii, Idaho, Nevada, Oregon, Trust Territory, Washington: U.S. Department of Agriculture, FNS, Western Region, 550 Kearney Street, Room 400, San Francisco, California 94108.

(c) FNS shall issue instructions or procedures to implement the provisions of this part.

(d) Nothing contained in this part shall prevent a State agency from imposing ad-

ditional requirements for participation in the WIC program which are not inconsistent with the provisions of this part.

NOTE: The reporting and/or record keeping requirements contained herein have been approved by the Office of Management and Budget in accordance with the Federal Reports Act of 1942.

Effective date. This part shall become effective on July 13, 1973.

Signed at Washington, D.C., on July 6, 1973.

CLAYTON YEUTTER,
Assistant Secretary.

[FR Doc.73-14024 Filed 7-6-73;11:30 am]

EXECUTIVE PRIVILEGE

Mr. MOSS. Mr. President, in recent months a confrontation of increasing proportions has grown between two separate and equal branches of Government—the executive and the legislative—over the issue of executive privilege. Because of my concern that executive privilege has been used as a guise to thwart the will of Congress, I appeared before Senator KENNEDY's Subcommittee on Administrative Practice and Procedure on June 7, 1973, to assert that Congress has the constitutional right to acquire information from the executive department for legislative purposes.

Again, I want to reaffirm that there is no historical evidence that executive privilege has ever been intended to mean a check on the legislative power of inquiry. Presently, the executive department refuses to recognize this.

In an editorial in the Washington Post on July 16, 1973, the Post observed that executive privilege—

> Is a practice which has grown up in the give-and-take between the executive and legislative branches of Government over the years and which in recent decades has come to be cloaked in grand language about separation of powers and fundamental constitutional principles.

The Post argues that the broad interpretation currently given to executive privilege approaches the absurd.

Mr. President, because of the appropriateness of the Washington Post editorial, entitled "An Excess of Executive Privilege Versus the Truth," I ask unanimous consent that it be printed in the RECORD.

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

AN EXCESS OF EXECUTIVE PRIVILEGE VERSUS THE TRUTH

In his recent letter to Sen. Sam Ervin stating his intention not to testify before the Senate Watergate committee, President Nixon also threw a shroud of secrecy over his presidential papers. Later last week Deputy Press Secretary Gerald L. Warren let us know just how broad that shroud is meant to be. Mr. Warren said that former White House employees would be permitted to examine White House papers "to refresh their memories" but they would not be permitted to make photocopies or handwritten notes.

Thus, it is fair to say that when it comes to papers, Mr. Nixon's assertion of executive privilege is at least as broad as that staked out in a May 3 White House memorandum. That document claimed the privilege could be invoked, even before grand juries, with respect to presidential papers, which were defined as "all documents produced or received by the President or any member of the White House staff in connection with his official duties." We think there is no basis in the Constitution, in the case law of the United States or in precedent for so sweeping an assertion of executive privilege. Moreover, Mr. Nixon's broad claims seem to be in neither the national interest nor his own.

The first thing to be said about executive privilege is that it has no constitutional foundation; in fact, constitutional scholars argue that the record points in precisely the opposite direction. Parliament, from which the drafters of the Constitution drew their experience, was deemed a grand inquisition which could delve freely into all executive operations. There is much persuasive history to indicate that the founding fathers viewed Congress the same way. Indeed, the Constitution mentions a narrow area in which *Congress* may keep information secret, but there is no specific grant of such authority to the executive.

There is not a single case defining or justifying the doctrine. As a matter of fact, there is a decision by Chief Justice John Marshall going the other way. The great chief justice asserted the authority of the court to subpoena a document in the possession of President Jefferson. What we have come to know, then, as executive privilege is a *practice* which has grown up in the give-and-take between the executive and legislative branches of government over the years and which in recent decaeds has come to be cloaked in grand language about separation of powers and fundamental constitutional principles. Basically, it is a common sense accommodation between the Congress and the executive designed to protect the national interest and to provide the President and his most intimate associates the benefit of candor and openness in their private conversations while conducting the nation's business.

That is essentially the rock upon which Mr. Nixon rested his refusal to open up "presidential papers" to the committee. The trouble is that Mr. Nixon's assertion of the privilege is so broad as to make it absurd. With the enormous growth of the White House staff in recent years, it cannot reasonably be argued that every document generated in the White House or addressed to a member of the staff involves intimate advice to the President or his own private ruminations about the public business. Only a tiny fraction of the documents can possibly be so classified. Indeed, according to what appears to be Mr. Nixon's position that he knew nothing in connection with the matters of interest to the Ervin committee, most of the documents in question could not involve the operations of his mind or advice given to him at all; presumably they relate to a secret set of illegal operations carried out by his underlings without his knowledge. For the President to assert that these documents have a close relationship to him and to decisions he was making would appear—as Sen. Ervin has suggested—to raise an inference that is not at all flattering to the proposition that Mr. Nixon was innocent of culpable knowledge of this whole mess.

Finally, Committee Counsel Samuel Dash has made it clear that the committee is not on a fishing expedition, but, rather, has limited purposes in mind. He has proposed that he and members of his staff, together with White House lawyers, go through the papers which may be of interest and decide together which of those are relevant to the committee's inquiring. Only in cases where there is a differing judgment would the committee consider resorting to a subpoena. That would seem to be a reasonable method of doing what Mr. Nixon and his associates say he wants to do: to get to the bottom of this whole thing in the most expeditious fashion. And it would also get Mr. Nixon out of the preposterous position in which he has placed himself. For what he is arguing is that papers which relate to the commission and coverup of crimes about which he knows nothing, are somehow cloaked in the majesty of the presidency.

SCARCE FOOD, THE ENERGY CRISIS, TAX REFORM, AND—

Mr. DOLE. Mr. President, I call the Senate's attention to the following list of topics:

The farm program; the energy crisis; international trade reform; the U.S. balance-of-payments deficit and dollar crisis; land use policy; tax reform; rising food prices; family planning and population control; and foreign aid.

The subjects cover most of the important issues before the Congress today and many of the concerns shared by the majority of Americans. Each is important, and different people might say that one is more important than another.

But the real significance of these issues lies in the fact that they all are closely related as part of one large, universal subject: America's and the World's Food supply.

Yesterday's Washington Post carried an article by Lester R. Brown which draws these issues together in direct and clear fashion to paint an understandable and thought-provoking picture of the rapidly changing currents of the world food supply system. It deserves the careful attention of those who are concerned with any one of these issues and should be required reading for those of us who must deal with the broad range of national and international matters.

Coming from Kansas and having served on the Agriculture Committees of the House and Senate for some 13 years, I believe the article is particularly important, for it highlights a point I have been making for many years: The vital importance of American agriculture to our whole Nation and the world.

I ask unanimous consent that this article, "Scarce Food: Here To Stay," be printed in the RECORD.

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

SCARCE FOOD: HERE TO STAY

(By Lester R. Brown)

(*The writer, a senior fellow at the private Overseas Development Council here, is a former Agriculture Department official and the author of "Seeds of Change" and "World Without Borders."*)

This year has witnessed a dramatic upsurge in interest in the world food situation, largely in response to global scarcity and rising food prices. Prices for some of man's principal food commodities—wheat, rice, feedgrains and soybeans—have soared to historic highs in international markets. Rationing has been in effect for at least some foodstuffs in three of the world's four most populous countries: China, India and the Soviet Union.

By summer, food was being airlifted into several countries in sub-Sahara Africa to stave off famine. India and Bangladesh faced critical food shortages. The United States was restricting soybean exports in order to bring internal food prices down. Food scarcity was affecting the entire world, rich countries and poor.

Within the United States, those protesting and boycotting over rising meat prices

in recent months hardly know whom to blame. They are not certain that supermarkets bear responsibility, they are not convinced that it is entirely the farmer's fault, and they are not sure who the middleman is.

What most Americans have never stopped to ask is whether we, as consumers and parents, might in any way be responsible for the soaring meat prices. As average American consumers, we have increased our per capita beef consumption from 55 pounds a year in 1940 to 117 pounds in 1972. Meanwhile, as parents, many of us have borne far more children than needed to replace ourselves, expanding our population by 57 per cent during this same period. Altogether, our national beef consumption tripled, making us a leading beef importer.

For Americans, soaring food prices and the prospect of sometimes empty meat counters in the months ahead has come as a shock. If there was any sector of our economy which we thought was invulnerable, it was the capacity of U.S. agriculture to provide consumers with an adequate supply of low-cost food. Suddenly this is no longer possible.

A dollar devalued by as much as a third over the past 20 months against major currencies such as the German mark and Japanese yen is enabling two-thirds of a billion high-income consumers in Europe, the Soviet Union and Japan to compete very successfully for our domestically produced agricultural raw materials. Had the administration been willing earlier to reduce the scale of our vast dollar-draining military establishment abroad or to meaningfully address the energy crisis at home by curbing demand through such actions as reducing the size of automobiles, much of the decline in the dollar's value could have been avoided. Inaction on these fronts is now taking its toll at the supermarket checkout counter.

At the global level, the news media have drawn attention to several factors contributing to the food scarcities of 1973. Among these are the poor rice harvest in Asia, the shortfall in the Soviet wheat crop, and the temporary disappearance of the anchovies off the coast of Peru for several months in late 1972 and early 1973. But these are to some extent at least, short-term factors, and they should not be permitted to obscure other, more fundamental long-term trends and forces that are altering the nature and dimensions of the world food problem.

POPULATION AND AFFLUENCE

During the 1960s the world food problem was perceived as a food/population problem a race between food and people. At the end of each year observers anxiously compared rates of increase in food production with those of population growth to see if any progress was being made. Throughout most of the decade it was nip and tuck. During the 1970s rapid global population growth continues to generate demand for more food, but, in addition, rising affluence is emerging as a major new claimant on world food resources. Historically, there was only one important source of growth in world demand for food; now there are two.

At the global level, population growth is still the dominant cause of an increasing demand for food. Expanding at nearly 2 per cent per year, world population will double in little more than a generation. Merely maintaining current per capita consumption levels will therefore require a doubling of food production over the next generation.

The effect of rising affluence on the world demand for food is perhaps best understood by examining its effect on requirements for cereals, which dominate the world food economy. Consumed directly, cereals provide 52 per cent of man's food energy supply. Consumed indirectly in the form of livestock products, they provide a sizable share of the remainder. In resource terms, cereals occupy more than 70 per cent of the world's crop area.

In the poor countries, the annual availability of grain per person averages only about 400 pounds, a year. Nearly all of this small amount, roughly a pound a day, must be consumed directly to meet minimum energy needs. Little can be spared for conversion into animal protein.

In the United States and Canada, per capita grain utilization is currently approaching a ton a year. Of this total, only about 150 pounds are consumed directly in the form of bread, pastries and breakfast cereals. The remainder is consumed indirectly in the form of meat, milk and eggs. The agricultural resources—land, water, fertilizer—required to support an average North American are nearly five times those of the average Indian, Nigerian or Colombian.

Throughout the world, per capita grain requirements rise with income. The amount of grain consumed directly rises until per capita income approaches $500 a year, and then begins to decline, eventually leveling off at about 150 pounds. The total amount of grain consumed directly and indirectly, however, continues to rise rapidly as per capita income climbs. As yet no nation appears to have reached a level of affluence where its per capita grain requirements have stopped rising.

There is now a northern tier of industrial countries—including Scandinavia, Western Europe, Eastern Europe, the Soviet Union and Japan—whose dietary habits more or less approximate those of the United States in 1940. As incomes continue to rise in this group of countries containing some two-thirds of a billion people, a sizable share of the additional income is being converted into demand for livestock products, particularly beef. Many of these countries, such as Japan and those in Western Europe, are densely populated. Others—the Soviet Union, for example—suffer from a scarcity of fresh water. Most lack the capacity to satisfy the growth in demand for livestock products entirely from indigenous resources. As a result they are importing increasing amounts of livestock products or of feedgrains and soybeans with which to expand their livestock production.

Throughout the poor countries, population growth accounts for most of the year-to-year growth in the demand for food. At best only very limited progress is being made in raising per capita consumption. In the more affluent countries, on the other hand, rising incomes account for most of the growth in the demand for food.

LAND AND WATER

As world demand climbs due to these two factors, we face several important constraints in our efforts to expand global food production. The traditional approach to increasing production—expanding the area under cultivation—has only limited scope for the future. Indeed, some parts of the world face a net reduction in agricultural land because of the growth in computing uses, such as industrial development, recreation, transportation and residential development. Few countries have well-defined land use policies that protect agricultural land from other uses. In the United States, farmland has been used indiscriminately for other purposes with little thought to the possible long-term consequences.

Some more densely populated countries, such as Japan and several in Western Europe, have been experiencing a reduction in the land used for crop production for the past few decades. This trend is continuing and may well accelerate. Other parts of the world, including particularly the Indian subcontinent, the Middle East, North Africa, the Caribbean, Central America and the Andean countries, are losing disturbingly large acreages of cropland each year because of severe erosion.

The availability of arable land is important, but perhaps even more important in the future will be the availability of water. In many regions of the world, fertile land is available if water can be found to make it produce.

Yet most of the rivers that lend themselves to damming and to irrigation have already been developed. Future efforts to expand fresh water supplies for agricultural purposes will increasingly focus on such techniques as the diversion of rivers (as in the Soviet Union), desalting sea water and the manipulation of rainfall patterns.

Another disturbing question is the extent to which the trend of rising per-acre yields of cereals in the more advanced countries can be sustained. In some countries, increases in per-acre yields are beginning to slow down, and the capital investments required for each additional increase may now start to climb sharply. In agriculturally advanced countries, such as Japan, the Netherlands and the United States, the cost of improving production for some crops is rising. For example, raising yields of corn in the United States from 90 to 100 bushels per acre requires much more nitrogen than was needed to raise yields from 50 to 60 bushels.

What impact the energy crisis will have on food production costs and trends remains to be seen. With a substantial rise in the cost of energy, farmers engaged in high-energy agriculture, as in the United States, will tend to use less, thus perhaps reducing future production increases below current expectations. Rising costs will affect not only gasoline for tractors but other basic items. Nitrogen fertilizer, for instance, often uses natural gas as a raw material, and energy is one of the dominant costs in its manufacture.

BEEF AND SOYBEANS

In looking ahead one must be particularly concerned about the difficulties in expanding the supply of world protein to meet the projected rapid growth in demand.

One important source of protein is beef. Efforts to increase its supply have run into two problems: First, agricultural scientists have not been able to devise any commercially usable means of getting more than one calf per cow per year. For every animal that goes into the beef production process, one adult must be fed and otherwise maintained for a full year. There does not appear to be any prospect of an imminent breakthrough on this front.

The other problem is that the grazing capacity of much of the world's pasture land is now rather fully utilized. This is true, for example, in the U.S. Great Plains, in East Africa and in parts of Australia. Most of the industrial countries in which beef consumption is expanding rapidly, from Ireland through the Soviet Union and Japan, are unable to meet all the growth in demand from their own resources. Either some of the beef, or the feedgrains and soybeans to produce it, must be imported.

Soybeans are a second major protein source which has thus far defied the efforts of scientists to achieve a production breakthrough. A major source of high-quality protein for livestock and poultry throughout much of the world, soybeans are consumed directly as food by more than a billion people throughout densely populated East Asia. They have become the leading export product of the United States, surpassing export sales of wheat, corn and high-technology items such as electronic computers.

In the United States, which now produces two-thirds of the world's soybean crop and supplies more than 90 per cent of all soybeans entering the world market, soybean yields per acre have increased by about 1 per cent per year since 1950; corn yields, on the other hand, have increased by nearly 4 per cent per year. One reason why soybean

yields have not climbed very rapidly is that the soybean, being a legume with a built-in nitrogen supply, is not very responsive to nitrogen fertilizer.

The way the United States produces more soybeans is by planting more soybean acreage. Close to 85 per cent of the dramatic four-fold increase in the U.S. soybean crop since 1950 has come from expanding the area devoted to it. As long as there was ample idled cropland available, this did not pose a problem, but if this cropland reserve continues to diminish or disappears entirely, it could create serious global supply problems.

DEPLETED OCEANS

A third major protein source is the earth's oceans. From 1950 to 1968 the world fish catch reached a new record each year, tripling from 21 million tons to 63 million tons. The average annual increase in the catch of nearly 5 per cent, which far exceeded the annual rate of world population growth, greatly increased the average supply of marine protein per person.

Then suddenly, in 1969, the long period of sustained growth was interrupted by a decline in the catch. Since then, it has been fluctuating rather unpredictably, while the amount of time and money expended to bring in the catch continues to rise every year. Many marine biologists now feel that the global catch of table-grade fish is at or near the maximum sustainable level. A large number of the 30 or so leading species of commercial-grade fish may currently be overfished—that is, stocks will not sustain even the current level of catch.

The 1971 catch of 69 million tons amounted to nearly 40 pounds of live weight a person throughout the world. Of this catch roughly 60 per cent was table-grade fish, the remainder consisting of inferior species used for manufacturing fish meal, which in turn is used in poultry and hog feed in the industrial countries.

The world's major source of fish meal is the anchovy stock off the coast of Peru. Peru has supplied nearly two-thirds of world fish meal exports in recent years. Last year's disappearance of the anchovies, at first regarded as a temporary, recurring natural phenomenon, is now bieng viewed with considerable alarm by many biologists. There are growing indications that the stock has been seriously damaged by overfishing.

If, as now seems probable, the global fish catch does not continue rising in the next decade as it did during the last two, the pressures on land-based protein sources can be expected to increase substantially.

Although there are still substantial opportunities for further expanding the world's protein supply, it now seems likely that the supply of animal protein will lag behind growth in demand for some time to come, resulting in significantly higher prices for livestock products during the 1970s than prevailed during the 1960s. We may be witnessing the transformation of the world protein market from a buyer's market to a seller's market, much as the world energy market has been transformed over the past few years.

DWINDLING RESERVES

Since World War II the world has been fortunate to have, in effect, two major food reserves: grain reserves in the principal exporting countries and cropland idled under farm programs, virtually all of it in the United States.

Grain reserves, including substantial quantities of both foodgrains and feedgrains, are most commonly measured in terms of carryover stocks—the amount in storage at the time the new crop begins to come in. World carryover stocks are concentrated in a few of the principal exporting countries—namely the United States, Canada, Australia and Argentina.

Since 1960, world grain reserves have fluctuated from a high of 155 million metric tons to a low of about 100 million metric tons. When reserves drop to 100 million tons, severe shortages and strong upward price pressures develop. Although 100 million tons appears to be an enormous quantity of grain, it represents a mere 7 per cent of annual world grain consumption, a perilously thin buffer against the vagaries of weather or plant diseases. As world consumption expands, so should the size of working reserves, but the trend over the past decade has been for reserves to dwindle while consumption has climbed.

In addition, one-seventh of U.S. cropland, or roughly 50 million acres out of 350 million has been idled under farm programs for the past dozen years or so. Though not as quickly available as the grain reserves, most of this acreage can be brought back into production within 12 to 18 months once the decision is made to do so.

In recent years the need to draw down grain reserves and to dip into the reserve of idled cropland has occurred with increasing frequency. This first happened during the food crisis years of 1966 and 1967 when world grain reserves were reduced to a dangerously low level and the United States brought back into production a small portion of the 50 million idle acres. Again in 1971, as a result of the corn blight, the United States both drew down its grain reserves and again brought a portion of the idled acreage back into production. This year, in response to growing food scarcities, world grain reserves once more declined, and the United States dipped much deeper into its idled cropland, permitting at least two-thirds to come back into production.

Now, even with the prospect of record harvests of wheat, corn and soybeans in the United States and a good-to-very-good cereal harvest in the Soviet Union, it does not appear that depleted world grain reserves will be rebuilt much, if at all, this year.

A WORLD FOOD BANK

If world food reserves become chronically low and idle U.S. cropland dwindles or disappears, the result may well be very volatile world prices for the important food commodities. It already is clear that a 25-year era of remarkably stable world prices for the principal temperature zone crops, based on U.S. commodity support levels, has come to an end.

The situation could become even more traumatic for consumers throughout the world if North America, on which the world has become progressively more dependent for its food supplies during this same postwar period, should experience a prolonged drought of several years during the 1970s. There has been such a drought roughly every 20 years since weather records were begun after the Civil War. The most recent drought period, in the early 1950s, was not especially severe, but the preceding one brought on the Dust Bowl crisis of the 1930s.

The prospect of an emerging chronic global scarcity of food calls for serious consideration of the proposal by the Food and Agriculture Organization of the United Nations for an internationally managed world food bank as a means of maintaining some semblance of order and stability in the world food economy. Just as the U.S. dollar can no longer serve as the foundation of international monetary system, so U.S. agriculture may no longer have sufficient excess capacity to ensure reasonable stability in the world food economy.

A world reserve could be built up in times of relative abundance and drawn down in times of acute scarcity. In effect, the cushion that surplus American agricultural capacity has provided for a generation would be provided at least partially by a world food bank. A system of global food reserves would provide a measure of price stability in the world food economy that would be in the self-interest of all nations. It also would provide assurance against famine in the densely populated low-income countries after a poor crop year—an assurance the affluent nations may be less able to provide in the future if the current system of autonomous, nationally oriented planning is allowed to continue without modification.

There is a similarly urgent need to evolve a cooperative global approach to the management of oceanic fisheries. Failure to do this will result in a continuing depletion of stocks, a reduction in catch and soaring seafood prices that will make those of the early 1970s seem modest by comparison. It is in this context that we, as consumers, have a direct stake in the U.N.-sponsored conference later this year in Santiago.

THE DEVELOPING LANDS

Over the long run, the key to coping with world food scarcity lies in the developing countries. It is here that the population pressures are most severe and furthest from solution; it is here also that the unused potential for expanding food production is the greatest.

On the population front, current trends make possible the stabilizing and eventual halting of growth in the industrial countries. In the poor countries, however, it will be much more difficult to achieve population stability. For one thing, history shows that birth rates do not usually decline unless there is improvement in well-being—a reasonable standard of living, an assured food supply, a reduced infant mortality rate, literacy, and health services.

In short, it may well be in the self-interest of affluent societies, such as the United States, to launch an attack on global poverty, not only to narrow the economic gap between rich and poor nations, but also to meet the basic needs of people throughout the world in an effort to provide incentives for lowering birth rates. Population-induced pressures on the global food supply will continue to increase if substantial economic aid and social progress is not made. Populations that double every 24 years—as many are doing in poor nations—multiply 16-fold in scarcely three generations!

The United States could also lead an enlarged effort to expand the world's food supply by concentrating on the unexploited potential of the developing countries. A bipartisan proposal introduced in Congress last month would do this by restructuring the Agency for International Development and increasing by half the support it provides for agricultural and rural development.

Although the introduction of new wheat and rice varieties has increased production substantially in many developing countries, the jump in per-acre yields appears dramatic largely because their yields traditionally have been so far below their potential. But today rice yields per acre in India and Nigeria still are only one-third those of Japan; corn yields in Thailand and Brazil are less than one-third those of the United States. Large increases in food supply are possible in these countries at far less cost than in agriculturally advanced nations if farmers are given the necessary economic incentives and resources.

Concentrating efforts on expanding food production in the poor countries could reduce the pressure on world food prices, create additional employment in countries where continuously rising unemployment poses a serious threat to political stability, and raise income and improve nutrition for the poorest portion of humanity—the people living in rural areas of the developing countries.

The urgency of the food problem is underscored by increasingly frequent reports of starvation in sub-Sahara Africa and of food riots in Asia. Assuring adequate food supplies at reasonable prices may now be pos-

sible only through international cooperation. The disappearance of surplus food stocks and the return of idled cropland to production has removed the cushions that once existed as partial insurance against catastrophe for the poor and skyrocketing prices for the rich.

SENATOR STEVENSON CORRECTLY CALLS FOR MANDATORY ALLOCATIONS

Mr. McINTYRE. Mr. President, for several months now we have witnessed a most complexing situation regarding our national supply of petroleum products and the apparent inability of the oil industry to respond appropriately to this crisis.

During the Senate's consideration of the extension of the Economic Stabilization Act earlier this year, it became apparent that unless allocation procedures were developed serious supply dislocations would occur.

Based on the legislative authorization contained in the Economic Stabilization Act the administration on May 10 of this year imposed a voluntary allocation procedure. As Senator STEVENSON pointed out in his statement before the Committee on Interstate and Foreign Commerce of the House of Representatives, the voluntary plan has proved to be a failure and the immediate implementation of a mandatory system is essential. Thousands of independent small businessmen have already been driven out of business with hundreds more following each week.

Mr. President, I request unanimous consent that the statement of my good friend and colleague, the Senator from Illinois (Mr. STEVENSON) appear in the RECORD.

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

STATEMENT BY SENATOR ADLAI E. STEVENSON

Mr. Chairman. I appreciate this opportunity to appear before you. The task this Committee now faces involves one of the most important consumer issues the Congress will face this year.

The major oil companies spend hundreds of millions of dollars to explain to the American public that there is a serious gasoline shortage. But the message from Johnny Cash is misleading. True, we are an energy thirsty people competing for scarce resources in an increasingly competitive world. But the Office of Oil and Gas in the U.S. Department of Interior publishes a biweekly report entitled "Summary of Current Petroleum Industry Operations." In the report for the two weeks beginning May 18, almost eight weeks ago, it concluded that gasoline production had reached such record highs, exceeding last year by some 14 percent, that *it is difficult to see a shortage in the statistics as they are unfolding.* There is no doubt, however, that the independent segment of the market is short of supply and is paying a premium price for what they do get. *Under these circumstances, the ranks of the independents will be quickly thinned.* (Italic added.)

New production records have been set with the issuance of each subsequent report. The report issued last Friday concluded gasoline stocks are now 2 million barrels above last year . . . normally there should be a strong downward movement in gasoline stocks at this season of the year. . . .

Instead, the exact opposite has happened. In early April, gasoline inventories were 24 million barrels below the previous April, and now we have a surplus. Yet, during this same three month period of swelling supplies:

The number of normally operating gasoline stations dropped from 95 percent to 43 percent.

Independent gasoline stations were closing at the rate of over 200 per week; by the beginning of July over two thousand had been forced to close their doors.

The wholesale gasoline market for cities, bus companies, truckers, school districts and police departments was disappearing.

The price of gasoline for this three month period rose at an annual rate of 27 percent, and

The majors increased allocation to their own stations while actively soliciting the most lucrative accounts and locations of independents forced out of business.

Conspiracy or not, the major oil companies are the only ones who seem to be benefiting from the sudden surge in gasoline supplies. These are the same major oil companies which suddenly found that they could run their refineries at 93 percent capacity after the Congress acted to give the President authority to institute a mandatory allocation program, and at 97 percent capacity after the Senate passed S. 1570—mandating a detailed allocation program.

Last fall those same refineries were running at 85 percent capacity as the major oil companies assured us that there would be no shortages and opposed lifting of the oil import quotas.

The evidence continues to mount that the major oil companies are manipulating a shortage they helped create to drive their competition out of the market place.

In a preliminary report on a two-year study forwarded to the Senate Commerce Committee last Friday, the Federal Trade Commission concluded that—

". . . activities by the major integrated petroleum companies . . . (their) structure, conduct and performance . . . have had significant anti-competitive effects . . . such conduct and associated market power has its origin in the structural peculiarities of the petroleum industry and has limited the independent share of the market . . . in the final analysis, it is the gasoline consumer who . . . will pay dearly . . ."

The FTC staff is now in the process of forwarding to the full Commission recommendations for changing this anti-competitive structure. Several bills directed at restoring competition to the industry through restructuring and regulation have been or are soon to be introduced in the Congress.

Such proposals are major undertakings which, together with concentrated efforts to develop alternative sources of energy, like coal gasification, offer long-range solutions to both the problems of anti-competitive conduct and supply. They offer little hope of controlling the immediate manipulations of the major oil companies, or saving the thousands of independent businessmen who will very soon be out of business. Day by day the majors grow stronger and richer at the expense of the consumer, the independents and those they supply. If there is going to be any competition worth saving, decisive action in the form of a workable mandatory allocation program which forces the majors to do by law what they now refuse to do is needed—and it cannot be expected to come from an Administration whose dismal record can only be explained by gross negligence or a willingness, in concert with the major oil companies, to eliminate competition in the petroleum industry.

When I asked the Administration to lift the oil import quotas last fall, I was assured there would be no shortage. In the face of dwindling supplies and serious shortages last winter, the Administration waited until April of this year to abolish the oil import quota program.

After waiting years to act, the Justice Department filed an antitrust suit based on the anti-competitive effects of a single exchange agreement between Texaco and Coastal States Gas Company, instead of questioning the basic anti-competitive structure of an industry that has made the elimination of independents a daily business practice.

While the FTC staff recommendations are a blueprint for action which could permanently restore competition in the petroleum industry, there is no indication when or if the full Commission will act.

And not surprisingly, the Administration's ten week old voluntary allocation program, dependent on the good will and charity of the majors, is a colossal flop.

I quote directly from last week's Office of Oil and Gas report on the voluntary program—

". . . the operation center in Washington . . . continues to be swamped with an increasing number of telephone calls and letters concerning fuel shortages. Because of the impossibility of handling all cases expeditiously . . . it becomes increasingly necessary to process . . . cases at the regional level. However, the regional offices are understaffed. As a result, some cases may not be resolved for some time."

Last week three of the largest majors confirmed what we have known all along—they publicly announced they will not comply with the voluntary program. Other majors have announced they will comply, but made up their own base period. Others have announced they will comply, but are selling product at what amounts to black market prices. Still others have announced they will comply, but simply have not made good on that promise.

Of the 148 shortages cases which have been lodged with my office, I am aware of only three in which any relief was obtained from the Office of Oil and Gas—even then it was only temporary and required my personal intervention.

On May 21, members of the Senate Consumer Subcommittee told Assistant Secretary of the Treasury, William Simon, Chairman of the Oil Policy Committee, that a voluntary allocation program could never work because there were no incentives for the major oil companies to comply. We urged him to use the authority the Administration already had to institute a mandatory allocation program with the force of law.

We told him the same thing again in Chicago on May 29.

I said it again at the Oil Policy Committee hearings on the voluntary allocation program June 13.

On June 26, the Midwest Conference of Senators urged Secretary Simon to immediately institute a mandatory allocation program in view of the serious farm fuel shortages throughout the Midwest.

Finally on June 28 in a letter to Senator McIntyre, Secretary Simon admitted that—

"The Office of Oil and Gas has very literally been deluged with complaints . . . we, too, feel that the voluntary program is not working as effectively as it should and are now drafting a mandatory program to take its place."

Ten weeks of work and thousands of independents later, it finally looked like the Administration would institute a mandatory program. That is, until the next day, when President Nixon's new energy czar, Governor Love, appeared upon the scene to announce that we were right back where we started. He said he opposed a mandatory program. Secretary Simon's retreat from his June 28 letter before this Committee yesterday is a clear indication that Governor Love means business. It is a rebuke to those fight-

ing to save competition in the nation's petroleum industry, and further evidence that another high Administration official—in this case its energy czar—is a friend of the majors.

The Administration persists in being the partner of big oil, and so it is up to the Congress to step forward as the partner of the American consumer. Every day of delay means further losses for America's independents, farmers, municipalities, truckers, and others who cannot get their share of the record oil production. The burden of saving price competition at the gas pump and billions of dollars for America's consumers rests with the Congress and this Committee.

S. 1570 and H.R. 8089 point the way. Even the Chairman of the President's Oil Policy Committee has acknowledged the need for a mandatory allocation program.

The energy crisis is rapidly becoming a crisis of confidence in government which appears as easily manipulated by the major oil companies as the magical shortages which suddenly appear and just as suddenly disappear. This Committee can help take an urgently needed step in restoring that confidence by acting as soon as possible to enact a workable mandatory allocation program. Such a program cannot solve our long-range energy needs, but it will check the predatory tactics of the major oil companies until longer-range action is taken, and help save competition in this nation's largest industry.

NEW YORK TIMES SUPPORT FOR RADIO FREE EUROPE AND RADIO LIBERTY

Mr. PERCY. Mr. President, tomorrow, Tuesday, July 17, in executive session the Committee on Foreign Relations will mark up S. 1914, a bill to provide for the establishment of a Board of International Broadcasting and to authorize the continuation of assistance to Radio Free Europe and Radio Liberty.

As principal sponsor with the distinguished Senator from Minnesota (Mr. HUMPHREY) of this bill, I was pleased last week when the Washington Post editorialized very strongly in support of continued funding for these radio stations.

Today, July 16, 1973, the New York Times has added its support with a splendid editorial entitled "Ideological Détente." The Times correctly notes that:

> Radio Free Europe and Radio Liberty create a marketplace of opinion in those Communist countries to which they are directed, by disseminating both ideas and information that the governments involved would prefer to keep from their citizens.

I ask unanimous consent that the text of the Times' editorial be printed in the RECORD.

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

IDEOLOGICAL DÉTENTE

At the Helsinki conference of European foreign ministers, Western spokesmen properly put much emphasis on the importance of free communications across the boundaries of the world's ideological blocs. In this same period, Congress has been considering the budgets of the Voice of America, Radio Liberty and Radio Free Europe, the chief mechanisms by which this country does communicate with the Soviet Union and Eastern Europe. By its budgetary decisions, Congress will show whether or not it places the same value on international communications that Secretary of State Rogers and other Western spokesmen did in Helsinki.

The Voice of America is primarily concerned with broadcasting to the world a full and adequate picture of this country. Radio Liberty and Radio Free Europe are targeted to the Soviet Union and Eastern Europe respectively. Their primary emphasis is on filling the gap in the information system available to the peoples of those countries because their internal media are strictly censored and required to conform to the respective party lines involved. In effect the American transmitters create a marketplace of opinion in those Communist countries to which they are directed, by disseminating both ideas and information that the governments involved would prefer to keep from their citizens.

It has been argued that radio broadcasts of this type, which are regularly jammed by the receiving countries, are inconsistent with the spirit of détente. But the Communist bloc's leaders have always insisted that détente and peaceful coexistence must be accompanied by the ideological struggle in which they expect to continue their efforts to create a completely Communist world. It would be unrealistic to believe that détente implies an end to international debate via the airwaves and the printed word.

MULTINATIONALS AND INTERNATIONAL TRADE

Mr. HARTKE. Mr. President, a new phenomenon is upon us. Large multinational firms are so powerful that they are able to compete with national economic systems. In the first stage of their development, the U.S. enterprises invested abroad and purchased foreign firms outright. In the second phase, foreign operations of American firms abroad produced as much as 50 percent of their total profit abroad—like the Eastman Kodak Co., Caterpillar Tractor, International Harvester, and Minnesota Mining & Manufacturing. Now, in the third developmental stage of multinational corporations, more than 75 percent of their production and turnover occurs in foreign countries.

Their surging development has been aided by the rapid progress in science and technology. These multinational companies have become very flexible both geographically and monetarily. When a particular government puts obstacles in their path, the firm simply picks up its operation and moves its industrial activity, investments and profits to another nation-state. They move quickly to take advantage of lower labor costs in Hong Kong, Taiwan, Mexico, or Singapore or other lesser-developed areas. They are also attracted to countries which offer tax benefits or what is commonly called "tax holidays."

The multinational corporations control over $286 billion in short-term assets. Swiss bankers assert that it was the speculation of these transnational firms against the dollar in early February and March of this year, that weakened the position of the dollar on the international monetary market and caused it to be devalued.

The problems associated with this new phenomeon of the development of a massive world-spanning corporate structure are discussed with alacrity by Ronald Segal in a recent May/June 1973 article from the Center magazine entitled, "Everywhere at Home, Home Nowhere." I ask unanimous consent that this article be printed in the RECORD.

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

EVERYWHERE AT HOME, HOME NOWHERE

(By Ronald Segal)

It was not unusual for a leading capitalist of ancient Rome to own many houses in the city and beyond, for his personal use. The satirist Martial directed an epigram against the type, addressed as a certain Maximus. After describing some of his various properties, Martial cried, "Tell me where I can call upon you or in what quarter I may look for you. The man, O Maximus, who is everywhere at home is a man without a home at all."

Martial might have been writing about the modern multinational corporation, whose executives and shareholders, operations and interests are spread across so many countries that it is increasingly questionable whether they have any real home at all. There are between three hundred and four hundred of these, with the majority based in the United States, but a significant proportion in Western Europe and Japan. Indeed, it is Switzerland that provides the most spectacular example. Nestle, the country's largest company, does no less than ninety-eight per cent of its business abroad. But Bayer (of West Germany), Philips (of the Netherlands), and British Oxygen are among other Western European companies that get more than half their profits from foreign operations. In all, the foreign subsidiaries of British companies by 1970 were manufacturing twice as much as domestic industry exported abroad, and even French subsidiaries were producing a volume of goods by value equal to the sum of France's direct exports.

It is the companies based in the United States, however, that dominate the multinational enterprise. I.T. & T., Singer, Colgate-Palmolive, National Cash Register, and Goodyear are among those which have around half of their fixed assets outside the United States; while foreign operations produce between thirty per cent and fifty per cent of the total profit made by such as Eastman Kodak, Caterpillar Tractor, International Harvester, or M.M.M. (Minnesota Mining and Manufacturing). Profit, of course, is the crux in the enormous expansion of American subsidiaries abroad. Although in 1969 foreign sales accounted for only thirty-five per cent of I.B.M.'s total, they contributed some forty-three per cent to the total profit of the corporation.

The first feature of the multinational corporations to be noted is the rapidity and extent of their rise. By 1968 their total foreign sales exceeded in value the gross national product of every country except the United States and the U.S.S.R., and their foreign output was expanding at some ten per cent a year, or twice the growth rate of the world's gross national product. By the turn of the century, some commentators calculated, the largest two or three hundred of them would account for over half of world production.

Moreover, they are concentrated in certain sectors, such as chemicals, mechanical and electrical engineering, where industrial growth is most marked. Though their impact differs from state to state, it has, in one instance at least, reached stupendous proportions. More than half of Canada's industrial capital assets are now owned by U.S. or British companies.

Now capitalism is, and always has been, essentially about private profit. Indeed, as the eminent American economist, Milton Friedman, has expressed it in his book *Capitalism and Freedom*, "Few trends could so thoroughly undermine the very foundations of our free society as the acceptance by corporate officials of a social responsibility other than to make as much money for their stockholders as possible." This attitude has been

somewhat qualified by what have come to be established as considerations of the wider public interest. Corporations are taxed in order to help provide the funds for social expenditure. They have become, recently, subject to measures against environmental pollution. Various government policies to control the rate of inflation may limit the rise in prices of their products. But in general, as the financial pages of the press eloquently testify, their freedom to exploit the market for their own benefit remains considerable. And, to be sure, their success is measured by their relative ability not merely to maintain, but continually to increase, their profits.

Yet, if the freedom of national companies remains considerable, the freedom of international ones is far greater. They can reduce the burden of taxation for social expenditure, or the costs of measures against pollution, by concentrating their development in those countries where company tax is lowest and measures against pollution least demanding. They can accept the consequences of price restraint in one national economy by raising prices to compensate in another. They can also, needless to say, shift production from countries where organized labor proves troublesome to countries where it is more docile. Their power is nonetheless substantial for being latent. They do not need, in general, to take drastic steps. The knowledge that they can do so affects the decisions of government.

They live and prosper, in short, within and by the competition among national economies and the differential in living standards and productive conditions between one society and another. The degree to which they can exploit this competition is revealed not least in their monetary manipulation. Thus, they can switch liquid funds from one country, where relatively expansionist policies are being pursued, to another, where retrenchment is in operation. In consequence, they have access to credit which competitors on the national level are denied. And in any event, the scale of their operations and assets allows them opportunities to raise money on the international markets which smaller, national concerns cannot do, or only at a far higher rate of interest.

And they can exploit the changing relationships between currencies which are themselves a manifestation of competitive economies. "When I write a check," the treasurer of a giant oil company is reputed to have said, "it is the bank that bounces." The truth is that these companies dispose of such enormous liquid resources, through bank deposits on call or through borrowing powers, they can swamp the international money markets with their transfer of funds from one currency to another. Within some thirty-five minutes at the beginning of May, 1971, no less than one billion dollars were sold to buy Deutsche marks, on the assumption that the Western Germany currency would be revalued; and Swiss bankers firmly maintain that the multinational corporations were responsible for the bulk of the transactions.

From the middle of July, heavy selling of U.S. dollars developed, and one month later, on August 15th, President Nixon announced the formal inconvertibility of the dollar into gold. "In recent weeks," he declared in his broadcast, "the speculators have been waging an all-out war on the American dollar.... Accordingly, I have directed the Secretary of the Treasury to take the action necessary to defend the dollar against speculators.... This action will not win us any friends among the international money traders. But our primary concern is with the American workers."

The Economist in London tartly commented that the President "had decided to defend the dollar against the speculators by yielding to the speculators the devaluation of the dollar which they had very sensibly been betting would come about." An article in the Wall Street Journal, five days after the broadcast, was no less to the point. "President Nixon is blaming the weakness of the dollar in world markets, in large part on international money speculators. Well, it appears a nest of these rascals is in operation right here on the Hudson River Palisades. The Gnomes of New Jersey, it seems, are busily engaged in bollixing up world financial structures with such weapons as Hellmann's mayonnaise, Skippy peanut butter, Bosco, and Shinola." The article referred to the Corn Products Refining Co., an American-based multinational corporation with operations in thirty-nine countries and transactions involving many millions of dollars across the world's foreign exchange and commodity markets. Any one of numerous other similarly extensive enterprises would have served as a pertinent illustration.

These corporations are more and more not merely in the business of business but directly in the business of money. They have special departments to study and advise their executives on the likely future performance of different currencies, so that stock purchases, investment policies, and credit positions may be adjusted accordingly. Indeed, it is a process of speculation that promotes its own impulse and rewards. A currency selected as weak becomes so, as the corporation treasurers accelerate necessary payments out of and delay necessary payments into it; use their available liquid holdings or lines of credit in it to make foreign purchases of stocks or of other currencies.

Exchange controls have proved largely ineffectual, and even counter-productive, since they have encouraged the development of joint undertaking by the big banks of several countries. Thus American banks with branches abroad and in more or less formal association with banks in Western Europe, can engage in business outside the regulations on exchange control and credit that may be imposed by the American authorities. Their deference to the desires of the American authorities must be overwhelmed by their fear of offending multinational industrial companies, which might then choose to take their mammoth accounts elsewhere not just for the while but for good.

The findings of a study made by the U.S. Tariff Commission, on the economic impact of multinational corporations, were reported aptly on the same day as the second devaluation of the dollar within fourteen months. The Commission estimated that some $268 billion of short-term liquid assets had been held at the end of 1971 by "private institutions on the international finance scene," and that the "lion's share" of this money was controlled by U.S.-based multinational industrial companies and banks. This massive sum "was more than twice the total of all international reserves held by all central banks and international monetary institutions in the world at the same date." And in consequence, the study continued, "it is clear that only a small fraction . . . needs to move in order for a genuine crisis to develop."

This poses the central issue: these multinational corporations, industrial and financial, in general, reflect in their conduct an allegiance only to their own dynamic. In short, though they may be based in the United States, it is not to United States prosperity but to their own that they are essentially committed. And if it has long been recognized that what is good for General Motors is not necessarily good for the United States; it may be said with equal truth that what is good for the United States is not necessarily good, or seen as good, for General Motors. The particular example is not a strong one. The development of their foreign subsidiaries by the major American car manufacturers, for the increasing import of products from abroad for the American market has played a significant role in the deteriorating trade position of the United States.

But then how, within the moral perimeter of the system, should they be blamed? They exist to make satisfactory profits; and any failure to do so meets swift retribution in the stock market and the plummeting of prestige. As far back as 1932, Berle and Means in The Modern Corporation and Private Property analyzed the concentration of corporations into large units, with the related separation of management from ownership, and argued therefore that the managers of these corporations would not be solely concerned with providing for the largest possible return on shareholders' capital. They did not examine what the objectives of the managers would be, but suggested that "it is probable that more could be learned regarding them by studying the motives of an Alexander the Great, seeking new worlds to conquer, than by considering the motives of a petty tradesman in the days of Adam Smith."

And certainly there is an element of empire-building in the disposition not only of the top executives, but of many lesser fry who identify much of their own meaning in the trust of their particular company. The multinational corporation increasingly becomes a state in itself, imposing its priorities on the established allegiances to national communities. It is, for instance, the contention of one important Swiss banker that the deterioration in the social climate of the United States from the middle nineteen-sixties had a significant, if necessarily nebulous, impact on the flow of investment funds to Western Europe. The treasurers and other senior executives of multinational corporations with headquarters in the United States and especially in New York City reacted to the rising violence of the streets, the civil disturbances over the Vietnam war, the decay of public services, the spreading sense of social sickness, by moving more of their corporate assets and operations abroad; rather as the French middle class in times of alarm moves money and antiquities to Switzerland.

The rise of the multinational corporation accordingly confronts the very nature of the sovereign state as we have known it since its own rise in the Renaissance. This last phenomenon has been based essentially on mercantilism, defined by Gustav Schmoller in his Jahrbuch 1884 as "the total reconstruction of society and its organization, as well as of the state and its institutions, by substituting for the local and provincial economic policy that of the state and of the nation." And though liberal economists qualified the doctrine, with their devotion to free trade and their hostility to monopolies, their perspective remained that of the sovereign nation-state. Thus, for instance, Adam Smith entitled his seminal work The Wealth of Nations.

And how is the nation-state reacting to the threat? Paradoxically it does so by supporting where it can the multinational corporations based within it. Indeed, American official opinion waxes sporadically indignant at the help given to European- and Japanese-based multinational corporations by their respective governments through subsidies to such industries as steel; sanctioned cartel agreements; accommodating tariffs; and even whole or part government ownership, as of British Petroleum or Renault. Yet the Europeans and Japanese reply with reason that American-based multinational corporations are scarcely left to brave the trade winds of the world on their own. The U.S. government subsidizes domestic aerospace companies with loan guaranties and massive military contracts; blackmails foreign governments and corporations into "voluntary" curbs on steel and textile exports; even applies anti-trust laws rather more rigorously against foreign companies seeking to buy domestic industry than against domestic companies seeking to buy foreign industry. As Pierre Malvé, economic counsellor in Washington of the European Economic Community, declared in citing the requirements for improving re-

lations between the Community and the U.S.-based multinational corporations: "Certain taboos must be renounced, like the myth of free enterprise." This myth, he continued, was misleading, since it "largely disregards the economic reality characterized by public subsidies and government controls" on both sides of the Atlantic. What Americans might denounce as a "government-controlled economy" he preferred to consider an "attempt to introduce a certain order in the name of the general interest and of cooperation among countries."

It is a relationship that acts somewhere more to the advantage of the corporations than to that of the individual nation-states, which effectively provide far more than they control. This is particularly evident in the area of inflation; for the reality of increasing concentration stands in ever more marked contrast to the illusion of competitive pricing in free-market economies.

In both France and Britain, four industrial giants accounted for ninety-nine per cent of car production in 1967 (ninety-six per cent and eighty-three per cent, respectively, 1955); in Germany, four accounted for ninety-six per cent (seventy-eight per cent in 1955); in Japan, four accounted for seventy-seven per cent; while in the United States, only three accounted for over ninety-five per cent; and in Italy, two, for virtually all. Moreover, collectively they dominated car production in the other free-market economies of the world.

Indeed, the degree of concentration is much larger than any available statistics may measure. For corporations are not in general required to disclose in their accounts full information on other companies in whose equity they hold a minor stake, even though such a stake may constitute effective control. But there is no doubt that the multinational corporations have sufficient holdings in other companies: suppliers, customers, and often competitors. In 1962, according to the U.S. Federal Trade Commission, General Motors had interlocking directorships with seven other of the top one hundred corporations and with fifty-six smaller ones. Between 1960 and 1968, the top two hundred U.S. corporations established over seven hundred jointly owned subsidiaries with other corporations, of which last no less than one in five was also in the top two hundred. The top fifty U.S. corporations in 1965 shared 520 directors with other corporations in the top one thousand.

There is all too much evidence that these industrial giants, having achieved their dominance by absorbing or crushing such smaller rivals as have posed a danger to them, now compete mainly in the rhetoric of marketing. Cars, detergents, razor blades, electric light bulbs, transistor radios, margarine, television sets, pet foods, toasters, cosmetics, breakfast cereals, headache pills, paints, refrigerators: the list of commodities which are manufactured by supposedly competing corporations but are similar in quality and price is virtually endless. Increasingly, it is advertising that distinguishes and promotes. The costs of advertising compel smaller firms to become large ones by mergers and takeovers and so excite the leaders in turn to become larger still by buying out competition. The capital demands of inventing and launching new products are so great as generally to discourage management from taking the risks.

The inflationary consequences are twofold. Rising profits are insured by raising prices, in the confidence, explicit or implicit, that the market leaders will all fall into line, while recalcitrant smaller competitors will not pose much of a threat by keeping their prices down, and may be chastised in due course if they prove troublesome. But inflation results, too, not just from rising prices but from falling quality. An appliance whose price remains constant but which has to be replaced at ever-shorter intervals has much the same impact as one which lasts but whose price increases for successive purchasers. The truth is that both pressures operate, often simultaneously, with the same product rising in price and falling in quality over the years.

Indeed, an important element in the diminishing competitiveness of the American economy may well be that the quality of domestically produced commodities has fallen further, more rapidly, than has the quality of imported commodities. For certainly substantial changes in currency relationships have, so far at least, not had the predicted consequence of diminishing the American consumer's appetite for foreign goods, or the foreign consumer's appetite for American ones, despite the greater expense of satisfying the first and the lesser expense of satisfying the second.

A study by the U.S. Commerce Department, published in its Survey of Current Business, underlined the phenomenon. The monetary settlements of 1971 devalued the dollar by some 8.5 per cent against many currencies, and by still more against the currencies of strong economies, especially those of West Germany and Japan. Yet the total of imported goods and services rose from 6.2 per cent of U.S. domestic demand in 1971 to 6.7 per cent in 1972 while the total of U.S. goods and services exported abroad stayed at 6.3 per cent of national output. Excluding services, the survey showed an even larger rise in U.S. dependence: with the demand for foreign goods growing from 7.5 per cent of the total domestic consumption in 1971 to 8.2 per cent in 1972.

This does not, of course, mean that foreign-based multinational corporations are successfully competing with American-based ones in the marketplace. It is often the American-based multinational corporation competing with itself, as Ford does by importing for the American market cars produced by its subsidiaries in Britain and West Germany. If the products from foreign subsidiaries are more acceptable than those of domestic industry to the American consumer, it is because the efficiency of plant and labor and the requirements of the local market make it profitable for the subsidiaries to offer a product sufficiently appealing in quality at a sufficiently appealing price.

If the problems of the American economy are accordingly severe, the problems of successfully competitive economies are, in their own way, no less so. For the multinational corporations are quick to exploit such success without endangering it too far, by raising prices to the limit that the traffic will bear. And their internal accounting can easily enough confront the complaints of a particular government with evidence that their profit in the local market remains at a barely acceptable level. Shifting raw materials and components from one country to another, they can manipulate the cost of products significantly to their advantage.

In November, 1970, no less orthodox and authoritative a capitalist institution than the Organization for Economic Coöperation and Development proclaimed the relationship between rapidly rising prices and the multinational corporation. "The competitive pressures which have come from the dismantling of trade barriers may gradually weaken," it declared, "and there is a danger that international mergers and growing financial links between large companies in different countries may lessen competition between foreign and domestic suppliers." And it emphasized: "While the growth of multinational corporations and links across national frontiers has been a major factor promoting rationalization and higher productivity, it also provides increasing scope for monopolistic and oligopolistic practices."

Furthermore, in a display of its essential irony, capitalism insures that resources should flow to where they are least needed. The very success of the Western European and Japanese economies attracts to them a sporadic flood of capital, for industrial investment or speculation in the world money markets. That in the process the poor countries are in general kept poor is regarded in the metropolitan centers of the system with occasional sanctimonious regret but some confidence that any ensuing problems are too remote for serious concern. It is effectively the consequences for the American economy and for the role of the dollar in the world monetary system that enjoys attention.

To be sure, the multinational corporations are the eye of a monetary storm that increasingly threatens the whole monetary structure of the system. Every few months an accumulation of dollars abroad seems suddenly to erupt into pressure on the exchange rates; and strong economies face the choice between revaluing their currencies upward against the dollar or taking yet further large quantities of unwanted dollars into their reserves. The conventional belief, that revaluing their currencies must make the American economy more competitive, may be open to question; but it is held with sufficient strength to discourage governments from accepting such a course as any but the very last resort. On the other hand, if dollars have to be bought for the reserves, the supply of local money is correspondingly increased, with predictable inflationary results.

While the governments of nation-states seem, for one reason or another, unwilling or unable to meet the challenge of the multinational corporation, the leadership of organized labor in the advanced capitalist world is beginning to register its alarm. For it can see two distinct threats: first, the ability of the multinational corporation to play off the work force in one state against the work force in another, by the implied or proclaimed possibility of shifting production wherever labor proves most amenable; and then, the export of jobs through the development of plants outside the advanced capitalist world altogether.

The first threat is the more credibly being confronted by such reactions as the effort to synchronize the expiration of contracts and even establish coordinated negotiating machinery for workers in the various advanced industrial states where the particular multinational corporation operates. The second is far less manageable since there is so little identity of interest or power between workers in the advanced and workers in the backward capitalist worlds. Highly paid Dutch or West German, British or American workers would be the last to accept the principle of the rate for the job that would inform an effective united stand by labor throughout the domains of multinational corporate enterprise. For such, they suspect, might well mean a decline in the income of the richer workers as well as a rise in the income of the poorer ones. And then, many of the countries to which the multinational corporations are switching production have regimes which concede far fewer rights to labor in practice than on paper. Japan is a special case; there the attraction is of a labor force rather less militant or self-confidently organized than its Western counterparts.

The threat of exported employment is seen as particularly real by the American workers, though the British are not far behind. Nor is it by any means only a threat to the less skilled, as by the shift of strawberry production from Louisiana to Mexico where labor is cheaper. Advanced industry is, far more importantly, involved. R.C.A., Ford-Philco, Zenith, and Admiral are American companies manufacturing in Formosa television sets for the American market. Westinghouse sells under its own label sets manufactured in Japan. By 1970 almost all radios and tape recorders sold in the United States were pro-

duced abroad, often by U.S. companies or under license, increasingly in Japan or countries of far cheaper labor. Singer and Burroughs import and market desk calculators that they themselves pioneered but that are now manufactured by arrangement with various companies in Japan. Japan and Taiwan, Hong Kong and Mexico have become almost as important to the supply of the American consumer market as has the Arab world to the supply of American energy needs.

And the outflow of investment capital and consumer expenditure to these countries does not return in the commensurate purchase of American plant or products. It either stays there for industrial expansion or moves out for the purchase of products from other countries (which is why the United States has been running a trade surplus with the European Economic Community, but a massive trade and even more massive over-all balance-of-payments deficit with the rest of the world, while the European Economic Community is itself in healthy surplus).

Indeed, what we may well be seeing not least in the activities of the American-based multinational corporations is an American rerun of the British capitalist experience by which capital resources that might have been used to renew the British industrial structure were exported instead to other countries. The tribulations of the dollar reflect the previous tribulations of the pound.

UNESCO SPONSORS INTERNATIONAL SOLAR ENERGY CONFERENCE

Mr. WEICKER. Mr. President, at a time of considerable concern in this Nation and the world over alternative sources for increasing energy needs, the proven potential of research and development of solar energy has received growing international attention. Numerous governments and industrial concerns have initiated substantial investments into the harnessing of solar power for domestic heating and cooling systems and even the generation of electricity.

The involvement of the Federal Government in research in solar energy is indeed increasing, as this year's National Science Foundation budget was raised to over $12 million. Nevertheless, this figure represents less than 2 percent of the total Government budget for overall energy research and development.

Recently, over 900 scientists representing many interested countries and organizations met in Paris to discuss the projected massive development of solar power in the near and very foreseeable future. An article in Newsweek of July 16 details the international conference and the present state of solar energy application in the United States. I ask unanimous consent that the text of that article be printed in the RECORD.

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

TURNING ON THE SUNPOWER

A major attraction at the Paris Exposition of 1878 was a steam engine powered by heat from the sun; it was used to operate a small printing press but was thereafter dismissed as interesting but impractical. Now, however, with the mounting worldwide energy crisis and skyrocketing rises in the price of all fuels, power producers have turned their attention to solar energy with both hope and enthusiasm.

Last week in Paris, barely two miles from the site of the 1878 exposition, some 900 scientists attending a meeting sponsored by UNESCO agreed that energy from the sun may soon provide a breakthrough of enormous importance. "The speed at which solar energy will be put to use," declared French physicist Ivan Peyches, "is a direct function of the world's fear of running out of conventional energy sources."

These new assessments of the future of solar power do not spring from spectacular improvements in technology; rather, they stem directly from the increasing interest of governments and industrial companies. "There's no question that government funding will increase, just as it is already clear that industry is already investing money," said John A. Duffie of the University of Wisconsin. In fact, U.S. Government support for research into solar energy has increased from next to nothing in 1971 to some $13 million in the current fiscal year. Such investments, Duffie believes, will help provide solar-heating units that can be incorporated into houses and office buildings. "Until now," Duffie explained last week, "builders have not been able to order solar-powered units even when they wanted to. Within the next few years, such units may well be commercially viable."

The technical efficiency of some solar power units has already been established. For years, Australians, Japanese and Latin Americans have heated their bath water simply by storing it in rooftop tanks; and at Odeillo in the French Pyrenees, solar-power pioneer Félix Trombe has developed a solar furnace—a collection of mirrors that focuses the sun's heat so effectively that it can produce temperatures as high as 3,500 degrees for simple industrial uses.

A FIRST

Over the past decade, about 25 houses have been constructed in parts of the U.S. with heating systems powered largely by solar energy. This year, the Massachusetts Audubon Society announced plans for an addition to its office building in Lincoln, Mass., that will use solar power to provide 60 per cent of the energy required for heating and air conditioning. And next week, the University of Delaware will dedicate an experimental house that not only will use the sun's heat for heating and cooling but will also convert sunlight into electricity to run home appliances.

The Delaware house, named Solar One, illustrates the basic simplicity of harnessing solar power for domestic purposes. Mounted on the roof, at an angle of 45 degrees to obtain optimum exposure to the sun, are two large rectangular panels, or collectors. These consist of a number of solar cells—sandwiches of cadmium sulfide and copper sulfide between thin layers of glass—which produce electrical current on exposure to sunlight. Some of the current produced in this way is fed immediately into the house's electrical system, to run lights and domestic appliances; the remainder is used to charge up a series of batteries in the cellar. The batteries are designed to provide electricity at night and on days when the sun is behind the clouds. And against the inevitable contingency of a series of gray and sunless days, Solar One's electrical system can also be connected to the local power utility.

LONG-RANGE

But family houses are just one prospect. Solar experts say that Lake Erie alone receives more energy from the sun every day than the entire United States consumes in the course of a year. Thus, a major long-range objective is large-scale production of electrical power, using either arrays of large collectors spread over hundreds of square miles, or even satellites equipped with solar cells that would overcome the problem of cloudy days. At the moment, most solar-power promoters recognize that such large-scale schemes will not be practical for one or two decades; meanwhile they are putting the bulk of their efforts into the immediate problem of supplying solar heating and cooling for individual buildings, which at present use up more than 20 per cent of the entire U.S. energy budget.

According to present estimates, a typical three-bedroom house can be equipped with solar collectors and ancillary heating equipment for about $3,000—a surprisingly economical figure, because experience to date suggests that maintenance costs are minimal. Viewed in the light of increasing costs of energy from conventional sources, the cost of such units seems even more attractive. "Oil and gas will inevitably rise in price," says Karl Boer, who designed Solar One, "but the cost of power from the sun will always be the same."

AN ANSWER TO COLT INDUSTRIES ON THE ISSUE OF CHROME FROM RHODESIA

Mr. HUMPHREY. Mr. President, recently several of my colleagues and I received a letter from Mr. Martin N. Ornitz, president of the Crucible Stainless Steel Division of Colt Industries. In his letter, Mr. Ornitz expressed his concern over my efforts, and those of 28 of my colleagues, to restore the United States to full adherence to the United Nations sanctions against Southern Rhodesia. Today, in my own behalf and that of my colleague, the distinguished senior Senator from Wyoming (Mr. MCGEE) who is absent on official business, I would like to make a factual rebuttal of several assertions Mr. Ornitz has made in his letter. First, in firmness to Mr. Ornitz, I ask unanimous consent that this letter be printed in the RECORD.

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

COLT INDUSTRIES,
Midland, Pa., June 25, 1973.

Re: S. 1868.

Hon. GALE W. MCGEE,
U.S. Senate, Old Senate Office Building, Washington, D.C.

DEAR SENATOR MCGEE: I note that you have co-sponsored the subject bill, S. 1868, introduced by Senator Humphrey, aimed at halting the shipment of chromium ore from Rhodesia to the United States. This matter has been the subject of considerable publicity lately—some of which has been inaccurate or at the very least misleading. Since availability of adequate supplies of chromium, at prices competitive to those paid in other nations, is vital to the welfare of our country, I write to you to express concern over the effect that the enactment of this bill would have.

Ferro-chromium, an alloy of iron and chromium, is used in the manufacture of nearly all specialty steels. These include alloy steels used in making such things as farm equipment, trucks, buses, automobiles airplanes, and machine tools. It is essential to the manufacture of all stainless steels—for dairy, hospital, and restaurant equipment, power plants, oil refineries, chemical plants, atomic energy plants, pollution control equipment and countless items used in the home, such as pots and pans, tableware, sinks, electric ranges, dishwashers, etc. It is used in making tool steels—for shaping and cutting other materials. Obviously, a shortage of chromium for steelmaking would disrupt our entire economy.

Chromium ore is mined chiefly in Russia, South Africa and Turkey, as well as Rhodesia. There are no known domestic deposits. This makes us fully dependent on foreign

sources for a very vital metal for which there are no substitutes.

At present the world-wide supply and demand are not quite in balance, with demand exceeding supply. As a result, contrary to some recent statements, the price of one grade of ferro-chromium has increased in this country 13% and the much more widely used grade has increased 24%. These increases have occurred in spite of the fact that the embargo on Rhodesian chrome was lifted. If it had remained it is likely that the price increases would be greater.

It has been said that in spite of the lifting of the embargo essentially the same percentage of our chrome still comes from Russia. This is caused by two things. The total has increased due to increased demand. Also the embargo did not slow down Rhodesian production. The Rhodesians sold their chrome ore to other countries on long-term contracts. These countries merely ignored the embargo. Chemical analysis suggests some of the chrome ore we buy from Russia originated in Rhodesia.

The Rhodesian ore is considered to be of the highest quality available, contrary also to recent statements by the State Department.

The proposed pollution-control devices (catalytic converters and thermal reactors) for automobiles will result in a tremendous increase in requirements for chromium just for the production of stainless steel in this country of about 25%. Should the present projections for catalytic converters hold true, this will require the use of an additional, approximately, 60,000 tons per year of chromium for this application alone. With all the chrome ore mines in full production, including Rhodesia, and no restrictions on American industry as to sources, there is presently a serious lack of adequate supplies of ferro-chrome. This problem will be compounded by the requirements for pollution control as well as the growth of stainless steel production in the immediate future. Further, the problem of cost and viability of the industry can be seriously affected.

In spite of the State Department's problem vis-a-vis its African policy, nevertheless, I respectfully request that you reconsider S. 1868 from the standpoint of its effect on the vast majority of Americans. The price of imports cannot be controlled. Chromium is imported. We cannot afford, as a nation, to reimpose this embargo just for, as the State Department says, "the psychological effect." If we do, the cost of a lot of things all of us buy is going to go up still more, with no real effect on Rhodesia.

We regard this as a most serious matter and would be pleased to meet with you at your convenience if you would like additional facts on this subject, and the importance of it to the American economy.

Sincerely,

MARTIN N. ORNITZ, *President.*

Mr. HUMPHREY. Mr. President, I have no quarrel with the accuracy of the first two paragraphs of Mr. Ornitz' letter. However, in the third paragraph, Mr. Ornitz makes the assertion that chromium ore is mined chiefly in Russia, South Africa, Turkey, and Rhodesia. Yet, he fails to mention the fact that chrome ore is mined in substantial quantities in the Philippines, Finland, India, and Brazil. The latter three nations are metallurgical grade producers.

His contention that "there are no known domestic deposits" of chromium ore is just not the case. According to the U.S. Geological Survey estimates, there are over 8-million tons of domestic deposits of chrome ore. These deposits are located primarily in Montana, California, Oregon, and Minnesota. They are generally of a relatively low grade and are widely dispersed. While they are considered commercially unsuitable for mining under current market conditions, this does not mean they are unavailable for future use. As an example, Finland has taken advantage of her deposits of low-grade chrome ore and now exports ferro-chromium produced from these deposits. Canada is also a source of an additional 5 million tons of low-grade chrome ore.

The assertion that this situation "makes us fully dependent on foreign sources for a very vital metal for which there are no substitutes" is also misleading. We presently have some 5.3 million tons of metallurgical grade chrome in our strategic stockpile. The administration has already announced there is no longer a need for maintaining such huge amounts of strategic metals in the national stockpile and therefore will be releasing all but 500,000 tons from the stockpile over the next 5 years.

The assertion that worldwide supply is exceeding the demand is not correct. Most of the Turkish, Iranian, Brazilian, Indian, and Greenland deposits of chrome ore are being mined well below capacity. This is the case because it is easier and cheaper to mine chrome ore in southern Africa and central Asia. Turkey, in particular, produced four times as much between 1950 and 1955 than she produced between 1965 and 1970. Each of these producing nations could increase its output if the United States, Japanese, and European consumers were willing to assist them.

As to the assertion that the price of one grade of ferrochromium—

Has increased in this country 13 percent and the much more widely used grade has increased 24 percent.

The figures are of questionable legitimacy since neither a time reference, nor an indication of whether the price increases are for domestically or foreign manufactured ferrochromium, is spelled out. Nevertheless, Mr. Ornitz failed to mention that price increases have occurred for ferrochromium because: First, demand has increased as both Japan and Germany have increased their production of steel, and second, production costs have generally increased through inflation, devaluation of the dollar, and wage increases. This also refutes his contention that price increases would have been greater had our compliance with the sanctions remained in force.

The next assertion by Mr. Ornitz is addressed to the fact that, in spite of the lifting of the embargo against Southern Rhodesia, we still import the same percentage of our chrome from Russia as before the embargo. He contends:

The total increase was due to increased demand. Also the embargo did not slow down Rhodesian production. The Rhodesians sold their chrome ore to other countries on long-term contracts.

These contentions are entirely speculative. Even if long-term contracts were responsible for the small amounts of Southern Rhodesian chrome imported into the United States in 1972, then who is to say this would change this year or the next. In addition, if Southern Rhodesian chrome is as attractive and necessary as Mr. Ornitz implies it is, I have little doubt that either first, American chrome consumers would find a way to get a greater share of the market, or second, Rhodesian producers would find a way to increase production to compensate for the increased demand in our country. He also fails to mention our imports from Turkey have fallen off by 17 percent since our violation of the sanctions went into effect.

Perhaps the most misleading assertion made by Mr. Ornitz is his statement that—

Chemical analysis suggests some of the chrome ore we buy from Russia originated in Rhodesia.

This is a test devised by crucible itself in an effort to obtain congressional violation of the sanctions—a test the U.S. Geological Survey subsequently found to have no scientific worth whatsoever, and therefore, invalid as an attempt to show that Soviet chrome imports are nothing more than Southern Rhodesian ore transshipped through Russia.

The next assertion by Mr. Ornitz is:

The Rhodesian ore is considered to be of the highest quality available, contrary also to recent statements by the State Department.

This is simply not true. By any standard, be it chrome ore deposit formulation, chrome ore content, or availability on short notice, Southern Rhodesian chrome is inferior to Soviet Russia's, and in some cases Turkish ore.

The best proof of this is the rapid increase of American industrial consumption of Soviet chrome ore. The statistical evidence of the superior quality of Soviet chrome ore over Southern Rhodesian chrome ore is not just the machinations of the U.S. Department of State, but is based upon data from the U.S. Bureau of Mines.

Mr. Ornitz contends that with all the chrome ore mines in full production, including Southern Rhodesia—

And with no restrictions on American industry as to sources, there is presently a serious lack of adequate supplies of ferro-chrome.

As previously mentioned, all of the chrome ore mines are not in full production. In addition, there will shortly be almost 3 million tons of metallurgical chromite and 700,000 tons of ferro-chromium available to American industry from our stockpiles. Thus, this statement is simply without foundation.

Mr. Ornitz also contends:

Further, the problem of cost and viability of the industry can be seriously affected.

Again, this statement is misleading in that the domestic ferrochromium industry's problems are not due to a lack of available metallurgical chromite. Some 900,000 tons of chrome ore have been sitting in the national stockpile for 4 years looking for a buyer. In addition, Turkey, Brazil, Greenland, and India have been looking for someone to invest in chrome ore mines. The industry's problem is not one of supply, but rather, it is one of increasing production costs with the use of outdated plants and equipment.

I was particularly disturbed with Mr. Ornitz' statement that—

In spite of the State Department's problem vis-a-vis its African policy, nevertheless, I respectfully request that you reconsider S. 1868 from the standpoint of its effect on the vast majority of Americans.

First, Presidents Johnson and Nixon have both stated publicly their support for peaceful change toward majority rule in Southern Rhodesia. Accordingly, both supported economic sanctions against the minority regime of Ian Smith as the best feasible means of effecting that kind of change. Our adherence to the security council sanctions was an act we entered into voluntarily in a forum where we have the veto power should resolutions not be in our best national interest. As a case in point, as recently as June 26, Mr. Peter M. Flanigan, assistant to the president for international economic affairs, stated in a letter that:

Access to Rhodesian chrome and other minerals is not an important element in U.S. security or in our overall foreign economic policy given: (1) the substantial excess of our stockpile resources and (2) the comparatively minor amounts we actually import from Rhodesia.

Mr. Flanigan's response was the result of an inquiry made by Representative DONALD FRASER, Democrat, of Minnesota, and Representative CHARLES DIGGS, Democrat, of Michigan.

Mr. Ornitz also fails to mention two very important developments which are a direct outgrowth of our decision to violate sanctions against Southern Rhodesia. Since January 1, 1972, the effective date of the act of Congress allowing us to violate sanctions against Southern Rhodesia, our country has imported chrome ore. Imports of low-priced ferrochrome made in Rhodesia and South Africa, using Rhodesian ore, threatens to destroy the American ferrochrome industry. Cutthroat competition from these imports is made possible by the use of cheap forced labor and government subsidies.

Foote Mineral Co., a principal lobbyist in 1971 for breaking the sanctions against Southern Rhodesia, was the first to feel the detrimental impact of the new law. On December 13, 1972, it announced that it was closing the plant in Steubenville, Ohio, which had received one of the first shipments of Rhodesian chrome ore. Foote gave the following reason for the closure:

The domestic ferrochrome industry has been forced to reduce selling prices in order to combat the low-priced foreign imports which have taken as much as 50 percent of the domestic low carbon ferrochrome market this year.

Industry sources estimate that 307 workers will lose their jobs in 1973 because of the Steubenville closing. In Brilliant, Ohio, Ohio Ferroalloys Corp., is halting its production of ferrochrome and converting to silicon. Others may soon follow.

In May 1973, the Ferroalloys Association of the United States filed a statement with the Tariff Commission and the Congress asking for relief from excessive imports. The association stated in part that:

The problem of domestic ferrochrome production is now critical. Imports of low carbon ferrochrome and chromium metal in 1971 captured 56 and 59 percent respectively of the domestic market. In fact, the impact of the increased volume and the attendant low price of imported material has already forced some producers to abandon the production of ferrochrome and others to begin importing from overseas. Unless aid is forthcoming soon it will only be a matter of time until almost all domestic production of ferrochrome and chromium metal will cease and the bulk of our country's requirement will be supplied from and dependent on foreign production.

Technological changes in the production of stainless steel, the principal metallurgical use for chromium, will alter the use pattern in favor of increasing amounts of high ferrochrome at the expense of low carbon ferrochrome and ferrochrome silicon. This fact has been recognized by foreign producers, particularly those located in Africa where abundant quantities of chrome ore are available and new facilities installed for high carbon ferrochrome production. Ultimately the Republic of South Africa and Southern Rhodesia could dominate and control the world supply of chromium products.

Effective government action is needed to insure continued domestic production of chromium products and forestall complete dependence on foreign production and supply.

I believe these developments speak for themselves. That is why the distinguished senior Senator from Wyoming (Mr. MCGEE) and I, along with 27 of our colleagues, see the urgency for putting this Nation back in compliance with U.N. sanctions against Rhodesia as soon as possible.

In conclusion, it was the decision of my colleague, Mr. MCGEE, and me to use this statement as a means of responding to the letter from Mr. Ornitz. Therefore, a copy of this statement will be forwarded to Mr. Ornitz.

CREDIT DISCRIMINATION AGAINST WOMEN

Mr. BROCK. Mr. President, eliminating the practice of credit discrimination against women has been a project of particular interest to me in this session, following the hearings last year by the National Commission on Consumer Finance which clearly documented the widespread existence of such unfairness.

Last month the Banking, Housing and Urban Affairs Committee acted on my proposal, and unanimously agreed to attach antisex discrimination provisions to the Truth-in-Lending Act.

In the hearings which led to that decision, as in the earlier National Commission on Consumer Finance hearings, numerous examples of the problems faced by women in obtaining credit came to the fore.

However, I have subsequently learned of a case which so clearly documents the case that I wanted to bring it to the attention of the Senate on this occasion.

Columnist Georgiana Vines, writing in the Knoxville, Tenn., News-Sentinel, tells the story of the Honorable Kathryn Kirschbaum, mayor of the city of Davenport, Iowa.

Mayor Kirschbaum's problems in obtaining a credit card speak eloquently of the double standard that exists with regard to credit, and I would ask unanimous consent that Ms. Vines' column be printed in the RECORD.

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

WOMEN IN PUBLIC LIFE—MAYOR CAN'T GET CREDIT CARD

(By Georgiana Vines)

Kathryn Kirschbaum can be mayor of Davenport, Iowa, a city of about 103,000, but she can't get a credit card from BankAmericard on her own.

The reason, she says, is that the signature of her husband, Raymond, has to be on the application. She doesn't feel his signature is necessary. She feels her own credentials are enough.

She cited this as one discrimination against women during the U.S. Conference of Mayors meeting in San Francisco last week. Mayor Kirschbaum was one of three women mayors at the conference and was the only woman mayor to be part of the conference program in a discussion on programs for the disadvantaged. She was asked to speak on disadvantaged women.

Kathy Kirschbaum's problems in getting the credit card have been taken before the Iowa Civil Rights Commission by the Iowa Civil Liberties Union. The refusal of the company to issue a credit card does not violate Federal law "but it is felt Iowa law would relate to it," she said.

SELF-IMPOSED LIMITS

Mayor Kirschbaum, nearing the end of her first two-year term as Davenport's chief executive, told the mayor's conference that she believes "with individual exceptions," that many of the limitations that women have are self-imposed.

"It is largely a result of the social education of girls in this country," she said.

However, the climate of achievement in the adult world is such that "penalties" are imposed on women who compete, she said.

"The male roles involve aggressiveness and risk taking—which are considered unfeminine and would cause women to fear other women (who are aggressive or take risks)," she said.

"Maintaining positive requirements for success can bring women to rather lonely positions sometimes," she said.

Elections in Davenport are partisan, and Mayor Kirschbaum was elected as a Democrat on a reform-minded platform. Davenport has a weak mayor council form of government, which means "council must confirm department heads," Mrs. Kirschbaum explained. (Directors and department heads are not confirmed by the Knoxville City Council.)

Before being mayor, she served a term as ward alderman and alderman-at-large. Her training ground for politics was the League of Women Voters, which she described as "issue-oriented and straightforward."

GOT AIDE APPROVED

She is on the board of directors of the National League of Cities, whose counterpart in the state is the Tennessee Municipal League.

The Davenport mayor considers it an achievement that she has been able to get the council to approve a new post of administrative assistant to the mayor, "to bring greater professionalism" to government. She also is trying to create a position of corporation counsel, in an effort to lessen "pure political influence" in the city legal department.

Mrs. Kirschbaum, 41, a native of New Kensington, Pa., has a BA degree in social science from Denison University, Grandville, Ohio. An aptitude test in college showed she should be an occupational therapist.

This sounds kind of corny but I joined the Army because it offered courses in occupational therapy," she said.

The Army sent her to Ft. Sam Houston, Tex., where she met her husband. He is a mechanical engineer in Davenport. The Kirschbaums have two sons, ages 10 and 13.

Davenport has problems that sound familiar. A major concern at the moment is housing for the elderly, with 500 units needed in the downtown area.

In contrast to Knoxville which has several publicly financed housing projects and seeks more, Davenport had not participated in such programs previously "because of its conservative viewpoint," Mayor Kirschbaum said. "We're trying to put a program together," she said.

The city also has Waste Water Problems and is under order to provide secondary sewage treatment facilities. The design for a $30 million plant is under way. A site has been found. The problem is finding the money.

"We're catching up with years of neglect and lack of money," she said.

Mr. BROCK. Mr. President, I note that the Joint Economic Committee hearings on the economic position of women in the United States provided further documentation of the need for my proposed legislation to prohibit discrimination in the granting of credit on the basis of sex or marital status.

One day of the 2-week hearings, chaired by Congresswoman MARTHA GRIFFITHS, Democrat of Michigan, was devoted to the credit issue. In testimony before the congressional hearings, witnesses provided evidence of the problems women face in this area.

According to a witness from the Center for National Policy Review, School of Law, Catholic University—

There is no legitimate rationale for discrimination based on marital status.

Nevertheless, as one survey conducted by the Federal Home Loan Bank Board revealed, 64 percent of the savings and loans use a person's marital status as a factor in evaluating the loan application, and 18 percent state that a person's marital status, in and of itself, could be grounds for automatic disqualification.

Another witness, Prof. Margaret Gates, an attorney and codirector of the Center for Women Policy Studies, brought attention to the results of the latest studies dealing with home mortgage delinquency and foreclosure. It was "found that marital status is unrelated to delinquency and foreclosure risk."

When creditworthy individuals are denied participation in the credit economy because of their marital status, legislation prohibiting this discrimination on account of sex or marital status, such as I have proposed, must be put into effect immediately. The hearings further demonstrated this need for Federal legislation.

My legislation, S. 2101, title III, the Equal Opportunity Credit Act, prohibits discrimination based on sex or marital status in connection with any consumer credit transaction or extension of credit for commercial purposes.

GAS CYLINDER SAFETY

Mr. HARTKE. Mr. President, on February 22, I reintroduced along with Senator SCOTT of Pennsylvania legislation designed to prohibit the Secretary of Transportation from promulgating any regulations which would permit the transportation of compressed gas cylinders within the United States which have not been inspected within the United States. A recent report by the Comptroller General of the United States indicates more than ever that this legislation (S. 975) should be adopted.

The report is entitled "Need for Improved Inspection and Enforcement in Regulating Transportation of Hazardous Materials." It concludes that the Department of Transportation must improve its inspection and enforcement program to insure compliance with regulations for safely transporting hazardous materials. The present inspection and enforcement program of DOT was found to be handicapped by: First, a lack of basic data on hazardous material movements; second, a small and unsystematic inspection effort; and third, inadequate enforcement actions.

With specific reference to compressed gas cylinder manufacturers, it was found that domestic manufacturers are rarely inspected and many instances of violations were found when inspections were conducted. Of the 19 cylinder plants inspected during a special study by the Office of Hazardous Materials in 1970–71, all but one violated requirements for manufacturing containers used to transport compressed gases. The violations consisted of failure to perform tests and failure to meet specifications such as material and wall thickness—requirements designed to insure that containers will withstand conditions normally experienced in transportation.

It therefore seems very strange to me that DOT which is not able to perform adequately its inspection functions domestically seeks to expand its jurisdiction to include inspection of foreign-made cylinders.

On January 19, 1971, the Hazardous Materials Regulations Board of the Department of Transportation, in a notice published in the Federal Register, stated that it was considering whether it was necessary to continue to require that the tests be performed in the United States. The Board made clear that the motivation for this possible change in safety requirements was not safety, but—

The desire to import foreign-made cylinders for industrial and medical gas service and the future difficulties which will evolve from passive restraint systems being incorporated into foreign manufactured automobiles.

I do not believe that the suggested changes should be made. On the contrary, I believe that unless a positive showing can be made that the safety of American workers and consumers will not be endangered by the suggested changes in the regulations, the Department of Transportation must continue to require that these tests be performed within the United States. My review of the record before the Hazardous Materials Regulations Board convinces me that there has been no showing that safety will be enhanced or even preserved by this action. Rather, the proposed action would be a step away from safety and would create risks to which the American worker and consumer should not be exposed.

In view of the inherent dangers involved in the use of compressed gas cylinders and admitted need for improved inspection by the Department, it is incredible that the Hazardous Materials Regulations Board is still considering extending its jurisdiction to include foreign inspection. The implementation and supervision of the foreign program will place an impossible burden on the already overworked staff of DOT inspectors. The result will be two inadequate programs instead of one that is only slightly inadequate. The only losers will be the American people—those who Congress and the Department of Transportation have a primary duty to protect from dangers which cannot be abated by the efforts of the individual citizen. The Department must institute an adequate domestic safety-inspection program before it expands its jurisdiction to take responsibility for foreign containers bound for use in the United States.

Going beyond any doubts as to the Department's ability to carry out a sound plan, there is evidence that the proposals themselves are unsound. They provide for no on-the-spot inspection of foreign plants and no supervision by the Department over the foreign inspectors. Moreover, there is little or no evidence in the record as to the safety record of foreign cylinder manufacturers, and what evidence there is is contradictory at best, negative at worst.

The record before DOT provides no basis for instituting a new program, with new complications, based upon an old program that is not working. The present program must first be made to work.

PROPOSAL TO LESSEN THE BALANCE-OF-PAYMENTS PROBLEM AND MAINTAIN OUR FORCES IN EUROPE

Mr. BROCK. Mr. President, the President of the United States has referred to 1973 as "the year of Europe," but I fear that it may turn out to be the year from which we mark the decline of the European-American alliance unless Congress puts aside some of the dangerous notions in its head.

In recent weeks and days, I have noted the usual harbingers of a massive legislative-media campaign to focus attention on a particular issue, and the issue this time is American troops in Europe.

"Why do we need troops in Europe," the argument goes, "now that we've made friends with the Russians?"

"Who will they be used against? Luxemburg?"

Hopefully, of course, they will never be used against anybody, but the attitude that détente is a prelude to unilateral withdrawal is both dangerous and foolhardy. Moreover, it displays a remarkably sophomoric understanding of the complexities of negotiating with the Kremlin.

The man perhaps most experienced in such negotiations, former Ambassador Charles Bohlen, concludes his recently published memoirs in this manner:

I see little that the United States can do except to continue along the lines of the policy that has been generally followed since World War II. This involves, above all, keeping our defenses sufficiently strong to deter the Soviet Union from any possibility of yielding to the temptation of a first strike against the United States. I do not think we can look forward to a tranquil world so long as the Soviet Union operates in its present form. The only hope, and this is a fairly thin one, is that at some point the Soviet Union will begin to act like a country instead of a cause.

Détente is certainly preferable to war, and it is also preferable to confrontation. But we must not delude ourselves into thinking that détente means alliance.

The American understanding of détente connotes a positive action, the creation of a relationship that may not be quite an alliance, but nonetheless a cooperative entity.

A literal translation of the Russian words used for détente, however, would be "a weakening of tension." In dealing with the Soviets, semantics can be vastly important, and it is vital for the American people to understand the difference between the positive connotation of the English word "détente" and the negative connotation implicit in the phrase "weakening of tension."

Put bluntly, the Soviets do not conceive of détente as the creation of a qualitatively new relationship. Rather, they regard it as the mere lessening, quantitatively, of the old relationship of confrontation—that is, a lessening of free world—United States—resolve.

This quantitative adjustment can, of course, be quickly and easily undone, 10 weeks from now, or 10 years from now, but regardless of how long it endures, it is important to understand that—as official Soviet statements indicate—it represents, for them, merely another phase in their ideological struggle against capitalism.

Moreover, we must understand that for the Soviets, struggle is the normal state of things. We think of peace as normal, but the Communist ideology allows for no peaceful normality until the final triumph. All history preceding is merely a continuous struggle toward the victorious end.

For Mr. Brezhnev and his associates then, détente is a tool which may be used, when valuable, in the conduct of that struggle. It will be valuable when it can serve to weaken the military defenses against the Communist world, or to permit the Soviets to acquire wheat or other products it may need. But it is not, and can never be, an end in itself.

The American response to détente then, must be constant readiness. Of particular importance, we must never give something away without extracting, in return, an appropriate quid pro quo.

The enslaved nations of Eastern Europe stand as a tragic monument to such a policy. Their fate should serve as a reminder not to commit the mistake of unilateral withdrawal.

Now, having said all of this, I would like to address myself to a particularly worrisome effect of our maintaining troops in Europe. The American presence there has resulted in an annual balance of payments disadvantage to our country of some $1.5 billion. The prolonged continuance of this situation is clearly unacceptable.

It weakens the strength of our currency, fuels the fires of domestic inflation, and adversely affects the livelihood of every American. It must be stopped, and it must be stopped without further delay.

To respond by withdrawing the troops would be like canceling one's insurance to save the premiums. But when the premiums are exorbitant, something must be done.

If I may continue with the insurance analogy for just a moment, I would note that the wise policyholder, caught in such a situation, will carefully examine his alternatives, and attempt to negotiate for himself a better deal.

Suppose for a moment, however, that the policyholder is not a single citizen, powerless, practically against the company. Suppose instead that he controls immense resources, such that the company is as dependent upon him as he is upon it. Then might not his chances for negotiating that better deal be greatly enhanced?

Clearly they would, and clearly too, that is precisely the situation of the United States in relation to its European allies.

We must act to correct our balance-of-payments deficit, and we must, in lieu of a quid pro quo from the Soviets, maintain our military presence in Europe.

At the conclusion of World War II, the United States found itself with the power to dominate the globe. Economically and militarily, we were in a position of strength unmatched in modern times.

Such power, held in abeyance and not utilized in terms of conquest, was inherently unstable, and was bound to erode. Being a nation little interested in conquest, we turned our interest toward peace, humanitarianism, and domestic affluence.

With regard to Europe, we determined that our best interests lay in a strong prosperous and independent continent. To that end, we committed vast resources to the economic rebuilding of Europe. In addition, we determined to make a second level of commitment, to the cooperative defense of Europe.

The extent of the defense commitment reflected the general state of European affairs at the time. Economically drained by the war effort, our allies were functionally incapable of defending themselves against a new eastern threat.

At that time, too, their balance of payments was deficient, and our transfer of some $10 billion in the defense effort was a welcome relief in their efforts to close the dollar gap.

Now, a quarter of a century later, the gap has been closed, and the pendulum has swung substantially in the opposite direction. It is now our balance-of-payments account that is deficient. It is now our currency that is threatened.

It is now time for Europe to ask, in the same respect that we did in 1948, what sort of America is in their best interest. I believe that given careful consideration of that question, they will answer it with the same sort of statesmanship that we applied in considering their postwar future.

If that view is correct, we may then turn to the question of implementation. Clearly, the answer is not an inverse Marshall plan.

I believe that the answer lies in a more equitable sharing of the burden of European defense; specifically, that burden must be internationalized.

There could be created, within the NATO structure, an International Security Fund, organized in such a fashion as to neutralize the balance-of-payments problems associated with the presence of American troops in Europe.

Two premises underlie this proposal: First, that all NATO members benefit from the American presence and should therefore contribute to its maintenance; and second, that the heaviest burden in the process of neutralizing the balance-of-payments costs should be borne by those countries which are actually getting the foreign exchange windfall by the fact of the presence.

In effect, the International Security Fund would serve as a multilateral umbrella, maintained by the NATO countries, individually and collectively.

The countries would make payments to the fund from their excess dollars and substitute obligations from their own national treasuries to be financed as part of their long-term national debt structure. Against these payments, credits could be given for bilateral procurement or other payments mutually agreed upon between the surplus and deficit countries.

Uses of contributed moneys would be subject to negotiation, of course, but a portion should rightfully revert to the U.S. Treasury, since the United States must be the main beneficiary as the principal deficit country.

As an alternative, or supplement, to direct reversion, funds could be authorized to purchase goods and services in the United States. Here, however, it would be necessary to develop accurate methods of determining that such purchases would be genuinely additive to normal trade.

Extensive scholarship has been done on the proposition of an International Security Fund, notably by Dr. Timothy W. Stanley of the International Economic Policy Association.

My own examination of the idea has convinced me that it is clearly preferable to the precipitous withdrawal from Europe of American military forces. I urge the Members of the Senate to consider it prior to committing themselves to a prowithdrawal stance.

At the appropriate moment, should withdrawal legislation reach the floor, I shall offer an amendment providing that if an International Security Fund, or similar burden-sharing proposal can be negotiated within a reasonable length of time, the current U.S. security contribution can be maintained. In this way, our negotiations for balanced force reduction with the Soviet Union can have real prospect of success.

EXPORT CONTROLS: LATEST EXAMPLE OF MISMANAGEMENT OF U.S. FARM POLICY

Mr. HUMPHREY. Mr. President, each day I find more evidence which indicates misjudgment in the recent imposition of agricultural export controls.

Instead of directing our attention solely to granting broader export control authority, we should be looking closely at the administration's policies which brought us to this point.

Many agricultural experts agree that we could have foreseen the results of an excess world demand and provided for a system of voluntary restraints negotiated with our trading partners.

Yet we waited until the last minute when the alternatives were limited and imposed controls which will result in serious disruptions to our agricultural economy and which may seriously impair desired expansion of world trade in both agricultural and manufactured goods.

We could have avoided the shock to the Nation and the world by a little foresight.

Clearly, there is no excuse for the poor planning and monitoring which led us to the current food shortages.

Despite the optimistic crop projections for the coming year, the International Wheat Council predicts that world demand for wheat will exceed supply by 8-million tons.

Let us learn our lesson and start planning now. Let us replace talk about export controls and get to the roots of the problem.

At a minimum we must create a system which will keep active watch over the supply/demand situation and which can provide reasonable adjustments long before we reach a point of crisis.

The Washington Post, on July 2, 1973, carried an editorial which stated the need for better management of our foreign agricultural policy, and it is even more timely today in view of the new speculative pressures on wheat and corn resulting from the soybeans embargo.

I would like to direct your attention to this article and to the issues it raises.

Unless we start planning for our future food needs now we can expect a continuation of short-term emergency measures by which the farmer, the consumer, and our foreign trade relationships all lose in the long run.

I ask unanimous conscent to have the editorial printed in the RECORD.

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

THE SOYBEAN EMBARGO

The administration's soybean embargo is a staggering confession of incompetence. To say that the embargo had become necessary does not render it desirable. It only demonstrates how far our government had let matters slide. This administration lurches from one economic crisis to the next, reacting in haste, with little evidence of thought or careful planning. The embargo is only the latest example of the general mismanagement that has characterized this country's agricultural policy for the past year and more.

Remember that the United States got a very expensive lesson last summer in the costs of carelessness in promoting farm exports. The Russians came here and unexpectedly bought a billion dollars worth of grain, through traders operating in great secrecy. The Agriculture Department claims that it had no idea how much the Russians were buying. The effect of this sale was nearly to double the price of wheat for Americans. The lesson was that a prudent and competent government does not voluntarily leave itself in total ignorance regarding the sales of its crops to foreign buyers.

Having sat on its hands last year while the traders sold off the nation's wheat stocks, the department naturally continued to sit on its hands this year while they proceded to sell off the soybean stocks. But this time it was not done in haste or any great secrecy. If the Agriculture Department did not know what was happening, the market did. The price of soybean meal a year ago was $95 a ton. By the end of the winter it had doubled. By late spring it had doubled again. There was no mystery about the reason: The professional brokers had come to believe that, between domestic sales and foreign sales, they had sold more soybeans than there were to sell.

Finally, when the administration was driven to freeze food prices earlier this month, it belatedly told the traders to register their export commitments. At that point the Agriculture Department discovered what everyone else had known for months: that the actual export sales were running much higher than the official estimates. It responded with the embargo. Ships currently being loaded can sail, but no further soybeans or meal are to be loaded.

The soybean has become, over the past two decades, crucial to the nutrition of Americans and a large part of the world's population overseas. It is the cheapest and richest of all the sources of protein. Three-quarters of the world's soybeans are grown in the United States, and the United States is the only country that can export them in any significant quantity. For those countries depending on American soybeans, there is no alternative source of supply.

Particularly in East Asia, soy products are an important part of the human diet. The embargo cuts off the flow of protein to people in Japan and Korea in order to control the prices of eggs and beef in the United States. It can be argued that a degree of price stability is essential in this country, and in the long run other countries' economies will also benefit from our restraint of inflation. But Americans need to understand the cost of other people, particularly those across the Pacific, of this sudden and drastic decision to tear up our commitments to deliver the food supplies that we have already sold.

A reasonably foresighted administration would have required last fall, that traders publicly register all foreign sales. It would then have been warned of the rise in foreign demand. It would have installed at that point a system of rationing to our foreign customers. By making its intentions clear at the beginning of the crop year last fall, it would have held down prices at home and expectations abroad. It would have allowed traders to sell only what it could deliver, and it would have guaranteed those deliveries. But those opportunities were all lost months ago.

Instead, the administration is apparently going to spend another frantic weekend trying to devise, in great haste, a formula for allocating the remainder of the current soybean crop. There may be very little to allocate abroad, if the administration wants to push down the domestic price. Any allocation ought, obviously, to give preference to our steady customers, to the nations that depend upon us most heavily and to those who need the protein for human consumption.

But no solution now can be any more than a last-minute attempt to limit the damage. The Nixon administration and its Secretary of Agriculture have given us a farm policy that offers the consumer the highest food prices in history, while simultaneously putting the farmer in a squeeze that forces him to drown his chicks. To help things along, we cut off deliveries of goods already sold to the foreign nations that we have been pressuring heavily to buy more from us. Our economic foreign policy was, until last Wednesday, to promote vigorously our agricultural exports. But on Wednesday evening, our customers got the embargo. In agriculture as in the rest of its economic management, the administration falls from one emergency to another. Each solution tends to be whatever the administration said most recently it would under no circumstances ever do.

THE MINIMUM WAGE BILL AND YOUTH EMPLOYMENT

Mr. FANNIN. On behalf of the Senator from Texas (Mr. TOWER), I ask unanimous consent that there be printed in the RECORD a statement by him and two insertions attached to it.

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

THE MINIMUM WAGE BILL AND YOUTH UNEMPLOYMENT

STATEMENT BY SENATOR TOWER

When the minimum wage bill is taken up this week the issue of youth employment will be debated at length. The unemployment rate for teenagers is four times the unemployment rate for adults. The unemployment rate for non-white teenagers is more than six times that of the adult population. In fact when disguised unemployment is taken into consideration it has been estimated that the non-white teenage unemployment rate is an unconscionable 53%.

The Committee bill, S. 1861, has totally ignored this problem. The substitute that Senator Fannin and I have proposed contains a youth differential provision that will provide for expanded employment opportunities for teenagers.

In failing to recognize this very serious problem, S. 1861 rejects the views of respected economists on both sides of the political spectrum. For instance, both Milton Friedman and Paul Samuelson have called for a legislative distinction between the adult and youth wage levels under the Fair Labor Standards Act.

The overwhelming evidence is that the minimum wage has had an adverse employment impact on marginal workers. Because of their lack of experience teenagers fall within the marginal worker classification.

One of the most articulate spokesmen for a youth differential has been Dr. Andrew Brimmer, a member of the Board of Governors of the Federal Reserve System. A most comprehensive economic analysis of this matter was done by Sar A. Levitan, Director of the George Washington University Center for Manpower Policy Studies and Robert Taggert, Executive Director of the National Manpower Policy Task Force. I add this study to the RECORD, along with an article by Dr. Brimmer which appears in the July issue of *Nation's Business*, as follows:

DON'T CLOSE THE JOB DOOR ON YOUTH

(By Andrew F. Brimmer)

The jobless rate among American teenagers who want to work is three times higher than that of their elders. For young blacks, it's six times higher.

Although workers aged 16 through 19 are less than 10 per cent of the civilian labor force, nearly 28 per cent of all the unemployed are in that age group.

This problem of youth unemployment has

been with us for a long time, but it has gotten much worse in the past 10 years.

Among the causes: A substantial growth in the youth population; a larger number of students competing for part-time jobs; continuing movement of families from rural areas to cities, resulting in a sharp increase in the number of teen-agers who must compete in the urban job market; and the effect of the draft on hiring policies.

But to that list must be added the adverse impact on youth employment of the statutroy minimum wage.

Congress is now considering legislation to raise that pay floor once again and to expand coverage to additional categories of workers.

It is crucial that any such legislation permit employers to offer jobs to teen-agers at a wage rate below that set for adults.

If such an opportunity is not provided, the youth unemployment problem will almost certainly become even more serious than it already is.

* * * * *

In the first quarter of this year, the unemployment rate among workers 16 through 19 was 14.7 per cent. This was in sharp contrast to 5 per cent for the total labor force, 3.4 per cent for adult males and 5 per cent for adult women.

The situation was particularly distressing among black youths, with a 30.1 per cent unemployment rate. Among blacks generally, the overall rate was 9 per cent. It was 5.5 per cent for adult black males and 8.6 per cent for adult black women.

Among whites, the jobless rate for youths was 12.9 per cent, compared with 4.5 per cent overall; 3.1 per cent for men and 4.5 per cent for women.

Even apart from the proposed increases in the minimum wage, a number of studies by economists, including some in the federal government, have suggested that existing minimum wage legislation—the extent of coverage as well as the specific pay levels—has had a seriously adverse impact on job opportunities for young people.

The progressive extension of coverage to retail and service industries may have been especially burdensome.

Prior to 1961, only 6.2 per cent of wage and salary workers in the retail trade were covered by minimum wage legislation. Last year, 56 per cent were covered.

WHERE TEENAGERS WORK

In the service industries, 17.4 per cent of employees were covered prior to 1961, and 51.8 per cent last year. Hardly any farm workers were covered before the 1966 amendments to the minimum wage law, but 38.3 per cent are now under its provisions. In construction, coverage went from 41.7 per cent before 1961 to more than 90 per cent last year.

It is in retail trade and services that young people find jobs most frequently.

Last year, for example, nearly 40 per cent of all employed teen-agers were in retail jobs; about 25 per cent were in service establishments and another 6 per cent were in private households.

By contrast, less than 15 per cent were in manufacturing jobs; 6 per cent on farms, 5 per cent in construction and 2.5 per cent in transportation.

For job opportunities young people have come to depend heavily on areas in which average wages are typically below the average for the economy as a whole.

Conversely, high-wage industries employ relatively few teen-agers.

The implication of these patterns is self-evident: Teen-agers occupy jobs in industries where a further extension of minimum wage coverage and an increase in the rate would close the employment door for many of them.

UNDERCUTTING LABOR GAINS?

Before concluding, it is necessary to address issues which must be confronted if an entry wage for teen-agers is to be allowed. A number of economists, public officials and other observers (as well as trade union officials) have long held that such a provision would undercut hard-won gains made by the labor movement over many years.

I admit that if employers could pay wages below the statutory minimum, they most likely would use the option to hire people whom they otherwise might not be willing to employ. That is precisely the point: The willingness of employers to bring in teen-agers presupposes that the newly-hired workers' productivity would at least equal the wage—after some reasonable allowance for learning time.

On the record, it appears that a substantial number of employers have concluded that a considerable proportion of young people simply cannot meet that test. An entry wage below the statutory minimum would help to reduce this employment disincentive.

At the same time, I also realize that safeguards would have to be built into an entry-wage plan.

Undoubtedly, some employers would try to replace some of their high-wage employees with workers to whom they could pay less. To prevent this, the Administration's proposal would limit an employer to no more than six workers or 12 per cent of his labor force, whichever is higher, who could be paid at the below-minimum rate. The fairly short period (up to 20 weeks) during which the below-minimum rate could be paid works toward the same objective.

While some risk remains, I believe it should be accepted in view of the persistent high unemployment among young people. I know that any substitution of lower-paid young workers for higher-paid, more mature employees would involve some cost. But some benefits would also result. Thus, it becomes a question of trade-offs.

Given the fact that the unemployment situation among teen-agers has been deteriorating for years, it is obvious that they have borne more than their share of joblessness. Moreover, there appears to be no prospect of significant improvement in the foreseeable future.

Relief is sorely needed. An allowance for an entry wage for young people would be a move in the right direction.

THE ECONOMICS OF YOUTH UNEMPLOYMENT IN THE UNITED STATES

(By Sar A. Levitan and Robert Taggart)

PART ONE: EMPLOYMENT PATTERNS AND PROBLEMS

The plight of our youth

Young people who want to work but cannot find jobs, parents whose children sit home or roam the streets with nothing to do, and those who must deal with the consequences of idleness and despair, all recognize that the youth of our nation face severe employment problems. Contrary to what many people may believe, the younger generation is not lazy or alienated from the "system"; the proportion of teenage male working or seeking jobs has remained relatively stable over the last decade, and has actually increased for young females. The problem is that a large and increasing number cannot find work. Nearly 17 percent of all 16 to 19-year-old youths who wanted jobs in 1971 could not find them. This unemployment rate was four times that for workers aged 25 and over. In 1960, it was only 3⅓ times as high, suggesting a long-run deterioration in the relative labor market status of youth (Fig. 1—not printed in the RECORD).

The employment of a teenager who may be looking for a part-time job after school to earn money for a car or a record collection is not as serious as the unemployment of an older full-time jobseeker with a family to support. Yet the problems of young people can have serious consequences. In the short-run, teenagers who cannot find jobs may be "turned off to the system," often shifting attention to less desirable pursuits which may have long-run effects. There is some evidence, for instance, that juvenile delinquency varies directly with the level of youth unemployment. Initial failures to find gainful employment compounded by a police record may complicate the transition into career jobs. Work experience can be useful in learning about the expectations of employers, where to apply for jobs, and how to perform at work. Though most of those who are unemployed as youths move into stable jobs as they mature, the transition is probably easier and may be more successful where previous experience has been gained.

A higher youth unemployment rate than that of adults can be taken for granted, given the propensity of youth to change jobs and try new experiences. The fact is, however, that most other industrialized nations have experienced in recent years less severe youth unemployment problems than the United States. In 1968, when tight labor conditions prevailed in the United States, unemployment among teenagers and the ratio of teenage to adult unemployment was higher than in most other industrial countries (Fig. 2—not printed in the RECORD).

The problems of our nation's youth are not, therefore, necessary results of an industrialized economy. An examination of the employment patterns and problems of teenagers in the United States may shed light on the factors contributing to our high rates of youth unemployment and might also offer insights into strategies that may ease their plight.

The period of transition

The teen years are a period of dramatic change (Fig. 3—not printed in the RECORD). At age 14 and 15, the overwhelming majority are in school, neither seeking nor holding jobs; even in the summer, less than a third look for work. Jobholding begins to increase at 16 and 17 among both students and the minority who drop out of school at this age. On the average, two-fifths of 16 and 17-year-olds are working or looking for work during the school year, with the proportion increasing to nearly half during the summer months. At age 18 and 19, most students leave high school, either going on to college or full-time employment. Seven of every ten males and a lesser proportion of females at this age hold or look for jobs, and one of every three has completed formal education. Finally, by the early twenties, most young people are employed and self-supporting. Only 35 percent are not in the labor force, with half of these still in school and most of the rest keeping house. Labor force patterns of young males and females differ significantly. Girls are less likely than boys to remain in school after age eighteen either because of marriage or because relatively fewer girls continue with education after high school. At all ages women are less likely than males to be found in the work force.

During the critical years of transition, young people become more committed to work. They seek more permanent and rewarding jobs as they look to the future. Only 11 percent of all 16 and 17-year-old workers held full-time jobs in 1970, and more than half of these worked thirteen weeks or less. Among 18 and 19-year-old workers, over half held full-time jobs; while at age 20 to 24, nearly four-fifths of those employed were full-time workers. Conversely, nearly half of all 16 and 17-year-old workers held part-time jobs for less than half of the year in 1970; but only a fourth of 18 and 19-year-old workers and 9 percent of those aged 20 and 24 had such marginal attachments to the labor force.

The shift from part-time intermittent work to full-time year-round employment is achieved through frequent job changing and penetration into new occupations. During the period 1966 to 1968, 55 percent of 14 to

24-year-old whites changed jobs at least once, as did 68 percent of young blacks. Job changing and the differing work patterns of school graduates entering the labor force for the first time, results in a significant change in occupational and industrial employment patterns over the teen years (Table 1). Sixteen and 17-year-olds are concentrated in sales, service and laborer occupations, while 20 to 24-year-olds are more likely to be clerical, professional or technical workers. There is a shift from wholesale and retail and private household work to manufacturing industries and education. These changes are observable for both sexes though they are much more extreme for males.

The increased stability of employment and changed occupational patterns result in higher earnings. In October 1969, 51 percent of 16 and 17-year-old workers earned less than the general minimum hourly rate of $1.60 and only 9 percent earned more than $2.50. Among 18 and 19-year-old workers, the proportions were 21 percent and 17 percent, respectively; while among 20 to 21-year-olds only 13 percent earned less than $1.60 and 33 percent over $2.50 per hour.

TABLE 1.—THERE IS A SIGNIFICANT CHANGE IN OCCUPATION AND INDIVIDUAL EMPLOYMENT PATTERNS OVER THE TEEN YEARS

[Percent distribution]

Major occupation group and sex	Both sexes						Men						Women					
	Enrolled in school			Not enrolled in school			Enrolled in school			Not enrolled in school			Enrolled in school			Not enrolled in school		
	16 and 17 yr	18 and 19 yr	20 to 24 yr	16 and 17 yr	18 and 19 yr	20 to 24 yr	16 and 17 yr	18 and 19 yr	20 to 24 yr	16 and 17 yr	18 and 19 yr	20 to 24 yr	16 and 17 yr	18 and 19 yr	20 to 24 yr	16 and 17 yr	18 and 19 yr	20 to 24 yr
Professional, technical, and kindred workers	1.9	6.2	28.1	0.3	2.5	13.9	2.2	7.2	26.8	.....	2.3	11.0	1.5	4.9	30.0	0.8	2.7	16.9
Managers, officials, and proprietors, except farm	.2	1.2	3.2	.6	1.8	4.7	.3	2.0	4.0	1.1	2.6	6.8	.2	.2	1.9	.....	.9	2.4
Clerical and kindred workers	15.8	30.2	29.1	15.5	29.7	28.2	6.0	14.8	19.7	5.5	8.3	9.6	27.7	50.4	43.6	29.7	51.4	47.9
Sales workers	10.7	12.4	8.4	2.3	6.5	5.0	8.3	8.7	8.4	.6	5.5	5.5	13.4	17.3	8.4	4.7	7.4	4.4
Craftsmen, foremen, and kindred workers	2.3	2.9	3.9	3.2	7.3	10.0	3.7	4.9	5.6	5.5	13.7	18.5	.5	.2	1.1	.....	.7	.9
Operatives and kindred workers	10.0	12.0	9.6	29.1	24.7	20.5	16.3	19.7	15.0	34.8	34.4	29.5	2.4	2.1	1.3	21.1	14.9	10.9
Private household workers	11.5	2.0	.7	5.5	2.0	1.0	.8	.....					24.5	4.5	1.8	13.3	4.1	2.0
Service workers, except private household	27.6	20.9	11.3	18.1	10.4	9.4	28.2	22.2	11.2	15.5	4.6	5.8	27.0	19.1	11.3	21.9	16.2	13.2
Laborers, except farm and mine	14.2	9.7	4.8	15.5	11.0	5.4	25.1	16.5	7.8	26.0	21.2	10.1	1.1	.8	.2	.8	.7	.5
Farmers and farm managers	(1)	.3	.1	.....	.2	.5	.....	.5	.1	.....	.4	1.0	.1	.....				
Farm laborers and foremen	5.7	2.1	.9	9.7	3.9	1.5	9.0	3.5	1.4	11.0	6.9	2.2	1.6	.4	.3	7.8	1.0	.6
Agriculture	6.5	2.8	1.5	11.9	4.8	2.5	10.2	4.6	2.2	14.8	8.5	4.0	2.1	.4	.3	7.8	1.0	.9
Nonagricultural industries	93.5	97.2	98.5	88.1	95.2	97.5	89.8	95.4	97.8	85.2	91.5	96.0	97.9	99.6	99.7	92.2	99.0	99.1
Wage and salary workers	91.5	96.2	97.3	85.2	93.8	95.4	86.8	93.5	96.8	83.0	90.1	93.9	97.3	99.6	98.1	88.4	97.7	96.9
Mining	.....	.2	.3	.3	.4	.6	.....	.3	.4	.5	.9	1.1	.....	.....	.2	.....	.....	.1
Construction	1.5	2.4	2.4	5.5	5.6	5.8	2.0	3.6	3.6	8.8	10.2	10.5	.8	.8	.5	.8	.9	.7
Manufacturing	4.9	7.5	13.6	21.9	27.2	27.6	7.1	11.2	18.9	18.7	33.7	35.3	2.3	2.7	5.5	26.4	20.6	19.5
Transportation and public utilities	1.9	3.5	5.0	3.2	5.8	6.6	1.8	4.1	6.7	4.4	4.9	7.2	1.9	2.7	2.4	1.6	6.8	5.8
Wholesale and retail trade	47.1	38.9	22.6	25.4	29.2	18.2	50.5	41.0	24.1	28.0	30.3	19.6	42.9	36.3	20.1	21.7	28.2	16.6
Service and finance	35.3	41.5	48.9	27.3	23.2	31.6	24.8	31.6	37.9	21.4	8.3	15.7	48.0	54.3	65.9	35.7	38.3	48.6
Public administration	.9	2.1	4.5	1.6	2.3	5.0	.....	1.6	5.1	1.1	1.8	4.5	1.4	2.9	3.5	2.3	2.9	5.5
Self-employed and unpaid family workers	2.0	1.1	1.3	2.9	1.4	2.2	3.0	1.9	1.0	2.2	1.4	2.1	.6	.....	1.6	3.9	1.3	.2

[1] Less than 0.05 percent.

Source: Bureau of Labor Statistics, Employment of School Age Youth, Special Labor Force Report 135, U.S. Department of Labor.

Patterns of unemployment

Given the jobseeking and jobholding behavior patterns of youth, it is not surprising to find that they have high rates of unemployment. For most 16 and 17-year-olds, and a substantial minority of those who are 18 and 19, school is the major activity and work can only be pursued on a part-time basis or during the summer months. In June and July, there is a flood of youths into the labor market, including those looking for temporary jobs and those who have left school and are seeking permanent employment. Each year this summer invasion reoccurs, though its impact depends on aggregate economic conditions which influence the number of available jobs. In 1970, for instance, 2.3 million more 16 to 19-year-olds were looking for work in July than in January (Fig. 4—not printed in the RECORD). The labor market could not absorb all these potential workers, and consequently the number of unemployed rose by 587,000. This seasonal pattern holds for both males and females, but males have a relatively easier time finding summer jobs and the number of unemployed does not rise as fast as it does for women.

Unemployment also results from the fact that youths often enter, leave and reenter the labor force. During the summer they may seek work after or before taking a vacation; during school, they may quit work during exams or seek it only over Christmas holidays. At each point of reentry, there is usually a period of unemployment accompanying the search for a new job. Many youths also enter the labor force for the first time during their teen years; without contacts, their job search is often protracted. Where most unemployment among adults is related to layoffs or quits from the previous job, most teenage joblessness is related to reentrance into the labor force or the search for a first job (Table 2).

Youth unemployment is also high because of the types of jobs they hold. These are usually the lowest paying and least attractive in the economy, providing little incentive for stable work patterns. They are also characterized by frequent layoffs and temporary hiring, so that young workers have little security. Though most youths end up in jobs of this sort because they are not yet committed to work, others who want rewarding, permanent jobs often have no alternative.

TABLE 2.—MOST TEENAGE JOBLESSNESS IS RELATED TO REENTRANCE INTO THE LABOR FORCE OR THE SEARCH FOR A 1ST JOB

	Reason for unemployment, 1971 (percentage)			
	Lost last job	Left last job	Re-entered	Never worked before
16 to 19 year old, unemployed	18	12	34	36
20 and over, unemployed	54	14	28	4

Source: Manpower Report of the President, 1972.

Seasonality, intermittant labor force participation, and work in peripheral jobs explain why the youth unemployment rate is higher than that of adults. But they do not account for the fourfold difference, nor do they account for the fact that different groups of youths have different chances of success at each point in their transition from school to work. By almost every measure, young blacks do worse than young whites and dropouts worse than graduates. Though unemployment rates decline for all groups with age, the differentials persist (Fig. 5—not printed in the RECORD). In this sense, youth unemployment is not one single problem, but many, since its burdens are unequally distributed over the teenage population.

PART TWO: THE CAUSES OF YOUTH UNEMPLOYMENT

A number of reasons account for the higher unemployment rate of teenagers in this country compared with other industrialized nations, and for their rising unemployment rate over the last decades relative to that of adults. First, the rapid unprecedented growth of the number of teenagers exceeded the number of jobs available for them, and primarily young workers competed for too few jobs. Second, institutional factors distorted the match-up of supply and demand forcing many youths into idleness. Demographic, economic and social conditions in this country have resulted in an increasing supply of youthful jobseekers, a too slowly growing demand, and a sometimes poor match-up of workers to available jobs.

Too Many Young Jobseekers

Between 1960 and 1970, the number of 16 to 19-year-olds in the civilian noninstitutional population increased by two-fifths while the adults aged 25 through 64 increased by only a seventh. Over the same period, the proportion seeking or holding jobs (i.e., the labor force participation rate) remained relatively constant, decreasing somewhat for nonwhite males who were increasingly enrolled in school while rising substantially for white females (Table 3). The average number of teenage labor force participants consequently rose from 4.8 million in 1960 to 7.2 million in 1970. The expanding economy absorbed most of this increase, but 1.1 million remained unemployed in 1970 compared with .7 million in 1960. There are precise ways to estimate what the unemployment rate would have been with a slower population growth, but it is clear that the rapid growth has been a major factor contributing to the surplus of unsuccessful youthful jobseekers. This rapid growth is not going to continue into the 1970's and this is likely to have a significant favorable effect.

From 1960 to 1968, the 16 to 19-year-old population increased on an average of 238,000 each year; between 1968 and 1975, it is expected to rise by only 161,000 annually; from 1980 to 1985, it should *decline* by 175,000 annually. The Labor Department estimates that the number of teenage labor force participants will grow by only 1.3 percent annually from 1968 to 1980, compared with 3.9 percent between 1960 and 1968. This demographic change should reverse the deterioration in the relative status of youth, and should contribute to an easing of their unemployment problem over the next decade.

Do They Really Want Jobs?

Many oldsters would agree that "kids today are lazy and want the world on a platter." This myth persists despite the statistics which indicate that labor force participation rates among youths have increased slightly despite discouraging job prospects and rising school enrollment which should have produced a decline of jobseekers. Many write off these figures by claiming that unemployed youths do not really want jobs, that they have inflated expectations and are unwilling to do the many menial tasks which youths used to do in the past. Available evidence also contradicts this widespread notion. A survey of employed and unemployed youths, as well as those not looking for work but thinking about doing so within six months, revealed that those without work were willing to take jobs at very low pay—often below the minimum wage (Table 4). Their expectations were in no way inflated in comparison with the wage distribution of those who were employed.

If wage expectations are not inflated, there must be other explanations for the many menial jobs which remain unfilled even in a slack economy. The reasons are not hard to find. In many cases, youths can work only part-time and their schedules do not jibe with job opportunities. In other cases, the jobs require commuting which may be difficult for teenagers and not very profitable when wages are low. And certainly in some cases, the jobs are beneath the dignity of youth, who are not driven from economic necessity. In the aggregate, however, there is little evidence of either alienation or inflation of expectations among young people.

TABLE 3.—BETWEEN 1960 AND 1970, TEENAGE LABOR FORCE PARTICIPATION RATES REMAINED UNCHANGED FOR WHITE MALES, ROSE FOR FEMALES, AND DECLINED FOR BLACKS

	White males		White females		Nonwhite males		Nonwhite females	
	16 to 17	18 to 19	16 to 17	18 to 19	16 to 17	18 to 19	16 to 17	18 to 19
1960	46.0	69.0	30.0	51.9	45.6	71.2	22.1	44.3
1961	44.3	66.2	29.4	51.9	42.5	70.5	21.6	44.6
1962	42.9	66.4	27.9	51.6	50.2	68.8	21.0	45.5
1963	42.4	67.8	27.9	51.3	37.2	69.1	21.5	44.9
1964	43.5	66.6	28.5	49.6	37.3	67.2	19.5	46.5
1965	44.6	65.8	28.7	50.6	39.3	66.7	20.5	40.0
1966	47.1	65.4	31.8	53.1	41.1	63.7	23.6	44.0
1967	47.9	66.1	32.3	52.7	41.2	62.7	22.8	48.7
1968	47.7	65.7	33.0	53.3	37.9	63.3	23.3	46.9
1969	48.8	66.3	35.2	54.6	37.7	63.2	24.4	45.4
1970	48.9	67.4	36.6	55.0	34.8	61.8	24.3	44.7
1971	49.2	67.8	36.4	55.0	32.4	58.9	21.9	41.1

Source: U.S. Department of Labor,

TABLE 4.—UNEMPLOYED YOUTH WERE WILLING TO TAKE JOBS AT VERY LOW PAY—OFTEN BELOW THE MINIMUM WAGE

	Hourly rate of pay, Oct. 1969 (percentage)		
	Earned by employed	Acceptable to unemployed	Acceptable to those not in labor force
16 and 17 years old:			
Males:			
Less than $1.60	47	58	46
$1.60 to $2	38	38	45
$2 and over	15	4	9
Females:			
Less than $1.60	57	58	58
$1.60 to $2	34	40	38
$2 and over	9	2	4
18 and 19 years old:			
Males:			
Less than $1.60	19	20	22
$1.60 to $2	34	50	47
$2 and over	47	30	31
Females:			
Less than $1.60	16	23	24
$1.60 to $2	34	47	47
$2 and over	50	30	29

Source: Young Workers and Their Earnings, Special Labor Force Report 132. U.S. Department of Labor.

Other factors affect the supply of teenage labor. One of the most important is school attendance. Youths in school are not available for full-time employment. Increased school attendance, therefore, reduces the full-time equivalent jobs needed for youth, though it intensifies competition for part-time and seasonal employment. Over the last twenty years, there has been a dramatic increase in the proportion of teenagers attending school. In October 1971, 75 percent of all 16 to 19-year-olds were enrolled in school compared with 68 percent in October 1960. Students who accounted for only 41 percent of the teenage labor force a decade ago, comprised 56 percent in October 1971. The competition for part-time jobs is especially rough because older women entered the labor force in increasing numbers over the last decade. Thus, student jobseekers multiplied and their share of teenage unemployment rose from 30 percent of the unemployed in October 1960 to 54 percent eleven years later.

Another important factor affecting the supply of young workers is the number of potential workers who are withdrawn from the labor force to serve in the military. During the middle 1960's, the growth of the armed forces eased the competition for jobs among teenage males, as the number in the service rose by 200,000 to a total of 590,000 in 1967. With the deescalation of the Vietnam war, 399,000 teenagers were left in the armed forces three years later, and the number is still declining.

As for the future, there will probably be a leveling off of school enrollments, a stabilization of military enlistments, and a declining rate of growth of population. The more slowly growing supply of young jobseekers will have a favorable impact on unemployment.

Too Few Jobs

The number of employed teenagers increased by more than a million between 1960 and 1970, but employment would have risen even more if the occupations and industries in which youth are over-represented had grown at the same rate as over-all employment. [It has been estimated that employment in the kinds of jobs which typically employ three-fourths of the teenagers increased 20 percent in the past ten years, while the supply of teenagers in the labor force rose by over 50 percent. According to a representative of the AFL–CIO, another factor is the increasing labor force participation of married women 35 years of age and over.] While nonhousehold service jobs in which teenagers are over-represented increased rapidly, nonfarm laboring jobs grew only slowly while private household and farm employment in which they are also over-represented declined precipitously (Table 5). Only a small proportion of youths are in the professional, technical and managerial occupations which grew rapidly over the last decade.

TABLE 5.—NONHOUSEHOLD SERVICE JOBS IN WHICH TEENAGERS ARE OVERREPRESENTED INCREASED RAPIDLY, WHILE PRIVATE HOUSEHOLD AND FARM EMPLOYMENT DECLINED PRECIPITOUSLY

[In percent]

	16 to 19-year-olds Ocober 1971	16 and over 1971 average	Employment 1960 to 1970
Clerical workers	20.1	17.0	+38
Services except private household	21.4	11.6	52
Operatives	17.4	16.4	9
Nonfarm laborers	14.3	5.1	13
Sales workers	9.0	6.4	20
Private household workers	5.3	1.9	−33
Farm workers	4.9	3.8	−42
Craftsmen and foremen	4.2	12.9	19
Professional, technical and managerial	3.4	25.0	36

Sources: Manpower Report of the President, 1972, and Bureau of Labor Statistics, Employment of School Age Youth, Special Labor Force Report 135, U.S. Department of Labor.

These aggregate figures are misleading, since teenagers represent only a small minority of the employees in any industry. Their problem is not the lack of enough jobs, but the fact that they are at the end of the labor queue—the last to be hired and the first to be fired. Employers are reluctant to hire teenagers when older workers are available. In many cases, their reasons are valid, but too frequently failure to hire youth is the result of arbitrary discrimination (Table 6).

Institutional impediments

Though demand and supply factors largely determine the unemployment rate of teenagers, institutional factors such as labor market regulations and the ties between school and work have an impact which is probably significant though difficult to measure.

To some extent, the employment problems of the young are aggravated by the labor market regulations designed to protect their welfare. State and federal minimum wage and child labor laws have played a major role in reducing the exploitation of young workers. Yet they have also contributed to the rising rates of teenage unemployment by prohibiting specific jobs, restricting others, and discouraging employers from hiring youths. [Representatives of the AFL–CIO deny this, asserting that there was a sharp rise in teenage employment between 1958 and 1968, despite improvements in the minimum wage law.] The major relevant federal law is the Fair Labor Standards Act. For covered employment in industries involved in interstate commerce, this law sets a basic minimum working age of 16. Under special circumstances, 14- and 15-year-olds are allowed to work outside of school, though maximum hours are set and night work is out. Those under 16 may not be employed in agricultural work during school hours or at any time in dangerous occupations. In addition, 17 occupations are classified as hazardous, from which anyone under 18 is excluded.

TABLE 6.—FOR A VARIETY OF REASONS, EMPLOYERS ARE RELUCTANT TO HIRE TEENAGERS WHEN OLDER WORKERS ARE AVAILABLE

	Rank importance of reasons for difficulty in placing teenagers based on local employment service office experience during fiscal year 1969 [1]			
	16 and 17 years old, full time	18 and 19 years old, full time	16 and 17 years old, part time	18 and 19 years old, part time
Legal restrictions on hours of work, hazardous work, or other working conditions for teenagers	2.75	1.41	2.71	1.45
State laws require too much paper work such as work permits	1.85	1.07	1.59	1.05
Level of the minimum wage has caused employers to seek older, more experienced workers for jobs	1.77	1.54	1.66	1.53
Uncertainty over the draft makes employers reluctant to hire teenagers	1.32	2.44	1.18	1.48
Unwillingness of teenagers to accept wages usually offered for jobs they are qualified to take	1.79	2.10	1.64	1.87
Hiring specifications of employers with respect to education and experience are so high that most teenagers are excluded	2.28	1.95	1.96	1.54
Employers' hiring specifications with respect to age excluded teenagers	2.44	1.56	2.23	1.47
Employer fear of higher cost of workmen's compensation and other insurance when teenagers are employed	2.19	1.59	2.09	1.48
Employers believe that teenagers are not reliable	2.54	2.10	2.30	1.95
High labor turnover among teenagers	2.31	2.14	2.22	2.01
High cost of hiring and training teenagers	1.65	1.58	1.57	1.41

[1] Rating scale: very important—3; important—2; unimportant, irrelevant or untrue—1.

Source: Bureau of Labor Statistics, Youth Unemployment and the Minimum Wage, Bulletin 1957, U.S. Department of Labor.

There are also child labor laws in every state. These cover intrastate commerce and in some cases supersede FLSA regulations with more stringent standards. Most of these laws require work permits, regulate the minimum employment age and maximum employment hours, restrict certain occupations and night work, and require school attendance to a specified age. Almost half the states set a minimum of 16 for employment in manufacturing establishments, and most have a minimum age of 14 for work outside of school hours. All but five require an employer to get a certificate in order to hire anyone under 16, with almost half requiring work permits for 16 and 17-year-olds. Most states require full-time school attendance until age 16, though eight extend this requirement until age 17 and four until age 18.

* * * * *

Few employers want to get involved in the red tape of hiring these younger teenagers. If they are willing to hire a youth, and are permitted to do so by law, they can usually find an unemployed 18 or 19-year-old to fill their needs. But even older teenagers are affected. Legal restrictions are viewed by employers as the single most important reasons for not hiring 16 and 17-year-olds (Table 6).

Minimum wage laws may also have a significant impact on the work experience of youths. Under the Fair Labor Standards Act and a number of state laws, minimum wages are set for most industries. The federal minimum, which covers 46 million wage and salary workers, is $1.60 per hour for all but agricultural workers. Over the decade it has increased from $1.15 in 1961 to $1.25 in 1963, $1.40 in 1967, and to its present level in 1968. These increases were accompanied by extensions in coverage and a raise in the wage paid to millions of workers including many youths.

However, these increases and extensions are also blamed for the rising levels of youth unemployment. Theory suggests that under competitive conditions an "artificial" floor which raises wages above the productivity of the least qualified employees will lead some employers to substitute more experienced or skilled workers, will force marginal firms out of business, and will lead others to mechanize in order to reduce the size of their labor force. These adjustments lead to a fall in employment opportunities for those at the end of the labor queue, the younger jobseekers In reality, the picture is much more clouded because many industries are not purely competitive and because many other factors enter into the picture. Economists disagree about the extent of the negative employment effect of statutory minimum wage rates, some saying that there has been no noticeable decline in youth employment as a result of the increases in the minimum, others claiming that there has been a statistically significant fall after each increase. The majority seem to agree that the long-run impact has been to slow the growth of those sectors that traditionally employ youths.

[The AFL–CIO denies that minimum wage laws cause unemployment. They cite such factors as the job competition provided by increasing labor force participation on the part of married women over 35 and the massive influx of teenagers into the labor force. As for the higher unemployment rates among black teenagers, the AFL–CIO points to such problems as racial discrimination in education and hiring, the migration of large numbers of blacks from the rural South to the cities and the mechanization of farming.]

Another reason why youths fare so poorly in their first contacts with the world of work is that the schools often do a poor job of preparing them for the transition. There is mounting evidence that the school system is too little concerned with the application of what is taught, especially its relevance to work. Students learn to pursue academic goals, to learn for learning's sake. They are prepared to be better students rather than more productive and satisfied workers.

It is a rather dismal commentary that vocational education courses are the only points of contact which many school curricula have with the job market. These courses are often inadequate. Many students are being trained in skills for which the demand is declining; equipment and instruction are out of date. Nevertheless, the vocational education program has demonstrated that it can help nonacademic students improve their employability and earnings. Unfortunately, little effort is made outside of vocational education to try to counsel or guide or prepare students for meaningful jobs after high school.

The acute problems of ghetto blacks

A dozen years ago, James B. Conant, former President of Harvard University, warned that "the existence in the slums of our large cities of thousands of youths . . . who are both out-of-school and out-of-work is an explosive situation. It is social dynamite." The succeeding decade witnessed sustained economic growth and rising standards of living accompanied by intensified commitments to improve the quality of education for the poor, to break down the barriers of discrimination and to increase the employability of disadvantaged workers through extensive manpower services. These developments produced real gains, and it seemed for a while that slow but steady progress was being made in attacking the employment problems of ghetto blacks.

Unfortunately, the telltale symptoms began to reemerge as economic growth stalled in 1969. By the end of 1970, the serious economic decline had eroded all the ground that had been gained and more. Of 2.4 million nonwhites age from 16 to 24 in the civilian noninstitutional population in 1960, only 60 percent were looking for or holding jobs, and 18 percent of them were unemployed. By 1970, the number of black youths in the same age bracket rose by nearly 4 million, but their labor force participation rate dropped to 55 percent and their unemployment rate rose to 19.4 percent. To make matters worse, the unemployment status of black youths had deteriorated significantly relative to that of other groups in the labor force. In 1960, the unemployment rate of nonwhites aged 16 to 24 was 1.6 times that for all youths; by 1970, it was 1.8 times as high. Over the same period the rate of black youth unemployment increased from 3 to 6 times that for all labor force participants aged 25 and over. Teenage blacks also lost ground relative to older blacks whose employment status improved markedly during the 1960's.

The problems of black youths who live in densely populated urban areas are more severe, and their consequences are pervasive. In the hundred largest metropolitan areas there were, in 1970, 1.2 million nonwhite youths aged from 16 to 19 and 1.3 million aged from 20 to 24, with a 30 percent unemployment rate for teenagers and 13 percent for those in older youth brackets. In the poverty areas within these large cities—the areas usually referred to as ghettos, which contain over a million nonwhite youths—conditions were worse still, and unemployment figures were significantly higher than those for white poverty area residents in comparable age brackets. Young blacks are clearly much worse off than whites or older workers, whether they live in urban areas or in the ghettos within these areas.

Unemployment is but one of the problems facing black ghetto youths. In almost all dimensions of labor force activity, they are worse off than other youths. Their wages are lower; they work fewer hours; their jobs are less attractive; and their advancement is more limited. Though the statistics that measure these difficulties may not be as accurate for the ghetto as for other areas, they tell a depressing story. And more likely than not, they understate the real problems. Interviewers simply miss many of those who are out of work, and those supported by illicit activities may claim to be working. In either case, the number of unemployed is undercounted. Whatever the inaccuracies of the statistical measure, the difference between the work patterns in the mainstream economy and those of black youth in the ghetto are staggering.

Unfortunately, there is no basis for optimism in the near future. Though the growth of the white teenage population will slow precipitously, that of black youths will continue at a high rate (Fig. 6—not printed in the RECORD). Unless the barriers to equal opportunity are eliminated, black youths may benefit very little from the more favorable labor market conditions facing white youths in the 1970's.

PART THREE: ALLEVIATING YOUTH EMPLOYMENT PROBLEMS

Efforts to alleviate youth unemployment have intensified as their problems have grown more severe over the last decade. A variety of measures have been instituted which, though unable to reverse the rise in teenage joblessness, have undoubtedly stopped it from becoming even worse. Other actions have been proposed on the basis of careful analysis of youth employment problems. In the broadest terms, these measures seek to control the supply of teenage workers to increase their job opportunities, and to alter the institutional impediments to their employment.

The supply of teenage jobseekers

Even if nothing is done, the employment problems of young people probably will ease over the coming years because of the slowing growth of the teenage population. More active public policies are needed, however, if youth unemployment is to be significantly reduced.

One frequently recommended action that has been implemented only sparingly, is to continue school throughout the year. Summer vacations might still be needed in rural areas to release youths for farm work, but even this is questionable with the decline of family farms. There is no reason why high school as well as college could not be run on a quarter or trimester system, with equal proportions of students having their vacation in each period (if vacation is felt to be needed). There are now more than 300 colleges which offer work-study programs on an optional basis or in certain departments, but a growing number have instituted mandatory plans for all students. Besides utilizing educational facilities and staff year round, this would have several favorable labor market impacts. Rather than increasing dramatically each summer, the supply of young job seekers would remain relatively constant throughout the year. Reduced seasonality would contribute to reduced unemployment. It would also facilitate work experiences or cooperative education programs. And conceivably, full-time year-round student jobs could be established since employers could count on a steady youthful labor supply.

Continued efforts to reduce the number of school dropouts will also have a favorable impact. Not only are dropouts more likely to compete for scarce jobs, but they are also less likely to find them because they lack the credentials and skills demanded by employers. Their unemployment rate is half again as high as that of 16- to 19-year-old high school graduates. Despite notable progress over the last decade, 655,000 young people aged 16 to 24 dropped out of school between October 1970 and October 1971 before completing high school. Though this may be a symptom rather than a basic cause of a youngster's problems, there can be no doubt that a reduction in the number of dropouts would lower the teenage unemployment rate.

Another measure which might have a favorable impact is the planned reorientation of the armed services. For many youths, including some of the most hard-core, the military has provided opportunities for training and work experience. It will be even more valuable as combat missions decline and more useful skills are provided as the armed forces become increasingly dependent upon volunteers. Conceivably, many youths who cannot find jobs in the civilian labor market may be attracted by the opportunities for work and training in the military. The scale of the armed forces may not increase significantly, but they may have a more significant impact on youth employment problems.

Expanding demand and training

The *sine qua non* for reducing youth unemployment is a healthy economy. When aggregate unemployment is reduced, teenagers benefit more than older workers; when it rises, they are the ones who are hurt the most (Fig. 7—not printed in the RECORD). Monetary and fiscal measures to stimulate the economy are therefore vital if the rate of youth unemployment is to be significantly improved.

If the *relative* unemployment differential is to be reduced, however, it is necessary to increase the share of jobs for youth. Several manpower programs have been established for this specific purpose. The largest is the Neighborhood Youth Corps (NYC) program. The in-school segment provides part-time jobs for needy students, serving 120,000 in fiscal 1971. The summer programs provide temporary jobs for disadvantaged youth, serving 567,000 in 1971. Initially, these programs were intended to forestall dropouts and to provide some useful training but for the most part, they have become job creation programs. In-school participants work as library and classroom aides or as general helpers. Summer participants work in recreation and clerical jobs and do clean-up work. Whether or not such efforts are productive, the program has proved popular and it is expanded every summer to meet the annual job crisis.

There are other job creation efforts. Federal agencies provide special jobs for young people in the summer months. The Job Opportunities in the Business Sector (JOBS) program also makes an annual appeal to businesses to create summer work. Overall, these efforts are claimed to have resulted in * * * jobs for youth under 22 during the summer of 1971. Without NYC and the other summer job creation efforts, unemployment among teenagers would be even worse. If it is assumed that half of the 817,000 first-time enrollees in 1971 summer programs would have been otherwise unemployed, the unemployment rate of teenagers would have been at least a fourth higher.

There are other manpower programs that emphasize training and education, and offer their services to improve future employability, but these also provide income and draw youthful participants out of the job market at least temporarily. The Job Corps offers very concentrated assistance to the most disadvantaged youths, most often in residential training centers. The cost runs over $8,000 per man-year, and there were some 50,000 first-time enrollees in fiscal 1971 who were 21 or under. The NYC out-of-school program is oriented to teenage high school dropouts, and it is intended to provide remedial education and skill training along with useful work experience. There is no evidence as yet that its services have increased future employability or that productive work has been performed, but over 50,000 first-time enrollees received incomes and were kept busy in 1971. The Work Incentive program provides counseling and training to welfare mothers so that they can find jobs and cut down on needed support. There were an estimated 31,000 young women who participated in 1971. The Concentrated Employment Program, mostly operating in ghetto areas, is meant to provide an assortment of services tailored to individual needs, serving 44,000 youths 21 and under in fiscal 1971.

In addition to these federally initiated manpower programs, there are also a number of apprenticeship training programs run by unions, employers, trade associations and other groups. These serve mostly 16 to 26-year-olds seeking to learn a craft, and in 1970 45,000 completed training and 280,000 were enrolled in these programs. Formal apprenticeship serves the less than college educated youths to get into higher paying skilled trades or crafts.

Institutional changes

An alternative way of increasing jobs is to eliminate institutional impediments to the employment of teenagers without sacrificing the protections provided by youth labor market regulations, and much can be done to eliminate unnecessary obstacles. At the very least, procedures should be brought up to date to make work permits simpler to get, and restrictions should be clarified so that they do not unnecessarily discourage employers. But more substantive changes may also be worthwhile. Provided school attendance laws are enforced and certain dangerous occupations are precluded, restrictions on youth employment should be eased to allow young people to decide for themselves when and where to work. If this occurred, there would certainly be incidents of exploitation, but these could be handled on a case-by-case basis. And as jobs expand in the more stable and higher paying sectors of the economy, low paying employers will meet stronger competition of youthful employees.

Although economists continue to debate the impact of minimum wage changes on youth employment, most agree that there has been some negative impact, at least over the long run. The raising of the minimum wage from $1.60 to $2.00 an hour and the extension of coverage is likely to aggravate youth employment problems. It may be worthwhile, therefore, to initiate a dual minimum with one rate for adults and a lower one for youth. This could be accomplished, for example, by establishing a lower minimum for those under 18 as the minimum hourly rate is raised for everyone else.

Whether this differential would result in any significant increase in youth employment cannot be known. Many employers feel that the level of the minimum wage is very important in deciding whether to hire youth and that a large differential would encourage substantial employment. Several other countries with such a dual system have much lower teenage unemployment rates. On the other hand, several states already have dual rates, and these have experienced no discernably lower rate of youth unemployment. Little use has been made of procedures under the Fair Labor Standards Act which permit the payment of lower wages to learners, although the red tape involved may have been a deterrent.

Whatever the employment impact, there is little danger that youths will be hurt by a dual minimum wage. They would be protected by the lower secondary minimum, and this is adequate since most are only marginal workers supplementing family incomes or earning extra cash. Also, a substantial minority now work in jobs not covered by the federal law; their wages would actually rise if coverage were made universal and they could keep their jobs. If it is found that this dual minimum approach is ineffective for any of a number of possible reasons, it can be changed with little difficulty.

[The AFL–CIO position is that there should be a single standard for all workers regardless of age, sex, color or creed, and that the "subminimum" for teenagers would reshuffle unemployment by inducing employers to hire teenagers rather than adults, thus putting some adults (including many who are heads of families) out of work. Their answer to the problem is to promote a growing economy and full employment. If regular job markets fail to provide suffi-

cient job opportunities, there should be a federal program of public service employment in such things as recreation centers, hospitals, schools, parks and other public and private nonprofit facilities. The AFL–CIO also calls for an expansion of the Neighborhood Youth Corps, maintenance of the Job Corps program and improved vocational training in the school systems.]

Institutional changes are also needed to increase the ties between school and work. If more were done within the school system to prepare young people for jobs, they would have far fewer transitional problems. There is nothing wrong with training generalists in the liberal arts tradition, but students should be increasingly exposed to the types of demands which will be made in their future work life and to the ways in which their knowledge will be productively applied. This involves a change in the total educational approach, to make it more relevant to the needs of students.

On a limited scale, much can be done to improve vocational educational programs. The first step is to implement the changes which were legislated in 1968. More adequate funds must be appropriated for training teachers, improving facilities, planning and administering new course offerings, and for serving the disadvantaged. Appropriations have been far below allocations in all these areas, and unless substantial incentives are provided, the pace of improvement will be slow.

A reorientation is needed, away from specific training to instruction in work methods, occupational demands, and clusters of related skills. This approach should be tested before vocational courses are reequipped with modern skill-specific equipment. It is also vital that vocational educators—or someone else in the school system—are funded to provide intensive job counseling and placement services, including several years of follow-up. The problem of students more often is the lack of labor market information than of marketable skills.

Career education

There is increasing recognition among educators and policy-makers of the dichotomy between the world of school and the world of work. A variety of reforms have been proposed to bridge this gap, which together represent a new thrust in educational philosophy and policy: *Career Education*.

Career education can be defined as "the total effort of public education and the community aimed at helping all individuals to become familiar with the values of work-oriented society, to integrate these values into their personal value systems, and to implement these values in their lives in such a way that work becomes possible, meaningful, and satisfying to each individual." Conceptually, this approach has several distinct components. First, work attitudes and values are to be taught in the school and in the home, with task assignments and responsibilities preparatory to later work. Second, classroom teachers will emphasize the career implication of all subjects, or in other words how abstract academic matter will be later applied in the workaday world. Third, an effort will be made inside and outside the school to determine the aptitudes and abilities of each individual, to expose him or her to alternative career choices, and to provide counsel to produce the most satisfying educational and occupational choices. Fourth, vocational skill training will be provided to prepare students for successful entry in the occupation world, though training will be flexible and broad-ranging enough to change with the needs of the occupational society. Fifth, education will increasingly move outside the classroom, with participation in training programs, cooperative education, educational site visits and other methods of getting students into "real world" settings.

Career education is more a set of goals than a specific system for educating youth. In broad terms, however, it implies altered emphasis and approaches at all levels. At the elementary level, students would receive general job information, and an effort would be made to instill positive work attitudes. In junior high school, several clusters of occupations might be explored through field observations as well as classroom instruction. In senior high school, students would receive either intensive job preparation for immediate entry into the labor market, preparation for postsecondary occupational education, or preparation for college. But no matter which direction was chosen, all would receive occupational guidance and instruction better preparing them for work.

Career education is still an experimental concept. Even if it proves successful, it can be implemented only gradually. Yet it offers real promise in easing the transition between school and work, and alleviating some of the employment problems of youth.

It is likely that educational institutions at the secondary, postsecondary and college level will be undergoing drastic changes in the next few years as they have recently. Several developments might increase the ties between school and work, and these should be considered if the institutions are to be revamped on a large scale.

The private sector could play an increased role in vocational education. Several central city high schools have been "adopted" by large corporations. Though these have not been spectacularly successful, they have demonstrated that if training is provided for specific jobs and employment is assured at the end, dropouts can be reduced among less qualified students who might otherwise take to the streets. The government should provide assistance for these types of activities on an experimental basis and should carefully evaluate their effectiveness. Community colleges concentrating on distributive education might also be expanded. Lower income and less endowed students could then combine work with longer education, and could acquire skills which could be directly translated into increased economic opportunities.

At the college and university level, opportunities must be opened for work on perhaps a quarterly basis which, as suggested, would help to ease summer job shortages and could provide much-needed work experience. Curricula could be restructured to permit this pattern of employment, and public sector jobs in human services could be funded on a permanent basis which would be structured for a continuously rotating body of workers.

Comprehensive public policy

There are no panaceas for teenage employment problems but as the pressure of rapid population growth eases over the next decade, a concerted effort to solve these problems can have a very significant impact. A comprehensive public policy for alleviating youth unemployment would include the following measures:

1. Monetary and fiscal actions would be taken to maintain the rate of aggregate unemployment at 4.0 percent or lower. Only in tight labor markets can youth compete successfully for a larger share of jobs.

2. High schools and colleges would gradually shift to a year-round schedule with staggered vacations, reducing the seasonality of labor force participation.

3. Efforts would be continued to reduce the number of high school dropouts, and where these fail, remedial training programs would be instituted on a broader scale to help overcome individual handicaps and to assist the placement of out-of-school jobseekers.

4. In shifting to a volunteer basis, the armed forces would seek to attract as many youths as possible who have no other opportunities except peripheral work and unemployment.

5. Job creation programs would be expanded, including those in both the public and private sector. The latter are especially important if employer prejudice is to be overcome. "Outreach programs," to motivate and assist young people for entry into apprenticeship programs and skilled occupations, should be expanded.

6. Child labor laws would be reformed and simplified as far as possible while still maintaining protection for youth. A dual minimum wage would be at least tried until its effectiveness could be determined.

7. Vocational education would be expanded and improved, and all students would be given broader exposure to the world of work to ease their transition into the labor market.

A labor force participant is either employed or unemployed. The employed individual is one who works at least one hour a week in paid employment, 15 hours a week or more without pay in a family enterprise such as a farm or store, or else is not at work because of vacation, a strike, illness or bad weather, though still having a job. The unemployed person is out of work but actively seeking a job. The residual are nonlabor force participants who either do not want to work or would like a job but are not actually searching for one.

Based on these classifications, two major measures of work activity are calculated: Labor force participation and unemployment rates. The first of these is the ratio of labor force participants to the total civilian noninstitutional population; calculated for a variety of age and race groups, it suggests the proportion who are currently involved in the world of work. The unemployment rate is the ratio of unemployed persons to the number of labor force participants; in other words, it indicates the number of those who want to work and are actively seeking a job who cannot find one.

For the adult population, these measures are fairly good indicators of the employment situation in the economy, and even more, of the improvement and deterioration of employment problems. When applied to younger groups, however, these measures are less meaningful.

For one thing, a large proportion of teenagers work in part-time jobs, for instance, as babysitters or lawn mowers, for a few hours a week. They are counted as employed though they may very much want a full-time job. Another difficulty is that jobsearching by youth is usually an informal process, i.e., a teenager may only look for work if he or she knows a job is available. When there are none, jobseeking may decline and they will not be counted among the unemployed or among labor force participants. Similarly, if a person is looking for a future rather than an immediate job, as many students do as summer approaches, they are not counted among the unemployed, nor will they be if they give up the search and opt for leisure in the summer though they would prefer to work. It is not surprising, therefore, to find that when teenage unemployment rises, the rate of labor force participation falls. This is evidence that there are a number of youths, especially in slack times, who would like to work but have become discouraged and left the labor force. There is no doubt that measured unemployment rates seriously understate the problems of youth.

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A SMALL PRICE TO PAY TO PROTECT OUR CHILDREN: S. 1191, THE CHILD ABUSE PREVENTION ACT

Mr. CRANSTON. Mr. President, as a member of the Labor and Public Welfare Committee's Subcommittee on Children and Youth, I was pleased to join with the subcommittee's dedicated chairman, Senator MONDALE, in sponsoring S. 1191, the Child Abuse Prevention Act, unanimously passed by the Senate Saturday, July 14. The Subcommittee on Children and Youth, under Senator MONDALE's able leadership, has conducted an extensive series of hearings on S. 1191.

We also received testimony on child abuse at the June 16 Los Angeles joint hearing of the Special Subcommittee on Human Resources—which I chair—and the Subcommittee on Employment, Poverty, and Migratory Labor—on which both Senator MONDALE and I serve. I was privileged to chair these joint hearings—held in San Francisco and Los Angeles on June 15 and 16—which were conducted to investigate the effects of the proposed administration budget cuts in human resources programs. I was particularly delighted that Senator MONDALE was able to attend both the San Francisco and Los Angeles hearings.

Again and again during the hearings on S. 1191 the tragic story of abused children—victims of psychological and emotional abuse as well as the truly shocking incidence of physical abuse—has been told.

Mr. President, according to information gathered by the subcommittee and substantiated by the National Center for Prevention and Treatment of Child Abuse and Neglect in Denver, Colo., as many as 60,000 children nationally are abused annually. Witnesses throughout the hearings were unanimous in the belief that this estimate is undoubtedly low, and that the reported incidence of child abuse represents only a small portion of the children who are actually abused. During testimony in Los Angeles, Mrs. Elizabeth Davoren, psychiatric social worker and author of "The Battered Child in California: A Survey," indicated that her study has revealed that in California alone 20,000 child abuse cases occurred last year. That would indicate that the rate of national child abuse is likely more than 100,000 children annually.

The disgraceful and all too frequent occurrence of child abuse can take many forms. In a paper presented at the American Academy of Pediatrics, the Committee on the Infant and Preschool Child stated:

> It [child abuse] may be serious gross neglect of the child's welfare to the point of starvation, cruelty resulting in emotional damage to the child, or physical assault by a parent, older sibling or person charged with the care of the child. . . .

But in any form, child abuse takes a toll of incredible magnitude. A child may develop emotional problems which can deny the child a full and meaningful life; the child may be maimed, scarred irreparably, or may even die—as recently happened in Maryland.

One of the clearest and most readily recognized characterization of child abuse appeared in an article about the organization "Parents Anonymous"—an organization which I think has contributed greatly to helping prevent child abuse. The article, in the magazine Woman's Day, stated:

> Abuse can take many forms, from physical beatings to verbal attacks or icy withdrawal. All parents feel occasional urges to wack their children, and may sometimes give in to the impulse. But those who come to Parents Anonymous find themselves doing it consistently and uncontrollably.

Mr. President, our current social institutions are not adequate to deal with this problem. During the hearings in Los Angeles, I was shocked to hear a witness—a former child abuser and now a member of Parents Anonymous—tell the story of how she had recognized her problem and sought help from the various public social services agencies, only to be bounced from one agency to the next. She didn't get help. She finally seriously abused her child. And then she was afraid to go to a public agency—for fear she would lose her child, and possibly go to jail. She had gone through, as Jolly K., the founder of Parents Anonymous, put it, "sheer emotional torment."

In this instance the much ill-famed redtape of Government bureaucracy took two victims, the parent, attempting to seek help who received none; and the child, who eventually became the physical outlet of the parent's frustrations.

Mr. President, that story told at our hearing last month, by a woman who so strongly felt the need for increased efforts in the prevention of child abuse that she appeared publicly to tell how she had abused her own child, is nothing less than outrageous.

We are simply not getting the job done. The Federal effort in programs dealing with child abuse is extremely limited. HEW testified before the subcommittee that only $507,000 in fiscal year 1973 was made available to child abuse programs. Moreover, it was noted in the committee report (Senate Report No. 93–308) that:

> Not one employee of the entire Federal Government works full-time on the problem of child abuse.

UGRENT NEED FOR S. 1191

Mr. President, during the last decade every one of the 50 States has either passed or updated laws requiring reporting of child abuse or suspected child abuse. While some of the details of these statutes differ, the differences do not really matter—because none of the laws have acted as an effective deterrent to child abuse. The committee report on S. 1191 states that one of the reasons for the ineffectiveness of present statutes aimed at child abuse prevention is that most laws do not require followup treatment once a case has been reported.

Another problem brought to the attention of the committee was the frequent reluctance of members of the medical professional to get involved in what may be a long, drawn-out court case—even though they are protected in many States by immunity statutes. Section 4 of S. 1191 is aimed at determining precisely how to affect a change in that attitude and what statutory steps should be taken to increase the deterrent effect of child abuse statutes. Section 4 of the bill provides for the President to establish a Commission on Child Abuse and Neglect to study several issues, including the effectiveness of the existing child abuse reporting laws; the effectiveness of existing child abuse prevention, treatment, and identification programs; the incidence of child abuse; and the proper role of the Federal Government in dealing with child abuse. This section further directs that the commission report to the Congress and President on the results of that study within 1 year.

The tragic story of the parent who sought help and could find none told at the Los Angeles hearing—one of several told that day—manifests the enormous need for outreach services and information about how and where to get help for the potential child abuser. Section 2 of S. 1191 directs the Secretary of Health, Education, and Welfare to create within the Office of Child Development, a "National Center on Child Abuse and Neglect"—so that local communities can determine the most effective programs to prevent child abuse and can benefit from the successful experience of other communities.

SELF-HELP GROUPS—PARENTS ANONYMOUS

Mr. President, during the hearings here and in Los Angeles we were privileged to have the assistance and testimony of one of the most promising child abuse treatment and prevention organizations in the country—Parents Anonymous—and of its founder, Jolly K. Parents Anonymous is a self-help group where parents who are child abusers or potential child abusers can go anonymously to receive help. P.A., as it is called by its members, has over 45 chapters in the United States and Canada, with its home base in Redondo Beach, Calif.

One of the most difficult problems in dealing with child abuse is that while a

parent may abuse a child, the parent still loves the child, does not want the child placed in a foster home or institution, and does not seek help because of fear of societal reprisals which may lead to the child's institutionalization and possibly to the parent's as well. Parents Anonymous is an organization which enables these parents to seek the help they so desparately need—without these fears. I would add however, that if the members of Parents Anonymous feel that the child is in any present danger, or that the parents condition is so serious as to mandate institutional care—they do not hesitate to report the situation to the appropriate authorities.

One of the difficulties Parents' Anonymous faces is inadequate funds to insure that someone is available 24 hours a day, that professional counseling is available at meetings, and so forth. Their funding needs are not great by comparison to so many organizations—but are important. Consequently, following the June 16, Los Angeles hearings at which many members of PA testified, I offered an amendment, which Senator MONDALE cosponsored, to section 3 of S. 1191, to include self-help groups such as Parents Anonymous amoung those eligible for grants for demonstration programs.

Under section 3 of S. 1191, the Secretary of Health, Education, and Welfare is authorized, through the Center on Child Abuse and Neglect established under section 2, to make grants for "demonstration programs designed to prevent, identify and treat child abuse and neglect." Such grants would include training of personnel, creation and maintenance of multidisciplinary child abuse centers and other innovative projects, which—as the result of the amendment I offer with Senator MONDALE—will include self-help groups.

Mr. President, I would point out that the committee was concerned that governmental involvement in self-help groups might interfere with the anonymity and flexibility that has been the key to the success of these kinds of self-help organizations. In that regard the committee report states:

It is the intention of the committee that in 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 confidentially of such programs, which must remain informal and nonbureaucratic to be effective.

I hope that the protective purposes of this committee report language will be most strictly heeded by the Secretary, in administering the act.

CONCLUSION

Mr. President, this is a most important measure, designed to attempt to come to grips with an appalling national disgrace—the some 100,000 cases of child abuse which occur in this Nation annually. I know that no Member of the Congress—and certainly no private citizen—believes that we can let this continue; the cost is simply too great.

S. 1191 does not purport to present the final solution. But it is a beginning. An important beginning, and one to which I am gratified my colleagues in the Senate have given their full support. I hope the other body will do so also.

Mr. President, I ask unanimous consent that an article and an editorial on child abuse which recently appeared in the Sacramento Bee and the Los Angeles Times, respectively, be printed in the RECORD.

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

[From the Sacramento Bee, June 10, 1973]

MOST CHILD ABUSERS ARE NORMAL

BERKELEY.—In Berkeley there is a telephone number to call for help to calm you down if you get so furious you fear you may beat your child.

It is the Parental Stress Service, a group recently formed to help prevent battered children. You can discuss the crisis and perhaps be put in touch with a sympathetic volunteer.

The service is an experiment aimed not only at the problem of battered children—and some believe 50,000 annually die at their parents' hands—but at a vast number of parents whose wallopings end just short of physical damage.

ABUSE RUNS GAMUT

"To me, abuse runs the gamut from psychological neglect and verbal assaults to actual battering," says Carol Johnston, founder-director of the service. "If people are honest, they will admit they sometimes abuse their children.

"Every parent is a potential abuser. What can stop him is seeing the child as a person with his own rights."

Mrs. Johnson believes 90 per cent of people who abuse their children are normal.

UNDER STRESS

Abusing parents, she says, aren't monsters but basically good people under great stress who finally crack, ofter because of some trivial incident.

"I consider myself an abusing parent, and that's how I got into this," she says. "I do not trust myself. Sometimes I have no empathy to stop me from hurting Danny."

"Now I can say, Danny, get out of here, and he will leave. He knows what is coming.

Danny is eight, and Mrs. Johnston confesses an occasional, sudden desire "to ram him through something, to kill him."

GOT STATE GRANT

Mrs. Johnston, 34, is a divorcee who quit teaching at Moses Lake, Wash., to take a master's degree at the University of California.

After work at the San Francisco Youth Guidance Center, she obtained a state grant of $15,000 to set up the Parental Stress Service. Additional money has been contributed by churches, and the state grant has been renewed for a second year.

The service takes calls seven days a week, 24 hours a day. Calls are handled by Mrs. Johnston, the only full-time worker, and 19 volunteers.

About a third of callers don't give their names, but the same voices keep calling back. Others are referred to volunteers—persons who have taken a training course—who take subsequent calls and often visit homes, when invited.

FEEL IT COMING

Some phone after having let loose all their frustrations by trouncing their child. Others learn to call when they feel violence coming on.

Half the cases involve children under five, and 90 per cent of the callers are women.

A common factor is isolation, and women are more likely to feel isolated. Another common factor is that the parent herself was abused as a child, and knows no other mode of child raising.

National studies show that of children actually injured, most are three or under. The most severely injured are under six months.

[From the Los Angeles Times, June 13, 1973]

NEW FOCUS ON THE BATTERED CHILD

Little children are uniquely vulnerable; they are utterly dependent on the adults around them; they have no way to protect themselves. In thousands of homes, they suffer from neglect; in thousands of others, they live in terror of physical abuse. There is no escape, unless their plight happens to come to the attention of outsiders; social workers, physicians, schoolteachers or the police.

The problem of the battered child is the focus of attention by the new Office of Child Development within the Department of Health, Education and Welfare.

OCD proposes four initial steps: a revision of the child abuse reporting law of 1962 to standardize reporting procedures by the states; a survey of state and local children's service programs with the object of coordinating and improving them; creation of a national clearinghouse for collection and dissemination of information on child abuse; development of training materials for social workers, physicians, teachers and police.

About 60,000 cases of child abuse are reported annually in the United States, and, horrifying as this figure is, some authorities believe that many more go unreported. Child abuse occurs at all social and economic levels. Some of the causes are known; much more has to be learned.

OCD will emphasize this aspect of the problem. Stanley B. Thomas Jr., acting assistant secretary for human development in HEW, said, "Uniform reporting laws, model programs and the best of all possible statistics reach only the visible surfaces . . . In seeking to end the nightmare of child abuse, we as a society must go much further—we must identify and eliminate its fundamental causes."

Few HEW objectives are more important than this one.

THE FEDERAL ADVISORY COMMITTEE ACT—INTERIM REPORT ON A NEW LAW

Mr. METCALF. Mr. President, last year Congress established procedures governing the creation and operation of Federal advisory committees. The President signed Public Law 92-463, the Federal Advisory Committee Act on October 6, 1972 and it became effective on January 5, 1973.

The agency primarily responsible for administering the act is the Office of Management and Budget. The Subcommittee on Budgeting, Management and Expenditures will conduct oversight hearings and investigations regarding administration of the act later this year. The purpose of my remarks today is to provide Members with information regarding advisory committees and the new law dealing with them, including congressional responsibilities under the act and methods by which its administration can be improved.

We already have a basis to evaluate initial directions which the advisory committee management system is taking. Many agencies have done a good job of complying with both the letter and spirit of the law. However, some agencies

appear to have been negligent in meeting the act's straightforward provisions. These agencies will have an opportunity to explain their noncompliance.

Draft administrative guidelines and management controls implementing the act, developed by the OMB and Department of Justice, were issued on January 10. They are the rules agencies are to follow in complying with the act, until final guidelines are promulgated.

OMB also prepared the President's first annual report to the Congress on advisory committees. The report, "Federal Advisory Committees," containing detailed information on advisory committee activities and members, has been printed by the Senate Committee on Government Operations. Copies of this four-part, 5,701-page report have been sent to chairmen of Senate and House standing committees, members of the Senate and House Committees on Government Operations, the Federal agencies, the Library of Congress and to those who participated in the development of this legislation.

This voluminous committee print, and the index to it now being prepared by the Congressional Research Service and the Subcommittee on Budgeting, Management and Expenditures, will be a useful reference.

The first Federal advisory committee was used by President Washington to assist him in dealing with the Whiskey Rebellion. By the end of last year, at least 1,435 Federal advisory committees—excluding interagency committees—were in existence. Without detracting from the conscientious service rendered by many members of some advisory committees, it should be recognized that the advisory committee system—the "fifth branch of government" as one witness termed it—has often provided committee members with exceptional advantage, sometimes without compensating contribution to Government.

As a result, committees emerged as a new factor to be reckoned with in government. They often had the vantage point within an agency, a department, or even the White House. They could anticipate and affect Government policy. They could better protect their own interests and adversely affect the interests of others.

In addition, many advisory councils met in sessions that were closed to the public and the press. Often it was impossible to find out when these meetings were scheduled. They did not keep transcripts. They recorded only brief summary minutes which did not adequately reflect proceedings.

The Federal Advisory Committee Act seeks to remedy these problems, citing specific areas of responsibility for both the legislative and executive branches.

RESPONSIBILITIES OF THE OFFICE OF MANAGEMENT AND BUDGET

Under Public Law 92–463, the Director of the Office of Management and Budget is to "establish and maintain within the Office of Management and Budget a Committee Management Secretariat which shall be responsible for all matters relating to advisory committees." This provision, inserted despite feeling that committee management could best be handled by the agencies, attempts to centralize, rather than diffuse, authority and responsibility for administering the act.

Second, the Director is to annually conduct a comprehensive review of the activities and responsibilities of each advisory committee to determine:

First, whether such committee is carrying out its purpose;

Second, whether, consistent with the provisions of applicable statute, the responsibilities assigned to it should be revised;

Third, whether it should be merged with other advisory committees, or

Fourth, whether it should be abolished.

This review is designed to reduce the number of advisory committees and insure that those in existence are providing useful recommendations.

Third, the Director "shall prescribe administrative guidelines and management controls applicable to advisory committees." Again, the emphasis is on centralized authority and responsibility. The requirement for issuing guidelines seeks to fill the vacuum between legislative initiative and executive management.

Fourth, to insure uniformity in compensating advisory committee members, that law requires the Director, after consultation with the Civil Service Commission, to establish guidelines with respect to "uniform fair rates of pay."

Fifth, the Director is to include in budget recommendations a summary of the "amounts he deems necessary for the expenses of advisory committees."

Sixth, prior to any executive branch action to create additional advisory committees—other than by Executive order—an agency must consult with the Director. This is to check the use of administrative discretion in establishing advisory committees by interposing an additional review mechanism.

The act requires that notice of each meeting of each advisory committee be published in the Federal Register. The Director is required to prescribe additional regulations which provide for other types of public notice.

Additionally, for those advisory committees which advise the President, the Office of Management and Budget is to be the depository for their charters.

Finally, the Director has been delegated two functions by the President. Pursuant to Executive Order No. 11686, dated October 7, 1972, entitled "Committee Management," the Director is to "prepare for the consideration of the President the annual report to the Congress as required by section 6(c) of the act; and (to) prescribe administrative guidelines and management controls for advisory committees composed wholly of full-time officers or employees of the Federal Government—interagency committees not subject to the provisions of the act."

RESPONSIBILITIES OF AGENCY HEADS

Each agency has also been given responsibility for complying with the Federal Advisory Committee Act. The agency head is to establish administrative guidelines and management controls for its advisory committees, "which shall be consistent with (the) directives of the Director." The agency must also designate an "Advisory Committee Management Officer," who will exercise control and supervision over the agency's advisory committees, and maintain the necessary records and reports. Both provisions recognize that primary responsibility for the day-to-day management of advisory committees rests with the agency.

RESPONSIBILITIES OF CONGRESS

In enacting Public Law 92–463 Congress recognized that it too plays an important role in the advisory committee process by establishing advisory committees, passing authorizations and appropriations, and in some instances, designating its members to serve on advisory committees.

The Act provides that each standing committee of both Houses must make a continuing review of the activities of each advisory committee under its jurisdiction. The primary purpose of this review is to insure that advisory committees are providing useful advice to the Federal Government, their numbers are kept to the minimum, and they are properly managed.

Additionally, during the consideration of any legislation establishing or authorizing the establishment of any advisory committee, each standing committee should apply the same review criteria. Any legislation creating a committee must include:

First. The committee's intended purpose;

Second. A membership which is fairly balanced in terms of points of view and function of the committee;

Third. Provisions to insure that the advice given the Government is the result of their independent judgment; and

Fourth. Adequate funds and staff to be assured the committee can carry out its intended purpose.

The chairmen of all standing committees will receive a list of those advisory committees for which they are responsible.

ADVISORY COMMITTEE PROCEDURE

One of the most important provisions of Public Law 92–463 outlines the procedures for conducting advisory committee meetings. This section begins with the affirmative statement, "Each advisory committee meeting shall be open to the public." Reemphasizing the need for public access to, and participation in advisory committee meetings, the act states that:

> Interested persons shall be permitted to attend, appear before or file statements with any advisory committee, subject to such reasonable rules or regulations as the Director may prescribe.

To insure that advisory committees stay within the parameters under which they were established, the Federal Advisory Committee Act places two restrictions on committee meetings. First, an officer or employee of the Federal Government must either conduct or attend each meeting. He is empowered to adjourn any meeting if he finds adjournment to be in the public interest. No

meeting of any advisory committee can take place in his absence.

Second, no meeting can be held except at the call of, or with the advance approval of, a designated officer or employee of the Federal Government, and—with the exception of Presidential advisory committees—with an agenda approved by him.

Since most persons cannot conveniently attend advisory committee meetings, procedures were developed to provide information to the public about them. First, subject to the provisions of the Freedom of Information Act (5 U.S.C. 552) the documents which are made available to or prepared for each advisory committee shall be available for public inspection or copying at a single location. Second, the act enumerates certain detailed information that must be included in minutes of each advisory committee meeting. These minutes provide a permanent record of the committee action.

There are, however, restrictions on access to the meetings and records of advisory committees. For reasons of national security, there may be meetings that must be kept secret from the public. If such a determination is made, the provisions for timely notice of the meeting in the Federal Register may be waived.

The act also states that those sections dealing with access to meetings should not apply to any meeting which the President or agency head determines is "concerned with matters listed in section 552(b) of title 5, United States Code." This section of the Freedom of Information Act details nine exemptions:

First, specifically required by Executive order to be kept secret in the interest of the national defense or foreign policy;

Second, related solely to the internal personnel rules and practices of an agency;

Third, specifically exempted from disclosure by statute;

Fourth, trade secrets and commercial or financial information obtained from a person and privileged or confidential;

Fifth, inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency.

Sixth, personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of privacy;

Seventh, investigatory files compiled for law-enforcement purposes except to the extent available by law to a party other than an agency;

Eighth, contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions; or

Ninth, geological and geophysical information and data, including maps, concerning wells.

The determination, based on one or more of these exemptions, must be in writing and contain the reasons it is necessary. Then, a summary of the committee's activities must be reported annually. These exemptions also apply to advisory committee documents.

THE ADMINISTRATION OF THE ACT

It is proper to assess the operation of the Federal Advisory Committee Act at this time. The first annual report has been transmitted. As mentioned earlier, this document contains the most detailed information available on advisory committees. Also, OMB is completing its comprehensive review, although it is still too early to judge the results of that effort.

Certain problem areas appear. The act intended dual management of advisory committees by both the agencies and OMB. Although some agencies have committed themselves to reduction of the number of advisory committees and insure proper management, others have not.

OMB opposed passage of the act, partially because of an anticipated increase in the size of the OMB staff needed to meet the act's requirements. That increase has not taken place. While the Congress did not intend to create a vast bureaucracy to manage committees, it nevertheless recognized the need for some staff to adequately carry out the provisions of the law. Neither event has happened.

It is important that attention be given to the act's requirements and that resources be committed, both within the agencies and OMB, to comply with the letter and spirit of the act. There is some doubt whether OMB has met the intent of the act in committing resources to establish the Committee Management Secretariat.

Second, although draft administrative guidelines and management controls have been issued, several areas need to be clarified or changed. The draft guidelines were published in the Federal Register on January 23, 1973, and agency and public comments were solicited by March 16. Regulations have yet to be published in final form.

These draft guidelines are the basis for agency operation and it is important that the comments submitted be assessed and final guidelines be issued. Agencies have been hesitant to issue their guidelines until OMB rules are final. Also, there have been no OMB guidelines issued on uniform fair rates of pay for advisory committee members.

Three interrelated areas of the act's administration are particularly troublesome: First, meeting notices in the Federal Register; second, the application of the Freedom of Information Act to advisory committee meetings; and third, sections of the January 10 joint OMB-Department of Justice memorandum.

FEDERAL REGISTER NOTICES

Section 10(a)(2) of the act states that:

> Timely notice of each such (advisory committee) meeting shall be published in the Federal Register.

Section 10(a)(2)(c) of the draft guidelines attempts to define "timely" as "7 days before the date of the meeting except that (i) a different provision may be made in emergency situations and (ii) shorter advance notice may be used when 7 days notice is impracticable." Further, the guidelines state that.

> Such notice should state the name of the advisory committee, the time of the meeting and the purpose of the meeting (including where appropriate, a summary of the agenda). The notice should state whether (or the extent to which) the public will be permitted to attend or participate in the meetings. If the meeting will be open to the public the place of the meeting should also be included in the notice.

Numerous notices have appeared in the Federal Register only one or two days before the meeting, without stating a time, place or purpose of the meeting. While it is understandable that notices appearing immediately after the effective date of both the act and these guidelines might have been deficient, and allowances might be made for them, there is no excuse for deficiencies to continue 6 months after the effective date. Some notices still refer to rescinded Executive Order 11671.

The idea that only if the meeting is open should all information be included in the notice seems contrary to the act. The act states that notice is not required when a determination has been made that such notice would be inconsistent with national security. Other than national security, there is no basis to withhold information from meeting notices. A closed advisory committee meeting does not require a secret location.

Understandably, certain advisory committees, such as the Defense Department Epidemiological Committees, must meet on short notice. In these cases notice of meeting should also be given, even if after the meeting. Further, the provisions for shorter notice should be clearly identified as the exception, with an explanation as to why sufficient notice was not given.

FREEDOM OF INFORMATION ACT

A second major area of concern is the application of the Freedom of Information (5 United States Code 552(b)) to closing advisory committee meetings. In passing the Freedom of Information Act, Congress identified specific types of documents that may be withheld from the public. Disclosure of these documents is permissible even though a basis exists for withholding them.

The Federal Advisory Committee Act applies these same Freedom of Information exceptions to advisory committee meetings. Admittedly, the transition from a written document available for inspection to a determination to close an advisory committee meeting based on what might be said, is difficult, Generally, the transition has been properly used. However, some parts of the proposed guidelines seem to go beyond the authority of close advisory committee meetings contemplated or intended by Congress in enacting the Federal Advisory Committee Act, and do not seem to be consistent with the intent of Congress in passing the Freedom of Information Act.

Specifically, this misuse apears in the application of exemption (5) of the Freedom of Information Act. This exemption permits withholding internal memoranda "not . . . available by law to a party other than an agency." An advisory committee is not an agency, and in most cases its members are not Government officials. Generally, an intra- or inter-

agency communication which the agency exempts from disclosure under (5) should lose its confidential privilege when introduced into an advisory committee meeting. By the same token, any exchange of opinions with respect to Federal policy decisions conducted in the presence of an advisory committee should also lose its privileged character. Any internal memoranda or deliberations which would be made available to advisory committees must fall in the category of material "which would be routinely disclosed to a private party through the discovery process in litigation," and thus open to the general public, unless protected by some other exemption. (See House Report No. 1497, 89th Congress, 2d session, 10/1966.)

Understandably, there may be emergency situations where such confidential documents and internal deliberations between Federal officers may be necessary in the presence of an advisory committee. Such situations should be severely limited and specific guidelines should provide the protection of confidentiality only in those special instances.

Currently, an agency need only insert an "internal document" into the agenda of an advisory committee to justify the closing of the meeting. This position that an exchange of opinions, if written, would fall within exemption (5), may be based on loose ground. The additional qualifying language that the agency head must make a finding that it is essential to "protect the free exchange of internal views and to avoid undue interference with agency or committee operation" is open to so many interpretations that it could be, and has been, used to subvert the openness and public information provisions.

Further, there appears to be no requirement that any such written determination—with reasons—made by the Director of the agency head to close meetings under any exemption be made public. The clear intent of reducing the determinations to writing, and providing reasons for making such determinations, was to provide sufficient facts to challenge the closing of meetings. Hopefully, the guidelines will be amended so that future notices published in the Federal Register provide a brief description of the documents to be considered, or deliberations to be held.

There are also several difficulties other than those mentioned above in the January 10 OMB-Justice memorandum. The first is in section 8 of the memo dealing with the creation of advisory committees. Before any advisory committee can be established, the agency head must consult OMB. If OMB is satisfied that creation is in accord with the provisions of the act, the agency head shall publish notice in the Federal Register.

If OMB is not satisfied that creation of a committee is in accord with the act, the Secretariat shall inform the agency head in writing within 30 days. If OMB disagrees with the establishment of a committee, can the agency still establish the group? Admittedly, this is a fault of both the act and the guidelines. "Consultation" does not mean approval. Nor does the act spell out or even reference any sanctions, other than litigation, for noncompliance.

AVAILABLE COURSES OF ACTION

Given the responsibilities of the law and the instructions in the guidelines, there are tools available to both the Congress and the public for improving the administration of the Federal Advisory Committee Act: Data regarding all the advisory committees is at last publicly available. The first annual report, printed by the Committee on Government Operations, is available from the Government Printing Office.

Members who have not received this 4-part report, entitled "Federal Advisory Committees," can receive a copy by calling the Subcommittee on Budgeting, Management, and Expenditures, extension 1474.

The index being prepared by the Congressional Research Service and Subcommittee on Budgeting, Management and Expenditures will facilitate identifying advisory committee members' affiliation, geographic distribution, overlap on committees and work done by them.

Each agency is required to prepare a charter detailing an advisory committee's purpose, anticipated cost, the agency responsible for support, and other information. These charters are being filed at the Library of Congress and are available for inspection in the microfilm reading room 140B, in the Main Building.

The Federal Register includes a compilation of scheduled advisory committee meetings. This document can be regularly screened, and ideas and comments made known to the appropriate agency and advisory committee.

Finally, agencies and advisory committees must be made aware of public interest in their proceedings. If there is no interest, open meetings serve little purpose. Consequently, the public should be encouraged to attend as many advisory committee meetings as possible, to correspond with the agency and committee, and ask for information, records, minutes, and any other pertinent data. The subcommittee is monitoring selected advisory committee meetings. The monitoring is designed to provide information about the operation of advisory committee procedure, insure public access, and encourage openness.

Student interns are assisting the Subcommittee on Budgeting, Management and Expenditures in the monitoring. This practice is providing interns with insights into an aspect of Government that they did not learn about in school, while also helping the Subcommittee in its oversight function. Other Members may wish to have their interns participate in this monitoring activity.

S. 504—THE EMERGENCY MEDICAL SERVICES SYSTEMS ACT OF 1973

Mr. TAFT. Mr. President, I have received a letter from the Department of Health, Education, and Welfare, expressing the administration's position on S. 504, the Emergency Medical Services Systems Act of 1973 which was reported by the committee of conference on July 10. I ask unanimous censent that the letter be printed in the RECORD.

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

THE SECRETARY OF HEALTH,
EDUCATION, AND WELFARE,
Washington, D.C., July 13, 1973.

Hon. ROBERT TAFT, Jr.,
U.S. Senate,
Washington, D.C.

DEAR SENATOR TAFT: As you know, within the next several days the Congress will be considering the conference report on S. 504, the Emergency Medical Services Systems Development Act of 1973. We would like to take this opportunity to review with you the Administration's position on this legislation.

In the 92nd Congress, H.R. 12563, H.R. 1278, and S. 5784 were introduced to deal with the problem of emergency medical services. We opposed that legislation on the grounds that sufficient legislative authority existed to carry out the Emergency Medical Services Initiative which had already been announced by the President in his 1972 State of the Union and Health Messages. Further, we noted that the Initiative proposed would be sufficient to mobilize both Federal and local monies already in the health care system to meet the critical emergency medical services problem. That proposed legislation was not passed by the Congress.

H.R. 74, 4224, 4952, 5675, and 5677 (ultimately combined into H.R. 6458) and S. 504 were introduced this Congress, have been passed by both Houses, as amended, and are currently the subject of a conference agreement. We again opposed those bills as unnecessary, organizationally restrictive and unduly expensive.

We strongly believe that the approaches reflected in the conference bill are inappropriate for a number of compelling reasons.

In the first place, although the Federal Government can assist in remedying certain deficiencies in EMS, we believe it is inappropriate for the Federal Government to create yet another categorical legislative program involving potentially large-scale Federal support for the development of emergency medical service systems. The activities involved are inherently of a local character and should reflect local priorities and decisions.

Ample legislative authority is already on the books to allow the conduct of a range of Federal demonstration initiatives in the EMS field. If there is an existing need, it is not for additional categorical legislation but rather for a rationalization and simplification of the maze of statutes, regulations, and guidelines for those looking to the Federal Government for assistance. We believe it inappropriate to enact additional legislation on the unsupported assumption that needed improvements in the EMS field will not occur without additional legislation. Indeed further categorical legislation may well impede rather than improve progress in this regard.

Particularly objectionable is the provision of S. 504 to establish a new organizational structure with the responsibility for EMS programs. It is undesirable to attempt to conduct a program effort in a particular area by establishing by statute a new organization with responsibility for that area. We certainly do not think, in this case, that a separate organizational focus for EMS activities serves program needs.

The matter of the scale is also important, for there would be significant administrative costs—as well as administrative delays in organizational development, recruiting, and gearing up for implementation—associated with a new organization's structure, and these increased administrative resource demands would have to be at the expense of

other high-priority health activities. Accordingly, we strongly oppose as undesirable and unnecessary the creation of a separate EMS mechanism.

Furthermore, the appropriations authorizations contained in the bill are greatly in excess of the amount of funds that could conceivably be soundly invested in a Federal EMS demonstration program in the foreseeable future. Enactment of legislation containing the large authorizations in the bill would constitute another example of creating expectations that the Government cannot hope to fulfill. We believe that the practice of creating categorical programs with unrealistic funding authorizations is undesirable.

Finally, there are various provisions of the bill that we believe are unwise and inconsistent with the President's overall objective of simplifying administration and reducing the plethora of categorical, special purpose programs that have sprung up in recent years. Particularly ill-advised, we think, are the provisions which would require creation of another statutory interagency committee. We believe that Federal interagency committees permanently established by law are both unnecessary and ineffective as a means of coordinating and planning complex programs, especially when the principal responsibility for an activity properly rests at the State and local level.

With regard to the PHS hospitals portion of S. 504, we oppose it for the following reasons:

1. It is our firm conviction that the small beneficiary population served by PHS hospitals will be served more adequately, effectively and with less personal disruption through Federal contracts with locally available community health facilities. This is in consonance with the basic Administration position, which we have repeatedly stated, that the Federal role in health should not include the direct provision of services to Federal beneficiaries by medical facilities operated by DHEW.

2. The continuing operation of the hospitals, as they were on January 3, 1973, is a virtual impossibility. Existing professional staff shortages compounded by the large number of recent civilian staff retirements resulting from passage of P.L. 93-39 and the expiration of the doctors' draft on June 30, 1973 have had a critical impact on the PHS hospitals' ability to provide beneficiary services. Further, increasing difficulties in recruiting physicians during fiscal year 1974 are a certainty and will undoubtedly affect the ability of PHS hospitals to provide the services which are now being furnished to beneficiaries. Our plans to shift our primary beneficiaries to the more modern, more accessible, better equipped and better staffed hospitals in the community are therefore in the interests of the patients, the Federal Government and the community hospitals themselves which are operating generally below the optimal 85 percent occupancy rate.

3. The inability of the Department to close these hospitals without Congressional approval when such action is justified, as it is in this case, from the standpoint of rendering better quality care to beneficiaries and the benefits of better utilization of PHS and community hospitals, flies in the face of sound administrative judgment. The continuing operation of the PHS outpatient clinics will assure the scope, quality and quantity of ambulatory services to beneficiaries. They will also serve as an entry point into the health care system and proper referral and monitoring of care provided by community hospitals.

4. In respect to the requirement that both Section 314(a) and (b) agencies approve subsequent plans for closure of PHS hospitals, this provision would be tantamount to precluding desirable or necessary Federal action by the failure or inability of both the local and State jurisdictions to react to Federal plans. The Federal Government would be in an untenable position if such a principle were generally applied in this and other matters of Federal concern and responsibility.

For these reasons, we are strongly opposed to S. 504, the enactment of which would not be consistent with the Administration's objectives.

Sincerely,

_____,
Acting Secretary.

QUORUM CALL

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

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

CONCLUSION OF MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, is there further morning business?

The PRESIDING OFFICER. If there be no further morning business, the period for morning business is closed.

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

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

The assistant legislative clerk read the bill 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 Senate resumed the consideration of the bill.

Mr. ROBERT C. BYRD. Mr. President, what is the pending question before the Senate?

The PRESIDING OFFICER. The question is on agreeing to amendment No. 226, the Gravel amendment, as modified.

Mr. ROBERT C. BYRD. I thank the Chair.

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

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. GRAVEL. 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. GRAVEL. Mr. President, I rise to compliment the editorial policy of the Washington Sunday Star. I ask unanimous consent to have printed in the RECORD at this point an editorial entitled "Energy—A Crisis That Won't Wait," published in yesterday's edition of the Star.

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

ENERGY—A CRISIS THAT WON'T WAIT

No, the country isn't running out of gasoline just yet. This is not, as many Americans had feared, the summer of the great filling station dry-up and the stalling of vacation-bound families all along the highways.

Rather, it is a summer of portents, of our first encounter with real shortages, our first retreat from the high-consumption ideal. We see stations rationing gasoline to their customers, cutting hours of operation and in some cases—if they are independent distributors—shutting down altogether. We are squeaking through, but the signs indicate this is only a foretaste of what's to come next year—and perhaps next winter, where heating and industrial oils are concerned. And with demand racing far ahead of production, the response of both government and the oil industry has been incredibly slow.

At last there is some movement of consequence, however. For the past several days the Senate has been locked in debate on legislation to allow construction of the trans-Alaska oil pipeline, which offers the only hope for a large increase in domestic oil production any time in the near future. Right now the $3.5-billion project is stopped, dead still, by a Supreme Court decision, upholding an old federal statute that doesn't allow enough right-of-way for such a line across federal lands. Changing the law to provide a sufficiently wide corridor is the fervent intent of Chairman Henry M. Jackson of the Senate Interior Committee, and a vote on his proposal is coming up Tuesday.

For several urgent reasons, the national interest demands passage of this measure, and fortunately the Senate seems in a mood to pass it. This is indicated by the two-to-one vote Friday against an amendment that would have held up the Alaska pipeline so the United States could negotiate for a different route through Canada to the Midwest. That could have meant an additional delay of three to five years in tapping the abundant Arctic oil, which was sheer folly even to consider.

In fact, we think the Senate now should adopt an amendment by Senators Gravel and Stevens of Alaska to lessen the danger of further stoppage by environmental lawsuits, which still might stall the work another year or two. After all, the environmentalists—through long delays they already have forced—achieved the inclusion of strong safeguards in plans for the Alaskan line. It's time to begin stringing pipe, for the fast-swelling U.S. reliance on foreign oil threatens a dangerous, destabilizing dollar drain. Add to this the apparent willingness of some Middle East nations to manipulate their vast oil resources as a lever on American foreign policy, and the picture becomes grim indeed.

Even if Congress removes all obstacles, however, the Alaskan oil won't be flowing down from the North Slope for another three years or more, and there seems no prospect of any dramatic increase in U.S. refinery production before then. President Nixon waited about three years too long in easing the import quotas, to permit more foreign oil to enter this country. The petroleum industry, for reasons we cannot begin to grasp, let several years pass without building a single new refinery, so that now there is insufficient capacity to process all the foreign oil which the nation needs to import. Nor is there a single deepwater port capable of handling the gigantic new supertankers that will haul the crude oil to these shores from the Middle East and elsewhere.

How could the United States, with all its economic expertise and sophisticated predicting techniques, ever have gotten boxed into such a predicament? In some quarters there's suspicion that the big oil companies were in collusion to create a shortage, force independent dealers out of business and hike prices. It is well that the Justice Department and the Federal Trade Commission have launched studies to determine if there is any substance to these mutterings. But a few basic facts are beyond dispute—that gasoline consumption has far outrun the government's estimates, and that new car production and sales are setting new records. Prosperous America guzzles more and more energy—electricity as well as petroleum—and the day of accounting isn't far ahead.

The fastest that the government can act will not be soon enough, and solid proposals are at hand that must be expedited. The Senate soon will begin hearings on legislation to hasten the building of offshore deepwater ports to receive incoming foreign oil. Anyone doubting the need for this might consider last week's announcement that the first large domestic refinery in three years will be built beside the Mississippi River, above New Orleans. That's good news, but three years will be required for the job, and then the crude oil for this plant—coming from the Middle East—will still have to be unloaded from supertankers at a deepwater port in the Bahamas and towed in barges to the Mississippi. Obviously, this country must have offshore port facilities as quickly as possible, with the best possible environmental safeguards.

And Congress must get cracking, too, on a massive program of research and development across the whole energy field—from solar and fusion electricity to large-scale extraction of oil and gas from coal, which is our only abundant energy resource. This is envisioned in a bill by Senator Jackson that would launch a 10-year, $20-billion effort. Time is critical, for at best we may be well into the 1980s before even the most advanced of these new modes—coal gasification—provides fuel in any significant quantity. And action is imperative on several other measures—to allocate scarce petroleum equitably (which is much better than rationing at this point), and to stimulate refinery construction and natural gas exploration. Congress also should come up with some tax incentives for energy conservation, down to the household level, instead of relying on appeals for voluntary frugality, which is primary way President Nixon has chosen.

But the President has become a great deal more concerned over this whole menacing matter in recent weeks. In his second energy message of this year (the first one having been considerably too weak), he came out for a $10-billion federal program over five years, to develop new sources of energy, and that represents quite a leap in White House objectives. Highly encouraging, too, is his plan to reduce the government's energy consumption by 7 percent in the next year, as the model for a new national "conservation ethic." He has proposed a sweeping governmental reorganization to consolidate the multitude of endeavors in the energy-fuels field, and persuaded Colorado's popular and persuasive governor, John Love, to resign and come here to head the enterprise.

So an initiative equal to the challenge at last may be in the making, and the question is whether the many wheels of government can turn fast enough. The first vital tests will be in those Senate votes this week on hastening the availability of all that oil in Alaska.

Mr. GRAVEL. I think the Star's editorial board has made a very valid distinction with regard to my amendment which will come up for a vote tomorrow. That distinction—and though I think the Nation feels that the Senate, as a result of rejecting the Mondale amendment last Friday, has mustered the resolution to do something about the energy crisis, I do not think that the broad American public is totally aware of the distinction—is between the passage of the Jackson bill alone and the passage of the Jackson bill with the Gravel amendment. I think that distinction will be made clear over a period of time, and quite graphically clear, by the very simple fact that the American people, as they suffer from the energy crisis, will start demanding an accountability for the situation from their elected officials.

So I hope we can persuade our colleagues to vote for my amendment tomorrow, because that is the only way that we can begin to address ourselves in a very serious fashion to the energy crisis that is now upon us.

With the defeat of this amendment, we would see ourselves languishing in court for 1 to 2 years, and the state of the Nation would be a sorry spectacle, because here we would be, suffering from the shortage of energy and the dislocations and inconveniences it would be causing our society, together with the drain that would be occasioned by the moneys that would be used to buy energy overseas, which would exacerbate our balance-of-payments problem to such a degree that I feel we would bring ourselves to the brink of financial disaster.

Ever since I was a child—and I was born during the Great Depression—I have always wondered what calamity could ever visit this Nation again of such far-reaching economic proportions. We have received assurances over and over again from our national leaders that we will never again have a depression such as we had then, because we have learned to control our economy.

That is probably true; but as a student of economics, I do foresee that one thing that looms on the horizon could trigger a depression of the proportions of that of the 1930's, and that, of course, would be the result of an international financial panic, which would cause a domestic financial panic and would cause a cascading of unemployment upon unemployment, to the point where we would be in a national depression. This, in turn, would trigger a worldwide depression, and all because of the instability of the American dollar, for the very simple reason, economically, that we are spending more than we are earning.

That is really what balances of payments are about. What we would be doing is enjoying a high standard of living. We would be living it up, so to speak, enjoying all this energy, enjoying our air-conditioning, enjoying our automobiles, and turning around and taking our dollars, our capital, and giving it to some one else so that we could continue to enjoy this high quality of life.

We would be like a person who has been left a legacy—and that is really the position we are in today; in our wealth we have been left a legacy from the productive abilities of our forefathers, and now, in order to maintain this high plateau of existence, we are going to start eating into the capital. In order to keep our cars and our air-conditioners going, we are going to take some of this capital and start sending it abroad.

We are not producing enough manufactured products to send refrigerators abroad, for example, so that those people whom we send our dollars can buy our refrigerators and we can get the dollars back, so as to remain solvent. What we have to find a way to do is buy and then sell as much as we buy, so as to remain financially stable.

The imbalance can go on for a period of time, for the length of time that it takes to eat into our capital substantially. I do not know what that period of time would be, or what the amount would be. But I do not know that the year before last, we started with a deficit of $3 billion. This struck consternation in our bones, because that was the first time in this century we had gone to a deficiency in our balance of payments. The year after, we experienced a $6 billion balance-of-payments deficit, and now this year the balance-of-payments deficit is upward of $7 billion. And $4 billion of that deficit this year thus far is the result of the purchase of oil abroad to fuel our automobiles and to heat and cool our houses.

What does this mean? We have seen what it means just this past year. We had a devaluation of the dollar in August of 1971. I, for one, thought that was a healthy thing at that point. But then we had another devaluation this last February.

These two devaluations not only have placed us in a better position to sell our products abroad, but they would be a benefit if we were an export nation.

But we are not an export nation. So what the devaluations have done is just the reverse: What commodities we did have in a good export posture were basically our agricultural commodities, and as the demand increased abroad for those agricultural commodities, because they were cheaper abroad, the economics of scarcity crept in the domestic situation, which raised the cost of bread, the cost of soybeans, and the cost of barley, and raised the cost of living right at the local supermarket for every single American in this country. That was the product of the devaluations that we have experienced.

Devaluation gets to be a vicious syndrone, because it works in this fashion, particularly with energy: When we devaluated in 1971 and again in 1972, the exporting oil countries, the OPEC countries of the world, came back and said, "Look, since you have devaluated, you have altered the price agreements that we had established in contracts for the sale of our oil. We did not have anything to do with this devaluation; you made the decision on devaluation. So now we want to renegotiate our contracts." And, of course, since they had the whip hand, since they controlled the supply of oil, we sat down and renegotiated the contracts just 2 months ago.

What did that amount to? With the

OPEC countries, for our purposes, it amounted to 13 percent. So here in 2 months' time, or let us say since the month of February, for the oil we buy in the Middle East, we had a 10-percent devaluation and on top of that a 13-percent renegotiation of the contract, which means that for the oil we are buying in the Middle East we are now paying, since February, 23 percent more than we were in the month of January, which obviously, in this syndrone I have described, exacerbates in a cascading fashion the flood of dollars that go abroad for the same amount of oil brought into this country.

There is no end to that. The syndrome is compounded by a very simple event: When we analyze what happened in February, with the devaluation of the dollar by the present administration, we must be deeply chagrined by the very simple fact that we lost control over our economy. What has happened was that when we had devalued initially, we had set up the Smithsonian Agreement, and we thought we had left ourselves in a very secure position wherein Germany, France, and the other European countries would buy up the dollar as speculators. Well, the speculators made a run on it in February.

We are told, as a result of the investigation, that basically the speculators were dollar holdings from the Middle East—let us say, in oil dollars which were sent abroad. Well, this speculation might appear from our vantage point to be irresponsible, but it is not irresponsible when we look at it from the vantage point of the dollar managers in the oil countries, or when we look at it from the vantage point of the boards of directors of multinational corporations who indulged in the same activity as did the dollar Arab managers in February. That is the general conclusion in the world, that the dollar was still overvalued and that in order to be competitive, the dollar would have to be devalued again at some future date.

Anyone knowledgeable and having a large amount of dollars would realize that, if that were to happen, the smart thing to do would be to sell dollars. That is the advice that the Arab money managers received, and that is essentially what the multinational corporations decided to do, that is, to sell dollars, which precipitated a run on the dollar. The United States and this administration had no choice, since the run was so severe, that rather than to buy up the dollar to use it our own country, it decided to devalue again.

I suspect that this problem will exist with us and will compound itself with us every year that we permit this imbalance, this spending of our capital, this dipping into our capital, our legacy, in order to sustain the quality of life that we want to enjoy.

Obviously, these are several ways to solve the problem. One is, really, to export as much as we import. This would mean that all of a sudden, we would have to become an aggressive, commercial nation in the old mercantile sense. We could do that, and we certainly would have the advantage right now with the two devaluations. In fact, that is pretty much the test—the fibrous aspect of our free enterprise system is whether we will take advantage of the devaluation and more aggressively reassert our competitive position abroad. But we would have to do this to quite a tune. I think we could do it if we wanted to. Whether we have the incentive to do it right now, remains to be seen. That is the question. Because with the devaluation, our industries could turn around and rather than be aggressive, could pull back at home and we would find ourselves enshrouded in a cocoon of security, since imports into this country would have increased, so that they would enjoy an advantage over imports, and so that, rather than going to be aggressive and compete abroad with that advantage, what they could turn around and do is to get a little lazy and ride the crest of the benefits that the Government has given them.

Which way our industries will respond I do not know at this point in time. It is very difficult to say. But I know that if we choose the more aggressive course, that is, become an aggressive mercantile nation, what would happen would be that we would have to sort of change the balance, the commercial balance that exists in Europe and in Asia.

This means that we would be, above all, competing against Japan. I think that we would find ourselves in extreme difficulty because where we have a natural area of exports, let us say in agricultural products, both satisfying the needs of Europe and particularly the needs of Japan, we would find ourselves in some difficult straits with the nations of the world if we did aggressively try to change that balance. Since both of these areas are the pillars of our dated or outdated defense system, it would not be to our economic interest to put those two economic areas in jeopardy.

So I would say it would not be or could not be in our best, long-term economic interest to launch into aggressive commercialism abroad.

That leaves another area. With all the moneys going abroad, there is only one area we can bring it back and that is to bring it back in terms of investment.

That makes sense, especially to those who hold the money, whether Arab or anyone else. This money is a capital acquisition, if they are to enjoy the benefits of this capital acquisition for future generations.

What we have to do is to invest it in some long-term, secure type of equity so that it can throw back a capital return or an interest return in the future. That would be fine, but I think that one of the things we would have difficulty with would be the psychic problem of having a sizable portion of American industry and American land owned by foreigners. That does not particularly disturb me with respect to the Arabs, because the Arab investments would not be backed up by a gunboat diplomacy, at which we have been so skillful ever since the beginning of the industrial revolution, as other nations of the Western World and the Orient have been skillful at. We would have their investments, and they would well know that any irresponsible acts on their part could cause us, one, either to nationalize their investments, or, two, subject them to a form of discriminatory taxation which could have the same effect as nationalizing their investments.

So I think that by entertaining large investments without gunboats to back them up, we would guarantee that the nature of the investments would be most responsible.

Another benefit that would accrue to that, undoubtedly, would be the stability enjoyed in the Middle East as a product of extensive Arab investments, because if they had a sizable investment interest in this country, obviously they would not be in a unilateral position to cut off oil supplies, or intimidate us, or blackmail us with respect to our Israeli foreign policy.

However, realistically, understanding the sums of money involved, and they would be in the hundreds of millions of dollars, there is no way that this would really offer any real, long-term security. When we talk of $100 million—and I will refer to the chart later—that represents what could be saved in terms of $100 million. To keep it in proper perspective, the capital cost of every single educational institution in this country plus every single hospital in this country, is about $150 billion to $175 billion.

Now, we have got to understand how little we could really absorb, in terms of the quantities of dollars we are employing abroad.

There are two possible solutions. One is aggressive commercialism and, two, is the reinvestment of foreign dollars into this country. That would not offer the necessary security because we could end up with a tragic financial crisis.

There really remains only one possible solution, and that is to purchase oil abroad, not to purchase oil abroad, or to minimize the oil that is purchased abroad so that we do not have the money going abroad in the quantities anticipated.

That means that we have to produce the required oil and the required energy to satisfy the needs of the American people, and we would have to produce it under the American flag. This can only be produced in the short run through the use of fossil fuel.

I think we will have to address ourselves to that problem, once we get beyond the Alaska pipeline issue, otherwise our cybernetic society, our American standard of living, the world as we know it, will come to a screeching halt by the turn of the century.

I would hope that we would have the wisdom to develop a national policy to aggressively pursue alternate and new energy sources, so that we can meet the long run demands of our society. But in the short run, we are stuck with fossil fuels, stuck with the technology we know a great deal about, and stuck with producing these fossil fuels under the American flag.

Several things will enhance this project, not the least of which will be the pricing of oil abroad. Henceforth, in this country, the cost of oil will be the cost of oil in the Persian Gulf plus the cost of its transportation to the United

States. That is what the American people will have to pay. And these prices will be set by the Arab leadership.

These prices have increased 23 percent since February. They have doubled since 1970, and I am sure they will double again in the next 4 to 5 years. As these prices increase what will happen is that we will be able to afford alternate sources—whether it is solar, whether it is oil shale, whether it is coal gasification; you name it. These will now be brought into economic viability as a result of the price increase that will take place.

But there will still be one area of difficulty, and that is the concept that we want to have energy cheap for the American people. This, unfortunately, has made the American people wasteful in using energy. One of the best ways to alter that situation in a free society would be to let the marketplace, to a good degree, establish the discipline, so that we can treat energy as a scarce resource, so that we can be more provident in our daily lives with respect to the use of energy.

But this still brings us down to the bottom line of it all, and that is that we have to seek energy under the American flag. The search for energy can best be satisfied in my State, where we have the largest energy reserves on this continent. It seems foolish to me that we would not aggressively, in a headlong fashion, reach out and grab the oil that is there for the beckoning within Alaska. This has occurred for the simple reason that, in the last few years, we have developed an environmental awareness in which we realize that the unlimited use of energy, uncontrolled and only motivated by the concept of profit, can destroy the life we hope we can enjoy. We saw this happen with the automobile and with the electrical generation. So, in point of fact, this new environmental awareness, which I consider a new maturity, has brought a sense of totality into how we are to arrive at this quality of life.

However, in any transitional period there exists a great deal of misunderstanding; there exists a great deal of confusion. So if we have suffered, it is a sort of confrontation between our industrialized society and our new environmental awareness. The price of this confrontation has been delay that has accrued to us in the decisionmaking process involving the Alaska pipeline. This delay need not continue, and I think it will not continue, because this confusion is slowly being dispelled. The American people are beginning to realize that although they want clean air, by the same token, they want adequate supplies of gasoline and heating oil, and they want to enjoy their air conditioners.

We can have all that. It is a lot of rot to think that we cannot and that there is only one recourse, and that is to go back to sweating in the summertime and wearing sweaters in the winter. We are more sophisticated than that. We have the technology at our disposal to have our cake and eat it, too. We have to bring our political decisionmaking process to the level that we have brought our technology.

I think that that level can be easily satisfied by realizing that the environmental decision with respect to the transportation of oil in this country today is the Alaskan pipeline. It seems almost sacrilegious to many environmentalists because they are in a sort of knee-jerk response position. That is, they go back to the rhetoric of anticipating oil spillage from an Alaskan pipeline. You jerk your knee up and your arm up and say, "Whoa; we are against this." How ridiculous. They think the clock stopped 3 years ago. In fact, with respect to the movement of oil, that transportation started 3 years ago. That is when we began to find out how to transport oil.

So now we have new ways at our disposal. We have new ways of bringing in the body politic, who are still hung up on the rhetoric, who are still hung up on the ideas of 3 years ago. How really tragic it is that we now have to teach the leadership of the country so that they can understand what is happening today. What is happening today is that we are placing ourselves in very serious financial jeopardy as we let our oil supplies languish.

To show how immature the leadership of the country is, it has developed a sort of schizophrenia because the focus of attention is really on the Alaskan pipeline. It is not really focused on pipelines in other parts of the country. In fact, my friend, the distinguished Senator from Maine (Mr. HATHAWAY), who is the present occupant of the Chair, comes from a similar beautiful State with wonderful environment. A very important pipeline traverses his State. It is an important pipeline to eastern Canada. I do not think that that pipeline should be torn up and rebuilt in accordance with the new governmental standards that have been established for Alaska. No; I think what we shall have to do is to wait until the time comes to rebuild it; then let it be rebuilt to the standards that have been established for Alaska.

Take the east Central States, where a pipeline is being built to transport hot oil. It is the same size as Alaska's. It goes through seven States on the way to New York. It is being built right now.

There is opposition to the building of the Alaska pipeline, not because of maliciousness, but only because there is confusion, and a certain schizophrenia within the confusion. That is a tragic decision to make in a democracy—that only the leadership can move.

I should like to put in the RECORD indications of the rate of speed at which the leadership of the country should be moving. I have asked a good friend of mine, in a university, to make soundings around the country to find out how the American people feel about the Alaskan pipeline.

I know that many Senators will say that the people are confused; that we really know better what should be done than they do. Let me say that the confusion is not among the people; it is in the leadership of the people, because the people are making their views felt; and believe me, they will make their views felt in the years to come. Let me cite areas such as California. In California, in the areas tested, 61.4 percent of the people are for the immediate construction of the Alaskan pipeline.

Mr. President, 24.4 percent are against it and 14.2 percent are undecided. I suspect that within a year the undecided will go into the column of those who are for and we will find three-fourths of the people of California adamantly in favor of the immediate construction of the Alaskan pipeline.

Woe to those politicians, woe to those poor individuals who vote against the pipeline. They will be living with that vote for quite a number of years. I suspect that vote will be the crucial conflict in the 1974 election in California.

Let us look at Minnesota. In Minnesota 53.6 percent of the people are for, 31.8 percent are against, and 14.6 are undecided. Again, moving the undecided vote to those in favor will make the total 68 percent of the people of Minnesota before the year is out who will be in favor of the construction of the Alaskan pipeline.

Let us jump to Indiana. In Indiana 59.4 percent of the people are for the immediate construction of the Alaskan pipeline, 16.8 percent are against and 23 percent are undecided. That would mean 83 percent or almost 83 percent of the people within a year in Indiana, in the Indianapolis area, will be for the immediate construction of the Alaskan pipeline.

My goodness, what would happen to a politician who votes against that issue. What havoc he will suffer with the electorate a year from now with such a vote.

In the State of Arizona, the State of my distinguished colleague, the ranking Republican member of the committee, 67.3 percent of the people are for the immediate construction of the pipeline, 14 percent are against and 18 percent are undecided. This would mean that more than 80 percent of the people in this State within a year would be for the immediate construction of the pipeline. In Colorado 60.8 percent are for, 21.4 percent are against and 17.8 are undecided. In Utah 61.7 percent are in favor, 23.3 percent are against and 15 percent are undecided. In New Mexico 65.4 percent are for the immediate construction, 17.1 percent are against, and 17 percent are undecided. In Texas 68.1 percent are for, 13.5 percent are against and 17.8 percent are undecided. In Connecticut 60 percent are for, 21 percent are against and 18 percent are undecided.

Mr. President, I think these figures prove conclusively that the American people want or are for the immediate construction of the Alaskan pipeline and in the months and years ahead they will become more and more for it.

I suspect we will look back upon the vote tomorrow on amendment No. 226 in this way: Amendment No. 226 will become the Tonkin Gulf decision on the energy crisis.

There are people who presently are Senators of the United States who are in this Chamber now who will be routed out of office as a result of their vote on this particular issue. What a tragedy. What a tragedy to waste a political career on such a decision, when really, the facts are before us. That is what happens when the leadership of the Nation lags, as well as the knowledge of the Nation. I think the American people

have the knowledge in this regard and will demonstrate their displeasure toward politicians who do not rise to that same level of knowledge.

I am chagrined over the fact that some of the politicians to be rooted out of office as a result of a negative vote tomorrow are very good friends of mine and I think they should be here to enjoy the full flower of seniority and the wisdom that that can bring in contributions to the leadership of this country.

I would hope that my colleagues would heed these humble words this morning and change their votes.

Does the Senator from Arizona wish to be recognized?

Mr. FANNIN. When the Senator from Alaska has concluded his remarks.

Mr. GRAVEL. I would be happy to yield the floor.

Mr. FANNIN. Mr. President, I wish to commend the distinguished Senator from Alaska for placing in the RECORD the editorial from the Sunday Star. I wish to call this matter to the attention of my colleagues, to point out what is involved and how this is consistent with what we have been discussing in recent days.

The editorial states:

> For several urgent reasons, the national interest demands passage of this measure, and fortunately the Senate seems in a mood to pass it.
>
> * * * * *
>
> In fact, we think the Senate now should adopt an amendment by Senators Gravel and Stevens of Alaska to lessen the danger of further stoppage by environmental lawsuits, which still might stall the work another year or two.

I would say it might be a longer period of time than that considering what happened in the past few years.

The editorial goes on:

> After all, the environmentalists—through long delays they already have forced—achieved the inclusion of strong safeguards in plans for the Alaskan line.

I am very pleased this has been brought about. We can commend many of the very sincere people who are anxious to see every precaution taken.

The editorial states:

> It's time to begin stringing pipe, for the fast swelling U.S. reliance on foreign oil threatens a dangerous, destabilizing dollar drain. Add to this the apparent willingness of some Middle East nations to manipulate their vast oil resources as a lever on American foreign policy, the picture becomes grim, indeed.

I wish to point out that we have a serious problem in competing with other nations in the world. But we face a situation now that if we have a higher cost for energy due to increased and costly imports of fuels our competitiveness in manufactured goods will suffer. This is because as other costs, including labor costs, go up we cannot afford to be competitive.

I want to emphasize the importance of the vote that is coming up on the Gravel-Stevens amendment that the Senator from Alaska referred to.

S. 1081, as reported, would eliminate the restrictive width limitations on rights-of-way presently contained in 30 United States Code, section 185; however, the possibility of a continued challenge to the granting of rights-of-way for the trans-Alaska pipeline, based upon section 102 of the National Environmental Policy Act of 1969—hereinafter NEPA—remains unabated.

The years of delay which have been occasioned by the Wilderness Society litigation suggest that unless the possibility for litigation under section 102 of NEPA is legislatively obviated, a comparable period of delay can be expected in the future. Essentially, the same steps followed in the earlier litigation would be followed in challenging the granting of rights-of-way under S. 1081. Instead, however, of being able to base its holding solely upon the width limitations of the Mineral Leasing Act, the court of appeals would be compelled to examine the environmental impact statement in light of what it considered to be the requirements of NEPA. Thus, the time between appeal and final decision by the Circuit Court of Appeals might well be protracted beyond that experienced in earlier litigation.

Additionally, the Supreme Court's denial of certiorari in the Wilderness Society litigation should not be construed as meaning that certiorari would necessarily be denied in a case decided on the basis of NEPA. Therefore, even after a decision by the court of appeals favorable to the Government, there might well be an additional delay of up to a year or more and I say more, because it could be several years—pending action by the Supreme Court.

Four of the eight judges—at the district court and the court of appeals—who considered the final environmental impact statement in light of NEPA, during the Wilderness Society litigation, determined that the Secretary had fully complied with the requirements of that act.

Mr. President, I think that is a vitally important amendment. Millions of dollars have been spent, perhaps more than in any other single investment in the history of our Nation. So many people say that the NEPA requirements have not been satisfied for one reason or another. This contention is not true. Mr. President, the Secretary of the Interior has gone far beyond what would necessarily be demanded by a NEPA report.

But to go on: The others did not decide to the contrary but merely delayed consideration of the issue until amendment of the Mineral Leasing Act.

That, of course, is what is involved now, in addition to the other considerations in S. 1081.

The district court found the Secretary had fully complied with NEPA and had authority to permit temporary use of construction area, but the court of appeals—in a 4–3 decision—reversed, holding that the Secretary could permit no use of land outside the 50-foot right-of-way. Reasoning that it might take the Congress "several years" to amend the Mineral Leasing Act, after which the Secretary might wish to make further environmental study of the project, the majority judges refused to decide the NEPA issue.

That must be understood; they were not ruling one way or the other.

In the opinion of the three minority judges, the Secretary had fully complied with NEPA, and all agreed the issue should have been decided by the Court. Judge MacKinnon characterized the majority decision to postpone the NEPA issue as "a monstrous refusal to perform a judicial obligation" and "judicial insouciance" which he felt to be "indefensible."

Even though the final environmental impact statement has received the approval of those judges who addressed the issue there will, nonetheless, be a continued delay resulting from litigation based upon NEPA, challenging the action of the Secretary in granting a right-of-way for the trans-Alaska pipeline system.

This delay would come at a time when the United States is facing an acute energy crisis and is becoming more dependent, by the day, on insecure Middle East sources. Therefore, unless the possibility of NEPA litigation is legislatively precluded, by the Congress, there is every assurance that an already intolerable situation will become much worse.

Mr. President, we have an important decision to make, and I trust Members of this body will realize just what is involved. The issue should be viewed from more than merely the standpoint of the State of Alaska even though it is tremendously important to give consideration to the people of the State of Alaska. We have heard from the Governor of that State. We have heard from its legislative body. We have heard from the people of Alaska. They are certainly behind this legislation, and they hope that we will consider this question, which involves not only them; it is not only for the State of Alaska, but for the whole Nation.

Mr. President, I have a letter from the Society for the Prudent Use and Environmental Protection of Our Natural Resources, from Fairbanks, Alaska. The letter is written by Eugene Miller, president of the Fairbanks chapter. It is a society for the environmental protection of our natural resources. I would just like to read the letter and the resolution that was sent along with it:

JULY 10, 1973.

Senator PAUL J. FANNIN,
Washington, D.C.

DEAR SENATOR FANNIN: The action of this society to support the construction of the pipeline through Alaska is spelled out in the attached resolution. The members, individually and as an organization, have studied all aspects of the proposed construction project, and have concluded there are no longer any environmental objections of sufficient magnitude to justify delaying the pipeline construction.

Mr. President, I just want to emphasize at this point that this was a finding of the Governor of Alaska and the Legislature of Alaska.

The society might be called a middle-of-the-road group. While the membership believes in the prudent use of natural resources, it places a very high priority on environmental protection. Housewives, teachers, university faculty, business men, professionals, skilled and unskilled labor and technicians are numbered among the members. The diversity of the background can be illustrated by the six named in this communication. Ages 32–65, years in Alaska 8–40, occupations—teacher, plumber, attorney,

university dean, labor representative and cement wholesaler. Native of Kansas, Missouri, Oregon, Oklahoma, Idaho and Minnesota. (Probably every state is represented as the birthplace for some member of this organization.)

If you or any of your constituents were here and had studied the situation as we have, you would take the same position.

He ends up with a statement that is very important for our consideration:

Item: The entire pipeline project will involve fewer than 5,000 acres out of the more than 375 million acres in Alaska.

CHARLES W. LAFFERTY,
State President.
EUGENE V. MILLER,
President, Fairbanks Chapter.

I think that is very important to consider—5,000 acres out of the more than 375 million acres. And those are areas that are going to be protected.

Mr. GRAVEL. Mr. President, will the Senator yield on that point?

Mr. FANNIN. I yield.

Mr. GRAVEL. I think it is difficult to keep in mind what the quantities are that are involved. It is a very small quantity, but most Americans can compare it with the areas of golf courses. What that area represents is like a length of thread laid from the first to the 18th hole on a golf course. That would be the amount involved.

Mr. FANNIN. I think the Senator has put it into proper perspective. It is so minute that it should not even be considered.

I think the resolution explains the attitude of the people. They are environmentalists. They are certainly desirous of protecting the Nation's environment.

The resolution that came with the letter reads as follows:

Whereas the Society for the Prudent Use and Environmental Protection of Our National Resources has pledged itself to promote use of our natural resources with adequate protection of our environment

Whereas the nation is feeling the effect of what could become an acute petroleum energy shortage

Whereas the delivery of North Slope oil to the American market will do much to strengthen the American economy, reduce inflationary pressures, improve the balance of payments, and stabilize the dollar's position in relation to foreign currency, and

Whereas this body in special meeting has been presented with substantial information pertaining to the environmental safeguards planned for the proposed pipeline which indicates the Alaska pipeline has been subjected to the most complete environmental impact study ever devised by man

Therefore I move that we call upon the Members of the Congress of the United States to contribute their early support to that of the people of the State of Alaska for the construction of the Trans-Alaska Pipeline.

I would just like to read one paragraph again:

Whereas this body in special meeting has been presented with substantial information pertaining to the environmental safeguards planned for the proposed pipeline which indicates the Alaskan pipeline has been subjected to the most complete environmental impact study ever devised by man.

Mr. GRAVEL. Mr. President, may I interrupt again?

Mr. FANNIN. I yield.

Mr GRAVEL. When we use the words "environmental study" in context, it should be borne in mind that it is not only that, actually; it is the most definitive study by any human endeavor, probably, save the space program, which was done by the Government. This was done by the private sector. I think when we talk about it, it should be remembered that it is not just in terms of the environment, but is in terms of engineering and technology. We have developed more knowledge of the Arctic as a result of this study than man has ever devised before. When we consider this whole body of the knowledge of the Arctic, and knowledge of oil that is in that area, it will be seen it is not just a study of the environment; it is a body of study of all facets of the program, engineering, and what-have-you that are of benefit.

The significance is that this has never been done in the private sector to this day in the entire history of mankind. The first time it was done was by the Government in regard to the space program which, I think, is a very commendatory situation.

Mr. FANNIN. Mr. President, I thank the distinguished Senator from Alaska for emphasizing the magnitude of the work that has been done. Very few of our people realize just what has been accomplished in the work that has gone forward in Alaska.

I would like also to discuss with my friend, the Senator from Alaska, a little concerning the impact of this, as I mentioned earlier. I think the Senator realizes that we must have low-cost energy in this country if we are to compete internationally. Here we are talking about the availability of more energy than we have to look forward to from any other domestic source in the immediate future.

We know that we have plans going forward for coal gasification. We have studies being made so that more of our coal can be used. We are talking about the environment and a product with a low sulfur content. We will be held up from using coal because of the high sulfur content of the coal available. And we keep discussing the environment. We are talking about the environment of the lower 48 States. We are talking about the environment of Alaska and Hawaii. We are talking about the environment of all States. After all, it is the protection of the environment in these areas that we are discussing.

So, when we admit that we are not doing everything within our power to bring this low sulfur content fuel into these markets, we are admitting that we certainly have not lived up to our obligation. I think that the Senator from Alaska will agree to that.

When we talk about the economy of this Nation, we must recognize that we have to import many products into our country. We have an imbalance of trade with the Japanese of $4 billion. Some say it is changing. However, it certainly is not changing very much. It will go the other way if we do not have low cost fuel.

The Japanese must import practically all of their fuel. With the present wages they pay and with their productivity, it certainly places them in a position where they are competitive with their manufactured goods or we would not be flooded with their exports to our country.

If we are to look forward to changing this imbalance of trade, we must develop our natural resources and maintain the integrity of the dollar. And we cannot do that if we start importing more fuel from the Persian Gulf States in the not too distant future.

They are talking about importing $20 to $25 billion of petroleum products from other countries of the world, and principally from the Persian Gulf countries. The Senator from Alaska has brought out the hazard involved in that respect. We do not know what price will be involved. We have small control over the price. OPEC countries have markets for that fuel. They are not worried about the situation.

If they acquire $20 billion to $25 billion of oil revenue they will have more financial reserves than all of the other countries of the world combined by 1985. I do not feel that will come about. It would bankrupt this country and would cause disaster throughout the rest of the world. We cannot let it happen. We have to develop our resources. There is some talk about geothermal steam. We have great potential in this field. We have talk of thermal nuclear energy. We do not see the development of that in the immediate future. We have all of these other projects. We are working on them. They have a great deal to do with what happens on the price of imported oil. However, most important, we have the possibility of the opportunity to bring in oil from Alaska. And that is the No. 1 opportunity we have facing us for the next few years.

We do not know how much oil there is in Alaska. I have heard the Senators from Alaska discuss the tremendous amount of oil that might be available.

We know that the oil companies determined that they would not conduct exploration in the future because they would not be able to build this pipeline. That was several months ago. They deferred exploration until a later time.

Is it the Senator's belief that if we go forward, there will be further exploration in the next few years?

Mr. GRAVEL. There is no question about it. We have to satisfy more and more of our energy needs domestically. We will see a new experience in Alaska. We will have a more vigorous search for oil than we have ever witnessed on the face of the Earth because they will have to find it. No oil company would spend one dime until they could be guaranteed that they could get that oil out.

That is the problem that we have today. We are studying now how to permit that exploration to go forward. We have potentially five pools that we feel might be as big as Prudhoe Bay. We could have upwards of 1-billion barrels of oil.

Mr. FANNIN. And this will not be determined until we go forward with the pipeline so that America will have the opportunity to use Alaskan oil.

Mr. GRAVEL. It would be foolish for them not to proceed.

Mr. FANNIN. They do not want to make an investment for further exploration until they feel they will be able to use the oil, this along with the possibil-

ity of oil from the Outer Continental Shelf. They will go forward with less doubtful programs as far as large amounts of the energy is concerned. We have a means of producing energy such as from geothermal steam. It is said that we may not be able to produce more than 1 or 2 percent of our energy needs. That is a fantastic amount of energy.

We cannot sit idly by and not do everything within our power to push forward on all sources of domestic energy.

As the Senator from Alaska knows, many of these programs are going forward. However, our greatest potential lies in Alaska. That is why it is vitally important that we not delay this one day longer than is absolutely essential.

Mr. President, I feel that, as the Senator expressed earlier, the crucial votes coming today and tomorrow will make a decision that will affect our society for many years to come.

I commend both Senators from Alaska for the way in which they have handled this legislation, for the work they have done, for the homework that they did before the legislation came to the floor, and for their continued desire to cooperate in every way possible to elaborate to the people of this Nation and to the Congress just what is involved.

Mr. BARTLETT. Mr. President, I ask unanimous consent to have printed in the RECORD a resolution unanimously adopted by the Interstate Oil Compact Commission at Tulsa, Okla., on June 13, 1973. In view of the great interest today to eliminate shortages of energy and to have sufficient domestic energy available to safeguard our national security, to protect our economy, and to provide for a clean environment, I urge my colleagues to consider this resolution.

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

RESOLUTION

Article II of the Interstate Compact to Conserve Oil and Gas states that "the purpose of this compact is to conserve oil and gas by the prevention of physical waste thereof from any cause." The Compact believes that waste includes the failure to find, develop and direct the full potential domestic petroleum resources to fill the present and future consumer needs. Such failure is not limited to operating practices of those who develop the petroleum resources, nor the action or lack of action by State regulatory agencies, but can result from Federal policies as well. The Compact has for many years worked to inspire and promote conservation of these essential and non-renewable resources upon which our Nation relies so heavily. The high standards of living that the people of our Nation are privileged to enjoy are due largely to the availability of an ample domestic energy supply. About 75 percent of this energy comes from oil and gas and these resources will continue to be called upon to contribute a large share of the Nation's energy for many years.

The United States has undergone a substantial change in its basic petroleum supply situation. The Nation must quickly adapt to these changes. In the past, the U.S. has had the benefit of surpluses of both producing and refining capacity. This situation has reversed, and now both crude supply and refining capacity are short. Last winter, clean fuel supplies in the U.S. were very tight and now we face a summer of gasoline supply problems. However, these difficulties are just a sample of what the country will encounter unless far-reaching actions are taken very soon.

Now, therefore, be it resolved that the Interstate Oil Compact Commission urges the Governors of the Compacting States to take positive action in all effective ways toward the following measures to prevent waste and conserve oil and gas:

1. Develop a climate which will permit competitive market forces to efficiently direct the available supply of petroleum fuels to their highest priority uses throughout the Nation. This would encourage large stationary energy consumers to accelerate conversion to coal or other alternative fuels.

2. Prudently extend the timetable for achieving air quality goals so as to alleviate near term shortages of clean petroleum fuels.

3. Encourage the research and development of, and provide incentives for improved secondary and tertiary recovery projects, including the formulation of effective unitization assistance laws in all States.

4. Carefully examine environmental restrictions and administrative requirements to encourage the promptest possible development of potential oil and gas producing areas in Alaska and in other offshore and onshore areas.

5. Cultivate broad based attitude of energy conservation in citizens and all segments of the economy so as to reduce oil and gas consumption. Endorse use of car pooling, slower highway speeds, mass transit, more efficient industrial uses and other similar measures.

6. Remind the oil and gas industry that it has a continuing responsibility in this period. Urge it not to deviate from its historical practice of developing and supplying sufficient hydrocarbons to the American people at reasonable prices consistent with the free enterprise system.

Be it further resolved that the Executive Secretary of the Interstate Oil Compact Commission is hereby instructed to furnish a duly certified copy of this resolution to each of the Governors and Official Representatives of the Compacting States for such action as is deemed necessary.

QUORUM CALL

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

The PRESIDING OFFICER (Mr. HATHAWAY). 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.

UNANIMOUS-CONSENT AGREEMENTS

Mr. ROBERT C. BYRD. Mr. President, I am authorized by the distinguished majority leader to propound the following two unanimous-consent requests, which have been cleared with the other side of the aisle.

Mr. President, I ask unanimous consent that at such time as S. 1983, a bill to provide for the conservation, protection, and propagation of species or subspecies of fish and wildlife, and for other purposes, is called up and made the pending business before the Senate, there be a time limitation thereon of 1 hour for general debate on the bill and one-half hour on any amendment, debatable motion, or appeal, and that the agreement be in the usual form.

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

S. 1983

Ordered, That, during the consideration of S. 1983, the Endangered Species Act of 1973, debate on any amendment, debatable motion or appeal shall be limited to one-half hour, to be equally divided and controlled by the mover of any such amendment or motion and the manager of the bill: *Provided,* That in the event the manager of the bill is in favor of any such amendment or motion, the time in opposition thereto shall be controlled by the minority leader or his designee: *Provided further,* That no amendment that is not germane to the provisions of the said bill shall be received.

Ordered further, That on the question of the final passage of the said bill debate shall be limited to 1 hour, to be equally divided and controlled, respectively, by the majority and minority leaders, or their designees: *Provided,* That the said leaders, or either of them, may, from the time under their control on the passage of the said bill, allot additional time to any Senator during the consideration of any amendment, debatable motion or appeal.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at such time as S. 782, a bill to amend the antitrust laws of the United States, and for other purposes, is called up and made the pending business before the Senate, there be a time limitation thereon of one-half hour, and that there be a time limitation on amendments, debatable motions, and appeals of 20 minutes each, that the time on the bill be equally divided between and controlled by Mr. TUNNEY and Mr. JAVITS, and that the agreement be in the usual form.

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

S. 782

Ordered, That, during the consideration of S. 782, the Antitrust Procedures and Penalties Act, debate on any amendment, debatable motion or appeal shall be limited to 20 minutes, to be equally divided and controlled by the mover of any such amendment or motion and the manager of the bill: *Provided,* That in the event the manager of the bill is in favor of any such amendment or motion, the time in opposition thereto shall be controlled by the minority leader or his designee: *Provided further,* That no amendment that is not germane to the provisions of the said bill shall be received.

Ordered further, That on the question of the final passage of the said bill debate shall be limited to ½ hour, to be equally divided and controlled, respectively, by the Senator from California (Mr. TUNNEY) and the Senator from New York (Mr. JAVITS): *Provided,* That the said Senators, or either of them, may, from the time under their control on the passage of the said bill, allot additional time to any Senator during the consideration of any amendment, debatable motion or appeal.

Mr. ROBERT C. BYRD. Mr. President, likewise, with respect to S. 1983, I ask unanimous consent that the time on the bill be equally divided and controlled by the distinguished majority leader and the distinguished minority leader, or their designees.

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

Mr. ROBERT C. BYRD. I thank the Chair.

MESSAGES FROM THE PRESIDENT

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

EXECUTIVE MESSAGES REFERRED

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

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

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. GRAVEL. Mr. President, the delay in getting oil to the lower 48 States from Alaska's North Slope is not only adding to this Nation's energy woes, but also it is undermining our negotiating power with the oil-producing countries of the Middle East.

The June 14 issue of the Washington Post carries an editorial about Qaddafi of Libya entitled "Oil Blackmail." In just mentioning Colonel Qaddafi and his recent nationalization of American oil companies in Libya, I do not think I have to explain what the problem is all about.

I know that my colleagues share my deep concern about the energy crisis and the potential threat of reduced oil imports from the Middle East. Early production of oil via the trans-Alaska pipeline would serve to offset obvious disadvantages in negotiations with the Middle Eastern oil producing countries. Increased domestic production would likewise decrease our balance-of-payments deficit.

I ask unanimous consent to have the editorial printed in the RECORD.

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

OIL BLACKMAIL

Col. Qaddafi, the erratic supernationalist, who rules Libya, nationalized a British oil company in 1971 and now has nationalized its American partner, Bunker Hunt of Dallas. On both occasions he said he was taking a political step to punish the parent government: London for supporting Iran, Washington for supporting Israel. "The time has come for us to deal America a strong slap on its cool, arrogant face" was the way he put it the other day. For the announcement he was wildly cheered in Tripoli. If, as some expect, he seizes the three other American firms producing in his country, he will win further cheers. The world's thirst for oil and Libya's excess of revenues over needs are such that, in the short-term frame in which he evidently considers these matters, he may well get away with these grabs—assuming he stays in power. But whether he achieves what he maintains are his larger political purposes in respect to Israel and the United States is something else again.

To understand why, one need only look at the man who was standing next to Col. Qaddafi when he announced his seizure of Bunker Hunt: President Sadat of Egypt. No doubt Mr. Sadat would dearly like to see Arab oil used to scare or press the United States into forcing Israel back to its pre-1967 borders. This is his last best hope of staving off the negotiations with Israel which he so ardently avoids. Mr. Sadat, however, needs the United States. Just a few weeks ago, for example, he signed up Exxon and Mobil—two of the "monopolistic oil companies" denounced by Col. Qaddafi—to spend $73 million exploring off the Egyptian coast. In a special but real sense, Washington has become Egypt's only military protector, now that the Soviet Union has removed its shield from Cairo. Libya's domestic radicalism is also more than Egypt can stomach. Moreover, the echoes of the Qaddafi rhetoric notwithstanding, Libya simply does not possess the means of swaying the big Persian Gulf producers who are following more moderate policies toward oil companies and consumers, and toward the United States and Israel, too.

To hold that oil blackmail should not and will not work, however, is not to deny that the energy squeeze has probably made it inevitable that different Arabs will try in their different ways to employ it against the United States. Nationalism, radicalism or greed, singly or together, would have tempted producers to exploit the energy squeeze even if Israel did not exist. The existence of Israel makes it possible to rationalize price gouging as a political act. Of course, the Israelis should not be expected to pay for economic costs for which they bear no blame.

At the same time, there is emerging now in Israel a tendency to describe any call for Israeli compromise on settlement terms as an unacceptable exercise in oil blackmail. The United States is being told that its own interests will suffer if it takes steps touching Israel at a time when it is coming under pressure, real or imagined, on oil. This attitude is wrong. An Arab-Israeli settlement is no less desirable in its own right simply because some Arabs say it is necessary for reasons of American oil. The "energy challenge," as Mr. Nixon calls it, will be around a long time. Surely the United States cannot accept the budding Israeli contention that an Arab-Israeli settlement should be put off until that "challenge" is met.

Mr. GRAVEL. Mr. President, I was pleased to receive a copy of a letter from Mr. S. S. Cooke-Yarborough of Larchmont, N.Y., in reply to a letter to the editor of the New York Times credited to my esteemed colleagues, Senator MONDALE of Minnesota and Senator BAYH of Indiana, in support of a crude oil pipeline from Prudhoe Bay through Canada.

Mr. Cooke-Yarborough is a former resident of Alaska and a well-known and highly respected civil engineer with extensive knowledge of the Alaskan and Canadian environments. He points out some obvious flaws in arguments that some proponents are using to support a trans-Canadian line. Those obvious flaws cover design, engineering and construction costs, and construction time. One of the most interesting flaws is the general assumption, or inference, that the trans-Canadian line would be an "all-Canada" land route with little or none of it in Alaska. The inference, of course, is that if the route is through Canada then there would be no threat whatsoever to Alaska's environment.

Actually, this is not the case.

With a trans-Canadian route of 1,738 miles from Prudhoe Bay to Edmonton, approximately 25 percent of the line—or more than 400 miles—would pass through Alaska with 482 miles through permafrost areas of Alaska and Canada, and 918 miles through discontinuous permafrost. Additionally, the trans-Canadian line would cross 8 major rivers and 69 streams as compared to the trans-Alaskan route crossing one major river and 25 streams.

So that my colleagues may have the benefit of Mr. Cooke-Yarborough's technical knowledge and appraisal of the two routes, I ask unanimous consent to have his letter printed in the RECORD.

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

LARCHMONT, N.Y., *June 12, 1973.*

Senator WALTER F. MONDALE,
Senator BIRCH BAYH,
U.S. Senate,
Washington, D.C.

GENTLEMEN: I have read your letter to the editor in the New York Times of June 11, 1973 which indicates that you support bringing Alaskan oil via a Mackenzie River pipeline rather than the proposed Alyeska pipeline from Prudhoe Bay to Valdez, Alaska. Certain points in your letter seem to be continuing what I believe to be misconceptions that never seem to get pointed out with respect to the proposed Canadian line.

As a matter of introduction: I am a Civil Engineer licensed in the State of Alaska and other states and have had extensive experience in highway design in Alaska and in the period November, 1971–January, 1972 I was the Project Director for a "quickie" feasibility study of the Alyeska pipeline which was made for the State of Alaska by the consulting engineering firm for whom I then worked. This three month study consisted of an intensive in-depth analysis of the investigations and designs that had been prepared by the Alyeska group and included consultation with Canadian specialists who had been working on heat transfer and other experiments for the Canadian line. In addition, I have traveled in Arctic Canada and have been in the Mackenzie River Delta area. I am therefore not without knowledge of the environment and of the proposed Alyeska and Canadian pipelines and the engineering and environmental problems by which they are beset.

One of the major points that appears to be neglected by proponents for bringing north slope oil by the Canadian line is that Prudhoe Bay is not on the Alaska-Canada border. It is, in fact, some 180 miles airline distance to the west of the border and is separated therefrom by a rugged mountainous area that extends practically to the Beaufort Sea. These mountains consist of the Shublik Mountains, the Franklin Mountains, the Romanzof Mountains and further to the south the Philip Smith Mountains and the Davidson Mountains. On the Canadian side are the British Mountains and the Richardson Mountains before the flatlands of the Mackenzie Delta are reached. If the proposed line were to follow the shore of the Beaufort Sea it would cross the very large number of drainage courses, each of which represents a difficult engineering problem increasing the cost and the potential for breakage of the pipe. Furthermore, I believe that the north slope of these mountains in this area is a wildlife preserve.

If the coast route is to be avoided the pipeline would have to cross the Brooks Range,

which in this area is composed of the above named groups of mountains and would enter Canada further to the south. This would increase the length of the line within Alaska and also increase the length of the line within Canada which is in the mountainous area west of the Mackenzie River. With either routing the length of the pipeline in Canada would be equal to 25% or more of the length of the proposed line from Prudhoe Bay to Valdez and this length would all be in the wilderness areas of the Brooks Range, the crossing of which by the pipeline has so upset the environmentalists. The Canadian route does not therefore remove the line from Alaska; it, in fact, leaves a very large section of it in Alaska. What therefore is the great advantage of handing over control of the transport of our oil to the Canadians?

The public furor over the environmental consequences of the Trans-Alaska pipeline have caused probably the most complete and thorough engineering analysis ever made for any project. The pipeline as now designed would have every possible protection within reason and almost beyond reason, against environmental damage (most of the pipelines currently in use within the United States pose far greater damage potentials because they are not engineered to the same degree of safety). I believe it is also important that one should put the environmental dangers in scale. Much has been said and written about the Right-Of-Way for the pipeline and its adjoining road as destroying the wilderness area in Arctic Alaska. Arctic Alaska is hundreds of miles wide and the Right-Of-Way is something like 100 feet. With the precautions now built into the design to prevent oil spill and the containment of such should it occur, the ratio of the area which might possibly become affected compared with the millions of acres that would not be affected is infinitesimally small.

We note in your letter that you said "A Trans-Canada line could ship part of its production to the West Coast through existing pipelines from Edmonton to Seattle but a Trans-Alaska pipeline would mean that the entire area east of the Rockies would be virtually cut off from Alaskan oil". Why? It is equally possible to ship oil from the Seattle area eastwards across the United States by pipeline as it is to ship from Edmonton to Seattle. In fact, I believe that a pipeline from the Seattle area to the central United States is under study. Assuredly this would involve shipment by two pipelines and tanker, which is no different from oil shipped from the Middle East and delivered by pipeline throughout the United States. The economics of it would probably be no worse than those of transporting via the Mackenzie River line.

In your letter you state that "A Trans-Canada line would cost about $3.5 billion to $4 billion". I know that this was a very preliminary figure given a number of years ago for the Mackenzie River line. At that time the Alaska line was estimated to be about $1 billion. When I worked on the Alaska line study the cost estimate was about $3½ billion. It has probably gone up since then. How could a line from Prudhoe Bay to Edmonton, which has to traverse some 200 miles in Alaska in rugged country and a vastly greater length in Canada, cost only $3.5 billion to $4 billion? From the experiments that have been conducted by the Canadians, there is every reason to believe that they will be equally concerned about the melting permafrost (the length of the Canada line in permafrost would be greater than that of the Alaska line in permafrost) and of damage in general to their wilderness environment. Costs of construction of the Mackenzie line must cost approximately the same as that of the Alaska line and cost of the Alaska Mackenzie River route must be three to four times that of Alaska route.

From all published statements that I have seen concerning the comparison of the two proposed lines that have come from congressional sources, there appears to me an imbalance in the quality of the technical information available to those interested in the project. The realism of costs and problems associated with the Alaska line have been excellently evaluated and presented in the environmental statement and studies prepared by the Alyeska group, admittedly as the result of prodding by the State of Alaska and the environmentalists, but the problems of costs and environmental consequences for the Canada line appear to be consistently played down and incorrect. With the energy situation in the United States it is obvious that Alaskan oil must be brought to market. By which route is a decision of national importance. It is my sincere hope that you and other members of the Congress will be diligent in acquiring truly equivalent evaluations of the two routes before a decision is made not to build the Alaska pipeline.

Very truly yours,
S. S. COOKE-YARBOROUGH.

Mr. GRAVEL. Mr. President, one of the arguments we hear most often from the opponents of the trans-Alaska pipeline is that the oil is needed in the Midwest—not the west coast—and that the oil would be surplus and exported.

It will take approximately 3 years from go-ahead to construct the trans-Alaska pipeline. With the projected increase in consumption of petroleum products and a decreasing production, it is estimated that by 1980 California alone will be dependent upon imports for more than 75 percent of its needs.

Mr. Howard S. Williams, editorial director of station KNXT, Los Angeles, has pointed out this blunt fact in editorials broadcasted on June 20 and 21 in support of immediate construction of the trans-Alaska pipeline.

I would like to share Mr. Williams' editorial with my colleagues and ask unanimous consent to have it printed in the RECORD.

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

ALASKA PIPELINE

Broadcast: June 20 and 21, 1973

That huge Northern Alaska oil field was discovered five years ago, but we're still years away from getting the oil here where it's needed.

Prudhoe Bay, where the oil is, is frozen all but six weeks a year. So the plan is to bring the oil down an 800-mile pipeline to an ice-free port at Valdez. From there, tankers will deliver 2 million barrels a day to the West Coast.

However, a number of self-appointed environmental experts have battled the pipeline for years, and still are—as if no oil shortage existed—as if a State bigger than Texas is really going to be despoiled by a 100-foot pipeline right-of-way across a frozen no-man's land.

The Supreme Court decided not long ago that a 1920 law which limits a right-of-way to 50 feet would apply to the pipeline, so Congress will have to change the law, and they should.

We need that oil. Californians will use almost 1.5 million barrels of oil this year. However, we will produce only 800,000 barrels. The rest is imported.

By 1980, consumption will be around 2.5 million barrels, but production has been going down and in 1980 will be only 600,000 barrels. The Alaska pipeline could supply the difference.

Alaska's Senator, Mike Gravel, is backing an amendment that would permit construction of the pipeline at once. But the environmentalists are stalling again. The dodge now is to call for a study of a trans-Canadian pipeline. That's out of the question. A Canadian pipeline would be three times as long, three times as expensive, it would take many more years to build, and Canada has given no assurance it would permit such a line.

The answer to part of the fuel stortage is the Alaska pipeline. It's going to take three years to build, and Congress should clear the way to start now.

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

The PRESIDING OFFICER (Mr. STEVENSON). On whose time?

Mr. GRAVEL. Not counted against either side.

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

The second assistant legislative clerk proceeded to call the roll.

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

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

Mr. ROBERT C. BYRD. Mr. President, the distinguished Senator from Texas is about to call up an amendment. I ask unanimous consent that the amendment by Mr. GRAVEL may be temporarily laid aside and that the Senate proceed to the consideration of the amendment by Mr. BENTSEN; that if a yea-and-nay vote is ordered on the Bentsen amendment, it occur immediately upon the disposition of the amendment by Mr. BUCKLEY, which is scheduled to be disposed of at 2:30 p.m. today.

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

Mr. BENTSEN. Mr. President, I call up my amendment which is at the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

Section 308 after the words "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 government' the words 'independent Federal regulatory agencies'," add the following:

That Chapter 35 of Title 44, United States Code, is amended by adding after Section 3511 the following new section:

INFORMATION FOR INDEPENDENT REGULATORY AGENCIES

SEC. 3512. The Comptroller General of the United States shall review and approve the collection of information required by independent federal regulatory agencies described in Section 3502 of this Chapter in order to insure that the information needs of such agencies should be obtained with a minimum burden upon business enterprises, especially small business enterprises, and other persons required to furnish the information. Unnecessary duplication of efforts in obtaining information through the use of reports, questionnaires, and other methods shall be eliminated as rapidly as practicable. Information collected and tabulated by an independent regulatory agency shall, as far as is expedient, be tabulated in a manner to maximize the usefulness of the information to other federal agencies and the public.

(a) In carrying out the policy of this Section, the Comptroller General shall review

all existing information gathering practices of independent regulatory agencies as well as requests for additional information with a view toward

(1) avoiding duplication of effort by independent regulatory agencies, and

(2) minimizing the compliance burden on business enterprises and other persons.

(b) In complying with this section, an independent regulatory agency shall not conduct or sponsor the collection of information upon identical item, from ten or more persons, other than Federal employees, unless, in advance of adoption or revision of any plans or forms to be used in the collection—

(1) the agency submitted to the Comptroller General the plans or forms, together with the copies of pertinent regulations and of other related materials as the Comptroller General has specified; and

(2) The Comptroller General has stated the information is not presently available to the independent agency for another source within the federal government and has determined that the proposed plans or forms are consistent with the provision of this section.

(c) While the Comptroller shall determine the availability from other federal sources of the information sought and the appropriateness of the forms for collecting such information, the independent regulatory agency shall make the final determination as to the necessity of the information in carrying out its regulatory function.

(d) Section 3508 of this Chapter dealing with unlawful disclosure of information shall apply to the use of information by independent regulatory agencies.

(e) The Comptroller General may promulgate rules and regulations necessary to carry out this Chapter.—

Mr. BENTSEN. Mr. President, I ask unanimous consent that the names of the following Senators be added as cosponsors of this amendment: the Senator from Utah (Mr. Moss), the Senator from Arizona (Mr. FANNIN), the Senator from Wyoming (Mr. HANSEN), and the Senator from Georgia (Mr. NUNN).

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

Mr. BENTSEN. Mr. President, this amendment is brought about by an amendment that was passed on Saturday, the Hart amendment. The Hart amendment would remove the following agencies from the Federal Reporting Service Act of 1942: the Civil Aeronautics Board, the Federal Communications Commission, the Atomic Energy Commission, the Federal Trade Commission, the Interstate Commerce Commission, the Securities and Exchange Commission, and the Federal Power Commission.

I concur with the objective of that amendment, and I voted for it. My concern there was that the OMB was in a policy position, in effect, to veto the obtaining of information by these independent regulatory agencies—information that I thought was necessary for them to arrive at a judgment. But I am also concerned by the problem of a proliferation of Government reports requested, of agencies that ask for reports sometimes for capricious reasons, or they might ask for a report where the information already is available, where another agency obtained it, or ask for it in an unreasonable format. So over the weekend, in trying to resolve that problem and accomplish both objectives I drafted this amendment.

Mr. President, the Bentsen amendment would provide a separate section 3512 in the Federal Reporting Services Act to deal with the information needs of these independent regulatory agencies. It would retain the Hart amendment exemption from OMB approval. It would require that before any of these agencies could publish a new or revised reporting requirement it would have to receive prior approval by the General Accounting Office.

The General Accounting Office would determine two things: First, was the information available to the independent agency from another Federal source; and second, are the forms designed to minimize the reporting burden, especially to small business.

Unlike the previous oversight by OMB the GAO would not make the final decision as to whether the information was needed. That decision would be left with the independent agency.

My feeling was that if the General Accounting Office were given veto power over whether information was needed, it is putting them in the policy-decision framework, and I do not think that should be done.

The amendment also instructs the General Accounting Office to review present reporting requirements of independent agencies to simplify and remove duplication where practicable.

I believe that this will answer both objectives and it will help the businessman who has been subjected in many instances to designating reports to various Government agencies, which has caused an expensive burden on him. In addition, a middleman would be required to give some assistance in connection with reports, to make it easier for the businessman to develop the information.

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

Mr. BENTSEN. I am happy to yield to the Senator from Wyoming.

Mr. HANSEN. Mr. President, I wish to ask my good friend from Texas whether it is his intention through this amendment to give a responsible agency of Congress an opportunity to review the information that is presently available to the various regulatory agencies of the United States and to make certain we do not plow the same ground another time if the information is on hand.

Mr. BENTSEN. The Senator is correct. It would be a coordinating point where someone would be charged with the responsibility to see if this information is or is not available. One would think the regulatory agency itself would do that, but there has been no incentive for them to do it.

Mr. HANSEN. As I understand it under the present law which the amendment adopted last week would repeal, authority is given to the Bureau of the Budget or OMB to pass on the propriety of questions submitted by any regulatory agency.

With respect to the philosophy behind that law, which I understand has been in effect since 1942, the Senator spoke about capriciousness. I was not certain I heard what the Senator said. Was it the Senator's thought there may be some idea that perhaps someone could review questions to see if they were capricious, but that it is not the Senator's intention here to cloak the GAO with that authority?

Mr. BENTSEN. Not to determine a policy question. I think I used the word capricious, in connection with burdens on the businessman, and the forms presented to him, without developing a simple form the businessman could handle without a lot of outside hired expertise.

Mr. HANSEN. Mr. President, would it be the Senator's opinion that the General Accounting Office, if his amendment is successful, would probably request an opinion, or suggest one, in which information would be garnered from questionnaires distributed, and not be unduly burdensome on individuals or include any heresy or threatening language that might strike a person being interrogated as causing undue fear or undue concern?

Mr. BENTSEN. I should think that if there were a department or a bureau in the General Accounting Office that was, in effect, charged with this responsibility, it would focus on trying to develop simplified reports to see that the purpose was accomplished, and that they would have a myriad of examples from other agencies that had done effective work in trying to develop this information and had obtained those examples from other agencies. That would be of great assistance in simplifying forms and developing information.

Mr. HANSEN. I think there is great merit in the amendment proposed by the Senator from Texas. I am proud to be a cosponsor of the amendment. It is a step in the right direction. It will restore some semblance of expertise and knowledge to an operation that I think could very conceivably get out of hand without the leavening good judgment that I think is found in the GAO. I am happy to cosponsor the amendment.

Mr. BENTSEN. I thank the distinguished Senator from Wyoming. He and I have both had many instances cited to us of small businessmen who have had to devote a too disproportionate amount of their time to answering governmental requests for information that really had little correlation to the size of the business and such benefits as might redound to it.

Mr. President, I ask for a favorable consideration of my amendment.

The PRESIDING OFFICER. Who yields time? If time is not yielded, it is to be charged equally to both sides.

Mr. BENTSEN. Mr. President, I yield back the remainder of my time.

Mr. HANSEN. Mr. President, I yield back the remainder of my time.

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

The amendment was agreed to.

Mr. BENTSEN subsequently said: Mr. President, I ask unanimous consent that in the amendment proposed by me which was agreed to by the Senate this morning, certain amendments of a technical nature may be incorporated, which have been cleared with the Senator from

Michigan (Mr. HART) and the Senator from Washington (Mr. JACKSON), to make clear that the General Accounting Office, in extending its advice, must do so within 45 days. That is the substance of the technical amendment.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Texas? Without objection, it is so ordered.

Mr. BENTSEN. I thank the distinguished Senator.

Mr. BENTSEN's amendment, as modified, is as follows:

Section 308 after the words "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,'." add the following:

That Chapter 35 of Title 44, United States Code, by adding after Section 3511 the following new section:

INFORMATION FOT INDEPENDENT REGULATORY AGENCIES

SECTION 3512. The Comptroller General of the United States shall review the collection of information required by independent Federal regulatory agencies described in Section 3502 of this Chapter to assure that information required by such agencies is obtained with a minimum burden upon business enterprises, especially small business enterprises, and other persons required to furnish that information. Unnecessary duplication of efforts in obtaining information already filed with other Federal agencies or departments through the use of reports, questionnaires, and other methods shall be eliminated as rapidly as practicable. Information collected and tabulated by an independent regulatory agency shall, as far as is expedient, be tabulated in a manner to maximize the usefulness of the information to other Federal agencies and the public.

(a) In carrying out the policy of this Section, the Comptroller General shall review all existing information gathering practices of independent regulatory agencies as well as requests for additional information with a view toward

(1) avoiding duplication of effort by independent regulatory agencies, and

(2) minimizing the compliance burden on business enterprises and other persons.

(b) In complying with this Section, an independent regulatory agency shall not conduct or sponsor the collection of information upon identical item, from ten or more persons, other than Federal employees, unless, in advance of adoption or revision of any plans or forms to be used in the collection—

(1) the agency submitted to the Comptroller General the plans or forms, together with the copies of pertinent regulations and of other related materials as the Comptroller General has specified; and

(2) the Comptroller General has advised that the information is not presently available to the independent agency from another source within the Federal Government and has determined that the proposed plans or forms are consistent with the provision of this section. The Comptroller General shall maintain facilities for carrying out the purposes of this Section and shall render such advice to the requestive independent regulatory agency within 45 days.

(c) While the Comptroller shall determine the availability from other Federal sources of the information sought and the appropriateness of the forms for collection of such information, the independent regulatory agency shall make the final determination as to the necessity of the information in carrying out its statutory responsibilities and whether to collect such information. If no advice is received from the Comptroller General within 45 days, the independent regulatory agency may immediately proceed to obtain such information.

(d) Section 3508(a) of this Chapter dealing with unlawful disclosure of information shall apply to the use of information by independent regulatory agencies.

(e) The Comptroller General may promulgate rules and regulations necessary to carry out this Chapter.

Mr. BENTSEN. Mr. President, I move that the Senate reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question now recurs on the amendment of the Senator from Alaska (Mr. GRAVEL).

Mr. ROBERT C. BYRD. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from West Virginia will state it.

Mr. ROBERT C. BYRD. How much time remains on the amendment offered by the distinguished Senator from Alaska (Mr. GRAVEL)?

The PRESIDING OFFICER. No time has been used on the amendment; 1 hour remains.

Mr. ROBERT C. BYRD. Has the time used thus far been taken from the time on the bill?

The PRESIDING OFFICER. From the bill.

Mr. ROBERT C. BYRD. So 1 hour remains on the Gravel amendment?

The PRESIDING OFFICER. The Senator is correct.

Mr. STEVENS. Mr. President, will the Senator from West Virginia yield?

Mr. ROBERT C. BYRD. I yield.

Mr. STEVENS. It is my understanding that we will use that 1 hour tomorrow morning.

Mr. ROBERT C. BYRD. Mr. President, the Senator from Alaska states that it is his desire, as a cosponsor, to use that 1 hour tomorrow morning. That being the case, is time now running on the bill?

The PRESIDING OFFICER. Time has now run on the bill in the recent consideration of this amendment. Unanimous-consent agreements had been entered for quorum calls which provided that no time run against the bill.

Mr. ROBERT C. BYRD. A further parliamentary inquiry, Mr. President. In view of the fact that time allowed on the Gravel amendment under the order—1 hour being allotted to any amendment—is to be reserved until tomorrow, is unanimous consent required to call up any other amendment at this time as long as debate is not running against the Gravel amendment?

Let me make this unanimous-consent request, which may be helpful, so that I will carry out the desire of the distinguished Senator from Alska.

I ask unanimous consent that at least 45 minutes of the 1 hour allotted to the amendment by Mr. GRAVEL not begin running until the hour of 10:15 a.m. tomorrow.

I make this request because up until this moment the agreement calls for a vote on the Gravel-Stevens amendment tomorrow at 11 a.m. The distinguished Senator from Alaska (Mr. STEVENS) indicated on last Saturday that, if it were possible, the sponsors of the amendment would like to see that vote delayed 15 minutes. But as of now, the vote must occur at 11 a.m. tomorrow. As of now the vote on the Haskell amendment will occur not later than 10 a.m. tomorrow. That vote may, however, occur earlier than 10 a.m. tomorrow. But as the order now stands, the vote on the Haskell amendment could be delayed until the hour of 10 a.m. tomorrow.

If such is the case, with 15 minutes allowed for a roll call, only 45 minutes would remain between the disposition of the vote on the Haskell amendment and the beginning of the roll call on the Gravel-Stevens amendment at 11 o'clock a.m. Hence my request that 45 minutes of the hour on the Gravel amendment be held in reserve until tomorrow beginning no later than 10:15 a.m.

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

Mr. ROBERT C. BYRD That leaves 15 minutes of the hour to be disposed of at some point, if it is ever disposed of.

Now my parliamentary inquiry: Is it in order to call up other amendments to the Alaska Pipeline bill during the afternoon of today without getting unanimous consent to set the amendment by Mr. GRAVEL aside?

The PRESIDING OFFICER. After the 15 minutes are used their afternoon, it would be assumed that the amendment was put aside until tomorrow, when the remaining time begins.

Mr. ROBERT C. BYRD. So that other amendments could then be called up during the afternoon of today?

The PRESIDING OFFICER. That is correct.

Mr. ROBERT C. BYRD. This, I think, clarifies the situation, to my satisfaction, and I think it could very well help prevent a tangled situation developing from a misunderstanding later on.

Mr. FANNIN. Mr. President, will the distinguished acting majority leader yield?

Mr. ROBERT C. BYRD. I yield.

Mr. FANNIN. As I understand it that would not apply to any amendment that is not germane to the pending bill.

Mr. ROBERT C. BYRD. Absolutely. This colloquy has nothing to do with the germaneness procedure. I am glad the Senator from Arizona has raised that point, because we do not want any misunderstanding about it. I am glad it has been clarified for the RECORD.

Mr. President, at the suggestion of the distinguished Senator from Alaska (Mr. STEVENS)—and I think it is a good one—I suggest the absence of a quorum and ask unanimous consent that the first 15 minutes consumed in the quorum call be equally charged against both sides on the Gravel amendment.

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 second assistant legislative clerk proceeded to call the roll.

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

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

Mr. MOSS. Mr. President, I ask unanimous consent that Ed Merlis of the Commerce Committee staff be permitted the privilege of the floor during discussion and any votes that may occur on the amendments I am about to call up.

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

AMENDMENT NO. 337

Mr. MOSS. Mr. President, I call up my amendment No. 337 and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

AMENDMENT No. 337

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

SEC. 308. Section 2 of the Clayton Act (38 Stat. 730, as amended, 49 Stat. 1526; 15 U.S.C. 13), is amended as follows:

(a) In section 2(a) delete the words "in the course of such commerce" wherever they appear, and the words "are in commerce" after the words "where either or any of the purchases involved in such discrimination" and insert in lieu thereof the words "affect commerce".

(b) In the third proviso after the words "or merchandise" delete the words "in commerce" and insert the words "interstate commerce and" after the words "engaged in".

Mr. MOSS. Mr. President, is that the right amendment? I am not sure that is the right one.

The PRESIDING OFFICER. That is the one the clerk reported.

Mr. MOSS. I thank the Chair. I will proceed to discuss that, then, if I may.

Mr. President, this amendment that I have called up is occasioned by the holding recently of the 10th circuit court having to do with the interpretation of the language of the Robinson-Patman Act.

Some courts have begun to interpret the commerce standards of the Robinson-Patman Act in restrictive terms, rather than the realities of modern day commerce. In *Belliston* v. *Texaco, Inc.*, 1972 trade cases (¶37, 837), the 10th circuit reversed a $2.5 million plus verdict on behalf of 15 Utah Texaco dealers on the grounds that Texaco's discriminatory sales in that case did not cross State lines. Texaco was selling gasoline to its branded dealers and a favored jobber-retailer from a refinery operated by American Oil Co., in Salt Lake City. Since none of the gasoline in the discriminatory sales physically moved across State lines, the court held that the commerce requirements of the Robinson-Patman Act were not met. The result is strange since the crude oil moved across State lines; production from the refinery moved across State lines; American Oil and Texaco are international major integrated oil companies; and many of the customers of the injured Texaco retailers crossed State lines. Indeed, the only thing which did not cross State lines were the injured Texaco retailers being supplied gasoline by Texaco under the nationally advertised Texaco brand name from a Salt Lake City refinery operated by American Oil Co.

In States like Utah the Belliston decision leads to anomalous results. We have oil refineries in Utah and local retailers do not enjoy the protection of the Robinson-Patman Act if their supply comes from those refineries. Retailers in sister States without refineries and supplied by the Utah refineries are protected by the act. Retailers in Utah supplied by product from outside the State, like Conoco's retailers, are protected by the act. Even in Utah, therefore, the act is applied unequally since Conoco dealers may sue if they are the victims of price discrimination by their supplier, but Texaco dealers may not. A retailer's rights under the Robinson-Patman Act should not be made to depend upon the accident of where his supply comes from. Nor should the practical uniform application of Federal law be destroyed by artificially created limitations having the effect of making Federal law applicable in one State and not in another. That is the effect of this erroneous reading of section 2(a) of the Robinson-Patman Act in the Belliston case.

This result is, indeed, anomalous and contrary to the purpose of the Robinson-Patman Act. That act was designed to protect the small independent businessman from the economic clout of integrated national marketers, yet the Belliston interpretation creates an umbrella where lawless price discrimination may be used to destroy the very businesses Congress sought to protect. Other courts have rejected such an interpretation, see *Little John* v. *Shell Oil Co.*, 1972 Trade Cases 73, 897 (5th Cir. 1972) (on motion for hearing en banc) and the prospects for splits in the circuits and an extensive waste of court time in rectifying the issue is very real. It is in this light that I offer this amendment; not to rectify what Congress has failed to do, but to clarify what Congress has done so that the courts will not continue to be misled as in Belliston. Consequently, my offering of this amendment at this time should not be relied upon as evidence of legislative intent confirming the Belliston interpretation of "in commerce." It is designed to clarify the standard so that future interpretations like Belliston do not recur and the essential purpose of the Robinson-Patman Act is realized.

We cannot afford the luxury of waiting for the courts to resolve this issue by the long process of judicial review. Many hundreds of small local retailers have been driven out of business during the current gasoline shortage—be it real, contrived, or imagined. If their problems have been caused by the undue market power of large integrated oil companies engaging in discriminatory practices outlawed by the Robinson-Patman Act, they are entitled to protection of the Federal law despite the physical trail of their supply. Otherwise, the very beneficiaries of the Robinson-Patman Act will be the victims of an interpretation denying the fundamental purpose of that statute.

For the convenience of my colleagues, the amended language of section 2(a)—if this amendment is adopted—would read as follows:

It shall be unlawful for any person engaged in commerce either directly or indirectly, to discriminate in price between different purchasers of commodities of like grade and quality, where either or any of the purchases involved in such discrimination affect commerce, where such commodities are sold for use consumption or resale within the United States or any Territory thereof or the District of Columbia or any insular possession or other place under the jurisdiction of the United States, and where the effect of such discrimination may be substantially to lessen competition or tend to create a monopoly in any line of commerce, or to injure, destroy, or prevent competition with any person who either grants or knowingly receives the benefits of such discrimination, or with customers of either of them. . . .

And provided further, that nothing herein contained shall prevent persons engaged in interstate commerce and selling goods, wares or merchandise from selecting their own customers in bona fide transactions and not in restraint of trade.

Mr. President, the amendment is to remove the artificial impediment of bringing cases under 2(a) of the Robinson-Patman Act. The reason for this is that the interpretation now placed on the statute of requiring that goods be in commerce has overlooked the more recent holding of the courts that if interstate commerce is affected by the action, it is within the jurisdiction of the Federal courts; and with this very small amendment, that matter can be clarified. The situation arose recently in the case I cited, the Belliston case.

I believe that this amendment would greatly relieve one of the damaging parts of the distribution function that we have occasioned in the matter of petroleum products. Of course, it would be wider than petroleum products, but this is where the focus has been up to this time.

The PRESIDING OFFICER. Who yields time?

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

Mr. MOSS. I am glad to yield, either on my time or the time in opposition.

Mr. HANSEN. Has the Senator completed his statement?

Mr. MOSS. Yes, I have completed my statement, unless there are questions about it. I will be glad to respond to any questions.

Mr. HANSEN. Mr. President, on my own time, if that is agreeable with the Senator from Utah, may I say that, as I understand it, amendment No. 337 would amend the Clayton Act for the purpose, as stated by its sponsor, of protecting Texaco retailers in the State of Utah who lost a case against Texaco. I think it is only fair to say that it would treat this sort of situation, and there may be instances in which other similar cases would arise which would be applicable as well.

That is the intent, is it not, of the sponsor of the amendment?

Mr. MOSS. Yes, that is the intent. It would not have the effect of reaching back. It would be prospective, from here on, with respect to matters that arose.

Mr. HANSEN. Mr. President, the

amendment seems to me to have no specific bearing on the pipeline legislation.

It occurs to me that there is real merit in examining this sort of situation to determine what may be the facts behind circumstances such as these. For that reason, I think it would be appropriate to hold hearings on this amendment. I hope the Senator will withdraw his amendment. If he does not, I intend to raise a point of order, because it is my feeling that the amendment is not germane. I hope we might look forward at a later date to hearings on this particular situation and let both sides come in and explain what their circumstances are and give the appropriate committees the benefit of whatever might evolve in that situation.

Mr. MOSS. If the Senator will yield, I point out that in this case I think the matter is germane because of the situation that confronts us in this pipeline case.

For example, in the Belliston case, which I cited, the oil came in from across State lines, and indeed it was not even received by Texaco. It went to American Oil Co., who then refined the oil and transferred it to Texaco, who then sold it under the Texaco brand name.

At that point, the court held that since the oil, after being refined, was then only transferred to a dealer in the State, the act did not apply. However, if it happened to go across that State line into Idaho or Wyoming, then the court did have jurisdiction. Therefore, I think it clearly entered interstate commerce.

Under the pipeline situation, if the pipeline is built and oil comes from Alaska in a tanker and it is landed in the State of Washington, and then, after being refined, some of that product, goes into the State of Oregon, that clearly would be covered by the Robinson-Patman Act. But if it remained and were sold in Seattle or Everett, or one of the other cities in Washington, it would not.

I believe this is a perfectly anomalous situation, because it all clearly affects the interstate market. Sixty percent of our oil refinery transactions are really intrastate, in the sense that the gasoline is sold where it is refined, but the whole integrated market is part of the same economic transaction. I think this is an appropriate and proper place for us to deal with this problem, which has now become acute in the petroleum industry.

Therefore, I would certainly hope that we could adopt this amendment. I submit that it is germane to the main business before us. It is certainly as germane as the remainder of title III, which amends the Federal Trade Commission Act.

Mr. HANSEN. I thank the distinguished Senator from Utah, my very good friend, for the explanation he has just given Senators. I can appreciate his concern and his interest in this problem. I commend him, as I have done on numerous occasions, for his diligence in trying to do what he believes will best serve the interests of America.

It is in the same vein, Mr. President, that I rise to make the point of order and to see whether, in the determination of the parliamentarian, this amendment is germane.

Before doing that, however, I should like to observe that a number of issues have been opened up as we have discussed the Alaska pipeline case. Many meritorious questions have been raised, and certainly a number of them deserve the attention and further study that I believe they will receive in due time. But in the debate that has occurred on the Alaska pipeline, it is my feeling that there is a real sense of urgency because of some facts that are known to all Senators.

In the first place, we are consuming between 17 and 18 million barrels of oil a day, and we are importing approximately one-third of that total amount from foreign sources.

The important sources in the past historically have been Canada and Venezuela. Now, as their inability to supply the increasing consumption in this country is brought into sharper focus, we are looking at further parts of the world. The distinguished chairman of the Committee on Interior and Insular Affairs has many times raised the point of national security. Can we, as a nation, afford further to get ourselves in the position where we would be moving with ever greater dependence upon foreign sources of supply? I would agree with the chairman, as I suspect many people do, that we cannot afford further delay in taking steps now that will hopefully reverse or retard this trend of looking upon foreign nations for something as critical to our material well-being and our national security goals as is oil.

Consequently, there is an urgency about getting on with the construction of the Alaska pipeline. For that reason I earlier favored a simpler bill which would have granted the Secretary of the Interior the power to widen the easement to a consortium so that they could get on with the pipeline construction.

For reasons that were persuasive to most Senators on the Committee on Interior and Insular Affairs, this simpler bill approach was rejected and a more broadened approach was taken which would deal with rights-of-way generally. As a consequence, we have broadened significantly the legislation we first envisaged as being necessary and essential. After that broadening and proliferation of concern have come into focus many issues and quite appropriately I would agree with my good friend from Utah that this is one. But I hesitate on such short notice, Mr. President, to agree to an amendment to the Clayton Antitrust Act without having had the benefit of hearings. I may very well find myself in strong support of my good friend from Utah, as I have on many occasions in the past, but it seems to me as though we ought to know more than at least this Senator knows before we take a position of amending something that has served us as long as and as well as the Clayton Antitrust Act.

So because of that, Mr. President, I must with great reluctance object and raise the point that in my opinion the amendment is not germane to the provisions of the bill.

The PRESIDING OFFICER. Until all time has expired on the amendment a point of order is not in order.

Mr. MOSS. Mr. President, I appreciate what my colleague from Wyoming has to say and I think he and I are largely in agreement on many matters having to do with resources. But I would plead with him to consider this matter on jurisdictional grounds.

Here we already have the circuits in disagreement; it has been held one way in one circuit and it has been held in another way in another circuit. Generally it has been held in other types of retailing that if a trade were effectively interstate commerce then it would be governed by the terms of the Robinson-Patman Act.

Here we have an example right in the petroleum field and here we have a bill in which we are considering transportation of petroleum from one of our remote States to the other contiguous States; and that oil is going to be subjected to retailing practices that are governed by the nondiscriminatory provisions of Robinson-Patman. So it seems to me, along with the fact that we have taken three measures which are amendments of the FTC Act, this amendment fits in and is germane to the matter. It is a simple matter. It states that in determining these cases the court shall make a finding if it affects interstate commerce, and if it does affect interstate commerce its jurisdiction is included.

It is not as though we were adding another big new field involving a lot of changes. For that reason I would offer to the Senate that I think it is certainly germane and certainly needed. I do not think any hearings on this could amount to anything extensive, at any rate. It would be a simple question, and Congress would have to decide if it wants to change the wording so that there would no longer be contradictory decisions of the court.

I am willing to yield back the remainder of my time. If a point of order is raised on germaneness, I would like to have a rollcall vote and appeal from the rule.

Whenever the Senator is ready to yield back his time, I am ready to yield back my time.

Mr. HANSEN. I thank my distinguished colleague from Utah.

Mr. President, there is much merit in what the Senator from Utah says. The danger that I contemplate in considering amendments that, in my opinion, are not germane, arises from the fact that there are few industries in the United States that reach into as many homes, that touch as many individuals as does the oil industry. I do not doubt at all that we could find all sorts of legitimate concern which would provide a basis for drafting amendments now until the crack of doom. Yet were we to do that, I think we would do our country a disservice now because there is a particular urgency that goes even beyond national security, and it addresses the issue of whether we are going to have enough heat for our schools this winter, whether we are going to be able to keep our generators working to continue life in the great metropolitan areas, whether we are going to have the energy necessary to move the wheels of commerce in this country.

Mr. President, each of these questions cannot await our deliberations too much longer. I hope we will get on with that business. If the Senator wishes to respond, I would be happy to yield.

Mr. MOSS. I do not know that any further response is necessary. I do not see any need for delay. If the measure is adopted, the bill will go as far as it will go anyway. I think it would be law very quickly, so I do not agree it would delay the bill in any sense because of the simplicity of the amendment. What I would like to do is to be ready to yield back——

Mr. HANSEN. I am ready to yield back.

Mr. MOSS. Does the Senator intend to make a point of order?

Mr. HANSEN. Yes.

Mr. MOSS. Then I want to be sure that I can get a second, if it is necessary to appeal. I do not know whether it will be necessary.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. MOSS. I yield.

Mr. ROBERT C. BYRD. I assure the distinguished Senator that he will have a sufficient second if he wishes a yea-and-nay vote on his appeal from the ruling of the Chair. I would suggest that, if the Senator does wish to appeal the ruling of the Chair—depending on the ruling of the Chair—such vote await the disposition of the amendment by the Senator from New York (Mr. BUCKLEY) which is scheduled for a vote at 2:30 p.m. today.

Mr. MOSS. I will be glad to, if we have an adverse ruling. I am not sure we will get one. So I yield back my time at this time.

Mr. HANSEN. Mr. President, I yield back my time.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed for 2 additional minutes before taking up the amendment by Mr. BUCKLEY.

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

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

The PRESIDING OFFICER. The Senator will state it.

Mr. HANSEN. Is this amendment germane to the bill under the terms of the unanimous-consent agreement on the calendar of Monday, July 16, 1973?

The PRESIDING OFFICER. It is the opinion of the Chair that this amendment introduces new subject matter and is not germane to the bill.

Mr. HANSEN. I thank the Presiding Officer.

The PRESIDING OFFICER. Did the Senator make that point of order, or was it merely an inquiry?

Mr. HANSEN. I make the point of order that the amendment is not germane.

The PRESIDING OFFICER. The Chair so rules.

Mr. MOSS. Mr. President, I appeal from the ruling of the Chair, and I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the vote on the appeal by Mr. Moss from the ruling of the Chair, with reference to the point of order, occur immediately upon the disposition of the amendment by Mr. BUCKLEY, which is scheduled for a vote at 2:30 p.m. today.

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

Under the previous order, the Senator from New York is recognized to call up an amendment.

Mr. BUCKLEY. Mr. President, I call up my amendment No. 309.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

On page 30, line 24, delete the period following the word "Act" and insert a proviso.

The amendment is as follows:

On page 30, line 24, delete the period following the word "Act" and insert the following: ": *Provided, however,* That notwithstanding any other provision of this Act, neither the Secretary nor any agency head by regulation, by stipulation or conditions for right-of-way grants or renewals, or by any other means shall use the position of the Federal Government as landowner to accomplish, indirectly, public policy objectives unrelated to protection or use of the public lands except as expressly authorized by statute.".

Mr. BUCKLEY. Mr. President, I shall read the language of the amendment, because I believe——

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield for a unanimous consent request?

Mr. BUCKLEY. I am delighted to yield.

Mr. ROBERT C. BYRD. Mr. President, may I have the attention of the Senator from Arizona and the Senator from Wyoming? I ask unanimous consent that, upon completion of the vote today on the appeal by Mr. Moss from the ruling of the Chair in connection with the point of order, the distinguished Senator from Utah (Mr. Moss) then be recognized to call up his second amendment, and that upon disposition of the second amendment of Mr. Moss, the distinguished Senator from Colorado (Mr. HASKELL) be recognized to call up his amendment for debate thereon only. The previous order still stands that the vote on the Haskell amendment occur not later than 10 o'clock tomorrow morning.

Mr. STEVENS. Mr. President, reserving the right to object—and I shall not object—we have been informed that several Senators wish to make statements on the amendment that my colleague and I have offered. If we lay down the Haskell amendment, there would still be time to discuss the Gravel-Stevens amendment on time from the bill notwithstanding the fact that the amendment had been called up. Is that correct?

Mr. ROBERT C. BYRD. Mr. President, the Senator will have an opportunity later in the day to debate the Gravel-Stevens amendment. The reason I made this unanimous-consent request is that we have had some spinning of the wheels today, and if we know we are going to bring up amendments Nos. 1, 2, 3 and 4, we could move ahead.

Mr. STEVENS. Once the Haskell amendment is brought up, it will be the pending business until tomorrow. Is that correct?

Mr. ROBERT C. BYRD. No; it will be the pending business only for not to exceed 1 hour.

Mr. STEVENS. I thank the Senator.

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

Mr. ROBERT C. BYRD. I yield.

Mr. FANNIN. I ask the Senator from Utah (Mr. Moss) if he would be willing to yield 3 minutes to the Senator from Wyoming after his amendment is called up.

Mr. MOSS. On the second amendment?

Mr. FANNIN. Yes.

Mr. MOSS. Yes, I would be glad to yield.

The PRESIDING OFFICER. Is there objection to the unanimous consent request of the Senator from West Virginia? Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished Senator from New York for his courtesy.

Mr. BUCKLEY. Mr. President, I shall read the amendment, which I have called up on my own behalf and on behalf of the Senator from Idaho (Mr. MCCLURE) and the Senator from Oklahoma (Mr. BARTLETT). It reads:

Provided, however, That notwithstanding any other provision of this Act, neither the Secretary nor any agency head by regulation, by stipulation or conditions for right-of-way grants or renewals, or by any other means shall use the position of the Federal Government as landowner to accomplish, indirectly, public policy objectives unrelated to protection or use of the public lands except as expressly authorized by statute.

What the amendment proposes to do is to protect the legitimate prerogatives of Congress against the possibility of usurpation by the executive branch. Specifically, it is designed to make certain that no future Secretary of the Interior will be tempted to abuse the broad discretion provided by this legislation in order to implement policy which is not specifically authorized by Congress.

To give some idea or some understanding of the scope of authority granted by the proposed legislation, let me quote from section 104(c) of the reported bill:

Right-of-way granted, issued, or renewed pursuant to this Act shall be given under such regulations and subject to such terms and conditions as the secretary or agency head may prescribe regarding extent, duration, survey, location, construction, maintenance, and termination.

Section 104(d) of the reported bill delegates to the Secretary or agency head broad authority to impose stipulations.

Section 104(f) delegates to the Secretary or agency head the authority to decide whether or not an applicant for a right of way permit will be required to "reimburse the United States for all reasonable administrative and other costs incurred in processing an application . . ."

Section 104(h) authorizes the Secretary or agency head to require a right of way holder to "furnish a bond, or other security, satisfactory to the Secretary or agency head to secure all or any of the

obligations imposed by the terms and conditions of the right-of-way . . ."

Section 105 specifies that "each right-of-way shall contain such terms and conditions as the Secretary or agency head deems necessary . . ."

Other provisions of the reported bill authorize the Secretary to require from the right-of-way applicant unlimited information concerning the nature of the business activity a part of which happens to involve the need for a right-of-way across Federal lands.

All of these provisions taken together represent a wholesale delegation of authority to the Secretary or agency head to manipulate by imposition of arbitrary stipulations the nature and conduct of business operations which by happenstance require a right-of-way across Federal lands. Such authority extends far beyond that needed to ensure that the actual use of the right-of-way granted will be related to the protection of the public lands. It extends to whatever the Secretary or agency head might wish.

It not only authorizes the Secretary or agency head, but virtually invites him, to intervene in the private business planning functions of persons needing rights-of-way across Federal lands. Such intervention could extend to business planning activities completely unrelated to the limited matter of that part of the business activity which requires a right-of-way across Federal lands. Such wholesale delegation of authority invites the Secretary or agency head in the name of "public policy" to tell the right-of-way applicant "unless you run your business in the manner which I prescribe or do this and that, you won't be granted a right-of-way."

The Public Land Law Review Commission detailed in its report several examples of such "public policy" abuses on the part of the executive branch regarding the imposition of conditions upon the use of public lands. The Commission stated that:

> Every constitutional tool available to the Federal Government should be used to accomplish public policy goals, but the decision to utilize indirect approaches to promote such objectives should be made by Congress. Authority to impose conditions unrelated to public land values should be expressly provided by statute where appropriate. This would remove present uncertainty and controvery and promote sound planning and development.

The Commission accordingly recommended that:

> Recommendation 98: Whenever the Federal Government utilizes its position as landowner to accomplish, indirectly, public policy objectives unrelated to protection or development of the public lands, the purpose to be achieved and the authority therefor should be provided expressly by statute.

Thus we believe that the reported bill, in the manner we described, is grossly inconsistent with the recommendation of the Public Land Law Review Commission. We believe that the reported bill provides for an abusively wholesale delegation of authority and thereby avoids the responsibility which the Constitution has placed on the shoulders of the Congress. It is through such redelegations of congressional authority as are provided for in the reported bill that the Congress has been called the "Sapless Branch".

We therefore introduced the pending amendment and urged its adoption. We cannot see how it in the least part can be controversial, as it simply states that the Secretary of the Interior will not take advantage of the happenstance that a particular activity must cross a piece of Federal land in order to improve on matters of policy which are not authorized by statute and do not relate to the protection of utilization of Federal land.

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

Mr. BUCKLEY. I yield to the Senator from Idaho.

Mr. McCLURE. Mr. President, I appreciate the leadership that the Senator from New York has given in bringing this matter to the attention of the Senate. I am a cosponsor of the pending amendment.

We have matters of concern that, I think, should be stated very clearly at the outset. While we have been debating the pending bill on the floor of the Senate for some days now, the tendency has been to follow the rather general misconception that has now been thoroughly ingrained into the minds of this body as well as the general public concerning the bill, that it is an Alaskan pipeline bill.

It is much more than an Alaskan pipeline bill. It is a bill that modifies the fundamental statutes of this land with respect to granting rights-of-way across public lands for whatever purpose. It also has a good many provisions in it that deal with the business of transporting petroleum products.

It is in this related area that we begin to see some of the ramifications if the pending amendment is not adopted. For instance, we wrote into the bill in committee certain requirements for the disclosure of information that bears upon antitrust, certain requirements for common carriers that deal with special common carrier status that are far beyond any right-of-way question. And if we indeed then allow the executive agency unbridled discretion, including the awards of the right-of-way and the granting of anything which might be desirable, it seems to me that it is an open invitation to extend that power to the implementation of the disclosures which we have required under this proposed statute.

Would the Senator from New York not agree that that is not a far-fetched extension of the possibilities under the pending bill?

Mr. BUCKLEY. I believe that the Senator from Idaho points out the well-recognized bureaucratic impulse. The fact is that the Secretary is granted the authority to deny or accept an application. The Secretary may believe that certain practices, certain disclosures, certain construction—the Senator may name anything he wants—is desirable. Yet, it will have nothing to do with the protection of Federal land.

We have seen example after example in recent history where someone with this type of discretion has, in fact, abused it and has, in fact, gone far beyond the logical limitations of his office.

I know that we have heard frequently on the floor in this body in recent months expressions of concern over the usurpation of congressional authority by agencies and by Secretaries of the various Departments.

I believe that what we have here is an amendment which will help prevent temptations and will help to eliminate these abuses.

I would like to take occasion at this point to state that this amendment, although I introduced it, is really the outgrowth of the comments and proposals made by the Senator from Idaho during the markup session. He introduced an amendment at that time that was carried one day and "uncarried" the following day. There is, therefore, a very close division of opinion within the committee itself as to the desirability of this provision precisely because the Senator from Idaho was able to point out historic abuses of the nature that we are hoping to guard against.

Mr. McCLURE. Mr. President, if the Senator will yield further, I am amazed that we are involved in a debate on the floor about the wisdom of this kind of legislation. It seems to me very clear that, whether it is the history of this Government or the history of governments generally in the evolution of governmental processes throughout all of recorded history, we are constantly guarding against an abuse of power placed in the hands of governmental officials.

I think that is what the struggle to have freedom on this continent was all about. It was an action by people who had seen too much of authorization governments, and they, therefore, carefully sought to limit the authority of the government by specifying the power with respect to the Federal Government and stating that they would have no powers except those which were expressly granted and that all other powers would be reserved to the States and to the people.

We have here in this amendment specifically provided that there should be no authority granted here that is not expressly provided for elsewhere by statute or his statute itself.

We can recite a number of examples of the kind of thing that might happen. And while this is not an Alaskan pipeline bill, let us look at the kind of thing that might possibly happen under this bill if this needed amendment is not adopted.

We are talking about an Alaskan pipeline as being absolutely necessary to get petroleum, supplies to the lower 48. And we have been concerned, as we have been debating the alternatives, as to where those supplies should go.

We have had any number of people from the east coast of the United States who were concerned whether, after the pipeline came down, they would get their petroleum supplies. So, we adopted an amendment which would prevent the transshipment of supplies in this country in a manner that would diminish the supplies to the United States. And we

had endless debate about whether it should come to the west coast. And indeed, the people on the east coast are very concerned that this supply should be available to the north coast and the Northeast where there is indeed a critical shortage.

Mr. President, with that background, is it not possible that as conditions exist for the granting of a right-of-way for an oil pipeline, the Secretary might possibly include within the stipulation for that pipeline the provision that the companies who are involved in the joint venture of building the pipeline, and who will also produce the oil on the North Slope of Alaska, should be required as a condition of that pipeline to build deep port facilities, say in New Jersey?

Mr. BUCKLEY. Mr. President, that is not a farfetched example. One thing that concerns me about the bill is that if it broadens the traditional area over which the Secretary of the Interior has been concerned, respecting the common carrier status and other matters which ought to be the concern of other departments, I hope that he will be encouraged to take into consideration precisely the kind of circumstances detailed by the Senator from Idaho.

I believe that this is something that would be more likely to occur than not to occur if we did not insert into this bill language which makes it absolutely clear that those powers not specifically granted to the secretary, those exercises of discretion not directly related to the protection of the public domain, shall not be exercised.

I am delighted that the Senator from Idaho, in his introductory remarks, mentioned that the history of freedom has been that of finding ways of limiting the abuse of power and restricting the delegation of power. In recent years, we in this country have really created a fourth branch of government not contemplated by the Constitution: namely, these huge agencies and departments, bureaucracies who are really responsible to no one, who have been granted the broadest possible discretion by Congress, whose activities are so far flung that Congress, as a practical matter, has no capacity of oversight in any meaningful way; and also, because so many individuals, corporations, firms, and State and local governments have a life and death dependency on the use of discretion by these officials in this fourth branch of the government, unless we are particularly careful we will be creating something over which no one can exercise appropriate concern.

So I believe not only that this amendment should be adopted as a part of this bill, but that comparable language should be inserted in every new bill that comes along.

Mr. McCLURE. Certainly I would agree with what the Senator has stated. It seems to me that I recall, over the last several months, at least, and perhaps even the last year or two, loud cries of outrage from Members of Congress and a great many Members of this body about the usurpation of authority by the executive branch. Yet when they are given an opportunity to carefully limit that power, they sometimes drag their heels or seem to fail to understand that it is not so much a usurpation of authority as it is an unlimited grant of authority by this body. I would hope that we can persuade our colleagues of the wisdom of the course which we urge now in the adoption of an amendment which would carefully say, of all the outrageous suggestions that have been made that the administrative branches of Government cannot do anything that is not authorized by statute, "What a horrendous and outrageous proposition."

Mr. BUCKLEY. And incidentally, I would like to advise the Senator from Idaho that he and I have been so persuasive thus far that the only other Senator in the room, the Senator from Delaware (Mr. BIDEN) now occupying the Chair, has sent me a note asking that he be added as a cosponsor.

Mr. President, I ask unanimous consent that the name of the Senator from Delaware (Mr. BIDEN) be added as a cosponsor of the amendment.

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

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

Mr. BUCKLEY. I yield.

Mr. TAFT. I wonder if the Senator would include my name also as a cosponsor, and indicate that I am present.

Mr. BUCKLEY. Mr. President, I also ask unanimous consent to add the name of the Senator from Ohio (Mr. TAFT) as a cosponsor of the amendment.

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

Mr. McCLURE. I wonder if I might, just as a matter of explanation or correction for a misinterpretation of my motives, make reference to some press reports of my reasons for asking for this amendment in committee.

It was reported in the press in my home State that I had done this in order to upset or turn back the clock so far as wheeling agreements on private utility lines was concerned, that is, electrical powerlines.

My response would have to be that that was not my concern, although that was certainly one of the things that triggered my interest in the matter some years ago. But they have in that specific instance a court decision that says that is authorized by statute. So I do not see how, if it is indeed authorized by statute, this amendment would in any way affect wheeling agreements which are in effect at the present time under the provisions of statutes which the court has construed as being broad enough to cover that question.

Whether it is covered by statute or not perhaps is subject to question. I am aware that there is another case in court at the present time testing that very provision of the statute, to see whether or not the requirement of wielding public power over investor-owned utility lines is an appropriate exercise of authority. I think this should not be construed in any way as affecting that court proceeding.

Mr. BUCKLEY. That is correct; and Senator yield?

Mr. McCLURE. Certainly.

Mr. BUCKLEY. I just wanted to confirm my own understanding as a cosponsor of the amendment that it is not intended to change existing law. It is not intended to upset or interfere with court cases delineating the exact scope of existing law.

But the fact that the question would be raised as a criticism of the amendment is, to my mind, intriguing. If I can try to interpret what the editorial writer was saying, it was that, because this might interfere in something that we approve of that is not authorized by act of Congress, we do not want this amendment to be adopted. In other words, we do in fact want to have a Secretary of the Interior to have the broadest kind of discretion in utilizing certain overriding interests as a wedge, or as a lever to impose his policy irrespective of the wishes of Congress.

Unfortunately, this type of thinking is far too typical. Unfortunately the sheer size of our Government invites this tendency toward paternalism, toward reliance on people sitting at the top of these vast Government departments and dependence on them to do our thinking for us.

So I would say, whereas the amendment is not intended to change any existing interpretations of law, it is startling to me that it should be attacked, because it might be interpreted to prevent a Secretary of the Interior in the future from doing something not authorized by law.

Mr. McCLURE. If I may refer to another pending amendment, the amendment of the Senator from Utah, which has to do with divestiture: Suppose Congress today rejects that amendment and, therefore, is on record as saying, "We do not wish to enter the field of divestiture as far as the ownership by various oil companies may be concerned," and some future Secretary of the Interior should decide that divestiture was a good thing. He could, without the express letter of this amendment, as a condition to any right-of-way grant sought by any such oil company, attach to that right-of-way grant a provision that they divest. Is that not correct?

Mr. BUCKLEY. The Senator is absolutely correct.

Mr. McCLURE. Because the language of this bill is very broad that says he can attach such conditions as he deems reasonable to applications for right-of-way grants.

Mr. BUCKLEY. And the Secretary could, therefore, require provisions specifically voted down by the Senate.

Mr. McCLURE. That is absolutely correct. But, on the contrary, this amendment does not in any way interfere with any existing statute, nor does it limit the application of existing statutes as construed by the courts.

Mr. BUCKLEY. Mr. President, will the it in no way inhibits the Secretary from adopting any reasonable provision designed to protect public property and to protect its use or its development, whether it be by pipelines, canals, or rights-of-way for high tension lines, and so on. It does not interfere with his

traditional authority as custodian or protector of Federal lands.

Mr. McCLURE. It certainly does not do that. As a matter of fact, the bill as a whole can be taken for only one thing with respect to public lands, and that is it must be legitimately used to protect the public lands and the interest of the public in the public lands so far as that specific right-of-way is concerned.

That leads me to another facet of the question that must be very clearly understood, if we are to know why my concern is expressed so vehemently here. The U.S. Government is not just another landowner. The U.S. Government has diverse responsibilities. It has diverse responsibilities across the country. It has this great number of people with respect to any individual part or parcel of land, but for the Secretary to have authority granted under this statute to be able to effect a public land policy in Maine as a result of public land use in California, it would seem to me to be absolutely an abuse of authority of the Federal Government as a landowner.

I submit that they have that authority if there is any kind of common interest between their concern in Maine for the applicant for a right of way in California——

The PRESIDING OFFICER (Mr. BARTLETT). All time of the Senator from New York has now expired.

Mr. FANNIN. Mr. President, S. 1081, as reported, contains one cause for particular concern articulated in the additional views of Senators BUCKLEY, McCLURE, and BARTLETT. That feature is the discretionary authority granted to the Secretary of the Interior or agency head to impose terms and conditions on right-of-way permits.

Specifically, section 104(c) of the reported bill authorizes—

Such terms and conditions as the Secretary or agency head may prescribe regarding extent, duration, survey, location, construction, maintenance, and termination.

Section 104(d) of the reported bill delegates to the Secretary or agency head broad authority to impose stipulations.

Section 104(f) delegates to the Secretary or agency head the authority to decide whether or not an applicant for a right-of-way permit will be required to—

Reimburse the United States for all reasonable administrative and other costs incurred in processing an application. . .

Section 104(h) authorizes the Secretary or agency head to require a right-of-way holder to—

Furnish a bond, or other security, satisfactory to the Secretary or agency head. . .

Section 105 specifies that—

Each right-of-way shall contain such terms and conditions as the Secretary or agency head deems necessary. . .

Other provisions of the reported bill authorize the Secretary to require of him the right-of-way applicant unlimited information concerning the nature of the business activity, a part of which happens to involve the need for a right-of-way across Federal lands.

My colleagues pointed out that such wholesale delegation of authority extends far beyond that needed to insure protection of the public lands. This is one feature of the bill which I would hope to see amended. I believe that amendment No. 309 proposed by Senators BUCKLEY, McCLURE, and BARTLETT, would correct such deficiencies in the bill as reported and favor its adoption.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. ROBERT C. BYRD. Mr. President, on behalf of the distinguished manager of the bill (Mr. JACKSON), I yield to the distinguished Senator from Oklahoma—how much time?

Mr. BARTLETT. Two minutes.

Mr. ROBERT C. BYRD. Three minutes.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized for 3 minutes.

Mr. BARTLETT. Mr. President, I thank the distinguished Senator from West Virginia and also the distinguished chairman of the Committee on Interior and Insular Affairs.

Mr. President, I appreciate very much the initiative of the Senator from New York and the Senator from Idaho in the preparation of this amendment and in driving home very hard and firmly their points during debate on this bill in committee.

My remarks will be very brief. For one thing, the amendment is very plain as to its intent. It is reasonable to expect that the adminstrator of any Government program or the grantor of any right to public lands, will not be allowed, because of his commanding position, to use this power of the process to achieve objectives that have not been expressly given to him under law. Whether the intent of the arbitrary stipulations be honorable or dishonorable is not the question. I know that there are several examples when the matters are of honorable intent and that in the past the Secretary of the Interior has rendered what I would consider a good judgment. But he has done it illegally and improperly, in my estimation.

The question is, does he, as an administrator, have the right, formally or informally, to require of the right-of-way applicant a condition which, by law, he would not be able to enforce otherwise? This amendment makes it plain that arm-twisting is not permitted.

I ask my colleagues to support the amendment by the Senator from New York and the Senator from Idaho.

I yield back the remainder of my time.

Mr. ROBERT C. BYRD. Mr. President, does the Senator from New Mexico wish to speak at this time?

Mr. DOMENICI. Not at this time. Perhaps in another moment or so.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum, and I ask unanimous consent that the time be charged equally against both sides on the amendment.

The PRESIDING OFFICER. The time of the proponents has expired.

Mr. ROBERT C. BYRD. I ask unanimous consent that the time be charged against both sides on the bill.

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

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

Mr. JACKSON. Mr. President, I rise in opposition to the amendment of the junior Senator from New York (Mr. BUCKLEY). If adopted, amendment No. 309 would greatly restrict the Secretary of the Interior's authority to protect and manage the public lands.

This amendment was offered on two different occasions during the Interior Committee's markup of S. 1081. On both occasions, the amendment was defeated.

Mr. President, during consideration of this amendment in committee, I asked the Department of the Interior and the Department of Agriculture for reports on this amendment and its impact if it were adopted. The reports of the Secretary of Interior and the Secretary of Agriculture are found at pages 92 and 93 of the committee report on S. 1081.

The Department of the Interior stated that—

We disagree with Recommendation No. 98 of the Public Land Law Review Commission and we strongly oppose the amendment offered by Senator McClure and respectfully urge the Committee to reject it . . . .

Congress has given the Secretary fairly clear policy guidance in the administration of lands under his jurisdiction. It would be impossible for Congress to foresee all of the situations arising which require Secretarial action to carry out that policy. Limitation of the Secretary's discretion of the sort contemplated by this amendment could seriously impair his ability to enforce Congressional policy. With the great burden of legislation before the Congress it would be impossible for it to react effectively to deal with problems like the encroachment of a power line on the values of Antietam Battlefields.

The language of the proposed amendment is vague and except for the specific illustrations in the discussion of the Public Land Law Review Commission Report on Recommendation No. 98 it is extremely difficult to predict what other actions of the Secretary could be subject to a wide variety of lawsuits alleging a violation of this provision whenever he attempted to include otherwise reasonable conditions in grants of right-of-way or any other authorizations for use of the public lands. Consequently this amendment could very seriously hamstring the Secretary in his administration of our Nation's public land resources. . . .

The Department of Agriculture stated that—

Rights-of-way terms and conditions, established by the Secretary pursuant to his discretionary authority, have been for the protection, management and improvement of the National Forests and their resources. We think questions about our authority could be raised if a term or condition was imposed that did not reasonable [sic] relate to a purpose for which the National Forests are established and administered. We would interpret Civil Rights and similar general

government-wide requirements as being in a category of 'expressly authorized by statute.'

Section 6 of S. 1081 specifies the terms and conditions of rights-of-way which, as the Secretary deems necessary, shall be contained in each right-of-way. We think the effect of the additional restriction contained in the proviso may result, in doubtful cases, in the agency's refusal to authorize the right-of-way.

Mr. President, for the reasons noted in the reports of the two principal agencies charged with the administration and protection of the Nation's public and Federal lands, I strongly urge the defeat of the proposed amendment. It would greatly restrict the existing authority of responsible Federal officials to carry out their public trust responsibilities and obligations to protect the values and the resources of the public and Federal lands.

Mr. President, I ask unanimous consent to have printed in the RECORD the full text of the letters and a letter from the president of the Alaska Federation of Natives.

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

[Set forth are Departmental coments on an amendment proposed by Senator MCCLURE.]

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., April 12, 1973.

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

DEAR MR. CHAIRMAN: This is in response to your request for this Department's comments on the following amendment to Section 6, S. 1081 offered by Senator McClure:

"No public land management agency shall use the position of the Federal government as land owner to accomplish, indirectly, public policy objectives unrelated to protection or development of the public lands except as expressly authorized by statute."

The language of this amendment is essentially identical to Recommendation No. 98 of the Public Land Law Review Commission Report.

Although the text of Recommendation No. 98 is very general in nature, the accompanying discussion in the PLLRC Report recites Department of the Interior and Department of Agriculture regulations requiring recipients of power line rights-of-way to wheel Federal power within their available excess capacity on such lines as an example of an unrelated program objective. The discussion also mentions another case in which the Secretary of the Interior blocked construction of a power line near Antietam Battlefield as a condition of the Potomac Edison Company's right-of-way across the C & O Canal National Monument as another example of an action taken without clear direction of Congress. The principal thrust of the PLLRC recommendation appears to be that this type of Executive action should not be taken without explicit Congressional direction.

We disagree with Recommendation No. 98 of the Public Land Law Review Commission and we strongly oppose the amendment offered by Senator McClure and respectfully urge the Committee to reject it.

The illustrations of the PLLRC Report do not, in our view, demonstrate Federal action as a land owner to accomplish indirectly public policy objectives unrelated to the protection and development of the public lands.

Construction of power lines across public lands is a significant development of those lands. As a legal matter, the issue of "wheeling" regulations has previously been fully explored, adjudicated and upheld in a Memorandum Opinion of June 2, 1952, by the United States District Court for the District of Columbia in the unreported case of *Idaho Power Company* v. *Chapman* (Civil Action No. 4540–59); and in a supplemental memorandum of that Court on October 31, 1952. Most important, subsequent administrative decisions have been based on our interpretation that Congress intended power lines to be placed across Federal lands under terms and conditions to assure the overall welfare of those lands. The Government's use of *surplus* capacity in a transmission line upon payment of fair market value by the Government for that use limits the proliferation of these lines across Federal lands, saves the taxpayers the expense of constructing separate Federal lines, and is fully consistent with good land management policy.

The second illustration in which the Department conditioned a right-of-way across the C & O National Monument upon an agreement by the Potomac Edison Company to minimize the effect of that same line on the Antietam National Battlefield was clearly an action directly related to the protection of our public lands, the National Park System.

Congress has given the Secretary fairly clear policy guidance in the administration of lands under his jurisdiction. It would be impossible for Congress to foresee all of the situations arising which require Secretarial action to carry out that policy. Limitation of the Secretary's discretion of the sort contemplated by this amendment could seriously impair his ability to enforce Congressional policy. With the great burden of legislation before the Congress it would be impossible for it to react effectively to deal with problems like the encroachment of a power line on the values of Antietam Battlefield.

The language of the proposed amendment is vague and except for the specific illustrations in the discussion of the Public Land Law Review Commission Report on Recommendation No. 98 it is extremely difficult to predict what other actions of the Secretary it might be construed to affect. Because of this vagueness the Secretary could be subject to a wide variety of lawsuits alleging a violation of this provision whenever he attempted to include otherwise reasonable conditions in grants of right-of-way or any other authorizations for use of the public lands. Consequently this amendment could very seriously hamstring the Secretary in his administration of our Nation's public land resources.

Sincerely yours,
JOHN C. WHITAKER,
Under Secretary.

DEPARTMENT OF AGRICULTURE,
FOREST SERVICE,
April 12, 1973.

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

DEAR MR. CHAIRMAN: This is in response to Mr. Harvey's April 11 request for our comments on an amendment to Section 6 of S. 1081 offered by Senator McClure. In the time available we have discussed the question informally with our Office of General Counsel.

The amendment in question would add a proviso at the end of the section which would read: *"Provided,* That no public land management agency shall use the position of the Federal government as a landowner to accomplish, indirectly, public policy objectives unrelated to protection or development of the public lands except as expressly authorized by statute."

We have two comments on the proposed proviso:

1. While the proposed language, as a proviso, would qualify the foregoing language of Section 6, we think it should be made clear that the qualification applies, as we think it is intended, to the issuance of rights-of-way across public lands. This clarification could be accomplished by inserting after "agency" and before "shall" the language, "in issuing, granting, or renewing rights-of-way."

2. Rights-of-way across National Forest lands are authorized either under a statute relating to a specific use, such as the Act of March 4, 1911 (16 U.S.C. 523), authorizing easement for power and communication facilities, or under the Organic Act of June 4, 1897 (16 U.S.C. 551) which authorizes the Secretary of Agriculture to regulate the occupancy and use of the National Forests. The latter is a broad authority. Except for conditions respecting the duration of use and the area of land which may be subjected to the use, right-of-way statutes have usually left to the discretion of the agency the terms and conditions of the right-of-way. For example, the Act of March 4, 1911 provides that the Secretary is authorized to grant an easement "under general regulations to be fixed by him." The terms and conditions of rights-of-way permitted under the Act of June 4, 1897, have been prescribed by the Secretary.

Rights-of-way terms and conditions, established by the Secretary pursuant to his discretionary authority, have been for the protection, management and improvement of the National Forest and their resources. We think questions about our authority could be raised if a term or condition was imposed that did not reasonably relate to a purpose for which the National Forests are established and administered. We would interpret Civil Rights and similar general government-wide requirements as being in a category of "expressly authorized by statute."

Section 6 of S. 1081 specifies the terms and conditions of rights-of-way which, as the Secretary deems necessary, shall be contained in each right-of-way. We think the effect of the additional restriction contained in the proviso may result, in doubtful cases, in the agency's refusal to authorize the right-of-way.

Furthermore, we are concerned that the phrase "unrelated to protection and development of the public lands" may be narrowly construed. An alternative would be to amend the phrase to read: "unrelated to the purposes for which public lands are protected, managed, and developed."

We are glad to give you these comments as a drafting service, and they should not be construed as indicating a position of the Department of Agriculture on the proposed amendment.

Sincerely,
PHILIP L. THORNTON,
Deputy Chief.

MEMORANDUM

JULY 16, 1973.

To Senator JAMES BUCKLEY.
From William L. Hensley, President, Alaskan Federation of Natives, Inc.
Re Position of Alaska Federation of Natives, Inc., on Amendment No. 309 to S. 1081

The Alaska Natives are concerned that the terms of Amendment No. 309 might so restrict the Secretary of the Interior in the exercise of his public land responsibility as to make it impossible for the Secretary to take actions in the future with respect to permits and rights-of-way that are essential to protect their interests.

As already amended by Senator Jackson's Amendment No. 328, presumably the absolute liability stipulation covered by that amendment would be "expressly authorized by statute." However, other protection actions may be required in the future and it might be difficult or impossible to show that they meet the qualification that Amendment No. 309 would impose, to-wit that they be "related to protection or use of the public lands." For that reason, the Alaska Federation of Natives, Inc., recommends against Amendment No. 309, or in the alternative, if such amendment is favorably regarded by

the Senate that it be amended by the addition of the following proviso:

"Provided further, however, that this limitation shall not apply to any regulation, stipulation or condition found by the Secretary or by the appropriate agency head to be related to protection of the interests of persons living in the general area traversed by such right-of-way."

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

Mr. BUCKLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington has all the remaining time.

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

Mr. BUCKLEY. I thank the Senator from Washington for his courtesy.

First of all, with respect to the letter from the Under Secretary of the Interior, Mr. John Whitaker, perhaps he was not fully conversant with what the amendment in question stipulates.

He expressed concern in the final sentence when he said that it would seriously hamstring the Secretary in his administration of our Nation's public lands resources. He said the amendment in question specifically limits him as to matters that are unrelated to the protection or use of the public lands. Therefore, anything that comes within his overall jurisdiction, his historic jurisdiction as custodian of the public lands, will clearly be unaffected by this amendment.

It is not at all surprising that the Secretary of the Interior and the Secretary of Agriculture, or any other Secretary would respond as they have. I have yet to hear of any member of the Executive branch who wanted to turn back power or restrict his options. It seems to me this goes precisely to the concern that has so often been expressed in this body in recent months, namely a concern that Congress over-delegated and granted plenary discretion, and we have expressed the desire time and again to recapture that discretion and establish clear limits where the Secretary may exercise discretion to protect and preserve the prerogatives of the United States.

Mr. JACKSON. Mr. President, I completely respect the sincerity of my good friend from New York in offering the amendment. I would not want any inference drawn to the contrary. I must confess to my colleague that I did not know how to draft an amendment to do what I think he sincerely has in mind.

The problems we face here when we are dealing with rights of way are so diverse that I am not wise enough, shrewd enough, or prophetic enough to be able to figure out how to delegate authority in such a way as to be able to anticipate all of the situations that could arise in the future that are indeed relevant and indeed would be relevant conditions in a right of way grant. This is my problem.

Mr. BUCKLEY. I am glad to yield to my colleague from Idaho, who is a cosponsor of the amendment.

Mr. McCLURE. Mr. President, the problem I have with the position of the Senator from Washington is this. First, as the Senator from New York said, the amendment expressly exempts from the restrictions of this amendment those policy objectives which are related to the protection or development of the public lands. So within the confines of the management of public lands there was no possible restriction by the application of this amendment.

Might I respond most directly by directing a question to the Senator from Washington. What authority is it that the Senator desires that the Secretary should have, that is unrelated to the development or protection of the public lands that is not provided for by statute?

Mr. JACKSON. I do not know what that might be, but I know it is said that the door has been locked on him and you will not be able to deal with specific problems that might arise in the future.

Let me ask the Senator this question. The Antietam Battlefield case was the classic one we were up against not too long ago when the power company wanted to run a powerline through that particular monument. The result was that the Secretary laid down the conditions that they would have to comply with. Now, that is one example.

I would ask my friend to take that last line in the amendment, line 9. He refers to public lands "as expressly authorized by statute." What does "expressly" mean?

Mr. BUCKLEY. It means clearly and explicitly, not inferentially.

Mr. JACKSON. That is the problem. I do not know that we can in such clear language expressly anticipate every condition that might be reasonable and sensible. Maybe there should be a provision shall we say, to use the old lawyer's language, where there might be an arbitrary and capricious act. Perhaps we ought to review it and look at it and see if we should not have an override authority.

I hesitate here to put this kind of hammerlock on the Secretary when he is trying to take charge of the duties of his office. I would assume that my colleagues on the other side may not want to grab back that power due to an adverse Congress. I say that with a smile.

Mr. McCLURE. First, with respect to what is meant by the language, I think the courts determine what is meant by a statute, as they did in the Wheeling controversy out in our region. The Court said in one decision that it was provided for by statute and, therefore, the Secretary had the authority. It is being challenged, but the Court will make the decision whether it is provided by a statute.

As to whether or not we would like to restrict this administration of course. I would. I would like to restrict the arbitrary abuse of power, regardless of by whom it is held. The history of enslavement of people has been the abuse of power in the hands of government, and that is what this is all about.

Mr. JACKSON. I respond by saying that Congress said to leave it to the courts. I recognize whether we want it or not everything is left to the courts if someone brings a lawsuit.

I would like to be more specific. I would like to ask my colleagues—they are very able lawyers—would the Antietam Battlefield be included under the amendment, as not expressly authorized by statute?

I do not see anything about the Antietam Battlefield here.

I would say the decision rendered in the Antietam case would be covered by this and prohibited by this, just as would be the secretarial discretion, if he should decide, in the Alaskan pipeline controversy to order a deepwater port in New Jersey or Maryland as a condition of the pipeline in Alaska. It is the kind of case which should be discussed by Congress. That confirms my suspicion and my worry.

I believe the Secretary would act within his authority. The Court so held. It is this very kind of anticipatory situation that we would be blocking hereby, requiring that it must be expressly authorized by statute.

There are tens of thousands of rights-of-way over public lands that must be granted all over the United States. Just think of it: The United States of America owns over one-third of all the real estate. It would be difficult to pass a bill to expressly cover every possible contingency. Unless it is spelled out in express language, the Secretary could not act.

I think if we got into a situation where there was a capricious and arbitrary act, there would be a remedy; but, as a lawyer, I do not see how we could draft an amendment that would be so wise as to be anticipatory of such action.

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

Mr. JACKSON. Mr. President, I ask unanimous consent that the Senator from New York (Mr. BUCKLEY) have 1 additional minute.

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

Mr. BUCKLEY. I thank the Senator for his graciousness. Yes, there are tens of thousands of rights-of-way across Federal lands, which pose the prospect of tens of thousands of abuses in discretion in granting those rights-of-way. The Senator has cited one possible case in point where the Secretary went beyond his authority, and that is in the Antietam case. The Senator liked that decision, but would he have liked it if the Secretary had required the building of storage tanks on Lake Washington as a condition for a right-of-way in another State?

Mr. JACKSON. I think that is irrelevant.

Mr. BUCKLEY. No. It is an example of what could be done if the Congress does not make it clear.

Mr. JACKSON. With all due respect, the Antietam decision was directed to public lands and the conservation of those lands and the protection of them.

Mr. McCLURE. Mr. President, I ask unanimous consent that I may proceed for 1 minute.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. McCLURE. The Antietam case has been referred to several times, and I think it might be well to define that a little more, because when I am talking

about that I am not talking about the decision to locate or not locate the powerline in proximity to the Antietam Battlefield; I am talking about the right-of-way stipulation that was put in the C. & O. Canal crossing that required them to relocate that at some miles distant, totally unrelated. The Senator from Washington indicated that had been approved by the court. My understanding is that it was never submitted to the court, because the secretary had overweening power in that respect.

While I share the Senator's feelings about obtaining results, the very fact that the Secretary has authority to do that simply underscores the necessity for defining that authority.

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

The question is on agreeing to the amendment by the Senator from New York (No. 309). 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 Virginia (Mr. HARRY F. BYRD, JR.), the Senator from Mississippi (Mr. EASTLAND), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I further announce that the Senator from Nevada (Mr. BIBLE), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Louisiana (Mr. LONG), the Senator from Washington (Mr. MAGNUSON), the Senator from Wyoming (Mr. MCGEE), and the Senator from Alabama (Mr. SPARKMAN) are absent on official business.

I also announce that the Senator from Mississippi (Mr. STENNIS) is absent because of illness.

I further announce that, if present and voting, the Senator from Washington (Mr. MAGNUSON) would vote "nay."

Mr. SCOTT of Pennsylvania. I announce that the Senator from New Hampshire (Mr. COTTON) is absent because of illness in the family.

The Senator from New York (Mr. JAVITS) and the Senator from Ohio (Mr. SAXBE) are necessarily absent.

The Senator from Michigan (Mr. GRIFFIN) is absent on official business.

If present and voting, the Senator from New York (Mr. JAVITS) would vote "nay."

The result was announced—yeas 49, nays 36, as follows:

[No. 292 Leg.]

YEAS—49

Allen	Fulbright	Packwood
Baker	Goldwater	Pearson
Bartlett	Gurney	Percy
Beall	Hansen	Roth
Bellmon	Hartke	Schweiker
Bennett	Hatfield	Scott, Pa.
Biden	Helms	Scott, Va.
Brock	Hruska	Stafford
Brooke	Inouye	Stevens
Buckley	Mansfield	Taft
Clark	Mathias	Talmadge
Cook	McClellan	Thurmond
Curtis	McClure	Tower
Dole	Metcalf	Weicker
Domenici	Montoya	Young
Dominick	Moss	
Fannin	Nunn	

NAYS—36

Abourezk	Ervin	McIntyre
Aiken	Fong	Mondale
Bayh	Gravel	Muskie
Bentsen	Hart	Nelson
Burdick	Haskell	Pastore
Byrd, Robert C.	Hathaway	Pell
Cannon	Hollings	Proxmire
Case	Huddleston	Randolph
Chiles	Hughes	Ribicoff
Church	Humphrey	Stevenson
Cranston	Jackson	Symington
Eagleton	McGovern	Williams

NOT VOTING—15

Bible	Javits	Saxbe
Byrd, Harry F., Jr.	Johnston	Sparkman
	Kennedy	Stennis
Cotton	Long	Tunney
Eastland	Magnuson	
Griffin	McGee	

So Mr. BUCKLEY's amendment was agreed to.

Mr. BUCKLEY. Mr. President, I move that the Senate reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER (Mr. BARTLETT). Under the previous agreement, the vote will now occur on the appeal from the ruling of the Chair that amendment No. 337 is not germane to the bill under the unanimous-consent agreement requiring all amendments to be germane.

Mr. MCCLELLAN. Mr. President, may we have the amendment stated?

The PRESIDING OFFICER. The amendment will be stated for the information of the Senate.

The assistant legislative clerk read as follows:

Immediately following section 307, it is proposed to add a new section 308, as follows:

SEC. 308. Section 2 of the Clayton Act (38 Stat. 730, as amended, 49 Stat. 1526; 15 U.S.C. 13), is amended as follows:

(a) In section 2(a) delete the words "in the course of such commerce" wherever they appear, and the words "are in commerce" after the words "where either or any of the purchases involved in such discrimination" and insert in lieu thereof the words "affect commerce".

(b) In the third proviso after the words "or merchandise" delete the words "in commerce" and insert the words "interstate commerce and" after the words "engaged in".

Mr. MOSS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. MOSS. This vote will be on whether or not the ruling of the Chair is to be sustained; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. MOSS. The substance of the amendment appears in a mimeographed sheet that is on the desk of every Senator. I would suggest that reading that sheet would give the Senator clues as to how he wants to vote on the ruling.

Mr. ROBERT C. BYRD. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. ROBERT C. BYRD. Is not the vote which is about to occur a vote on the appeal by Mr. Moss from the ruling of the Chair, the Chair having ruled that the amendment by Mr. Moss is not germane to the bill under the unanimous-consent agreement?

The PRESIDING OFFICER. The Senator is correct.

Mr. ABOUREZK. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. ABOUREZK. Is it correct that a "nay" vote would support the Senator from Utah (Mr. Moss) on his amendment?

The PRESIDING OFFICER. The Senator is correct.

Mr. FANNIN. A "yea" vote would sustain the Chair; is that correct?

The PRESIDING OFFICER. The Senator is correct.

The question is, Shall the decision of the Chair stand as the judgment of the Senate? 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 Virginia (Mr. HARRY F. BYRD, JR.), the Senator from Mississippi (Mr. EASTLAND), the Senator from California (Mr. TUNNEY) are necessarily absent.

I further announce that the Senator from Nevada (Mr. BIBLE), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Louisiana (Mr. LONG), the Senator from Washington (Mr. MAGNUSON), the Senator from Wyoming (Mr. MCGEE), and the Senator from Alabama (Mr. SPARKMAN) are absent on official business.

I also announce that the Senator from Mississippi (Mr. STENNIS) is absent because of illness.

I further announce that, if present and voting, the Senator from Washington (Mr. MAGNUSON) would vote "nay."

Mr. SCOTT of Pennsylvania. I announce that the Senator from New Hampshire (Mr. COTTON) is absent because of illness in the family.

The Senator from New York (Mr. JAVITS) and the Senator from Ohio (Mr. SAXBE) are necessarily absent.

The Senator from Michigan (Mr. GRIFFIN) is absent on official business.

If present and voting, the Senator from New York (Mr. JAVITS) would vote "nay."

The yeas and nays resulted—yeas 52, nays 33, as follows:

[No. 293 Leg.]

YEAS—52

Aiken	Dominick	Nunn
Allen	Ervin	Packwood
Baker	Fannin	Pearson
Bartlett	Fong	Percy
Beall	Fulbright	Randolph
Bellmon	Goldwater	Roth
Bennett	Gurney	Schweiker
Bentsen	Hansen	Scott, Pa.
Biden	Haskell	Scott, Va.
Brock	Hatfield	Stafford
Buckley	Helms	Stevens
Byrd, Robert C.	Hruska	Talmadge
Cannon	Huddleston	Thurmond
Case	Inouye	Tower
Cook	Mansfield	Weicker
Curtis	McClellan	Young
Dole	McClure	
Domenici	Montoya	

NAYS—33

Abourezk	Hartke	Moss
Bayh	Hathaway	Muskie
Brooke	Hollings	Nelson
Burdick	Hughes	Pastore
Chiles	Humphrey	Pell
Church	Jackson	Proxmire
Clark	Mathias	Ribicoff
Cranston	McGovern	Stevenson
Eagleton	McIntyre	Symington
Gravel	Metcalf	Taft
Hart	Mondale	Williams

NOT VOTING—15

Bible	Javits	Saxbe
Byrd, Harry F., Jr.	Johnston	Sparkman
	Kennedy	Stennis
Cotton	Long	Tunney
Eastland	Magnuson	
Griffin	McGee	

The PRESIDING OFFICER. On this question, the yeas are 52 and the nays are 33, and the decision of the Chair stands as the judgment of the Senate.

Under the previous order, the distinguished Senator from Utah (Mr. Moss) is now recognized.

AMENDMENT NO. 329 AS MODIFIED

Mr. MOSS. Mr. President, I call up my Amendment No. 329 and send to the desk a substitute rewording of the amendment No. 329 containing technical corrections, and ask that the substitute amendment be read in lieu of 329 as printed. Copies of the substitute are already on Senators' desks.

The PRESIDING OFFICER. The amendment as modified will be stated.

The assistant legislative clerk read as follows:

On page 35, after line 23, insert the following two new sections:

GENERAL PROVISIONS

SEC. 207. (a) SHORT TITLE.—Section 207 through 208 of this title may be cited as the "Energy Industry Competition Act".

(b) DECLARATION OF POLICY.—The Congress hereby finds and declares that the full potential benetfis of the early delivery of the oil and gas available on Alaska's North Slope to domestic markets and consumers will not be realized unless—

(1) barriers to competition presently existing in the energy industry are removed;

(2) restrictions are imposed on further expansion of persons engaged in commerce in the business of producing, transporting, refining, or marketing energy resource products; and

(3) divestiture of assets of such persons in return for fair compensation is directed to promote the public interest in competition and freedom of enterprise, and to protect the consuming public from monopoly, oligopoly, and bigness.

(c) DEFINITIONS.—As used in this Act—

(1) "Affiliate" means a person controlled by or controlling or under or subject to common control with respect to any other person.

(2) "Asset" means any property (tangible or intangible, real, personal, or mixed) and includes stock in any corporation which is engaged (directly or through a subsidiary or affiliate) in the business of producing, transporting, refining, or marketing energy resource products.

(3) "Commerce" means commerce among the several States or with foreign nations or in any State or between any State and foreign nation.

(4) "Control" means actual or legal power or influence over another person, directly or indirectly, arising through direct, indirect, or interlocking ownership of capital stock, interlocking directorates or officers, contractual relations, agency agreements, or leasing arrangements where the result or consequence is used to affect or influence persons engaged in the marketing or energy resource products.

(5) "Energy resource product extraction asset" means—

(A) any asset used for the exploration or development of petroleum or coal deposits or used for the extraction of coal or crude petroleum, including oil and gas wells, and

(B) with respect to oil shale, any asset used in extracting such shale from the ground, crushing and loading it into a retort and retorting such shale, except that the term does not include any asset used in processes subsequent to retorting.

(6) "Energy resource product" means petroleum, natural gas, coal, or products refined therefrom.

(7) "Marketing" means the sale and distribution of energy resource products, other than the initial sale with transfer of ownership to customers at the refinery.

(8) "Person" means an individual or a corporation, partnership, joint-stock company, business trust, trustee in bankruptcy, receiver in reorganization, association, or any organized group whether or not incorporated.

(9) "Energy marketing asset" means any asset used in the marketing or retail distribution of energy resource products including, but not limited to, retail outlets for the sale of gasoline, motor oil, Number 2 fuel oil, home heating oil, or coal.

(10) "Energy pipeline asset" means any asset used in the transportation by pipeline of energy resource products from the site of its extraction to a refinery or in the transportation by pipeline of energy resource products from the refinery to any other place.

(11) "Energy refinery asset" means any asset used in the refining of energy resource products.

(12) "Production" means the development of oil lands or oil shale lands within any State, the extraction of crude petroleum, coal, oil shale, or natural gas thereon, and the storage of crude petroleum or natural gas thereon.

(13) "Refining" means the refining, processing, or converting of crude petroleum, coal, kerogen, fuel oil, or natural gas into finished or semifinished products. The term includes the initial sale with transfer of ownership of such finished or semifinished products to customers at the refinery.

(14) "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and the Trust Territory of the Pacific.

(15) "Transportation" means the transportation of energy resource products by means of pipelines, railroads, or tankers.

ENERGY INDUSTRY COMPETITION

SEC. 208. (a) (1) It shall be unlawful for any person engaged in commerce in the business of extracting energy resource products to acquire any energy pipeline asset, energy refinery asset, or energy marketing asset after the date of enactment of this Act.

(2) It shall be unlawful for any person engaged in commerce in the business of transporting energy resource products by pipeline to acquire any energy resource product extraction asset, energy refinery asset, or energy marketing asset after the date of enactment of this Act.

(3) It shall be unlawful for any person engaged in commerce in the business of refining energy resource products to acquire any energy resource product extraction asset, energy pipeline asset, or energy marketing asset after the date of enactment of this Act.

(4) It shall be unlawful for any person engaged in commerce in the business of marketing energy resource products to acquire any energy resource product extraction asset, energy pipeline asset, or energy refinery asset after the date of enactment of this Act.

(b) (1) It shall be unlawful for any person to own or control, more than three years after the date of enactment of this Act, any asset which such person is prohibited from acquiring under subsection (a) of this section.

(2) Each person owning or controlling, on the date of enactment of this Act, any asset which such person is prohibited from acquiring under subsection (a) of this section shall, within one hundred and twenty days after such date, file with the Attorney General of the United States and the Federal Trade Commission such reports relating to such assets and, from time to time, such additional reports relating to such assets, as the Attorney General or the Federal Trade Commission may require.

(c) (1) The Attorney General of the United States and the Federal Trade Commission shall, simultaneously and independently, examine the relationship of persons now engaged in one or more branches of the energy industry. The Attorney General shall, and the Federal Trade Commission may, institute suits in the district courts of the United States requesting the issuance of such relief as is appropriate under this Act, including declaratory judgments, mandatory or prohibitive injunctive relief, interim equitable relief, and punitive damages.

(2) The Attorney General of the United States and the Federal Trade Commission shall take all steps necessary to require such additional divestment as is necessary or appropriate to restore maximum competition with respect to the production, refining, transportation, and marketing of energy resource products in commerce in each section of the country.

(d) The district courts of the United States shall have exclusive jurisdiction pursuant to the Act of February 11, 1903 (ch. 544, § 1, 32 Stat. 823) to enforce compliance with or to enjoin any violation of this Act.

(e) Any person who knowingly violates any provision of this Act shall, upon conviction, be punished, in the case of an individual, by a fine of not to exceed $500,000 or by imprisonment for a period not to exceed ten years, or both, or in the case of a corporation, by a fine of not to exceed $5,000,000 or by suspension of the right to do business in interstate commerce for a period not to exceed ten years, or both. A violation by a corporation shall be deemed to be also a violation by the individual directors, officers, receivers, trustees, or agents of such corporation who shall have authorized, ordered, or done any of the acts constituting the violation in whole or in part, or who shall have omitted to authorize, order, or do any acts which would terminate, prevent, or correct conduct violative of this Act. Failure to obey any order of the court pursuant to this Act shall be punishable by such court as a contempt of court.

Mr. MOSS. Mr. President, the thrust and force of this amendment would be to follow a trend first proposed in the 75th Congress, that is to bring about once and for all the separation of the marketing, production, refining, and transportation of petroleum and petroleum products. The old axiom of whoever controls the crude, controls the industry, has been borne out over the past year. Unfortunately, those who have controlled the crude have, due, to their total vertical integration, left in their wake bankrupt independent businessmen, abandoned service stations, and frightened motorists.

Mergers and acquisitions in the oil industry among the dominant companies have increased the concentration of power in a relative handful. In almost a "divide and conquer" fashion, major oil companies have split up the retail market of this country along with several strong regional companies and thus

posed a significant impact on competition. The elimination of price competition has a severe effect on consumer costs and the potential for misallocation of the refined product has been demonstrated with the price increases and shortages that have developed during the spring and early summer months.

I was in Denver just a few days ago and witnessed cars lining up at gas stations early in the morning for blocks on end in order to obtain gas for use during the day before the stations ran out. Frequently, by early afternoon, stations had to close because there was no gasoline left to be sold.

Curiously, on July 6, 1973, the Office of Oil and Gas reported that inventories in districts I–IV, that is, east of the Sierras, were 2 million barrels higher than at a similar point in time 1 year ago.

And even though OOG evidence indicates that district V inventories are below normal, what can we make of the following evidence. The city of Seattle has been cut by its suppliers by 15 percent below last year's quantities. Price in Seattle has risen 6 to 8 cents per gallon. Yet, the seven major oil companies operating in King County have reported to the county assessor, for personal property tax assessment purposes, that there are available 2,707,209 more gallons of refined product than were available at the same time last year.

The ramifications of the gasoline shortage on the consumer have immense impact on the public. It has been estimated that for each 1-cent increment in price at the retail level, consumers nationally pay an additional $1 billion per year.

The first indication of the effort of the major integrated oil companies to inhibit competition was the assault upon the independent marketing community. While only 7 percent of the stations in the United States are independent, approximately 25 percent of all retail gasoline sold is through these stations. Obviously, the public feels that the independent station provides an important service since the consumer is willing to go out of his way to obtain gasoline and other refined products from the independent marketers By drying up a source of supply, be it crude or refined product, the majors have eliminated the competition of the independents. Independents find themselves without supply or alternatively with prices that have escalated so high they can no longer be competitive.

The Commerce Committee, the Antitrust Monopoly Committee, the Banking Committee, the Agriculture Committee, the Interior Committee, each has looked into the problems which have brought about the current crisis. And each of the legislative proposals which have appeared or have been introduced clearly are designed to restore competition by regulating the market. In the long run, the best method of restoring competition and enhancing the free enterprise system is not to control the market, but to decontrol the market. By eliminating the type of control exercised by a few, there will be ample opportunity for competition to be restored. Competition and concentration are the antithesis of each other. In order to restore competition it is necessary to lessen the concentration which exists in this vertically integrated industry.

We must take affirmation action now to halt any further market domination by the majors. If only a few giant corporations are allowed to gain total control from the oil well to the gasoline tanks of our cars, then the abuse of market power will spell the end of our free market economy.

In less than a year, the major oil companies have announced substantial changes in marketing.

I ask unanimous consent to have printed in the RECORD a list of the changes made by Gulf, Phillips, Arco, Sohio, Sun Oil, Mobil, Exxon, and Standard of Indiana.

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

MARKETING CHANGES

GULF OIL

On October 1972, announced a $250 million write-off of "marginal and unprofitable" operations. Included in the announcement was its plans to sell or close 3,500 service stations in the upper Mid-west and Northwest.

PHILLIPS PETROLEUM CO.

In June 1972 announced plans to withdraw its service station and home heating oil operations in the Northeast. 1,400 service stations are involved.

ARCO

Announced plans to withdraw from retail marketing operations in the South, Southwest, Rocky Mountain and Plains states.

SOHIO/BP

Sold some 1,150 service stations to American Petrofina, which included all of its marketing operations in Florida and Georgia as well as selected marketing operations in North and South Carolina and parts of Louisiana, Alabama and Oklahoma.

SUN OIL CO.

In February 1973 announced that it was withdrawing from marketing operations in eight Midwestern States. Over 300 service stations were involved. The States are Illinois, Nebraska, Kansas, the Dakotas, Wisconsin, Minnesota and Tennessee.

MOBILE OIL CO.

Intends to close 575 service stations in 1973.

EXXON

Pulled out of Indiana, Illinois, Wisconsin, and Michigan.

STANDARD (IND.)

Pulled out of Western states with the exception of Washington and Oregon.

Mr. MOSS. Mr. President, on June 23, ABC news presented on the Reasoner Report a segment devoted to the current crisis in gasoline. It is most interesting to review the information which this program adduced. First, ABC managed to locate and to film a tank truck backing into a yard at midnight picking up a supply of "black market" gasoline. The product was diverted to an independent wholesaler from a branded dealer in the South. Ironically, conspiring with the black marketeer was the major integrated oil company which, for a price, was willing to allow the wholesaler to transport this product to the independent.

Particularly telling in this program was an interview with Richard Leet, vice president for supply and distribution of Amoco Oil. Mr. Leet in the ABC interview commented:

Each company of course, is an independent organization making its own decisions. It attracts capital to projects that you can get a good rate of return. Refining has not been a profitable business in its own right. A very expensive business and without a good rate of return.

But in explaining why there has not been refinery construction in the past few years, Mr. Leet left out one important fact. Independent refiners have not been able to build because the major vertically integrated oil companies, those who supply the crude, have not been willing to give assurance of crude supply to new entrants to the market. This is an example of how, according to the FTC report which was released last week:

There has not been one new entrant into refining of any significant size since 1950.

A classic example of how vertical integration acts as a barrier to entry for new companies. Further, in commenting on this problem, Mr. R. B. Phillips of Gulf Oil asserted, that the independents' source of supply has been the major's leftovers, what he called the incremental barrel—now the incremental barrel of gasoline is gone—there is no oversupply of gasoline, but what Mr. Phillips fails to say is that it was the majors, the vertically integrated oil companies who created the incremental barrel policy. And it is the majors, the vertically integrated oil companies, who have terminated the incremental barrel.

David Schoumacher, the ABC reporter in this program, commented:

When a small group of companies conspire to restrain trade, one of the first things they do is divide up the territory . . . get out of each other's way to reduce the competition.

That is exactly what I described earlier in my listing of pullouts by major companies from the given markets.

And most interesting is the conclusion of Harry Reasoner:

Make a comparison with the motion picture industry. Time was when the big studios not only made movies but owned the theaters they were shown in: the independent movie houses got the dregs. The principle is probably the same. And maybe the answer is, too: in the case of oil and gas, the people who drill for it, or import it, or refine it should not be the same people who retail it.

That is exactly the intent of my amendment, to prevent continuation of this system which has allowed excess of market control to be contained in the hands of the few.

Mr. President, I ask unanimous consent that the transcript of the Reasoner report for June 23, 1973 be printed in the RECORD at this point.

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

THE REASONER REPORT, JUNE 23, 1973

HARRY REASONER. Good evening. I'm Harry Reasoner and this program is called The Reasoner Report. For the next half hour I'd like to look with you at some stories we found interesting this week.

First, about the gas shortage.

Now, there are oil and gas bootleggers in a growing black market. Some stations ration gas. Some are out, entirely. And for the thousands of independent gas dealers, things have become desperate.

MAN. We have about thirty more stations closed than we had this time last week. Out of two hundred and nine, there's more than—there's about a hundred and eighty-nine of them closed. There's just no profitability anywhere and it's a very, very bad situation.

* * * * *

REASONER. Now it is the great gas crisis of 1973. In a survey this week, the American Automobile Association found nearly half of all gas stations rationing sales, cutting hours—or closed. Nearly two thousand independent gasoline retailers faced imminent shutdown; more than a thousand have shut down in the past two months. And the Federal Trade Commission is now looking into charges that the shortage has been deliberately engineered by the major oil companies to drive the independent dealers—more than twenty-five thousand of them—out of business and grab their market.

And finally, to protect the independents, the Senate has passed a bill for mandatory allocations of gas and oil to them by the big refiners.

With this as background, we asked David Schoumacher to look into the story. He found it to be one of anger, intrigue, and illegality.

SCHOUMACHER. The delivery came as scheduled. The huge tank truck backing into the yard just before midnight. Not normal business hours . . . but then this was not a normal shipment. It was a delivery of black market gasoline.

The only way this wholesaler—who is not affiliated with any of the nationally-advertised brands—could get gasoline was on the black market. The only way we could film the operation was to promise to protect the identity of those involved.

Originally, this gasoline was intended for a major brand dealer in a southern city. Instead . . . it was diverted to the independent wholesaler . . . at a price. For the independent today . . . cut off from his traditional source of supply . . . it is the price of survival.

MASON. We're closing down by the day. Every hour on the hour somebody's calling in saying they're completely out of gas and asking when we're going to get some and. . . .

SCHOUMACHER. Roy Mason is losing his personal fight for survival. Mason owns or services more than two hundred independent stations in Alabama . . . at least he used to . . . until his fuel supply was cut ninety-six percent.

Now he spends much of every day on the telephone, begging for gasoline.

MASON. Now's a desperate time when we need it. Thirty days from now or sixty days from now, we'll have everything closed up, the organization'll be gone and we won't have anything left.

The gasoline shortage is real enough for the independents. Deprived of their supply . . . hundreds of service stations already have closed. One government estimate is that more than one thousand have been driven out of business in the past two months.

Others have been forced to curtail hours . . . limit sales . . . and generally squeeze money out of an operation that was low profit to begin with.

For, ironically . . . it is the independents who have been the most efficient operators, buying gasoline from the major brands and yet selling it for less than the majors by holding down costs. Without the price competition of the independents . . . most experts believe gasoline would cost at least six cents more a gallon.

And a man who has studied the shortages and the oil industry for two years—the Attorney General of Connecticut sees a connection.

Attorney General KILLIAN of Connecticut. I feel and I am convinced, utterly and sincerely, that if there is a crisis in petroleum, it was created by the major oil companies of this nation. And it was created to knock out the independents and be able to increase the price to whatever level that they felt the traffic would bear.

PHILLIPS. This is a true shortage of product in the United States and I think those people who are talking about contrived shortages and conspiracies are being just a little politically frivolous.

SCHOUMACHER. Those who suspect the gas shortage is a conspiracy by the majors begin their case at the refineries. The majors claim their refineries are operating around the clock to supply the demand.

What they do not say is that several years ago . . . in the face of increasing demand, they halted new refinery construction. And while there is more than enough crude oil in the world . . . many independent refineries are now operating at less than capacity, unable to get crude deliveries from the majors . . . as they did in the past.

MAN. There's a great deal of circumstantial evidence that would tend to indicate to me that the supply shortage was to a large extent planned, programmed and implemented to solve the problem of the independents and permit the major oil companies to breathe profit into their backward marketing systems.

SCHOUMACHER. Fred Alvine . . . a professor at Georgia Tech University . . . has been a consultant both to the industry . . . and to those investigating the industry.

According to Alvine, the major companies want to increase the profits of their service stations . . . but the independents are in the way. He feels that when the big companies stopped building refineries, they knew they were passing a death sentence on the independents.

ALVINE. It doesn't take a great deal of genius to be able to predict what's going to happen if you quit building refining capacity. All you have to do is quit building refining capacity for a couple of years and you're going to have a shortage situation.

SCHOUMACHER. At the headquarters of Amoco Oil in Chicago . . . we put Alvine's charge to Richard Leek, Vice President for Supply and Distribution.

When was the last time you built a new refinery?

LEEK. Last time we built a new refinery was in the 1950s.

SCHOUMACHER. Most of the majors have not built refineries for three to five to ten years.

Why not? Weren't you just setting up a shortage?

LEEK. No. That may have been the net effect. Each company, of course, is an independent ogranization making its own decisions. It attracts capital to projects that you can get a good rate of return. Refining has not been a profitable business in its own right. A very expensive business and without a good rate of return.

SCHOUMACHER. But where was the one troublemaker who looked at this increasing demand and looked at everybody else and said, they're not building refineries. By golly, let's build us some new refinery capacity if this thing goes the way we think it's going to do, we're going to have a lot of gas.

LEEK. Well, I don't know who he is hypothetically, but . . .

SCHOUMACHER. He just doesn't exist.

LEEK. But whoever he was . . . he probably couldn't get the capital.

MASON. And if we don't get together and stand together now you as an independent refiner and me as an independent marketer, we're lost. And I'll tell you what, this ain't no place now at all for the faint-hearted. I'm dependent on you for gasoline and you're dependent on them for crude. And if you wait around until they get their good time, in their own good time to serve you, you're going to be just like I am, you're going to be out of business.

PHILLIPS. The independent over the past ten years has been the fellow who has picked up the incremental barrel of gasoline from a refiner.

SCHOUMACHER. In Houston . . . R. B. Philips . . . of Gulf Oil Company . . . says until now the independent's source of supply has been the major's leftovers, what he calls the incremental barrel.

PHILIPS. And he's bought it at a good price and he's constructed relatively inexpensive service stations . . . some rather objectionable service stations, some rather attractive. But he's been the last man in the business.

Now, the incremental barrel of gasoline is gone—there is no oversupply of gasoline . . .

Now, it appears to me in the American scheme of things that the fellow who disappears from the business scene is the fellow who lived on the incremental barrel.

SCHOUMACHER. According to all the textbooks, when a small group of companies conspire to restrain trade, one of the first things they do is divide up the territory . . . get out of each other's way to reduce the competition.

In that light, there's evidence before Congress that Exxon and Gulf have been selling service stations in the midwest. Phillips is withdrawing from New England and Amoco, according to trade reports, is planning to pull out of the far west.

There is evidence that indicates the gasoline shortage depends on who you are. Some stations are closing down, but others are opening up . . . stations that will be owned by the major companies.

BINSTEAD. Well, we're standing here in an Exxon station just across the street from an Alert Station. Alert is a subsidiary of Exxon. Alert is competing in the same market with the Exxon dealer who has been on this corner for many years.

SCHOUMACHER. In Baltimore . . . the President of the National Dealers Association . . . Charles Binstead . . . charges that despite the shortage . . . Exxon, like other major brands is opening new stations under so-called "fighting brand names" . . . going after the independents even at the cost of their own dealers.

In some places . . . major brand stations are being built on the site . . . or next to the old independents.

There may be a shortage . . . and customers for this station may be months away . . . but the majors have enough gasoline to fill their new tanks.

JOHNNY CASH. It's an American tradition to help each other when there's a problem, like our country's gasoline shortage.

* * * * *

SCHOUMACHER. Still the oil industry insists the shortage is real . . . and they've launched an advertising campaign on television . . . and newspapers and magazines to tell us about it.

CASH. And all of us can help by conserving gasoline if everybody used one gallon less a week there wouldn't be a shortage. Let's see the shortage through together.

KILLIAN. There's a very popular cowboy type singer that comes on television and he tells you that—in very deep and sonorous tones that believe it or not, there is an energy crisis, he doesn't say it's created by his employer.

SCHOUMACHER. Mr. Leek, has Amoco and the other major oil companies conspired to create this shortage in order ta drive independents out of business?

Mr. LEEK. Absolutely not. There is not a shred of evidence to that effect. We feel that the allegations have been totally unfair. We feel that an investigation by a responsible branch of government would prove without a shadow of a doubt that this is a very real, a very serious problem and in no way the

result of conspiracy. But rather than being afraid of it, we would encourage it.

PHILLIPS. At this point in time, all we're doing . . . I believe . . . is earning a decent return on our invested capital. Now, if that's unfair, so be it. But I don't think the fact that a company makes money or an industry makes money for a period of time backs us into proof that there's some collusion.

MASON. Exxon ain't coming through with nothing you don't make 'em come through. They're a cold, hard, calculating bunch of son of a guns that don't give a damn about nobody but themselves . . . and Gulf and Mobil and Standard of California and the whole damn bunch of them parasites are trying to run the independent out of business and take control of the government as far as I'm concerned. Well, keep in touch and if anything turns up, you call us. Thank you. Bye. Bye. No gas.

SCHOUMACHER. Without gas . . . Roy Mason . . . like thousands of other independents . . . will be forced to turn to the black market . . . and that supply is limited.

With gas . . . the largest oil companies are enjoying a boom year . . . Profits up twenty-eight percent on an average. The industry leader . . . Exxon . . . up forty-three percent.

But there are no profits for thousands of smaller businessmen . . . the independents . . . men who feel they've played by the rules and succeeded . . . Now scrambling in the night . . . to survive.

This is David Schoumacher.

REASONER. So the charge of conspiracy and calculated intent to drive the independents to the wall has been made and denied. We will not have a determination on whether the shortage has been manipulated, at least until July first, when that Federal Trade Commission Report is due.

But in the meantime, the evidence of our eyes is that is not enough gas and oil to go around.

So it would be surprising under the circumstances, if the big oil companies did not look after their own.

Make a comparison with the motion picture industry. Time was when the big studios not only made movies but owned the theatres they were shown in: the independent movie houses got the dregs. The principle is probably the same. And maybe the answer is, too: that, in the case of oil and gas, the people who drill for it, or import it, or refine it should not be the same people who retail it.

But that's for the long run. For now, Johnny Cash may be right. We'll have to get along with less.

Mr. MOSS. Mr. President, some of the conclusions of the Federal Trade Commission staff report are most telling. According to the Commission's report:

These major firms, which consistently appear to cooperate rather than compete in all phases of their operation, have behaved in a similar fashion as would a classical monopolist: they have attempted to increase profits by restricting output. With their advanced econometric models and computer simulations, the major oil companies should have been able to predict the current increase in demand for petroleum products.

Another point:

The major firms, which control most of the domestic crude supply, appear to be preventing many independent refineries, particularly those in the Midwest, from obtaining sufficient supplies of "Sweet" crude. Therefore, these refineries are running far below capacity, and the gasoline shortage thus has become further aggravated.

There is another comment which discusses how major oil companies have inhibited the normal marketplace cures which should bring into equilibrium the imbalance in supply and demand. The report notes:

What has happened here is the majors have used the shortage as an occasion to attempt to debilitate if not to eradicate, the independent marketing sector.

The Commission report concludes:

The eight largest majors have effectively controlled the output of many of the independent crude producers. A high degree of control over crude is matched by relatively few crude exchanges within independents, an exclusionary practice which denies a high degree of flexibility to the independent sector while reserving it to the majors.

Independent refiners are largely dependent on the majors for their crude supply, but independents sell very little of their gasoline output back to the major oil companies. Thus, the welfare of the independent sector is largely dependent on the well-being of independent refiners.

Continued existence and viability of the independent refiners is necessary for the survival of the independent marketers. This is especially true since the eight largest majors rarely sell gasoline to the independent marketers.

Major oil companies in general and the eight largest majors in particular are engaged in conduct which exemplifies their market power and have served to squeeze independents at both refining and marketing levels. Such conduct and associated market power has its origin in the structural peculiarities of the petroleum industry and has limited the independent share to approximately one-quarter the total, resulting in a threat to the continued viability of the independent sector in this market.

Mr. President, the evidence is in. A vote for the amendment is a vote for the free enterprise system. A vote against the amendment is not necessarily a vote against competition or against free enterprise, but it is a vote for the major integrated oil companies.

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

Mr. MOSS. I yield.

Mr. ABOUREZK. First of all, I commend the Senator from Utah for offering such an amendment. I think it is long overdue and badly needed.

I should like to ask one question with respect to the vertical integration of the major oil companies.

Is it not true, as well, that all companies that are integrated into four separate phases of oil production, refining, transportation by pipeline, and marketing, are able to use unchallenged tax writeoffs for production to subsidize other parts of the operation, making competition further unfair?

Mr. MOSS. That is part of the economic advantage to the integrated company.

Mr. ABOUREZK. In other words, they have an advantage that many independents do not have, companies that do not produce oil as well.

Mr. MOSS. The Senator is correct.

Mr. ABOUREZK. I thank the Senator.

Mr. MOSS. Mr. President, I think that in this instance where we are considering this problem of oil supply, where we are in a shortage situation, where marketing and transportation are involved, and production is the heart of the matter, we need to address ourselves to this matter of totally integrated petroleum companies that, because of their power as integrated economic units, have been able to deal in various ways with the independent sector of the industry to the detriment not only of the independents, but the consumers on the end of the line.

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

Mr. JACKSON. Mr. President, I yield 5 minutes to the Senator from Arizona.

Mr. FANNIN. I thank the distinguished chairman of the committee.

Mr. President, this amendment would require a breakup of the entire petroleum industry: production, refining, transportation, and marketing. It assumes complete ownership, production, refining, transportation, and marketing is anticompetitive. Neither the Department of Justice nor the Federal Trade Commission has found such to be the case. The adoption of this amendment would completely disrupt the production and would change our present situation to one of a national emergency.

It has been represented that the amendment was stimulated by a controversial report prepared by some staff members of the Federal Trade Commission. It has not been evaluated by the Federal Trade Commissioners. For Congress to take some recommendations of some FTC staff members and create new legislation containing such recommendations raises a question of fairness and propriety.

The Federal Trade Commission should be given a chance to study the report; the industry should be given an opportunity to study the report; Congress should be given an opportunity to study the report and hold hearings on it. This is a very serious matter. The effect of the amendment could be devastating.

It is unbelievable that we would be considering an amendment of this magnitude to the bill when we are trying to pass a bill that will help to bring oil to the lower 48 States. Here we are in a crisis. We are talking about an imbalance of payments, we are talking about importing oil in great quantities and we are talking about as much as $20 billion in petroleum imports by 1980 or 1985.

The amendment states:

It shall be unlawful for any person engaged in commerce in the business of extracting crude petroleum to acquire any petroleum pipeline asset, petroleum refinery asset, or petroleum marketing asset after the date of enactment of this section.

It is unbelievable that we would be considering any type of action that would so disrupt the industry. The amendment goes on to say:

It shall be unlawful for any person engaged in commerce in the business of transporting crude or refined petroleum by pipeline to acquire any crude petroleum extraction asset, petroleum refinery asset, or petroleum marketing asset after the date of enactment of this sction.

It is just unbelievable. I do not understand how we can even be considering any action that would disrupt the industry as this amendment would. Here we are hoping that we can in very short order satisfy the requirements we have now as far as right-of-ways are concerned. We are very concerned about the NEPA requirements. We hope that can be settled. Millions of dollars have been

spent. We have industries involved in this program, bringing oil from Alaska to the lower 48 States. These are industries that would come under this amendment. It seems to me that we should not be talking about an amendment of this type that would be so all-encompassing.

Mr. President, I ask unanimous consent that an editorial and an article be printed in the RECORD.

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

[From the Oil and Gas Journal, July 16, 1973]

OIL PERFORMS REMARKABLY WHILE DODGING BRICKBATS

The oil industry's standing with the public might be higher today if companies had rocked along and permitted a serious gasoline shortage to paralyze the nation this summer.

The nation was headed for that kind of trouble in May. Gasoline demand was outrunning domestic production and imports combined. Stocks had been pulled down to the crisis level with the entire heavy motoring season still ahead. A crisis by midsummer appeared certain.

But the crisis won't come off. It's now midsummer, and the industry can see sufficient supply to cover the next months without serious problems.

The reason for this sudden turnaround?

The oil industry simply ran its refineries flat out in June. Refiners processed everything they could get their hands on, including plenty of sour crude that will cause maintenance problems later. Many plants operated at rates above their nameplate capacity, and at times gasoline yields exceeded 50%. Imports of refinery feed and finished gasoline also were stepped up sharply. And consumers contributed their share by driving less.

The result: Gasoline supply exceeded demand so much that stocks built up by nearly 7 million bbl—the first time in memory that gasoline stocks in June have not declined.

Very little recognition is coming the industry's way for this remarkable performance.

A few officials in the Interior Department have acknowledged publicly that gasoline supply has changed for the better. Otherwise, brickbats have hit the industry at a time when it should be winning supporters. Unfriendly congressmen have had a field day grabbing headlines by blaming the industry with manufacturing the crisis. Investigations have become a dime a dozen. The Federal Trade Commission staff, encouraged by a congressional committee, even warmed up a batch of discredited charges and rewrote them into a new report slamming the industry. Monopoly accusations also have been resurrected, and Florida's attorney general used the turmoil as occasion to charge 15 companies with antitrust conspiracy.

And the crowning calumny is the charge now appearing that the industry should have performed at the June level all along—then there would have been no crisis. The truth is the industry can't maintain the June operating rates or follow many practices used then for a prolonged period. The units would come apart at the seams. The answer is that more refineries are needed.

And the reason there aren't more refineries, more domestic crude, and more energy in toto is a confused, uncoordinated, misdirected energy policy exemplified by the frenzied attitude in Congress toward the oil industry. Yet despite the political thunder that surrounds it, the industry is doing a remarkable job in averting a gasoline crisis.

INADEQUATE REFINERY CAPACITY

Another important result of public and political pressures has been the constraints on building new refineries and expanding and modernizing older ones. Historically, the oil industry has generally been able to expand refining capacity in line with demand growth. This has been accomplished despite the long lead time required to obtain a site, make the engineering studies of the ground, design and build the process units and put them into operation.

In recent years, obstacles in the way of obtaining refinery sites and economic factors have worked against the expansion of refinery capacity. As a result, U.S. refining capacity has leveled off in the past two years while growth in demand has accelerated (see Chart 3 opposite page). The first significant constraint on increasing refinery capacity occurred when the government cleared the way in 1966 for importing unlimited amounts of low-priced foreign No. 6 heavy fuel oil into the East Coast. This has resulted in a severe distortion of the U.S. refining and logistic system. In more recent years, East Coast deepwater terminal operators have obtained more and more licenses to import light No. 2 fuel oil, which is primarily used for home heating. The greater volumes of the then low-priced imported products discouraged refiners from committing the hundreds of millions of dollars required for sizeable new refineries or expansion programs since the products from these new expensive facilities could not have competed with the low-priced imports. More recently, however, the implementation of the new National Security Fee System for imports should help to alleviate this problem.

This is just one aspect of the unsatisfactory economic climate that has prevailed for a long time for almost all companies in petroleum manufacturing and marketing. The low levels of product prices in relation to costs have not provided enough profit to warrant construction of new, even more costly (due to inflation and more stringent environmental standards) evironmentally acceptable facilities. This is still the case, and product prices will have to be permitted to rise in response to the supply and demand situation if a satisfactory number of new refineries are to be built.

In many cases, companies who in the past were willing to make the financial commitments in spite of low prices and competition from imports have been thwarted in their efforts to build new refineries. The experience of Shell Oil Company is a good case in point. When Shell announced plans to build on a coastal site in Delaware which the company had owned for nearly 10 years, the state passed a law prohibiting new heavy industry facilities along the coast. Attempts to obtain other sites in the Northeast continue, but have not yet been successful even though many studies by independent experts substantiating our contention that environmentally acceptable refineries can be built have been admitted to government authorities.

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

Mr. JACKSON. I yield 5 minutes to the Senator from Nebraska.

Mr. HRUSKA. Mr. President, I rise in opposition to the amendment. The amendment in its original form was objectionable enough. The amendment in its amended form is even more objectionable.

The true basis and comprehensive basis for my opposition lies in the fact that the amendment gets into material and distinctions that are highly and vitally important in the antitrust law.

There have been no hearings in the Committee on Interior and Insular Affairs on this matter. There have been hearings in the Subcommittee on Antitrust and Monopoly of the Committee on the Judiciary. Two years ago this month extensive hearings were held. They were so inconclusive as to the impact of divorcement of retail and other sectors of the industry to the production of petroleum that the subcommittee did not venture any further as of 2 years ago.

A year and a half ago there were additional hearings and there again it was found that it was highly unfavorable to the consumer and the motorist and other users of petroleum products. Everything seemed to go in the direction of being an impairment to the consumer; that the consumer would suffer from inevitably higher costs and poor service.

The fact that it is a matter that is heavily involved in antitrust laws is seen in lines 4 through 14 on page 2 of the amendment, which I understand is virtually transferred into the amended amendment.

Mr. President, I ask unanimous consent that those lines of the amendment be printed in the RECORD at this point.

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

(1) barriers to competition presently existing in the petroleum industry are removed;

(2) restrictions are imposed on further expansion of persons engaged in commerce in the business of producing, transporting, refining, or marketing petroleum or petroleum products; and

(3) divestiture of assets of such persons in return for fair compensation is directed to promote the public interest in competition and freedom of enterprise, and to protect the consuming public from monopoly, oligopoly, and bigness.

Mr. HRUSKA. Mr. President, after all, this material gets into an industry that is complicated, intricate, and massive. It has been an industry that has developed through the last 100 years to the point of requiring a delicate balance, a responsiveness and highly receptiveness to changing conditions in the field. This delicate balance can be preserved only by including and involving tankers, barges, refineries, pipelines, trucks, terminals, and so forth. All these factors are the result of great cost and expertise that is possessed by those who go into the matter on an overall basis. The present systems encompass producing, refining, transporting, storaging, delivering, and marketing. If these areas were entrusted to independents, separate from the major industry, in substantial degrees we would have chaos and confusion.

As to the retail marketing area, very few retailers would be capable of the judgment, as well as of the finances, to locate and to build facilities for retail systems, to have the personnel and management to maintain a national credit system for individual customers, and so on. They just do not have the backup financially or by way of judgment in order to sustain them.

If it were parliamentarily practicable, I would make a motion to refer these amendments to the Antitrust and Monopoly Subcommittee. I understand that

such a motion would necessarily have to include the entire bill, so that we cannot get at it that way. I think a point of order which would be rendered would be well founded, because this amendment does not pertain to the text and the thrust of the bill which we are not processing.

It would be my hope, Mr. President, that this amendment would be rejected, so that hearings, which have been started in part and which were concluded in part, may go forward, and that we may build on that record to demonstrate what impact such a step and such an amendment would have on the producing, refining, transporting, and marketing practices of the industry.

I hope the amendment will be rejected.

Mr. JACKSON. Mr. President, I yield myself such time as I may require.

The pending amendment, No. 329, offered by the Senator from Utah creates a dilemma for me. I understand that the Senator wishes a vote for the record on the principle of his amendment, without expecting, however, that it would become law in its present form.

The Federal Trade Commission staff report delivered to me earlier this month establishes a prima facie case that vertical integration in the petroleum industry seriously undermines competition and economic efficiency, and that anticompetitive structure and behavior in the oil industry have had some role in creating the current gasoline shortage. The permanent Investigations Subcommittee will hold hearings shortly on the FTC staff report, and the fuels and energy policy study conducted by the Interior Committee will have hearings on the legislative recommendations implicit in that report.

I do not want to be recorded at this time in opposition to the principles embodied in the Moss amendment. But I do have problems with the amendment, and hope that the issues it raises will get a thorough examination.

Before I could vote for specific divestiture language I would have to know more about—

The legislation's impact upon energy supplies during the period of transition;

Whether it is indeed the integration of marketing with other sectors of the petroleum industry that has the chief adverse impact upon competition rather than, for example, the integration of production and refining;

The burden that the specific legislation could place upon the courts, and whether the procedure for divestiture should be left to the courts; and

The tax and securities implications of alternative divestiture plans.

I think I can assure the distinguished Senator from Utah that the issues raised by his amendment and the purposes of the amendment will not be ignored by the Senate in this session.

The Senator would, I believe, agree with me that, because this measure is so far reaching, it would benefit from hearings at which experts on all aspects of the energy industry could appear.

I would point out, in this connection, that the distinguished Senator from Michigan, who chairs the Antitrust and Monopoly Subcommittee of the Judiciary Committee, is currently holding hearings on problems relating to those raised by the amendment and by the Senator from Utah. What I would suggest is that, at an appropriate time, the Judiciary Committee, the Commerce Committee, and the Interior and Insular Affairs Committee in connection with responsibilities for the study now underway on fuels and energy, hold joint hearings better to address themselves to the problems raised by the FTC report and by the amendment offered by the Senator from Utah. I would hope that we could proceed in that way, so that we could make a record and go into all of the complicated aspects of that problem before voting here on the floor of the Senate.

I reserve the remainder of my time.

Mr. HART. Mr. President, the question of divestiture in the oil industry has been raised in this body—via proposed legislation—dozens of times in the past 30 or 40 years. There are many who think past Senates were ill-advised not to have given more serious consideration to those proposals. For this well could have prohibited the energy crisis we face today.

Instead, we today have an oligopolistically structured industry that seems likely to serve only one interest—that of the whole. Competition in such an industry frankly would be a surprise—not a reasonable anticipation.

Indeed, at the conclusion of a recent study, the FTC staff found that the current gasoline shortage resulted from a combination of anticompetitive practices by the large oil companies, a general spirit of intra-industry cooperation rather than competition and from Government policies. The latter, I suspect, were most likely given birth first in the minds of industry leaders and not in the minds of Government officials.

On the natural gas side of this industry, a preliminary FTC study, reported to the Antitrust Subcommittee a few days ago, produced equally as startling revelations. The staff's assignment was to determine the validity of figures on natural gas reserves—which have traditionally been reported to Government by the American Gas Association—and which are the chief bases for judgments that we have a natural gas shortage. The staff found that in some cases, the proved reserves a company carried in its records were greater by 10 to 1 than the figures reported by the same company to the AGA. In comparing the "book reserves"—the most conservation in company files—with the AGA figures, the staff found "serious underreporting." In some cases, they said, the figures were the same, in many cases the reserves figures were higher. But in no case did the FTC staff find that the company reported higher reserves to the AGA than it carried on its "book reserves."

Obviously, there is adequate reason to think that the solution proposed in the Moss amendment is the correct one.

Certainly, there has been ample testimony before the Antitrust Subcommittee—dating back to the time of Senator Kefauver—as to the oligopolistic structure and behavior of this industry.

The evidence here was adequate enough to convince me to introduce legislation to restructure this industry—along with six others. This is the industrial reorganization bill, introduced first in 1971.

My plan has been to get to full hearings on possible remedies for structure problems in the oil industry—under that bill—this fall.

Following this route, I grant, will be time consuming and will do little immediately to alleviate the current energy crisis. The Senate today may indicate that this is still the best route to follow. This feeling is understandable.

For my part, I have seen enough evidence to convince me what divestiture is the best step to take toward solving the energy crisis and, therefore, I will support the Moss amendment.

Mr. MOSS. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Utah has 14 minutes.

Who yields time?

Mr. MOSS. Mr. President, I yield myself such time as I have remaining.

Mr. President, I appreciate the comments made by the Chairman of the Interior and Insular Affairs Committee, who spoke last, the ranking minority member of the committee, and other Senators who have discussed this problem. All have seemed to recognize that there is a problem, and I am persuaded by the suggestion of the Senator from Washington that it does indeed require debate and investigation which would have to come from hearings, because what we are talking about is dismantling a great economic force in our country and doing it at a time when it is under stress and when we are trying to find ways of averting further shortages. I recognize that this matter requires further study and research, and I further recognize that, although hearings have been conducted on this phase of the petroleum industry, there have not been hearings directly on this legislation.

Amendment No. 329 which I offered is an effort to separate the petroleum industry functions of marketing, refining, production, and transportation.

I note that on the same date that I filed my amendment, Senator ABOUREZK introduced a bill to amend the Clayton Act seeking to regulate the four functions of the petroleum industry. Senator MCINTYRE has introduced similar legislation.

I recognize that this is a matter which requires careful study and research. I further recognize the fact that hearings have been conducted on this phase of the petroleum industry, but not directly on this legislation.

Under existing law, section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185) provides that the owner of rights-of-way operate rights-of-way as a common carrier and in addition thereto such a carrier must, at reasonable rates and without discrimination, accept and convey the oil of the Government or of any private citizen or company, not the owner of the pipeline, operating a lease or purchasing gas or oil under the provisions of that act. S. 1081 revokes all rights-of-way, but retains the portion of existing law referred to above.

I have had called to my attention the legislative history of the Mineral Leasing Act of 1920 with regard to the pipeline provisions. Senate Report No. 578, 83d Congress, first session, at pages 2–3 provides:

On March 22, 1951, the then Secretary of the Interior, in an effort to make the common-carrier provision of the Mineral Leasing Act effective as a regulating device, undertook to require natural gas pipeline companies, as a condition of the grant of a right-of-way across public lands, to file a stipulation whereby they agreed to act as common carriers, to submit rate schedules to the Secretary of the Interior, to file such schedules with the Federal Power Commission and to construct additional facilities as their common-carrier obligations might require (subject to many limitations). The right of the Secretary to take this action was contested in the court of the District of Columbia in the case entitled "El Paso Natural Gas Company v. Chapman," and culminated in a decision of the United States Court of Appeals for the District of Columbia, dated March 26, 1953, in which the court held that the action taken was "beyond the authority of the Secretary."

The decision in the El Paso case would indicate that under the language of the existing statute the Secretary is without authority to promulgate detailed regulations of the pipelines respecting the common carrier provisions of the Mineral Leasing Act. Even if this were possible, it seems impractical to incorporate into a grant of a right-of-way the numerous regulatory provisions that would normally be applied to a regulated industry. In other words, to attempt to regulate oil and gas pipelines through provisions in a grant of a right-of-way is, at best, a very left-handed approach to the subject. It seems to me, therefore, that if Congress should see fit to require gas pipelines to be common carriers, the matter should be approached directly and not through the indirect method of regulations and conditions in the grants of rights-of-way. The Congress has designated the Federal Power Commission to exercise broad powers over the regulation of the gas industry by the Natural Gas Act. That Commission has a staff of engineers, accountants and rate experts. The Interior Department does not have and never has had a staff of that nature with reference to the gas industry. Moreover, such jurisdiction as the Department might exercise through restrictions in grants of rights-of-way would always be, at best, only partial, and furthermore, would not affect all pipelines but only such gas pipelines as happen to cross public lands.

Meritorious as the common carrier provision might have been at the time of its enactment in 1920, it seems to me that, with the control of oil pipelines in the Interstate Commerce Commission, and the control of most major gas pipelines in the Federal Power Commission, the common carrier provision now serves only a limited purpose.

So, Mr. President, in view of the urging that we have full hearings, and in view of the fact that I believe this is meritorious and should be done, and with the assurance of the Senator from Washington and others that we can get down to this immediately, I am inclined to think that I should withdraw my amendment, and I believe that I shall do that. The amendments which I offered and the right-of-way bill are too big to be considered together.

I will withdraw my amendment and, at an appropriate time, I will urge the Congress to proceed with the divestiture concept.

Another matter that has been raised, and one that is of importance, is the fact that there may be called up the question of germaneness, which we ignore blithely in many instances, but when the time comes we can raise it to shut off amendments that, although they deal with the same industry, might be ruled as being nongermane.

Finally, I want to say that I fear an amendment of this complexity and impact might threaten the passage of S. 1081 and contribute to further discouragement of exploration and development at a time when we are faced with an energy crisis.

Mr. President, I want to emphasize that I recognize that we do indeed have a very serious shortage of energy at this time. We are becoming increasingly more dependent every day on overseas imports. And we have deprived ourselves for a considerable period of time of some of our domestic production. This is the basis for the pending bill, to get the domestic production available for use in this country to meet our needs for energy.

Mr. President, under the circumstances and with the assurances that have been made and with the suggestions that have been advanced, at this time I withdraw my amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

Under the previous order——

Mr. JACKSON. Mr. President, I wonder if I might have unanimous consent to proceed for 1 minute.

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

Mr. JACKSON. Mr. President, I want to take this opportunity to express my appreciation to the able and distinguished Senator from Utah for his decision to withdraw the amendment.

I want to say that we are going over this matter very carefully as part of our study under the resolution we are operating under in the Senate's study of national fuels and energy policy which is made up of representatives from the Commerce Committee, the Committee on Public Works and the Joint Atomic Energy Committee, as well as the Interior Committee.

The Senator from Utah serves on that study group as a representative of the Commerce Committee.

I would hope that as soon as possible I shall be able to confer with the chairman of the Judiciary Committee and of the Subcommittee on Antitrust, headed by the Senator from Michigan (Mr. HART), as well as with the Senator from Washington (Mr. MAGNUSON), to see that there is this tripartite committee approach to the problem we have discussed on the floor.

I want the Senator from Utah to know how much I appreciate his decision to withdraw his amendment. And I thank the Senator.

Mr. FANNIN. Mr. President, I ask unanimous consent that I might proceed for 1 minute.

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

Mr. FANNIN. Mr. President, I commend the Senator from Utah for his excellent cooperation in withdrawing his amendment. I realize his desire to go forward with this measure. And I feel gratified that we will have the opportunity to have the measure considered for whatever merit it might have.

The PRESIDING OFFICER. Under the previous order, the Senator from Colorado is recognized.

Mr. HASKELL. Mr. President, I yield to the Senator from Wyoming.

Mr. HANSEN. Mr. President, I want to ask the distinguished chairman of the committee a question because I am not certain that I understood precisely what he said in his colloquy with the distinguished Senator from Utah. Did the Senator from Washington indicate that it would be his intention to have the Committee on Interior and Insular Affairs, the Commerce Committee, the Public Works Committee, and the Joint Committee on Atomic Energy hold hearings on the Moss proposal?

Mr. JACKSON. No. It would be the Committee on Interior and Insular Affairs, the Judiciary Committee—which has jurisdiction of antitrust matters—and the Commerce Committee on this specific bill. We do intend to hold hearings, of course.

Mr. HANSEN. Under Senate Resolution 45, it would be the Committee on Interior and Insular Affairs, the Commerce Committee, the Public Works Committee, and the Joint Committee on Atomic Energy.

Mr. JACKSON. The Senator is correct.

Mr. HANSEN. Would it be the intention of the distinguished Senator from Washington to have the same committees represented on both these hearings?

Mr. JACKSON. Mr. President, I would be glad to entertain the suggestion. The only problem is the matter of practicability. We would have almost half of the committees meeting. And I am a little fearful whether the size would be such that it would be difficult to conduct the hearings.

I have no real objection as long as it is practicable. However, the main thrust here relates to the antitrust issues which is the primary function of the Judiciary Committee and specifically the subcommittee headed by the Senator from Michigan (Mr. HART). I am certainly open to suggestions.

Mr. HANSEN. What about the Committee on Government Operations, just for my own clarification?

Mr. JACKSON. Mr. President, I suggest that the question of the committees that might be involved in this matter is something that we had better discuss at another time.

We could have a lot of committees. We could have them all there. We might even have a committee of the whole of the Senate.

Mr. HANSEN. Mr. President, the reason I asked the question was because part of the time the Senator was speaking, he was facing the Senator from Utah and I did not catch precisely the committees indicated by him. That is why I raised the question.

I thank the distinguished Senator for yielding to me.

Mr. HASKELL. Mr. President, I would like to discuss the amendment which I introduced a week ago to S. 1081 which seeks to forbid pipelines which cross Federal lands from being owned by the people who ship the product.

The distinguished Senator from Washington, the floor manager of the bill, suggested that probably the amendment should be broadened so that no pipelines were owned by the shippers of their product. I will not, Mr. President, go back over the remarks I made the other day except to point out that the anticompetitive effect of the innovative ownership of pipelines by the oil companies was recognized right here 6 or 7 years ago.

Mr. President, the Attorney General under President Eisenhower and the Attorney General under President Johnson recommended divestiture and recommended that competition would be best served by having independent pipelines.

I think it is extremely interesting to note the profitability of pipelines. I believe the junior Senator from Alaska (Mr. GRAVEL) felt that pipelines might not be profitable and that independents could not be induced to get into the field.

On this matter I refer to a statement by a Mr. Beverly Moore before the Subcommittee on Special Small Business Problems of the House Select Committee on Small Business on June 15 where, in analyzing the Colonial Pipe Line returns, he concludes that the return on equity investment before taxes is 94 percent and the return after taxes is 70 percent. I think that is sufficient incentive to induce people to enter into the market.

I refer any interested parties to this particular publication. Also, at the time I mentioned that independent pipelines should carry oil—and we need oil in our country when we have an energy crisis—we need competition in an energy industry.

I believe I was questioned on the fact as to whether our financial structure could raise the money for pipelines or whether we did not have to depend upon the oil industry.

The information was advanced to me that utility companies were unable to raise sufficient capital.

I would point out that the A.T. & T. in November of 1972 offered and subsequently sold a half billion dollars worth of securities and in March of 1973, this year, offered and successfully sold another half a billion dollars worth of securities. One can just go down the list. The ability to market the securities is unquestioned. There is no question about it. The profitability is unquestioned.

The only question, it would seem to me, is whether there is an anticompetitive effect on a pipeline owned by major oil companies.

In this connection, as a last indication that there is in fact a stranglehold on oil in this country by the integrated nature of the major oil companies, I would call the Senate's attention to the report of the Federal Trade Commission. The distinguished floor manager of the bill (Mr. JACKSON), with considerable foresight, on May 31 of 1973, asked the Chairman of the FTC to report, and the Chairman did report, on the nature of the industry generally, and specifically on the anticompetitive nature of ownership by oil companies of pipelines.

Rather than read from that report at length, I ask unanimous consent to have printed in the RECORD at this point excerpts from the report.

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

EXCERPTS FROM THE "PRELIMINARY FEDERAL TRADE COMMISSION STAFF REPORT ON ITS INVESTIGATION OF THE PETROLEUM INDUSTRY"

Our best estimates, indicate that in 1970, the Top 4, 8 and 20 firms had approximately 37, 64 and 94 percent respectively of domestic crude proven reserves. On the basis of these data, the industry structure viewed in a long-run sense is even more concentrated than short-run statistics have indicated.

These (crude oil) pipelines form a vast, complex intrastate and interstate transportation network. Because of the high construction costs, most of the pipelines are owned directly by individual major petroleum companies or by several of these companies through joint venture. However, the nature of the interstate lines causes them to come under the "common carrier" regulatory jurisdiction of the Interstate Commerce Commission.

Our investigation disclosed charges leveled against these pipeline owners by non-owners who claim that they have been excluded from using the common-carrier lines. The inherent technological nature of the pipeline system and the petroleum industry provides the basis for such exclusionary practices.

Through the pipeline system, crude oil is transported more or less on a constant flow-pressure basis. Trunk stations can pump-in a batch of crude only when there is a slow in the flow for it and then line pressure must be increased or decreased to adjust for the desired flow speech. The scheduling of pipeline input is very complex and must be worked out in advance of the shipment. Because of this process, an independent crude producer may have a great difficulty in securing a place in the flow, especially if he does not have storage tanks at the trunkline station and/or ships a relatively small amount of crude.

The result of this pipeline system is to place the major firms who own the pipelines in an excellent position to discriminate against the independent producer. The opportunity to require the independent to enter into an agreement to sell his product at the well head in order to obtain regular sale and transportation of crude clearly exists for the majors.

Since pipelines transporting crude oil across state lines are common carriers subject to Interstate Commerce Commission regulation, it might seem strange to classify pipeline control as a barrier to entry to new refinery capacity. However, there are two reasons to suppose that pipeline control does, in fact, constitute a legitimate barrier. First, the owners of pipelines seek approval from the ICC of rates that provide sufficient returns from their pipeline investment. However, the rate approved may be well above the competitive cost of transporting crude oil.

For the vertically integrated owners the excessive rate is no burden. Those firms simply transfer funds from the Refinery Department to the Pipeline Department; a bookkeeping transaction of no moment is made. Non-integrated independent refiners, though, must pay the excessive pipeline charge. For these firms a real cost is incurred. To the extent that major-firm owners of pipelines earn greater than competitive returns on investments, the independent refiners are put at a cost disadvantage relative to their major competitors, and a barrier to entry is imposed. To a lesser extent control of product pipelines can be used to erect a barrier to entry.

Second, pipelines can be employed as a barrier to entry if the owners can exclude or limit flows of crude oil to independents. In fact, this can be done by (1) requiring shipments of minimum size, (2) granting independents irregular shipping dates, (3) limiting available storage at the pipeline terminal, (4) imposing unreasonable product standards upon independent customers of pipelines, and (5) employing other harassing or delaying tactics.

What has happened here is that the majors have used the shortage as an occasion to attempt to debilitate, if not eradicate, the independent marketing sector.

Mr. JACKSON. I yield myself such time as I may require.

Mr. President, I want to commend the junior Senator from Colorado (Mr. HASKELL) for introducing amendment No. 313. The Senator has identified a very important—perhaps the most immediately important—problem presented by the current structure, conduct, and performance of the vertically integrated major oil companies which control and dominate so much of the country's production, transportation, refining, and marketing systems for crude oil and petroleum products.

The committee report on S. 1081 made special reference, for example, to the potential anticompetitive affect posed by trans-Alaska pipeline and the near monopoly powers a few companies could exercise through ownership of both production and transportation facilities for North Slope oil. At page 27 of the report it is noted that:

Three companies control more than 90 percent of the proved reserves of the Prudhoe Bay field, the largest in North America. This field, whose production will dominate West Coast oil supplies will be developed and produced as a single unit pursuant to state conservation law. The same companies will also own 82 percent of the Trans-Alaska pipeline, which is organized as an undivided interest joint venture. West Coast crude oil prices, the companies' profits and the state's revenues, and fuel prices for West Coast consumers, will all be affected powerfully by the amount of oil that the companies and the state permit to be delivered to District V markets.

Economic power of this nature and of this magnitude presents major issues of public policy, no matter how benevolently it may be exercised. The problem of the relationship between production, transportation, and refining is not unique to Alaska, but is found in practically all of the producing oil fields throughout the Nation. In my view the facts warrant early and expeditious consideration by the Congress of legislation addressed to this matter.

Mr. President, at my request, the Economics Division of the Library of Congress Congressional Research Service prepared a memoradum on amendment No. 313. This memorandum was prepared by Dr. Douglas Jones, Specialist in Fiscal and Financial Economics.

The memorandum provides a concise review of the issues involved in the amendment, the history of previous divestiture actions, and a discussion of some problems associated with divesti-

ture but not specifically addressed to the amendment.

Mr. President, I ask unanimous consent that the text of the memorandum be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. JACKSON. Mr. President, in view of the major impact the amendment would have, and in recognition of the substantial uncertainty that the amendment in its present form would create in the areas of tax consequences, pipeline financing, methods and timing of divestiture, and other matters, it is my belief that the amendment would benefit from hearings and from consideration by the committees of jurisdiction in the Senate.

If the junior Senator from Colorado decides to withdraw the amendment and have it referred to committee as a formal bill for hearings, I will set the measure for early hearings. I am in sympathy with the objective the Senator seeks to achieve. I hope the Senator would recognize the need for further clarification relating to the matters mentioned above, as well as to the need to make provision for exempting small gathering lines and petroleum product lines, and to provide for a transitional period of time for implementation which will avoid any disruptions or delay in connection with pipelines now under construction or at an advanced state of planning and engineering design.

EXHIBIT 1

THE LIBRARY OF CONGRESS,
CONGRESSIONAL RESEARCH SERVICE,
Washington, D.C., July 16, 1973.

To: The Honorable HENRY M. JACKSON.
From: Economics Division.
Subject: Haskell amendment (No. 313 to S. 1081).

As requested in your telephone call of July 12 this memorandum treats several possible modifications to the Haskell Amendment (No. 313) to the Pipeline Right-of-Way bill S. 1081. Assuming a divorcement and divestiture requirement I have set out the main forms an implementing plan might take and some scenarios associated with the playing out of the process. With the hope of possible usefulness in the course of floor debate on such an amendment I have included some supplementary observations and information which bear on the general problem of divestiture.

For ease of exposition the memo is organized around (I) seven propositions, (II) some points about the Alyeska case, and (III) some comments about divestiture itself.

I. SEVEN PROPOSITIONS

1. To begin with there is no legal difficulty in writing into legislation a requirement for divestiture, though this probably has not been done before in this explicit fashion. The Public Utility Holding Company Act of 1935 involving dissolution, divorcement and divestiture in the electric and gas industries is probably the closest thing to it. In that instance the Securities and Exchange Commission got the oversight task.

2. Amendment 313 would essentially apply the Commodities Clause to a pipeline carrier, much the same as it has been applied to the railroads since 1906 (Hepburn Act). This law was designed to prevent the type of discrimination which is almost certain to develop when carriers are free to manufacture or deal in products which they also transport for others. In a sense the Haskell Amendment applies the Clause "in reverse" in that the present case is an oil industry which would "incidentally" own a transport system, while the earlier circumstance was a matter of preventing the carriers (railroads) from engaging in mining, manufacturing, and other production activities (aimed particularly at anthracite coal).

3. Congress has the choice of writing the outlines of a divestiture plan into the legislation, or setting out the objectives that a divestiture plan subsequently arrived at must accomplish, or merely decreeing that there will be one and assigning the task of overseeing one to this or that entity. In this last connection presumably the several agencies having an interest in such matters would "automatically" look in on any divestiture actions whether or not directed by S. 1081 to do so. They would, however, merely see if those actions conformed to their existing basic laws in the absence of specific language in S. 1081 giving special authority and responsibility to go further.

4. The main alternative methods for accomplishing divestiture of the Alaska pipeline after construction and operation would appear to be (a) a public offering of stock through an investment house; (b) a "pass through" of stock to existing shareholders of the oil companies; and (c) a negotiated sale to some other entity. While perhaps not absolutely necessary to disposal of the assets, all three approaches imply first altering the present undivided interest pipeline into a stock corporation and then selling or otherwise distributing the shares that were issued.

An advantage of a public offering disposal is the chance for a substantial diffusion of ownership—presumably a prime objective of divestiture itself. As in the case of a negotiated sale, however, a disadvantage is the need to find a buyer. The "pass through" approach is perhaps the simplest method in that "the buyers" are already there. It is the most conservative method in that it is minimally disruptive to existing values. (Each shareholder in, say, EXXON receives some shares as well in the new pipeline company.) A disadvantage of this approach is that if the oil company shares are concentrated it follows that at the first round of distribution ownership of the pipeline may still reside with a few shareholders. Furthermore, even if ownership is diffuse, shareholders holding both EXXON and "Alaska Pipeline" stock are likely to see a connection between the welfare of each company when it comes to voting both stocks. Finally, in the absence of other provisions, a change in the management regime is more likely in method (a) and (c) than (b).

Note that there is no obvious reason why a divestiture plan would have to apply the same method to all participants in the Alaska pipeline—a combination might be preferable in recognition of the differing corporate circumstances of the seven companies and the amounts and values of their holdings.

5. As the courts have long since found, the creation of an implementing plan following a divestiture order is no easy task. In the El Paso case, for example, the Supreme Court over a dozen years has three times ordered divestiture "without delay." In the Alaska pipeline instance it would seem best to provide for the plan to be drawn up by the oil company participants themselves if at all possible. The legislation would provide that failing an acceptable divestment plan proposed by the participants one would be drawn up from without. Such a "voluntary plan" implies a degree of close cooperation and consultation that might itself run afoul the antitrust laws so that special relief from this possibility should be considered in S. 1081. (Note that this might also come up if the seven companies making up the Alyeska Service Corporation were to merge into a single pipeline company for purposes of creating an entity which could be readily divested.)

6. Time considerations are, as usual, important. If a seven-year cutoff is chosen, companies should be required to have an approved plan by a certain date and partial sales should be allowed over the remainder of the period (typically about ¼ is sold to establish a market and a price). And since this divestiture requirement would be known from the outset in S. 1081 and, unlike most divestiture proceedings, is not intended to be punitive in character, companies should be allowed (within reason) to choose the timing and circumstances of their sales (or distribution) of the asset so as to maximize any advantage or minimize any disadvantage they may legitimately have.

7. The candidates for primary oversight of any divestment plan (or indeed initiation, if not done by the oil companies involved) would seem to be the Securities and Exchange Commission, the Interstate Commerce Commission, the Federal Trade Commission, the Antitrust Division of the Justice Department, a special board established for this purpose under S. 1081, the (District) Courts, or the Congress.

II. A WORD ON ALYESKA

Recall that the entity in existence is the Alyeska Service Corporation which has a management contract to manage the Alyeska Pipeline System. It is comprised of the following companies with the following degrees of participation (there are no stock shares as such):

(In percent)

SOhio	28.08
Exxon	25.52
Arco	28.08
Mobile	8.68
Phillips	3.32
Union	3.32
Amerada Hess	3.00
	100.00

These degrees of participation equate roughly to how much each is responsible for in financing the line, the amount of oil reserves each has, and the amount of access each has to the capacity of the line. As an undivided interest enterprise the single planned pipeline is carried on the books of these seven companies as seven separate pipelines, each with its own tariff. This arrangement was in part arrived at as a way of minimizing antitrust difficulties by showing separation. As noted earlier for purposes of disposal the "Service Corporation" and the "seven pipeline companies" should be merged into one pipeline common carrier with a single management regime.

As always the valuation problem in a divestiture action is a complicated one. It is all the more so when the entity remaining is a public utility where levels of rates have to do with the rate base and allowable earnings—and the type of common carrier is the most fixed single-purpose investment of all transport systems, a pipeline whose value ultimately is linked to the diminution of the resource. Accordingly at this point it is difficult if not impossible to say whether tariff schedules or earnings would go up or down after divestiture and what the economic consequence of the action might be. Presumably, though, it would have at least struck a blow against vertical integration by slicing out a portion of the transport element in this case.

III. A WORD ON DIVESTITURES

In formulating the present research it was instructive to recall four famous cases of divestment and how those scenarios played out. These are the COMSAT case where now all but AT&T has sold their stock interests on the open market (and AT&T has announced its intention to do so); the Ford Foundation's sale of Ford Motor stock by public offering; the du Pont-General Motors

case which allowed a "pass through" of 63 million shares of GM stock to du Pont stockholders as a dividend over a ten-year period; and the El Paso case which sets up assets in a corporation to be sold through shares, not at public offering, but by negotiated sales. The famous Standard Oil of New Jersey and Alcoa dissolutions at an earlier date could also be cited as examples of spinning off whole companies to stockholders.

Recall that there is no express provision for divestiture relief in the Sherman Act, though the courts have long allowed this remedy under Section 4. The Clayton Act, however, contains specific statutory authority for divestiture under Sections 7 and 11 allowing the Federal Trade Commission (or the Antitrust Division) to order it. By 1955 after 60 years of Sherman Act history divorcement, divestment, or dissolution has been ordered by the courts in only 24 litigated cases.

Typically divestiture involves an antitrust violation with respect to mergers or acquisitions and hence is directed at "stock, or other share capital, or assets" illegally held. The end object is often to recreate a separate corporate entity as both a viable and independent firm. In short divestiture is intended to remove the anticompetitive effects of an unlawful acquisition by restoring the competitive status quo.

Until recently the usual course of events has been for the Supreme Court to order divestiture and let the District Court work out the implementing plan. This separation of the substantive finding from the operational remedy has been widely criticized in the literature from the public policy point of view. And even when the courts have given some thought to the implications of relief at the time of finding, the actual playing out of the consequences of divestiture have often been far from what was intended.

There is frequently no guarantee that a divested company will be able to realize the desired competitive potential, even with adequate capitalization. Practical problems abound—the difficulty of locating a buyer and the inevitably of affecting many parties who are in no way responsible for the violation are two major ones.

Finding a buyer for $4 or $5 billion in assets is no small task. Occasionally this problem has induced the government to agree to a sale that itself constitutes a horizontal or vertical merger (Continental Can and Crown Zellerbach divestitures might be two cases in point). A court or Commission order (or legislation) can of course designate certain purchasers to whom the sale of a divested company cannot be made. At other times (Leslie Salt case) a consent order has provided that the offending company would be relieved of the requirement of divestiture if, after a good faith effort to sell, the sale could not be made within five years.

In 1911 the Supreme Court acknowledged the practical necessity of a "proper regard for the vast interests of private property which may have become vested in many persons as a result of the acquisition . . . of stock . . . or . . . interests in the . . . combination wthout any guilty knowledge or intent in any way to become actors or participants in the wrongs . . ." (American Tobacco Case).

The parties include, in addition to shareholders of various tenure, employees of both the "old" and the "new" entities, actual and potential creditors, and third parties having contractual and other relations with the combined enterprise. At times the Court has said that these hardships should not get in the way of a severe finding like diverstiture, but generally tribunals have been rather sensitive to property rights and values. In any event all parties would be "on notice" from the outset in S. 1081 that divestiture is a requirement by a time certain, and therefore those considerations are less prominent, a proposition recently adopted by the Court (Von's Grocery).

DR. DOUGLAS JONES,
Specialist in Fiscal and Financial Economics.

The PRESIDING OFFICER. The Chair wishes to advise the Senator from Colorado that he has not called up his amendment. If the amendment is not called up, the time now being consumed will be charged against the bill.

Mr. HASKELL. Then, Mr. President, I shall call up my amendment, No. 313.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

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

TITLE III—OWNERSHIP OF OIL TRANSPORTATION SYSTEMS

SEC. 301. Notwithstanding any other provisions of this Act or any other law, it shall be unlawful for any oil pipeline company, or affiliate thereof, receiving a grant of right-of-way across Federal land pursuant to the provisions of this Act, for the purpose of pipelines or other systems for the transportation of oil, to transport any crude oil or any product manufactured or refined from crude oil, which is produced, manufactured, or refined by such pipeline company or by any affiliate thereof.

SEC. 302. For the purposes of this title, the term "affiliate" means—

(1) any person, association of persons, corporation, or other entity owner or controlled by such pipeline company;

(2) any person, association of persons, corporation, or other entity which owns a substantial interest in, or controls, directly or indirectly, such pipeline company by (A) stock interest, (B) representation on a board of directors or similar body, (C) contract or agreement with other stockholders, or (D) otherwise; or

(3) any person, association of persons, corporation, or other entity which is under common ownership or control with such pipeline company.

Mr. HASKELL. Mr. President, I should like to respond to the statement of the floor manager of the bill. I feel very strongly, as I know the Senator from Washington does, about the necessity for competition in the energy field in this country. I feel very strongly, as does the Senator from Washington, I know, that it is essential, if new lines are to be constructed, that my amendment be agreed to, and I hope that it will be very shortly.

I do concur with the Senator in the view that it would be more desirable if we could have hearings quickly on the subject, if we could expand the amendment to include all pipelines, not merely those going across Federal lines, and if we could consider the time and the extent of divestures.

For that reason, and because I know that the distinguished Senator from Washington feels strongly, as I do, about this matter, and believes that we have a better chance of adoption of the amendment by holding hearings, I now withdraw the amendment.

Mr. JACKSON. Mr. President, I wish to express my appreciation to the distinguished Senator from Colorado for the action he has taken on the pending amendment. I believe that by that action we can go into the matter in a thorough, careful way and end up with what I hope will be good legislation. I know that is the objective of the Senator from Colorado.

Mr. HASKELL. Yes, indeed. I thank the Senator from Washington.

Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Colorado will state it.

Mr. HASKELL. As I understand, we have scheduled a vote on the amendment at 10 o'clock tomorrow morning on amendment No. 313, I ask unanimous consent to withdraw the amendment.

The PRESIDING OFFICER. The Senator has a right to withdraw his amendment. If the amendment is withdrawn, there will not be a vote on it. Without objection, the amendment is withdrawn.

Mr. JACKSON. Mr. President, I call up my unprinted amendment, which is at the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 32, line 10, strike the numeral "1969." and add the following language: "1969: *Provided that,* the President shall submit reports to the Congress containing findings made under this section, and after the date of receipt of such report Congress shall have a period of sixty calendar days, thirty days of which Congress must have been in session, to consider whether exports under the terms of this section are in the national interest. If the Congress within that time limit passes a joint resolution of disapproval stating disagreement with the President's finding concerning the national interest, further exports made pursuant to the aforementioned Presidential findings shall cease."

Mr. JACKSON. Mr. President, the amendment speaks for itself. It would retain in Congress sufficient authority to monitor, review, and in fact reject any agreement relating to the export of petroleum from Alaska, should that decision be made by the President.

There was considerable discussion on this matter earlier. Many of the opponents of the trans-Alaska pipeline made the allegation that much of the oil from Alaska would be exported to other countries outside the United States.

I feel that the mater is of such importance on this point that Congress should retain the authority as expressed in this section of the bill.

Mr. President, I personally do not have this great concern that others have expressed. The effect, however, of the amendment will nail down any talk or discussion that this is simply a pipeline that will be used to export oil away from the United States so that the people of the other 49 States will be denied this important oil.

It is important that that charge and that allegation be nailed down and nailed down securely.

Despite the overwhelming vote in favor of the bill as reported from the committee and in opposition to the Mondale-Bayh amendment, I am willing to offer the amendment so that there can be no question on this particular point. I do not think it is necessary, but I would rather have that question clarified once and for all, and that is why I offer the

amendment. Later I will ask for the yeas and nays on the amendment.

Mr. President, I want to note that by providing for a congressional role my amendment, in some respects, parallels a provision in an amendment previously offered by the Senator from Minnesota (Mr. MONDALE).

My amendment provides that Congress has 60 days to act to override a Presidential finding by the passage of a joint resolution of disapproval. The amendment of the Senator from Minnesota—Amendment No. 240—provided that the authority to permit exports would exist for only 60 days unless the Congress by affirmative action within the 60-day period approved the report, in whole or in part, under such terms and conditions as the Congress might deem desirable.

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

Mr. JACKSON. I yield.

Mr. HANSEN. I should like to compliment the distinguished chairman of the Committee on Interior and Insular Affairs and the floor manager of the bill for his wisdom in offering this amendment. I share, I think, fairly completely the feelings he has expressed about it. The amendment should make very clear, once and for all, that there is no intention under any set of circumstances to utilize the Alaska pipeline, once it is built, as a means of funneling important and needed reserves off to Japan or to any other nation contrary to the best interests of the United States of America.

There could well be instances wherein it would make good sense, and be clearly in the public interest, to have some of our oil or timber, or whatever, go to Japan in exchange for certain other considerations that Japan or any other nation might be able to offer the United States.

What the amendment provides is that the determinations shall be made by the President, and unless Congress takes an adverse position, it would have the ruling and effect of more.

I compliment the distinguished Senator from Washington. He has performed a valuable public service in clarifying the intent and purpose of the most of us who support this right-of-way bill.

Mr. JACKSON. I thank my good friend from Wyoming. We both have in mind the same objective, that is, to disabuse those who make the charge that this is simply a device by which oil will be exported outside the United States. Those of us who have worked long and hard on this measure know that is not true. There can be no question about the authority of Congress to deal with it, if the Senate adopts this amendment.

Mr. HRUSKA. Will the Senator from Washington yield?

Mr. JACKSON. I yield.

Mr. HRUSKA. I should like to address a question to the chairman and manager of the bill.

The second sentence of the amendment states, "If Congress passes a joint resolution of disapproval * * *" and so forth.

It is contemplated, is it not, that that joint resolution of disapproval will be within the time period described in the first sentence of the amendment? Do I understand that correctly?

Mr. JACKSON. Yes. It would have to occur within 60 calendar days, 30 days of which, of course, must be while Congress is in session——

Mr. HRUSKA. That is right.

The first sentence gives—confers on Congress the opportunity to consider the imports that are proposed——

Mr. JACKSON. Pardon me?

Mr. HRUSKA. The first sentence gives—confers on the Senate the opportunity to consider the export agreements, whatever they are. That opportunity is limited in point of time. However, the second sentence does not refer to any period of time. Would it be agreeable, after the word "Congress" in the second sentence—"If Congress within the time period aforesaid passes a joint resolution of this disapproval, then the export agreement will cease"——

Mr. JACKSON. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

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

Mr. JACKSON. Mr. President, I yield again to the distniguished Senator from Nebraska. As I understand it, the Senator would propose a change in the amendment, in the second sentence, to read as follows: "If the Congress within the time period passes a joint resolution of disapproval . . ."

Mr. HRUSKA. ". . . within the aforesaid time period . . ." which limits it to the preceding sentence——

Mr. JACKSON. Well now—within—I have no objection to that. It is "within the aforesaid time period"?

Mr. HRUSKA. The time period——

Mr. JACKSON. I thought it was "within this time period."

"This" refers back—there is only one time period. That is the first sentence.

Mr. HRUSKA. "Within this time period." That would be all right.

Mr. JACKSON. Mr. President, I ask unanimous consent that, on the basis of the suggestion of the Senator from Nebraska, my amendment be perfected so that it will read, and I repeat:

Starting with the second sentence—

If the Congress—

Then insert—

. . . within this time period. . . .

And so forth.

The PRESIDING OFFICER (Mr. BARTLETT). The Senator has a right to modify his amendment. The amendment is so modified.

Mr. JACKSON. Mr. President, I yield to the Senator from Wisconsin for a unanimous consent request.

Mr. NELSON. Mr. President, I ask unanimous consent that Mr. Ray Watts of the staff of the Small Business Committee be permitted the privilege of the floor. Shortly, I will be calling up amendment No. 319. Mr. Watts drafted the amendment and did the research and preparation of this proposal. I would appreciate having him on the floor of the Senate.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

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

The yeas and nays were ordered.

Mr. JACKSON. Mr. President, I yield back the remainder of my time.

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

The PRESIDING OFFICER. All time on the amendment has been yielded back.

The question is on agreeing to the amendment of the Senator from Washington, as modified. 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 Virginia (Mr. HARRY F. BYRD, JR., the Senator from Mississippi (Mr. EASTLAND), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I further announce that the Senator from Nevada (Mr. BIBLE, the Senator from Louisiana (Mr. JOHNSTON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Louisiana (Mr. LONG), the Senator from Washington (Mr. MAGNUSON), the Senator from Wyoming (Mr. MCGEE), and the Senator from Alabama (Mr. SPARKMAN) are absent on official business.

I also announce that the Senator from Mississippi (Mr. STENNIS) is absent because of illness.

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

Mr. SCOTT of Pennsylvania. I announce that the Senator from New York (Mr. JAVITS) and the Senator from Ohio (Mr. SAXBE) are necessarily absent.

The Senator from Michigan (Mr. GRIFFIN) is absent on official business.

If present and voting, the Senator from New York (Mr. JAVITS) would vote "yea."

The result was announced—yeas 86, nays 0, as follows:

[No. 294 Leg.]

YEAS—86

Abourezk	Brooke	Curtis
Aiken	Buckley	Dole
Allen	Burdick	Domenici
Baker	Byrd, Robert C.	Dominick
Bartlett	Cannon	Eagleton
Bayh	Case	Ervin
Beall	Chiles	Fannin
Bellmon	Church	Fong
Bennett	Clark	Fulbright
Bentsen	Cook	Goldwater
Biden	Cotton	Gravel
Brock	Cranston	Gurney

Hansen	McClure	Ribicoff
Hart	McGovern	Roth
Hartke	McIntyre	Schweiker
Haskell	Metcalf	Scott, Pa.
Hatfield	Mondale	Scott, Va.
Hathaway	Montoya	Stafford
Helms	Moss	Stevens
Hollings	Muskie	Stevenson
Hruska	Nelson	Symington
Huddleston	Nunn	Taft
Hughes	Packwood	Talmadge
Humphrey	Pastore	Thurmond
Inouye	Pearson	Tower
Jackson	Pell	Weicker
Mansfield	Percy	Williams
Mathias	Proxmire	Young
McClellan	Randolph	

NAYS—0

NOT VOTING—14

Bible	Javits	McGee
Byrd, Harry F., Jr.	Johnston	Saxbe
	Kennedy	Sparkman
Eastland	Long	Stennis
Griffin	Magnuson	Tunney

So Mr. JACKSON'S amendment, as modified, was agreed to.

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

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized.

AMENDMENT NO. 319

Mr. NELSON. Mr. President, I call up my amendment No. 319.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

The amendment is as follows:

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

TITLE III—PUBLIC DISCLOSURE OF MINERAL FUELS RESERVES DATA

SHORT TITLE

SEC. 301. This title may be cited as the "Mineral Fuels Reserves Disclosure Act".

PURPOSE

SEC. 302. It is the purpose of this title to provide for the collection and organization in a single electronic data base of the fullest available information on the Nation's mineral fuels industries and reserves of mineral fuels, to provide for the establishment and maintenance of that data base by the Comptroller General of the United States, and to provide for the mandatory disclosure to the Comptroller General by substantial fuel companies of information on the quantities and locations of their own mineral fuels reserves.

DEFINITIONS

SEC. 303. As used in this title—

(a) "Mineral fuel reserve" means a deposit or body of identified, unextracted mineral fuel or mineral fuel ore, of either a proved or probable quantity.

(b) "Substantial fuel company" means a corporation which, alone or with its affiliates, in either of its last two full fiscal years, had either total annual business sales or receipts of $50,000,000 or more derived from business activity in any of the following lines of commerce: (1) crude petroleum and natural gas production, (2) mining of uranium-radium-vanadium ores, (3) anthracite mining, or (4) bituminous coal and lignite mining; or own or controls, alone or with its affiliates, mineral fuel reserves having a fair market value of $5,000,000 or more.

(c) "Affiliate" means an individual, partnership, or corporation which controls, is controlled by, or is under common control with one or more other individuals, partnerships, or corporations.

(d) "Control" means, in the case of a substantial fuel company or an affiliate, the ability to determine business policy, including but not limited to such ability based on ownership, contract, agreement, or a combination thereof. In the case of a mineral fuel reserve, "control" means the ability to determine, alone or with others, whether, when, and how such reserve will be developed or extracted, including but not limited to control based on ownership of the fee in land or submerged land, or a lease, or on a combination of ownership and lease.

(e) "Data base" means the library of information on mineral fuels reserves to be established and maintained by the Comptroller General under this title.

(f) "Comptroller General" means the Comptroller General of the United States or his delegate.

(g) "Commerce" and "Corporation" have the meanings set forth in section 4 of the Federal Trade Commission Act (15 U.S.C. 44).

(h) "Establishment" and "standard industrial classification" have the same meanings as in the Standard Industrial Classification Manual 1972 prepared by the Statistical Policy Division, Office of Management and Budget, Executive Office of the President.

MINERAL FUELS RESERVES DATA BASE

SEC. 304. (a) Immediately upon enactment of this Act, the Comptroller General shall collect and organize data for, and establish and maintain a complete and current data base on the mineral fuels industries and, in particular, on mineral fuels reserves.

(b) The data base shall—

(1) Contain all available information on the location, quantity, ownership, control, and state of development of every mineral fuel reserve within and without the United States.

(2) Be organized, indexed, and cross-referenced on the basis of establishments, by company or other affiliation or ownership, by particular location within or without the United States, and by standard industrial classification.

(3) Utilize the best and fastest information storage, retrieval and processing systems, and technologies available, including but not limited to microform and electronic data processing and transmission systems.

(4) Be divided into a confidential section and a public section, as provided in section 306 of this title.

SUBSTANTIAL FUEL COMPANIES TO REPORT MINERAL FUEL RESERVES

SEC. 305. (a) It shall be the duty of every substantial fuel company, foreign and domestic, engaged in commerce to report annually to the Comptroller General full and complete details of all mineral fuel reserves which it, together with its affiliates, owns or controls anywhere in the world. Such reports shall be verified, under penalties of perjury, by the chief executive officer, chief geological officer, and chief financial officer of the substantial fuel company and shall describe for each reserve the identity of each establishment having any ownership or control of the reserve; the location, types, and proved and probable quantities (specifying which) of mineral fuel or fuel ores in the reserve; and the state of development of the reserve.

(b) The Comptroller General, by regulation, shall prescribe the form or forms on which the reports required by subsection (a) shall be made. Such form or forms shall be drafted in consultation with the Office of Management and Budget and such other departments and agencies as either that Office or the Comptroller General may deem requisite or desirable. The most expeditious procedures, for consideration of such form or forms shall be employed and such form or forms shall be promulgated not later than sixty days after the effective date of this title.

(c) The first reports under this section shall be filed not later than four months after the effective date of this title and shall describe mineral fuel reserves as of a specified date not more than four months earlier than the date of the report. Annual reports thereafter shall be due on or before the first day of May of each year, beginning with the year 1974, and shall describe mineral fuel reserves of each reporting substantial fuel company as of the preceding first day of January.

DIVISION OF DATA BASE INTO PUBLIC SECTION AND CONFIDENTIAL SECTION

SEC. 306. (a) The Comptroller General shall establish the data base in two sections: a public section and a confidential section. The public shall have unlimited use of and access to the public section, under such regulations and at such reasonable fees as the Comptroller General shall prescribe. Access to the confidential section shall be limited to the Comptroller General and his staff and to officers and employees of the Government of the United States having official use for such data commensurate with the purpose of this title, except that any substantial fuel company providing information for the data base may have access to the data in such section which it provided. Unauthorized disclosure of information in the confidential section shall subject the officer or employee making such disclosure to the provisions and penalties of section 1905 of title 18, United States Code.

(b) The Comptroller General shall place in the public section of the data base all information which it obtains from reports, documents, and other sources in the public domain, together with all microform and electronic reproductions, recordings, and tabulations thereof. In addition, the Comptroller General shall place in the public section all data received from any report or reports of any substantial fuel company, pertaining to a particular mineral fuel, when such report or reports reveal that such company controls 5 per centum or more of the national total reserves of that fuel. All other data derived from the reports required by section 305 shall be placed in the confidential section of the data base, except that such data may be transferred, in appropriate part, to the public section in aggregate, statistical forms or tabulations which do not disclose the precise identity or ownership of particular reserves. Any data contained in a report required by section 305 may also be placed in the public section of the data base if the Comptroller General ascertains that such data have previously been in the public domain by virtue of another report or public source.

(c) At the request of any substantial fuel company or any department or agency of the Federal Government, the Comptroller General shall place in the confidential section and withhold from the public section of the data base any report or information, upon a showing that the public disclosure thereof would be harmful to the national security of the United States.

(d) Data more than twenty-five years old shall be placed in or transferred to the public section of the data base, except that, for good cause shown, data up to fifty years old may be placed or held in the confidential section when required by competitive equities, and data up to seventy-five years old may be placed or held in the confidential section when required by the national security. The Comptroller General, by regulation, shall provide for formal hearings on any question or dispute concerning the entry of data into or removal of data from the confidential section, and such hearings shall be open to the public except that a private

formal hearing may be conducted when the Comptroller General determines that competitive equities or the national security so require.

POWERS OF THE COMPTROLLER GENERAL

SEC. 307. (a) The Comptroller General in carrying out his responsibilities under this title shall have access to any books, documents, papers, statistic, data, information, and records of any substantial fuel company or affiliate thereof, where necessary to validate any report required under this title, to ascertain the existence of a duty to report under this title, or otherwise to fulfill the purpose of this title.

(b) To assist in carrying out his responsibilities, the Comptroller General may sign and issue subpenas requiring the production of the books, documents, papers, statistics, data, information, and records referred to in subsection (a).

(c) In case of disobedience to a subpena issued under subsection (a), the Comptroller General may invoke the aid of any district court of the United States in requiring the production of the books, documents, papers, statistics, data, information, and records referred to in subsection (a). Any district court of the United States within the jurisdiction of which the substantial fuel company or affiliate is found or transacts business may, in case of contumacy or refusal to obey a subpena issued by the Comptroller General, issue an order requiring the substantial fuel company or affiliate to produce the statistics, data, or information; and any failure to obey such order of the court shall be punished by the court as a contempt thereof.

AUTHORIZATION OF APPROPRIATIONS

SEC. 308. There are hereby authorized to be appropriated to the Comptroller General such supplemental and annual funds as may be necessary to carry out the purposes of this title.

EFFECTIVE DATE

SEC. 309. This title shall be effective on the date of enactment of this Act.

Mr. NELSON. Mr. President, I understand the Senator from Minnesota wishes to offer an amendment to the amendment.

Mr. HUMPHREY. Mr. President, I have an amendment that I wanted to offer to the amendment submitted by the Senator from Wisconsin. This amendment is No. 321.

The PRESIDING OFFICER. The amendment is not in order until the time on the amendment is used or yielded back.

Mr. HUMPHREY. I was to offer this amendment to the amendment of the Senator from Wisconsin. Mr. President, is that out of order?

The PRESIDING OFFICER. Except by unanimous consent, until the time is used or yielded back.

Mr. HUMPHREY. Mr. President, in order to expedite matters, because I do believe the Senator from Wisconsin would be willing to modify his amendment accordingly or to accept the amendment, I ask unanimous consent that we might proceed on that basis.

The PRESIDING OFFICER. Is there objection?

Mr. FANNIN. Mr. President, reserving the right to object, will the Senator give us the number of the amendment?

Mr. HUMPHREY. Yes; the amendment is No. 321. It is an amendment to the amendment of the Senator from Wisconsin. It is related to the whole subject of onsite inspections of mineral fuel reserves.

Mr. FANNIN. Would the Senator tell us what his amendment modifies? Is his amendment No. 321 and the amendment of the Senator from Wisconsin No. 319?

Mr. HUMPHREY. Yes; this is amendment No. 321.

The PRESIDING OFFICER. Is there objection to the request?

Mr. FANNIN. No objection.

The PRESIDING OFFICER. The clerk will read the amendment. The assistant legislative clerk proceeded to read the amendment.

The amendment (No. 321) is as follows:

(1) At page 9 of the amendment, following line 16, add the following new subsection and section:

"(d) The Comptroller General shall from time to time, as he deems requisite, ask the Secretary of the Interior to make onsite inspections of any mineral fuel reserves required to be reported under section 305, for purposes of verifying the accuracy and completeness of such reports. The costs of any such inspection shall be transferred from the Comptroller General to the Secretary for the purpose of this subsection.

"POWERS AND DUTIES OF THE SECRETARY OF THE INTERIOR

"SEC. 308. The Secretary of the Interior shall, when requested by the Comptroller General under section 307(d), make onsite inspections of any mineral fuel reserves required to be reported by substantial fuel companies under section 305, to verify or validate the accuracy and completeness of such reports. In addition, the Secretary of the Interior shall, within eighteen months after the effective date of this title, submit to the Comptroller General a preliminary report containing his best estimates, based to the utmost extent practicable on onsite geological and engineering by officers and employees of the Department of the Interior, of all mineral fuel reserves in the public lands of the United States, including the Outer Continental Shelf. Such report shall be supplemented by annual reports thereafter. The reports required from the Secretary of the Interior by this section shall be made a part of the public section of the data base, and copies thereof shall be furnished to the Senate and the House of Representatives.".

(2) On page 9, lines 18 and 23, strike "308" and "309", respectively, and insert in lieu thereof "309" and "310", respectively.

(3) On page 9, line 19, insert after the words "Comptroller General" the words "and the Secretary of the Interior".

Mr. HUMPHREY. Mr. President, I will take just a few minutes. I have discussed this amendment with the distinguished Senator from Wisconsin. The purpose is, in a sense, just to strengthen or more explicitly delineate some of the functions that are described under amendment No. 319, the proposal of the Senator from Wisconsin for himself, the Senator from Michigan (Mr. HART), the Senator from Massachusetts (Mr. KENNEDY), the Senator from South Dakota (Mr. MCGOVERN), and myself.

The amendment puts a new subsection in stating that:

The Comptroller General shall from time to time, as he deems requisite, ask the Secretary of the Interior to make onsite inspections of any mineral fuel reserves required to be reported under section 305—

Section 305 refers to the Nelson proposal—

for purposes of verifying the accuracy and completeness of such reports. The costs of any such inspection shall be transferred from the Comptroller General to the Secretary for the purpose of this subsection.

Then it delineates the powers of the Secretary of the Interior when he is requested by the Comptroller General to perform onsite inspections of mineral fuel reserves. Then it spells out in more explicit terms some of the provisions proposed by the Senator from Wisconsin (Mr. NELSON), a measure which, by the way, I have cosponsored.

Mr. President, I have submitted an amendment to amendment No. 319, the mineral fuels reserve disclosure amendment offered by Senator NELSON. This is a welcome step in the right direction, and I am happy to be a cosponsor of it. However, I feel it needs to be strengthened somewhat, and this is the intent of my amendment.

For too long, we in Government responsible for administering the Nation's laws, have lacked adequate, independent information on the Nation's energy reserves. For too long we have relied on figures supplied to us by the oil and gas industry. Time and time again, the big oil corporations have been asked to help confirm the reserve figures by opening their books and records, making available background memorandums and other data on which these figures are based. Amazingly, these big corporations, all too often, have refused to cooperate. Instead, they have said in effect, "You can take our word for it. There's a petroleum shortage, there's a natural gas shortage. If you give us higher prices, if you give us bigger tax incentives, then we'll find you more oil and gas. If you don't, then you'll have a shortage, and an emergency crisis."

Mr. President, this situation has come home to all of us very vividly in the last few weeks. For example, during the week of June 24, the Senate Judiciary Antitrust Subcommittee held hearings on the natural gas shortage. At those hearings, James T. Halverson, Director of the Federal Trade Commission's Bureau of Competition, declared that some oil companies are seriously underestimating proven reserves of natural gas. Other hearings in Congress have raised real questions about whether there is a real petroleum shortage, or whether it has been brought on by the big oil companies to squeeze out the independent sector of the industry, and to raise petroleum prices.

Mr. President, this is truly an absurd situation, when Members of Congress, charged with writing energy policy, and members of the administration, charged with carrying out that policy, have no independent knowledge of the Nation's mineral fuels reserve.

The new disclosure law, proposed by the Nelson-Hart amendment, of which I am a cosponsor, will go a long way toward remedying this problem. However, I suggest these disclosure requirements be strengthened to deal specifically with the question of mineral fuels reserves located in the public domain, where most of our future reserves are to be found.

In the past, oil and gas companies drilled predominately in areas they owned privately, but increasingly, as these areas have dried up, they have moved into and leased territories administered by the Federal Government, such as those in the Outer Continental Shelf. At the present time, for example, one-third of all the natural gas in the United States comes from offshore Louisiana, an area in the public domain.

Mr. President, this is a vast area under the jurisdiction of the Federal Government. The Continental Shelf of the United States measures 875,000 square miles, or about 515 million acres, and is relatively undeveloped. Of this area, 290,000 square miles, or about 186 million acres lie in the Gulf of Mexico, offshore from the Atlantic seaboard and in the waters of the Pacific off the coast of the States of California, Oregon, and Washington.

As of July 1, 1973, of the 515 million acres off the mainland of the United States, approximately 1 percent or 5.25 million acres were under lease on the Outer Continental Shelf. So far, the leasing has been concentrated on areas off Santa Barbara, Calif., in the gulf, off Louisiana and Texas. Because of the energy crisis, President Nixon outlined in his budget message of this year a program to step up the leasing on the shelf. The Government now anticipates letting leases for oil and gas in the Atlantic Ocean, off the east coast of Florida and off the Alaskan coast.

If, as the industry suggests, our supplies of oil and natural gas run down and gradually dry up entirely, then we probably will have to rely on our vast coal reserves, estimated to last several hundred years. Until very recently, coal production was concentrated in the Appalachian region of the United States. But these mines are now fully developed, and to meet an anticipated increase in the need for coal, the industry is beginning to develop the vast untouched coal resources of the western Mountain States. Our future coal reserves will come from these Western States. Much of that coal is in the public domain. Some of it is located under Indian lands. Another large part of it is controlled by corporations, predominantly railroads. Perhaps between one-quarter to one-half of all these vast coal reserves are in the public domain. But we do not have exact figures on coal reserves because the U.S. Geological Survey which makes estimates of coal reserves does not have the money or the manpower to make an adequate analysis.

Here we are, debating energy policy for the Nation. And I cannot even tell my colleagues in the Senate the extent of our coal reserves because the Government does not have the money or manpower to find out.

An inquiry this morning to the Geological Survey brought forth the comment that our information on coal reserves was gathered in the 19th century. We are relying then on information put together a century ago.

We need accurate information on coal reserves, not only because of the energy crisis. We need detailed information on trace elements contained in the coal so that we can anticipate and take steps to combat pollution that occurs from burning the coal and letting the dangerous trace elements into the atmosphere.

We daily consider predictions by the power companies, the administration, and the Federal Power Commission that in the future our electricity will come more and more from nuclear power. Nuclear reactors consume large quantities of uranium. And again, this precious fuel is located largely in the public domain. Forty-five percent of our present 273,000 tons of uranium ore is on public land. We need accurate, reliable information of the extent of uranium reserves.

Areas in the public domain are under law administered as a public trust. The duty of the Federal Government is to execute the intent and purpose of the trust. Part of that duty is for the Government to know the extent of the reserves so that it can know how to exploit or conserve the minerals wealth.

The Interior Department has major responsibility for administering these lands in the public domain, under laws passed by Congress in the public interest. And yet, this Department does not maintain adequate knowledge of the extent of these reserves. Instead, it basically relies on questionable data supplied by corporations which exploit the minerals under lease.

Because we in Government have allowed these big corporations to dominate our technical knowledge of what these rich lands contain, we now have our hands tied behind our backs.

Alaska is a good example. We are told by the oil companies that we must have this pipeline because of the oil shortage. What is the extent of the oil shortage? What are the amounts of reserves in Alaska? There is a great deal of gas in Alaska along with the oil. We ought to know the facts when we legislate and when executive branch decisions are made.

Mr. President, my amendment to the Mineral Fuels Reserve Disclosure Act is a simple one. It would authorize the necessary funds to the Interior Department to make its own periodic, independent, onsite investigations of oil, gas, and other mineral fuels reserves in the public domain, including the Outercontinental Shelf. This would reduce the Department's reliance on data supplied by the oil companies as to how much reserves the public owns.

The first such investigation shall be completed within 18 months after enactment of the bill, and the results of the investigation will be reported to the Comptroller General, and made public. Such investigations and reports shall be made on a yearly basis thereafter.

The main point is that while there are reasons in the Nelson-Hart amendment for the amount of privately owned reserves to be kept confidential—section 306—there is no justification for secrecy with respect to reserves in the public domain. My amendment expressly states this information shall be public.

My amendment would also give the Comptroller General the authority to request the Department of the Interior from time to time to make onsite inspections of any mineral fuels reserves required to be reported under section 305 of the Nelson-Hart amendment for the purpose of verifying the accuracy and completeness of such reports.

My amendment No. 321 taken together with amendment No. 319, will provide us basic information with which we can begin serious debate toward creating rational, long-term solutions to the energy problem. Until this is done, we are left at the mercy of the big oil and mining corporations which have a vested interest in exploiting for their own profit energy sources that belong to every American, to all of us.

I also ask unanimous consent that amendment No. 340, which I had intended to offer but which is very similar to amendment No. 321, be printed in the RECORD.

There being no objection, the amendment (No. 340) was ordered to be printed in the RECORD, as follows:

At the end of the bill, add the following:

"TITLE V—MINERAL FUEL RESERVES INVENTORY

"SEC. 501. (a) The Secretary of the Interior shall compile, maintain, and keep current on not less than an annual basis an inventory of all mineral fuel reserves containing hydrocarbons (oil, natural gas, coal) and uranium in the public domain lands of the United States (including the Outer Continental Shelf), together with other natural resources determined by the Secretary of the Interior to be an energy source or to have potential as such a source.

"(b) Such inventory shall be compiled, maintained, and kept current on the basis of the Secretary's best estimates and, to the utmost extent practicable, on the basis of onsite geological and engineering testing conducted by personnel of the Department of the Interior. Such initial inventory shall be completed on or before the expiration of the eighteen-month period following the date of the enactment of this title.

"(c) On or before the expiration of the twenty-month period following the date of the enactment of this title, the Secretary of the Interior shall submit a report to the Congress concerning the carrying out of his duties under this title, together with a copy of such initial inventory so compiled, and shall thereafter, on not less than an annual basis, submit a report to the Congress concerning the carrying out of such duties and shall include as a part of each such report a copy of the current such inventory so compiled for the period covered by such report. All such reports and inventories shall be made available to the public by the Secretary of the Interior in accordance with rules and regulations prescribed by the Secretary.

"SEC. 502. There are authorized to be appropriated to the Department of the Interior such sums as may be necessary to carry out the provisions of this title."

Mr. NELSON. Mr. President, I think the amendment offered by the Senator from Minnesota (Mr. HUMPHREY) does, in fact, substantially improve and strengthen amendment No. 319, and I am prepared to accept the amendment of the Senator from Minnesota.

Mr. HUMPHREY. Mr. President, I yield back my time.

The PRESIDING OFFICER. The Senator has a right to modify his amendment.

Does the Senator from Wisconsin so modify his amendment?

Mr. NELSON. Yes.

The PRESIDING OFFICER. The amendment is so modified.

Mr. NELSON. Mr. President, this amendment replaces amendment No. 303, which I filed earlier. Amendment 319 is cosponsored by the Senator from Michigan (Mr. HART), the Senator from Maine (Mr. HATHAWAY), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Massachusetts (Mr. KENNEDY), the Senator from South Dakota (Mr. MCGOVERN), and the Senator from Illinois (Mr. STEVENSON).

Both amendment No. 303 and the revised amendment I am calling up in its place would add to the bill (S. 1081) a new title, which would be cited as the "Mineral Fuels Reserve Disclosure Act." The text of the amendment has been read into the RECORD, and I shall insert the analysis at the end of my statement as exhibit A.

However, the evil this amendment is intended to remedy, and the nature of the remedy, are easily and quickly explained.

The evil is ignorance and unjustified secrecy.

The remedy is information and disclosure.

At least twice already this year the Senate has legislated against public ignorance and corporate secrecy and for public knowledge and corporate disclosure. This amendment follows logically and naturally upon those earlier actions. It complements and reinforces them.

AMENDMENT WOULD DO TWO BIG JOBS

The Nation is now confronted with fuel shortages and threatened with an energy crisis. The premise of this amendment is that we cannot deal with these serious problems without more and better information, not 5 or 10 years from now, but this year.

The amendment does two things to deal with the problem of inadequate information.

CENTRALIZED FUELS DATA BASE

First, it directs—not authorizes but directs—the Comptroller General of the United States to set up, immediately, in the General Accounting Office a centralized, current, complete electronic library on the mineral fuels industries, with particular emphasis on mineral fuels reserves.

For years, everybody has been talking about the bewildering, indeed dismaying dispersion and diffusion and complexity of existing information about the mineral fuels industries. For years almost everybody who ever thinks about such matters has talked about the need to get the existing information all together in one place, a centralized, fully modern electronic library.

This amendment, somewhat belatedly in my opinion, finally ends the talking and mandates some action. This amendment orders the Comptroller General, who is the direct agent and representative of the Congress, to do the job that we all know needs doing, and do it right away. It orders him to establish immediately and maintain permanently an electronic data base on the mineral fuels industries and mineral fuels reserves which will be complete and current. It authorizes the appropriation to the Comptroller General of whatever funds he may need to do that admittedly large but absolutely vital job.

MANDATORY DISCLOSURE OF FUELS RESERVES

Second, the amendment directs an immediate end to another absolutely appalling and intolerable condition of ignorance for a Nation that has an energy crisis on its hands. That is the condition of ignorance we are in about the true nature and extent of our own and the world's reserves of mineral fuels.

Frankly, this country looks ridiculous when it complains of fuel shortages and an energy crisis and at the same time admits that it does not know what its own fuel reserves really are, where they are, how big they are, and who owns them. It is almost incredible, but we have allowed ourselves to remain in ignorance about our common heritage from the Earth, the very lifeblood of our society, the fuel that runs our technological machinery and makes our present day of life possible.

We have been foolish to let this go on as long as we have. We will be idiotic to let it go on any longer. We must have accurate disclosure of our mineral fuels reserves, and we must have it, not 2 or 5 or 10 years from now, but now. This year.

This amendment would provide for immediate, sworn statements from all substantial fuel companies of complete data on their mineral fuels reserves, anywhere in the world. The amendment would also require annual updating of those sworn disclosure statements. It is hard to believe that the Government is not getting such reports now, but it is not. This amendment will get them.

The statements would be filed with the Comptroller General and the information they contain would go into the electronic data bank the amendment directs him to set up.

RULE OF CONFIDENTIALITY

Except on one condition which I shall describe, competitors of a company would not have access to the data on its reserves filed in the data bank. Only officials of the U.S. Government, having official use for the data, would be allowed access to individual-company reports. For the public at large, the Comptroller General would release information from the data bank only in the same way that the Census Bureau and the Internal Revenue Service for years and years have been publishing data derived from individual-company census reports and tax returns. That is in statistical tabulations and aggregations too large for identification and recognition of individual-company data. But Congress and the public would have something they do not now have, and for which no present law provides: regular, current tabulations of our mineral fuel reserves based on mandatory, sworn statements from the private owners of those reserves.

EXCEPTION TO CONFIDENTIALITY RULE

There would be one exception to the general rule that the Comptroller General will not make individual company data public. The exception would be in the case of single companies which were found to own or control 5 percent or more of the total national reserves of a particular mineral fuel. In that case, that particular company's itemized data for that particular mineral fuel would be made public.

This exception to the general rule of confidential treatment of individual company data makes sense in today's world. When a single company acquires control over one-twentieth or more of a vital natural resource, a part of the legacy from the Earth that is the common heritage of every citizen, that company also acquires, by that very fact, a most uncommon measure of power: power over markets, power over competitors, power over the lives and life style and living standards of all Americans.

In our system, we give lipservice, at least, to the proposition that power should be accompanied by responsibility. We, therefore, should not, we cannot afford to accord the powerful the same degree of business privacy that we can safely permit for the relatively powerless.

In a free enterprise economic system, competition is the best check on power—far better than any scheme of regulation, when the market is truly free and unburdened by monopoly and conspiracy. Exposure of the details of their reserve holdings to public scrutiny will subject those few giant companies found to have control over one-twentieth of a vital natural resource to the better operation of the checks and balances of the competitive market system. Because of its size and power and position, such a company can endure the competitive disadvantages such exposure might entail, and the free enterprise system will be safer. It is, on balance, an easier and better pill for the giant fuel companies to swallow than the alternative, which is ever-increasing regulation leading quite possibly to ultimate nationalization.

THE FEDERAL POLICY OF SECRECY

For many years now, beginning around the turn of the last century, it has been the public policy of this country to allow private businesses, no matter how large and powerful they become, to keep almost all details of their business operations to themselves.

Off and on during the 20th century there have been voices raised in dissent against that policy; but the policy has generally remained intact. So it is that the reports which business concerns file with the Bureau of the Census are secret. The tax returns they file with the Internal Revenue Service are secret. The quarterly financial reports that manufacturing companies file with the Federal Trade Commission are secret. Almost every report that a business concern files with the Government is secret.

It was not always so. Late into the 19th century, individual company reports to the Federal census were public. For a period of some years in the State of Wisconsin, income tax returns were public, and, to a significant extent they are still semipublic. It is only in this century, as corporate power and economic concentration have reached the most awesome proportions in history, that we have allowed the best check on such power, exposure of the facts, to wither away and

be buried in a mass of laws and rules and policies favoring and protecting and hallowing secrecy.

CHALLENGES TO THE POLICY OF SECRECY

To investigate and from time to time, as the facts justify, to challenge the prevailing public policy of allowing great business power to operate outside of public view, the Senate Small Business Subcommittee on Monopoly since 1967 has been holding hearings on corporate giantism and corporate secrecy. It is my privilege to chair that subcommittee.

Economic concentration and corporate secrecy have also been investigated and challenged in various hearings held over the past decade before the Senate Judiciary Subcommittee on Antitrust and Monopoly. That subcommittee is chaired by the first cosponsor of this amendment, Senator HART.

As a result of the activities and investigations of these two subcommittees, Senator HART and I are deeply concerned about the excessive lengths to which public policy has gone in its support of corporate secrecy.

It is extremely gratifying to report today that there are strong signs the policy of secrecy is ripe for change. Adoption today by the Senate of this amendment would be another such sign. I should like briefly to recall two earlier actions by the Senate this year, which lead me to hope that this body may today be ready for this measure.

ECONOMIC STABILIZATION AMENDMENT

In March the Senate Committee on Banking, Housing and Urban Affairs reported a bill, S. 398, to extend and amend the Economic Stabilization Act of 1970. The reported bill contained a committee-approved amendment by the Senator from Maine (Mr. HATHAWAY), which had the effect of removing the cloak of confidential, secret status from certain reports filed by very big business corporations with the Cost of Living Council. On March 19 the Senate adopted an amendment which, in effect, restored the secrecy; but on March 20, this body reversed itself and again removed much of the secrecy. The antisecrecy amendment survived the conference and was included in the enacted law, Public Law 93–28. While there are still, to my way of thinking, undue limitations and restrictions on the right, the public now does have some right of access to the price-increase reports filed by giant corporations, under some circumstances. The Hathaway amendment, therefore, might well be regarded as that indispensable first step in a long journey, a journey to a new and enlightened policy, a policy which will enshrine the concept of the open society, rather than the concept of big-business secrecy.

ENERGY POLICY ACT OF 1973

A second step in that journey was taken by the Senate on May 10. On that date this body passed, S. 70, the Energy Policy Act of 1973. In the form that passed the Senate, the bill was a Hollings amendment in the nature of a substitute to an Interior Committee-reported bill which was in the nature of a substitute. The Senate, before final passage, had also adopted a Metcalf amendment. The net effect of all these actions was to enunciate a strong policy in favor of, among other things, better and more centralized information sources on the energy industries, and in favor of more public access to information. The amendment being offered today follows on and builds on the policy and program enunciated in Senate-passed S. 70.

This amendment does not, however, as some are arguing, merely duplicate S. 70. Because that argument is being made, it will be useful to review the provisions of S. 70 and the present proposed amendment to S. 1081, as they relate to complement and reinforce each other.

The report of the Senate Commerce Committee on S. 70 issued on April 10, said:

A major cause of the nation's energy problems is the lack of a comprehensive national energy policy. More than 60 different Federal agencies are involved in energy policy making. All of these agencies were established at different times and for different purposes to handle specialized problems. (S. Rept. No. 93–114, p. 2.)

The principal purpose of S. 70, as reported and as passed, was to establish a means for drawing up a single national policy on energy, and of coordinating the activities of all the various agencies in support of that unified policy. To that end, the bill established a three-member Council on Energy Policy, to serve as adviser to the President on energy matters, and to develop a national energy plan.

Under section 4(b) of S. 70, "All agencies of the Federal Government" are directed to—

(1) Utilize a systematic interdisciplinary approach which will insure the integrated use of both physical and social sciences in producing, conserving, and utilizing the Nation's energy resources;

* * * * *

(3) gather data and information pursuant to guidelines promulgated by the Council on Energy Policy; develop analytical techniques for use in the management, conservation, use, and development of energy resources, and make such data available to the Council on Energy Policy;

* * * * *

(6) prepare, if required by guidelines promulgated by the Council on Energy Policy, an energy resource statement by the responsible official on the effect of the proposed activity on the Nation's overall energy posture.

Under section 7(a) of S. 70, the new Council on Energy Policy is directed to—

* * * * *

(2) employ a competent, independent staff which shall utilize, to the fullest extent possible, the services, facilities, and information (including statistical information) of public and private agencies and organizations, and individuals, to avoid duplication of effort and expense, thus assuring that the Council's activities will not unnecessarily overlap or conflict with similar activities authorized by law and performed by other agencies.

Under section 6(h) of S. 70, the new Council is also directed to promulgate guidelines for the collection and initial analysis of energy data by other Federal agencies. The subsection continues:

Such guidelines shall be designed to make such data compatible, useful, and comprehensive. Where relevant data is not now available or reliable and is beyond the authority of other agencies to collect, then the Council shall recommend to the Congress the enactment of appropriate legislation. Pending congressional consideration, the Council shall have the power to require by special or general orders any person to submit in writing such energy data as the Council may prescribe. Such submission shall be made within such reasonable period and under oath *or otherwise* as the Council *may* direct.

Mr. President, in the foregoing quotation from the principal section of S. 70 relating to the new Council's information-gathering powers, I have emphasized the words of discretion. The Council "may" gather data directly. Reports gathered by the Council shall be "under oath or otherwise as the Council may direct." It is the familiar story of the Congress, being unwilling to bite the bullet itself, delegating to some executive agency or committee or council, discretionary authority to bite the bullet, if and when it gets ready to do so.

I mention that not to criticize S. 70, its sponsors, or the Senate for passing it—I voted for it myself—but rather to emphasize that the information provisions of S. 70, which were good enough for May of 1973, are not good enough for July of 1973.

We are in a crisis.

We have a national emergency on our hands.

And in that crisis, that emergency, we do not possess essential facts on which the future and fate of our very civilization may hang.

What is worse, we are denied those facts not because they are undiscovered or unknown or even not readily available. We are denied them because corporate business America has somehow persuaded our policymakers, including much of the public and most of the public's government, that we are not entitled to the facts, because they are "private property." They are secrets.

The location, type, quantity, ownership control and state of development of natural resources, mineral fuels, that were put in the planet's crust for all mankind, are now treated as the private secrets of business corporations. The only thing more incredible, more outrageous than the fact that business should peddle such a policy is that Government should for so long have bought it. Well, it is time to stop buying it.

Under section 8 of S. 70, the new Council is directed to prepare an energy report to accompany the energy plan it is elsewhere directed to prepare. The energy report is to include, among other things—

* * * * *

(b) an estimate of the domestic and foreign energy supply on which the United States will be expected to rely to meet [its energy] needs in an economic manner with due regard for the protection of the environment, the conservation of natural resources, and the implementation of foreign policy objectives;

(c) current and foreseeable trends in the price, quality, management, and utilization of energy resources and the effects of those trends on the social, environmental, economic, and other requirements of the Nation; [and]

* * * * *

(d) recommendations for improving the

energy data and information available to the Federal agencies by improving monitoring systems, standardizing data, and securing additional needed information;

* * * * *

Section 9 of S. 70 is the section dealing with what shall be confidential and what shall be public among the business data obtained by the Council on Energy Policy. It corresponds to section 306 of the presently proposed amendment, which is our section on dividing information into segments available to the public and not available to the public. Section 9 of S. 70 is somewhat ambiguous in its directions on treatment of individual company data; but it might be concluded by some court at some future time—and I would so argue—that the section, taken as a whole, permits some individual company data, now secret, to become public.

There is not, of course, anything at all in S. 70 to correspond with the express provisions of this amendment.—

First, that individual company fuels-reserves data will be routinely, systematically collected in mandatory sworn reports, beginning immediately; and

Second, that individual company data on its reserves of particular mineral fuel will be made public if—but only if—a company is found to control one-twentieth or more of the total national reserves of that mineral fuel.

S. 70 and this amendment are alike in providing, although in different language, that otherwise confidential, individual company data can be made available to Government officials, including officials of the judicial and legislative branches as well as the executive branch, for official purposes.

The key difference is that S. 70 does not provide for the new mandatory fuels-reserves data-collection program and the new mandatory information-coordinating program that our amendment establishes. Passage of this amendment will be, therefore, of substantial benefit to the council created by S. 70.

But the more important reason for passing this amendment, notwithstanding the provisions of S. 70 which are in the same policy mold although differing in detail, is this: S. 70 leaves up to an as yet unborn council to determine whether the country needs one official, centralized data bank on mineral fuels, and mandatory disclosure of privately held mineral fuels reserves, whereas this amendment assumes that those needs have already been demonstrated. In passing this amendment, Congress would say, in effect, that as to those two things, the country can not wait for a new council to be authorized and appointed and set up shop and make a study and make findings. Those two needs exist now and must be met now. By action, not study.

Section 10 of S. 70—the Metcalf amendment—directs the Comptroller General of the United States to monitor and evaluate the activities of the new Council on Energy Policy on a continuous basis, including its reporting requirements. In addition, upon his own initiative or request of a congressional committee, the Comptroller General is directed to do some of the same things the Council is directed to do. First, study existing statutes and regulations on energy; second, review the administration of those laws and rules; third, review and evaluate Federal agencies' programs for gathering energy data; and fourth, evaluate particular projects or programs. He is also directed to "give particular attention" to improved coordination of Federal energy programs and "the attendant need for a central source of energy statistics and information."

As already noted, the proposed amendment would make a leap beyond that last point. We would have the Congress find, right now, on its own knowledge, that there is a need for a central source of energy statistics and information, and we would order the Comptroller General to establish one immediately.

Our amendment originally called for the Federal Trade Commission to do this work; but we have now amended the amendment to shift the responsibility to the Comptroller General, for two very good reasons. One is that it is consistent with the Senate-passed plan in S. 70. The other is that the Comptroller General and his agency, the General Accounting Office, are part of the legislative branch, responsible directly to the Congress and not subject, as the FTC is, to White House control of its budget. There are strong incentives to give the GAO instead of the FTC, especially since the FTC and indeed all other Federal agencies would have access to the data bank, in full.

GIVE THE HOUSE ANOTHER CHANCE

There is one other consideration that should be remembered by Senators who share our view that we must as rapidly as possible change the policies that permit antisocial and anticompetitive corporate secrecy to flourish, but who also think that the job our amendment would do is sufficiently covered by S. 70. It is this: S. 70 is currently on the calendar, of the House Committee on Interstate and Foreign Commerce, with no action of any kind presently scheduled. It is possible that S. 70 will simply die in the House committee's pigeonhole.

Therefore, even if our amendment were far more a mere duplicate of—rather than complement to—S. 70 than in fact it is, there would still be good reason to attach the "Mineral Fuels Reserves Disclosure Act" to S. 1081. By so doing, we would provide another indication to the House that the Senate is ready, willing and anxious to legislate against outmoded policies and practices of corporate secrecy in the energy field. By so doing, we would give the House "another bite at the apple" of a new policy. A policy against corporate secrecy. A policy for the open society.

THE STATE OF ENERGY INFORMATION

The big oil companies may still argue, although hardly anyone else does anymore, that a new Federal information program on our mineral fuels resources is unnecessary, because all the information anyone could possibly need about the subject is being reported and is in the public domain now.

It is certainly true that there is an overwhelming quantity of data pouring into the public domain about fuels generally, and oil in particular, every day. As already noted, one of the country's needs is to have an agency expressly charged with reading all the statistics emanating from all sources and keypunching them into one electronic data base for computerized management, comparison and tabulation. A prime purpose of this amendment is to meet that need.

In the precomputer age it was not possible; but now it is possible to compare, quickly and easily, everything that a big oil company is telling various data recipients about itself. If this amendment passes, it would become the duty of the Comptroller General to obtain and enter into the electronic data base in the GAO everything about the mineral fuels industries that is reported publicly, to and by any of those earlier mentioned 60 Federal agencies, and innumerable State and local and foreign governments, and anything on the subject reported, publicly, to and by innumerable private associations, business publications, stock exchanges, and so on.

Obviously, the Comptroller General would have to assign priorities to the data sources to be read and entered into the data base. Many sources would, perhaps for some time, have to be omitted. But eventually the GAO could catch up and keep up with something approaching the universe of public knowledge on the mineral fuels industries.

It is probable that the Comptroller General would want to give first priority to collecting, regularly and promptly, all data reported by the various Federal and State agencies concerned with energy, which data is based, for the most part, on voluntary, confidential report forms filed by companies. I suspect that the inconsistencies and omissions such a collection and comparison of data would turn up would soon result in a call for better reporting by the companies themselves, and more public access to individual-company reports.

Many examples and exhibits could be given of the dispersion and enormous complexity of existing data sources, and of expert opinion on the need to coordinate them. Of the many possibilities, I shall cite only five.

NEED FOR COORDINATION

First, a recent staff report to the Senate national fuels and energy policy study contains an excellent, brief statement on the need for better, and better-coordinated information on energy. I shall append that report's section headed "Energy Data Collection, Analysis, and Dissemination" to this statement as exhibit B.

FOUR MAJOR DATA SOURCES

It is rather plain that two data sources which would deserve first priority entry in the Comptroller General's new centralized electronic data base would be State agencies. One is the Texas Railroad Commission, the other is the Oklahoma Corporation Commission. Both receive periodic, public reports from oil companies on their inventories. I shall append to this statement two news accounts of the agencies' release of information from these company reports. The first, from the June 25 issue of U.S. Oil Week, is headed "Gasoline Shortage

Over—For Exxon at Least," and is based on reports to the Texas Railroad Commission as exhibit C.

The second, from the May 23 issue of the Daily Oklahoman, Oklahoma City, is headed "Oil Firms Describe Stocks' Status," and is based on reports to the Oklahoma Corporation Commission as exhibit D.

The third and fourth data sources that should be given top priority for coordination in the new Federal data bank are the reports issued by two powerful private associations, the American Petroleum Institute and the American Gas Association. I am appending to my statement a news account from the June 22 issue of the Journal of Commerce, headed "'Gas' Stocks Up, Output Down," which gives some idea of the type of data that are collected and reported by the first of those associations, the API as exhibit E.

FUELS RESERVES DATA INADEQUATE

Perhaps even more important than the need to coordinate existing data on the mineral fuels industries is the need to obtain information, now inadequate to nonexistent, on mineral fuels reserves. A principal purpose of this amendment is to provide machinery for meeting that need.

The U.S. Bureau of Mines relies on the American Petroleum Institute—API—for the data it obtains on reserves of crude petroleum and on the Federal Power Commission and the American Gas Association—AGA—primarily the latter—for the data it publishes on natural gas reserves. The FPC, in turn, also relies heavily on the AGA, although it does have its own regular survey program for gas reserves of pipeline companies. In addition, the FPC has just completed a special study of our national reserves of natural gas. I shall append to my statement the preface and official summary of the recently released staff report on that study. The report itself describes the study as a first—and inadequate—step as exhibit F.

The insufficiency of existing data can be illustrated by the discrepancies that are found in various statements and tabulations, as well as the challenges made by one data source of the reports made by another.

For example, on the last point, on June 27 the director of the Federal Trade Commission's Bureau of Competition told the Senate Judiciary Subcommittee on Antitrust and Monopoly, the Hart subcommittee, that natural gas producers regularly disclose only one-half to one-tenth of their true reserves to the Government. A June 28 Washington Post article, headed "Natural Gas Reserves Understated, Hill Told," will be appended to this statement as exhibit G.

Another example is found in the summary of the FPC's report, which I have already referred to. See exhibit F.

It reports a discrepancy of 10 percent between the AGA's estimates of national gas reserves and those made by the FPC's study.

But that discrepancy is minor compared to the differences in figures that are being cited by different friends of the trans-Alaska pipeline about the oil reserves on the North Slope of Alaska. Senator JACKSON's amendment No. 315 to the pending bill would have Congress make an official finding—

That approximately twenty-four billion barrels of crude oil in place and twenty-six trillion cubic feet of natural gas reserves have been proved on the North Slope of Alaska, and that the probable reserves of that region are many times greater.

The Atlantic Richfield Co. has been running full-page "Let's get on with it" advertisements, supporting the pipeline. One such ad, appearing in the July 2 Washington Post, was headed "What Stands Between Our Nation's Energy Shortage and 10 Billion Barrels of Alaska Oil?" Arco's figure on the Alaskan oil reserve is only 42 percent of the figure that the Jackson amendment would have the Congress "find" to be in existence.

It is probable that requiring mandatory, sworn statements from the companies that own or control substantial fuel reserves will not immediately result in our having worldwide, reliable data on reserves; but it will surely help. The data we have now are derived from unsworn reports filed in various voluntary programs, which reach the Government in fairly advanced stages of analysis. This amendment will provide reserve-by-reserve, field-by-field, individual-company reports, from which the Comptroller General and other interested Federal agencies can do their own analyses.

The Senator from Minnesota (Mr. HUMPHREY), who is a cosponsor of this amendment, is offering amendments to this amendment which would further strengthen the likelihood of our obtaining better data on reserves. His amendments would put the facilities of the Department of the Interior at the service of the General Accounting Office, for purposes of onsite checking of the validity of the reports the Mineral Fuels Reserves Disclosure Act would require. In addition, the Humphrey amendment would provide for regular reporting of data on reserves in the public domain. I support the Humphrey amendments to this amendment and have accepted them.

MINERAL FUEL RESERVES ARE KNOWN TO COMPANIES

One argument that may be raised against this disclosure law is that it is impossible to know with any certainty the things about a mineral fuel reserve that would be required to be stated under oath, if this amendment passes: the location, types, and proved and probable quantities—specifying which—of mineral fuel or fuel ores in the reserve, and the state of development of the reserve.

The answer to that is, fuel companies are making statements all the time now about their reserves, describing their proved, probable, possible, and speculative quantities. This amendment asks them to do no more, except to verify that what they are saying is in fact true.

It is anticipated that the Comptroller General will devise a form of verification that makes allowance for the fact that it is impossible for a geologist to count barrels of oil or cubic feet of gas or tons of coal in the ground with the same accuracy that a cashier counts dimes and quarters in a cash register.

It is recognized that methods of ascertaining the size of mineral reserves vary, and that often two geologists in the same company may interpret the same core drillings in significantly different ways.

But it is also recognized that large bank loans and stock offerings are being made on the basis of such estimates as are now within the state of the geologic and engineering arts. Also, it is undeniable that official Government statistics are regularly being issued, which could give any but the most sophisticated reader the impression that the national totals of all these estimates add up to a "fact."

This amendment does not ask for any miracles from geologists and engineers; but it does ask that the best of their knowledge be shared with the Government, not monopolized by the companies they work for.

FOREIGN COMPANIES DOING BUSINESS HERE ARE COVERED

Another question that may be raised about this amendment is whether it might harm American-based companies and help their foreign-based competitors, by disclosing information about the American firms.

The answer is "No." Many, if not most, of the important foreign-based competitors of the U.S.-based fuel companies have operations in the United States. The proposed Mineral Fuels Reserves Disclosure Act adopts the definitions of "corporation" and "commerce" contained in the Federal Trade Commission Act. It also contains a very broad definition of the term "affiliate" and then defines the term "substantial fuel company" in such a way as to include all the affiliates of a corporation. Finally, the reporting requirement of section 305 applies to "every substantial fuel company, foreign and domestic, engaged in commerce."

Hence, if a large refining company based in the United Kingdom or the Netherlands, for example, had an "affiliate"; that is, an individual, partnership or corporation which controls, is controlled by, or is under common control with the foreign refinery—engaged in gasoline retailing in the United States and had another affiliate engaged in crude oil extraction in the Middle East, the reserves of that foreign company's Middle East affiliate would have to be disclosed to the General Accounting Office under this legislation.

In addition, it should be remembered that the principal purpose of this amendment is to obtain more regular and reliable statistical data on mineral fuels reserves, not to publish individual company data. Only in the case of a single company's having more than 5 percent of the total national reserves of a particular mineral fuel would its individual company, detailed data come into the public domain and be available to its competitors. In such a case, expected to be fairly rare, the public exposure is justified and necessary, as I have already explained.

EMERGENCY LEGISLATION

Finally, it may be argued that a measure establishing a new reporting and data program of substantial size and great national importance should not be adopted as a floor amendment to another bill, even though—as is the case here—the amendment is fully germane.

Our answer to that is, once again, that we are in an emergency. We are in a crisis.

We do not and cannot know the nature, extent or even the validity of the crisis, because we are denied information.

All that this amendment does is to provide means for the Congress and the public to obtain information which any number of Senate and House committees, after any number of hearings, have frequently said the country must have. The committee that reported this bill, the Committee on Interior and Insular Affairs, is the mainstay of the national fuels and energy policy study under Senate Resolution 45. A staff report issued in connection with that study has clearly pointed to the need for this type of legislation. See exhibit B.

If we allow the oil and gas companies to raise their rates without having the data on which to base a decent judgment of the need and justification, how can we explain that to American consumers and small businesses?

I have a letter from one of the thousands of small businessmen who are affected by this crisis. He was a service station operator. His letter is only too typical of letters every Senator is getting these days. See exhibit H.

Can any elected representative face a constituent such as this disfranchised service station operator and say that he voted against getting fundamental information on the natural resources on which the man's livelihood depends?

What are we going to tell the factory owners and their workers when their energy costs go up 100 or 200 or 300 percent? Or when they cannot get the fuel they need at all? What do we say to people like these, when they have had to shut down their businesses or have lost their jobs because their factories could not get or could not afford the power that America's industries run on? Do we say that we are against having the essential facts made known, because the facts are claimed by big mining companies and giant oil and steel and railroad companies as "proprietary" information?

What are we going to tell the poor family that will spend the coming winter in a cold house because the local supply of fuel oil ran dry, or the cost of fuel oil became so high they could not afford it? Can any Senator say, "Well, the facts are complex and we cannot get the necessary facts, because that would involve invading big business privacy"?

Parents this summer are having to explain to their children that the family's vacation plans have been canceled, because they are uncertain about gasoline in the region to which they were going, or they cannot afford gasoline at almost 50 cents a gallon, or they are concerned about motel and campground fees that have gone up, because of increased fuel costs. Those parents want explanations. Shall we tell them we are against finding the essential facts and setting up a modern data processing system to manage the facts and make them usable?

We have constituents who are farmers, and the energy crisis is hitting them, too. What do we tell a small farmer who cannot afford—or cannot find—the fuel necessary to operate his farm machinery? What do we tell the consumers of farm products about their increased grocery bills, linked to fuel costs in part?

There simply is no existing legislation, no existing program to pull together in one place all the information that is available but widely scattered on the mineral fuels industries. There is no existing legislation, or program, to pull together in one place all the information that companies know, but keep secret, about their mineral fuels reserves.

This amendment would provide that legislation.

This amendment should therefore be passed.

Mr. President, I ask unanimous consent to insert in the RECORD at this point exhibits A through H, inclusive, referred to and identified in my remarks.

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

EXHIBIT A

THE MINERAL FUELS RESERVES DISCLOSURE ACT: SECTION-BY-SECTION ANALYSIS AND COMMENT

GERMANENESS

The "Mineral Fuels Reserves Disclosure Act" is offered as an amendment (No. 319) which will add new title III to S. 1081. Title I of that bill as reported establishes new, general law for the granting of rights-of-way across Federal lands for various purposes. Title II authorizes specifically the granting of permits for the Trans-Alaska Pipeline, subject to certain conditions.

The Disclosure Act is an appropriate, relevant and urgent addition to the bill. It is germane because the bill is concerned with an aspect of the emerging energy crisis, oil transportation, while the amendment is concerned with another, equally important aspect of the energy crisis, the inadequacy of public data and inaccessibility of existing corporate data required for the formation of sound public policy to deal with the Nation's fuel problems. Many of the oil companies that will derive great benefit and profit from enactment of S. 1081 possess but withhold the types of information on mineral fuels reserves this amendment would make available to policymakers. The amendment is urgent because the need is urgent for the information it would make available.

SEC. 301, SHORT TITLE

The title to be added to S. 1081 by amendment no. 319 will be cited as the "Mineral Fuels Reserves Disclosure Act."

SEC. 302, PURPOSE

The purpose of the Mineral Fuels Reserves Disclosure Act is to provide for the Collection and organization in a single electronic data base of the fullest available information on the Nation's mineral fuels industries and reserves of mineral fuels. The act will provide for the establishment and maintenance of that data base by the Comptroller General of the United States within the agency of the legislative branch which he heads, the General Accounting Office. A further purpose of the act is to provide for the mandatory disclosure to the Comptroller General by substantial fuel companies of information on the quantities and locations of their own Mineral fuels reserves.

SEC. 303, DEFINITIONS

This section provides word-of-art definitions for key terms used in the Disclosure Act: "Mineral fuel reserve," "substantial fuel company," "affiliate," "control," "data base," "Comptroller General," "commerce," "corporation," "establishment," and "standard industrial classification."

The terms "commerce" and "corporation" are given the same broad, inclusive definitions as in the Federal Trade Commission Act, and the term "affiliate" is defined to include business associates other than corporations which control, are controlled by or are under common control with corporations.

The definition of "substantial fuel company" in effect exempts from the reporting requirements of the Disclosure Act the great majority of mining and oil enterprises, by number, but is believed to exempt from disclosure only a fairly small percentage of total privately controlled mineral fuels reserves. The companies required to report will be those which had annual business sales or receipts of $5 million or more in either of the last two fiscal years, derived from operations in the extraction of mineral fuels; or which own or control mineral fuel reserves valued at $5 million or more.

The definitions of "mineral fuel reserve" and "control" are simply restatements of their ordinary, commonsense business meanings.

The term "data base" throughout the Disclosure Act means the great centralized, all-inclusive, computerized library of essential information on the mineral fuels reserves which the Comptroller General will be directed to establish.

To assure that the information in the data base will be comparable with Census and other Government statistics, to the utmost degree practicable, the terms "establishment" and "standard industrial classification" are incorporated into the Disclosure Act with the same meaning as in the Standard Industrial Classification Manual. That official Government manual classifies all economic activity in a system employing numbers and names, and provides for the enumeration of economic activity by establishments—that is, single mines, factories, refineries, etc.—rather than on a company-wide basis.

SEC. 304, MINERAL FUELS RESEVES DATA BASE

In subsection (a), the Comptroller General is given a direct order—not mere authorization—to collect and organize data for, and establish and maintain a complete and current data base on the mineral fuels industries and, in particular, on mineral fuels reserves.

In subsection (b), the characteristics of the data base are described. It is to contain all available information on every mineral fuel reserve within and without the United States. It is to be organized, indexed and cross-referenced on the basis of establishments, by company or other affiliation or ownership, by particular location within or without the United States, and by standard industrial classification. It is to utilize the best and fastest information storage, retrieval and processing systems and technologies available, including but not limited to microfilm and electronic data processing and transmission systems. And it is to be divided into a confidential section and a public section, as provided in section 306.

SEC. 305, SUBSTANTIAL FUEL COMPANIES TO REPORT MINERAL FUEL RESERVES

Subsection (a) requires every substantial fuel company, foreign and domestic, engaged in commerce to report annually to the Comptroller General full and complete details of

all mineral fuel reserves which it, together with its affiliates, owns or controls anywhere in the world. These reports are to be verified, under penalties of perjury, by the chief executive, geological and financial officers of the substantial fuel company. They are to describe for each reserve the identity of each establishment having any ownership or control of the reserve; the location, types, and proved and probable quantities of mineral fuel or fuel ores in the reserve; and the state of development of the reserve. Quantities of proved and probable fuels or fuel ores are to be separately specified, not lumped.

The use of the words "foreign and domestic" companies, "affiliates" and "commerce" gives subsection (a) the broadest possible extraterritorial reach. For example, a giant conglomerate based in Europe, having refineries in the United Kingdom operated by British subsidiaries, gasoline retailing in the United States operated by an American affiliate and oil wells in the Middle East operated by an affiliated Arabian subsidiary, would, under this subsection, be required to report the reserves of its Middle East oil-producing affiliate. To escape the reserves-reporting requirement, it would have to pull out its American gasoline-retailing operation.

Subsection (b) directs the Comptroller General to prescribe, by regulation, the form or forms on which the reports of substantial fuel companies on their reserves shall be made. The Comptroller General is directed to consult with the Office of Management and Budget and other interested departments and agencies in the drafting of these reporting forms; but the consultations must be expeditious. The forms are to be finally promulgated not later than 60 days after the effective date of this act.

Subsection (c) provides that the first reports of reserves will be due not later than four months after the effective date of this act and shall describe mineral fuel reserves as of a specified date not more than four months earlier than the date of the report. Annual reports thereafter are to be made on or before the first day of May, beginning with the year 1974, and are to describe mineral fuel reserves as of the first day of January.

It is recognized that oil and mining companies will not be able to get complete geological and engineering estimates of their total reserves within four months, or to update all such reserve estimates annually. No new or special geological exploration is mandated by this section. All that is expected under this section is that the three most responsible officers of substantial fuel companies would report annually, under oath, the best and most recent information they normally and necessarily acquire on the status of their companies' reserves, for purposes of the long-range planning, management and operations of their own businesses.

SEC. 306, DIVISION OF DATA BASE INTO PUBLIC SECTION AND CONFIDENTIAL SECTION

Subsection (a) directs the Comptroller General to divide the data base into two sections, one of which shall be public, the other confidential. The public at large is to have unlimited rights of access to and use of the public section, under regulations and at reasonable fees to be prescribed by the Comptroller General. In general, only the Comptroller General, officials of the General Accounting Office, and other officers and employees of the Government of the United States are to have access to the confidential section, and then only when they have official use for the data they are asking for from the confidential section. The term "officers and employees of the Government of the United States" includes officials of all three branches of Government, executive, legislative and judicial. An exception to the general rule is that substantial fuel companies shall have access to the data they themselves provided for the confidential section. An officer or employee of the United States Government who makes an unauthorized disclosure of data in the confidential section may be removed from office, fined, or imprisoned under the provisions of section 1905 of title 18 of the U.S. Code, the criminal code.

Subsection (b) directs the Comptroller General to place in the public section of the data base all information which he obtains from reports, documents, and other sources in the public domain. Any work that is done from or with data from public sources, including microfilming and computer tabulations, is also to be fully available to the public. In general, reports on mineral fuel reserves from individual substantial fuel companies are to be placed in the confidential section of the data base, where the individual-company data will not be available to the companies' competitors. An exception to that rule is provided in the case of ownership or control of five percent or more of total national reserves of a particular mineral fuel by a single substantial fuel company. In that case, the company's complete reports of data on that particular mineral fuel will be transferred to the public section of the data base. Another exception is made for data contained in a mandatory report under section 305 which the General Accounting Office discovers is in the public domain already, through other channels. In that case, that information will also be transferred to the public section of the data base. The Comptroller General has complete authority to make statistical tabulations of the confidential data and transfer those tabulations to the public section of the data base, so long as the tabulations do not disclose any individual-company data that are declared to be confidential under this section of the act.

Subsection (c) provides that any department or agency of the Federal Government, or any substantial fuel company may request that certain data be withheld from the public section and placed in the confidential section of the data base, for reasons of the national security. If the Comptroller General is satisfied that the national security would indeed be adversely affected by public disclosure, he is directed to place the data in question in the confidential section.

Subsection (d) in effect makes a Congressional finding that neither competitive equities nor the national security can justify keeping business data secret forever. The subsection establishes a general rule that no data more than 25 years old shall be placed in the confidential section, and data in the confidential section are to be transferred to the public section of the data base upon becoming 25 years old. However, the Comptroller General may keep data confidential for up to 50 years upon a showing that competitive equities so require, and up to 75 years upon a showing that the national security so requires. The subsection directs the Comptroller General to draft regulations providing for formal hearings on any question or dispute that may arise concerning the entry of data into or removal of data from the confidential section of the data base. Such hearings are to be open to the public, except that a private formal hearing may be conducted when the Comptroller General determines that competitive equities or the national security so require.

SEC. 307, POWERS OF THE COMPTROLLER GENERAL

This section is patterned on and consistent with sections 10 (c), (d) and (e) of S. 70, the Energy Policy Act of 1973, which passed the Senate May 10. However, this section (and the entire Disclosure Act) do not depend upon passage by the House and final enactment of S. 70. This act and S. 70 complement and reinforce each other, but each can stand and be very useful alone.

Subsection (a) gives the Comptroller General the right of access to books, records and accounts of any substantial fuel company or affiliate thereof where necessary to validate any report required by this title, to ascertain the existence of a duty to report under this title, or otherwise to fulfill the purpose of this title.

Subsection (b) gives the Comptroller General power to issue subpenas requiring the production of books, records and accounts of substantial fuel companies.

Subsection (c) gives United States District Courts power to enforce the Comptroller General's subpenas, upon his request for their aid. A court may issue an order to comply with the Comptroller General's subpena, and may punish disobedience of that order as a contempt of court.

SEC. 308, AUTHORIZATION OF APPROPRIATIONS

The cost of implementing this Disclosure Act will be small, in comparison to the benefits to be gained by the public, but exact amounts cannot at present be estimated. Therefore, this section authorizes the appropriation to the Comptroller General of whatever supplemental and annual funds he may find that he requires to establish and maintain the massive data base on the mineral fuels industries and mineral fuels reserves for which this act provides.

SEC. 309, EFFECTIVE DATE

The Mineral Fuels Reserves Disclosure Act will become effective on the date of its enactment.

EXHIBIT B

EXCERPT FROM FEDERAL ENERGY ORGANIZATION

(A staff analysis prepared by Daniel A. Dreyfus, professional staff member; at the request of SENATOR HENRY M. JACKSON)

3. ENERGY DATA COLLECTION, ANALYSIS, AND DISSEMINATION

The Problem. It has been evident from the outset of the Committee's energy study that an adequate body of basic information about the energy system is not available to support Federal policy decisions. A typical example is the controversy over whether or not the wellhead price of natural gas is a significant factor in suppressing new discoveries.

Much of the existing energy information, furthermore, is obtained directly from the energy industries at a relatively advanced stage of analysis. It is obvious, of course, that some data concerning the energy industries cannot be obtained from any other source. Data concerning shipments of fuels, generation and deliveries of electric power, and operating costs are examples. There is, however, a wide range of options concerning the degree of industry analysis which need be accepted as part of even these kinds of data. There also is a range of options concerning the degree to which efforts may be made to validate such data. There would appear to be no reason for any Federal agency to monitor the recording instruments of an electric utility to obtain information on generation and sales. At the other extreme, however, the Secretary of the Interior or the Congress should not uncritically have to accept the utilities' projections of future electric demands as the basis for Federal policy concerning the development of vast regions. Both the Federal Task Force and the Senate Interior Committee during studies of coal-fired powerplant construction in the Southwestern desert regions faced the latter situation.

The processing of data to produce management information for policy decisions inevitably involves not only the measurable data itself, but also judgmental assumptions. Generally, the more significant policy decisions are complex and abstract, and the information upon which they are based involves a high proportion of judgmental analysis. The assumptions which have been

made are not always obvious in the results. The views and motives of the analysts, either inadvertently or deliberately, can significantly influence policy decisions which are based upon the information.

The Federal government also presently obtains data from industry which is not peculiarly industrial data. For example, the Department of the Interior relies heavily upon industry for information concerning the potential value of fuel resources on the public lands. Greater disclosure of raw exploration data or exploration directly by the Federal agencies could be substituted for such information.

There are indications that the present Federal reliance upon energy information from industry is excessive. Federal decisionmaking is influenced not only by the facts, but by the assumptions used in analysis. Furthermore, the Federal government is unable to recognize deficiencies or errors in industry decisions.

The recently released *U.S. Energy Outlook* report of the National Petroleum Council is an example of predigested, policy advice which often is offered to Federal decisionmakers in the guise of industry data. An analysis of similar major energy studies which were available at the initiation of the Senate energy study [44] showed that the underlying assumptions were so thoroughly concealed that the projections of supply and demand could not be reliably normalized among the reports considered.

The dangers in relying upon predigested data were highlighted in Committee hearings on recent fuel shortages. A representative of the Office of Emergency Preparedness testified that the Office had been assured by the oil industry that supplies were adequate for this winter. Appropriate Federal contingency planning, therefore, had not been done.

Present deficiencies in information for energy policy decisions fall into four general categories:

(1) adequacy of data—is sufficient original source data being collected in an accurate and timely fashion (*e.g.*, is sufficient geological exploration being done)?

(2) analysis—is the data being analyzed competently and with regard to relevant issues (*e.g.*, has anyone estimated the impact of surface mining slope limitations upon coal availability)?

(3) validity—is the information being distorted to prove preconceived notions (*e.g.*, are projections of energy demands based upon realistic assumptions of growth)?

(4) credibility—will decisions based upon the available information be suspect (*e.g.*, will conservationists believe that proposed powerplants are essential on the evidence of industry projections)?

There are indications that *existing* energy data management falls short in each of the foregoing areas.

The energy information available for Federal policy formation has been inadequate for past decisions and it is certainly grossly deficient in the present crisis. Now, and in the future, increasingly difficult tradeoff decisions between energy and other needs of society will be necessary. The management of the energy system will continue in the foreseeable future to labor under critical shortage conditions. Federal actions which affect energy must be based upon the greatest possible knowledge of the facts.

Alternatives.—Few comprehensive proposals for energy data have been advanced. The bill (S. 70) introduced by Senator Hollings to create a Council on Energy Policy in the Executive Office would assign broad energy information duties to that group.

It appears inappropriate for extensive data collection and processing activities to be situated in the Executive Office. The advocacy function of a Presidential advisory body, moreover, is inimical to the production of credible statistical information for general use.

Conclusions.—Greater Federal "in-house" data collection and analysis is needed. Technical field work (such as geologic exploration) should be assigned to technical agencies (such as G.S.). More authority to require "proprietory" data from industry and to verify it is probably needed. The analysis should be done by Federal agencies to insure validity from the Federal viewpoint.

These functions could be vested in a subcabinet energy administration. Such an agency, however, will inescapably develop a close relationship and similar viewpoint to the energy industries. To achieve public (and Congressional) credibility, it might be preferable to assign a broad energy data processing and reporting function to an existing statistical agency which has an established reputation for accurate and impartial reporting. The Census Bureau and Bureau of Labor Statistics are examples. Alternatively, a Legislative Branch agency such as the General Accounting Office might be selected.

EXHIBIT C

[From U.S. Oil Week, June 25, 1973]

GASOLINE SHORTAGE OVER . . . FOR EXXON AT LEAST

The nation's largest oil company told the Texas Railroad Commission last week that July 1 it had on hand 800,000 barrels more gasoline than desirable.

Exxon's gasoline glut was quite a turnaround from its 75.6 million gallon deficit April 1.

The only other firm with burdensome gasoline inventories was La Gloria Oil & Gas with about 714,000 gallons too much.

Some of the biggest refiners were really hurting—according to figures they gave the Commission—Ashland, Texaco and Gulf especially.

The net shortage adds up to 30.5 million barrels of gasoline or a bit under 1.3 billion gallons below desirable levels.

Exxon claimed a 29.4 million gallon distillate surplus April 1 but by June 1 Exxon's stocks had fallen to 42 million gallons below desirable.

Amoco and Arco were awash in distillate (OW 4/23) back in April (137 million gallons more than they needed), but now they claim shortages.

Only Charter, Conoco and Gulf show a distillate surplus.

TRC uses the oil company figures to set maximum allowable crude production levels from Texas wells. TRC once restricted production to prevent oversupply and the effect on crude prices.

But TRC has ordered wells to run at maximum through July for the 16th straight month.

Mobil refused again to supply its viewpoint on gasoline and heating oil stocks.

Given the severe shortage, even TRC officials are beginning to wonder about the validity of the figures released June 1:

ABOVE OR BELOW DESIRED LEVELS IN BARRELS (42 GALLONS=1 BARREL)

	Add 000		Percent capacity
	Gasoline	Distillate	
Adobe	−2	−20	78.9
Fina	−445	−78	99.6
Amoco	−2,200	−100	102.6
Ashland	−4,231	−568	96.3
Arco	−318	−146	91.0
Bell	−17	+6	92.3
Charter	−329	+138	104.0
Citgo	−490	−1,153	104.9
Coastal St	−158	−175	81.2
Continental	−351	+154	100.0
Cosden	−228	+14	96.0
Crown	−91	+16	67.3
Diamond	−486	−19	98.0
Exxon	+800	−1,000	106.6
Fort Worth	−29	−8	96.2
General Am	0	0	
Getty	−723	−631	92.1
Gulf	5,400	+200	93.5
LaGloria	+17	−19	97.5
Marathon	−335	−256	112.7
Mobil	0	0	94.9
Permian	0	0	
Phillips	−769	−139	105.6
Scurlock	0	0	
Shell	2,980	−252	91.9
Skelly	−500	−200	102.9
Sohio	2,463	−923	69.7
Socal	−785	−51	86.5
Sun	−1,395	888	83.9
Texaco	−5,805	−1,156	83.9
Union	800	−400	107.0
Total others	0	0	
Total all companies	30,513	7,654	

Source: U.S. Oil Week, June 25, 1973.

EXHIBIT D

[From the Oklahoma City Daily Oklahoman, May 23, 1973]

OIL FIRMS DESCRIBE STOCKS' STATUS

(By Glen Bayless)

Most oil companies reported stocks of gasoline, diesel fuel and LPG products on hand to the Oklahoma Corporation Commission Tuesday as a first step in the commission's inquiry to find out whether there is hoarding for higher prices.

The companies reporting responded to last week's request from the commission to submit figures on product supplies and where they are located in Oklahoma and elsewhere in the country.

Only Continental Oil Co. among the larger companies failed to report supplies at its Ponca City refinery and throughout the continental United States.

Commission Chairman Charles P. Nesbitt directed the commission staff to find out why Continental had not responded.

A spokesman for Sun Oil Co. said at the commission's bi-monthly demand and proration hearing that his company had sent in a reply of products it has in Tulsa and elsewhere, but the conservation department had not received the material Tuesday afternoon.

Other companies gave reports of stocks on hand, in pipelines and in refineries. Because their figures could not immediately be compared to any historical or seasonal benchmarks, Nesbitt said no conclusion could be drawn until Dan Dunnett, director of the oil and gas conservation division, could make analyses and findings.

"We asked for the figures on products because there had been complaints gasoline, diesel and LPG were being withheld in the current shortage situation in anticipation of higher prices," Nesbitt said.

"Analysis will help to show whether that is true or not."

Oil purchasers at the demand hearings made regular reports on what they define as "above or below desired levels" of crude and oil products.

On May 1, the total barrels of crude oil below "desired levels" was 8,405,548 barrels, slightly improved over the 9,002,475 deficit on March 1.

However, the deficit in products which include "desired levels" of oil gasoline, diesel and LPG, increased between March and May by 528,261 barrels to total 10,675,000 barrels.

Commission spokesmen said you "just can't do any arithmetic yet" with the traditional "above or below desired levels" figures and the specific breakouts of products supplied to the commission Tuesday.

[44] U.S. Congress, Senate, Committee on Interior and Insular Affairs, *Survey of Energy Consumption Projections*, Committee Print 92-19, 92d Cong., 2d Sess., 1972 evaluation.

These larger companies supplied these figures Tuesday:

Kerr McGee Corp.: 147,503 barrels of gasoline and 48,909 barrels of diesel in the Wynnewood refinery and pipelines in Oklahoma. Nationwide, the company reported 530,399 barrels of gasoline and 355,681 barrels of diesel on hand in refineries, and pipelines.

Phillips Petroleum Co.: In District 2 which includes Oklahoma, the company reported stocks of 3,923,000 barrels of motor fuel, 1,994,000 barrels of distillates and 1,166,000 barrels of LPG.

Company-wide, Phillips reported stores of 10,378,000 barrels of gasoline, 5,596,000 of distillates and 2,446,000 of LPG.

Shell Oil Co.: In District 2 there were 4,724,000 barrels of gasoline on May 11, 284,000 barrels of aviation fuel, 1,422,000 of diesel and 639,000 barrels of LPG.

Company-wide, Shell reported on hand 14,204,000 barrels of gasoline, 439,000 barrels of aviation fuel, 5,128,000 barrels of diesel, and 1,909,000 of LPG.

Skelly Oil Co.: In Oklahoma, 43,000 barrels of gasoline, 64,000 barrels of LPG and 7,000 barrels of diesel.

Nationally, Skelly reported 1,500,000 barrels of gasoline, 1,330 of diesel and 1,120,000 of LPG.

Standard Oil of Ohio: No supplies in storage in Oklahoma. Company-wide, Sohio reported 6,250,000 barrels of gasoline, 387,000 of LPG and 4,129,000 barrels of diesel.

Cities Service Oil Co.: In its midwest area including Oklahoma, the company reported 1,890,000 barrels of gasoline, 307,000 barrels of LPG and no diesel stocks.

Company-wide, Cities Service had stocks of 6,400,000 barrels of gasoline, 3,654,000 barrels of LPG and 212,000 barrels of diesel.

Champlin Petroleum Co.: At Enid, Champlin 431,800 barrels of gasoline, 177,500 barrels of diesel and 2,600 barrels of LPG.

Company-wide it had stocks of 1,618,100 barrels of gasoline, 832,200 barrels of diesel and 4,500 barrels of LPG.

Apco Oil Co.: In Oklahoma, 35,113 barrels of gasoline, 64 barrels of diesel.

In six states, 984,000 barrels of gasoline, 180,828 barrels of diesel.

Other companies among the 29 purchasers of Oklahoma crude reported lesser amounts. Koch Oil Co., second largest buyer of crude with June and July nominations of 101,473 barrels a day, reported no stocks of refined products in Oklahoma or company-wide.

Nesbitt pointed out that companies build stocks to meet seasonal demands and therefore a careful analysis needs to be made of the reported figures. He reminded that the shortage of gasoline is perhaps in part result of an abnormal switch by refiners to heating oils during the 1972–1973 severe winter.

EXHIBIT E

[From the Journal of Commerce, New York, June 22, 1973]

"GAS" STOCKS UP, OUTPUT DOWN

Despite a modest decline of a third of a million barrels in gasoline production last week, inventories were able to do a little better than hold level, according to figures compiled by the American Petroleum Institute.

API data showed that gasoline inventories had increased slightly by June 15 to 202,926 thousand barrels from 202,654 thousand barrels a week earlier. They were far below the 210,027 thousand-barrel level of a year earlier.

Gasoline output last week tapered to 48,948 barrels (in this total and those that follow the final 000's are omitted), or 54.2 per cent of refinery runs, from 49,283 barrels, or 55.7 per cent of refinery runs, the previous week. A year earlier gasoline output totaled 43,329 barrels for a 51.8 per cent yield.

Refinery runs of crude were substantially higher, at a daily average of 12,893 barrels, or 94.7 per cent of capacity, compared to 12,041 barrels, or 92.8 per cent of capacity, the previous week and 11,942 barrels, or 89.3 per cent of capacity, a year before.

For the four principal oil products, total stocks also increased, to 403,091 barrels from 397,425 a week earlier, 408,969 was the total a year before.

On the East Coast, gasoline stocks dipped 1.4 per cent to 49,051 barrels from the previous week's 49,756, and compared to 53,471 a year earlier. Distillate oil stocks rose to 48,187 barrels from 46,063 a week earlier, and were ahead of the 43,838 barrel total of a year before. Residual oil stocks were also higher than the week before, at 22,853 compared to 21,886 barrels, but were below the 26,129 barrel total of a year earlier.

TOTAL UNITED STATES

[Thousands of barrels]

	Week ended June 15, 1973	Week ended June 16, 1972
Output:		
Motor gasoline	48,948	43,329
Jet fuel (kerosene type)	5,343	4,466
Distillate	19,153	18,496
Residual	6,221	4,640
Stocks:		
Motor gasoline	202,926	210,027
Jet fuel (kerosene type)	21,588	22,399
Distillate	127,842	119,379
Residual	50,735	57,164
Total	403,091	408,969
EXCLUDING WEST COAST		
Output:		
Motor gasoline	42,195	37,389
Jet fuel (kerosene type)	3,880	3,395
Distillate	17,335	17,201
Residual	3,525	2,819
Stocks:		
Motor gasoline	182,400	185,055
Jet fuel (kerosene type)	16,259	16,820
Distillate	118,513	107,044
Residual	37,048	39,858
Total	354,220	348,777
EAST COAST		
Output:		
Motor gasoline	5,080	4,325
Jet fuel (kerosene type)	267	277
Distillate	2,423	2,223
Residual	823	631
Stocks:		
Motor gasoline	49,051	53,471
Jet fuel (kerosene type)	4,567	5,186
Distillate	48,187	43,838
Residual	22,853	26,129
DAILY REFINERY RUNS		
Total United States	12,893	11,942
Percent of capacity	94.7	89.3
Excluding west coast	10,971	10,110
Percent of capacity	95.9	90.0
DAILY CRUDE OIL AND CONDENSATE OUTPUT		
Total United States	9,377	9,847
East Texas	251	246
Total Texas	3,653	3,754

INDICATED REFINERY YIELDS

[Percent]

	Past week	Previous week	Month ended June 8	Same period, 1972
Gasoline	54.2	55.7	54.4	53.0
Jet fuel	5.9	5.1	5.2	5.5
Distillate	21.2	22.1	21.2	22.3
Residual	6.9	6.7	7.1	6.3

DAILY OIL IMPORTS

[Thousands of barrels daily]

	4 weeks ended— June 15, 1973	June 16, 1972
Excluding West Coast:		
Crude	2,578	1,512
Residual	1,786	1,433
Distillate	71	112
Asphalt	24	22
Others	84	76
Total	4,543	3,155
West Coast:		
Crude	844	693
Products	158	128
Total	1,002	821
Total United States:		
Crude	3,422	2,265
Products	2,619	2,106
Total	6,041	4,371

Note: Output for the week ended June 8 was: gasoline, 49,283; Jet fuel, 4,526; distillate, 19,558; and residual, 5,904. For the 4-week period ended June 15 the average weekly output was: gasoline, 48,569; jet fuel, 4,685; distillate, 19,052; and residual, 6,322. In the same period a year ago, comparable figures were: gasoline, 43,333; jet fuel, 4,493; distillate, 18,368; and residual, 5,078.

EXHIBIT F

FROM "NATIONAL GAS RESERVES STUDY"

(Staff report of the Federal Power Commission, May 1973)

PREFACE

The Federal Power Commission on February 23, 1971, authorized the establishment of Natural Gas Survey Advisory Committees and prescribed procedures under which the Survey would be conducted. The order indicated that:

To accomplish the objectives of the Natural Gas Act, in providing for the ultimate consumer an adequate and reliable supply of natural gas at a reasonable price and the Nation a vital energy resource base, the Commission will direct the conduct of the Survey through the members of the Commission and its staff.

By order of December 21, 1971, as amended on March 9, 1972, the Federal Power Commission Staff was directed to undertake an independent analysis of the Nation's proven natural gas reserves as stated:

We believe that an analysis of natural gas reserves is an important step in the accomplishment of the objectives sought by the National Gas Survey.

This analysis, conducted through the combined efforts of the Federal Power Commission staff, the United States Geological Survey of the Department of the Interior, the Office of Naval Petroleum and Oil Shale Reserves of the United States Navy, the Office of Management and Budget, the Bureau of the Census, and the regulatory and conservation agencies of the major gas producing states is the first independent government-conducted appraisal of the proven gas reserves in the United States. The United States Geological Survey teams took the responsibility for preparing estimates of the fields included in the sample which were located on the Outer Continental Shelf.

This is a highly significant first step, but still just that. It is imperative that the United States, so dependent upon its own fossil fuel resources, have a continuing program to provide government and industry planners with a comprehensive, accurate and credible inventory of our proven fossil fuel resources. The primary goal of this program was to establish, on a consistent basis, a conclusive estimate of the proven reserves of natural gas available under existing economic and technical conditions. That goal has been achieved. However, much more information is needed to complete the evalua-

tion. A similar appraisal of the Nation's oil reserves should be undertaken; deliverability studies to determine optimum rates of production should be made; further economic studies should be conducted to assess the response of resource base development to economic stimuli; and a combined state and federal effort to improve the energy resources data gathering, storage and retrieval effort should be initiated.

SUMMARY

On December 21, 1971, the Federal Power Commission issued an order for its staff to conduct a National Gas Reserves Study (NGRS) to obtain an independent estimate of the proven recoverable gas reserves in the United States, including Alaska and the offshore areas, as of December 31, 1970. The total reserves were to be estimated in three categories:

(a) *Reported fields*—those fields for which non-associated and associated gas reserves were reported to NGRS by members of the A.G.A. Committee on Natural Gas Reserves.

(b) *"A.G.A. omitted fields"*—those fields which contain non-associated and associated gas and were not included in the A.G.A. field list.

(c) *Dissolved gas*—those fields whose gas reserves consist of dissolved gas only and the dissolved gas reserves of fields containing both dissolved and other types of gas.

The total reserves estimates are based on a detailed geological and engineering estimate of gas reserves from a sample of all fields in category (a). Data were analyzed for all individual reservoirs in fields selected by means of a sound statistical sampling procedure. Statistical predictive techniques then were used to obtain the total reserves estimate for all fields.

An estimate was made for each of the "A.G.A. omitted fields". The total reserves estimate for this category (b) was obtained by summing the individual field reserves.

Dissolved gas statistics were compiled and reported for each of the defined geographical subdivisions and were used in the calculation for category (c) reserves.

The proven natural gas reserves in the United States are estimated by the Staff of the Federal Power Commission to be 261.6 trillion cubic feet as of December 31, 1970.[1] A subdivision of these reserves into various categories and a comparison to similar figures consistent with the estimates published by the American Gas Association Committee on Natural Gas Reserves[2] is given in the following table:

[All volumes in trillions of cubic feet]

Gas	Field category	National Gas reserves study	American Gas Association
Non-associated and associated gas:			
	Reported fields (category a)	228.5	25.20
	Omitted fields (category b)	.1	
Dissolved gas (category c)		33.0	34.7
Total*		[3]261.6	286.7

* Excludes gas in underground storage.

The NGRS estimate is lower than the estimate by A.G.A.; however, the difference is less than 10 percent. The difference of 23.5 Tcf between the estimate of the non-associated and associated gas reserves for the 6,358 entries in the reported fields category (a) is the primary difference between the total estimates. The gas reserves in the "A.G.A. omitted fields" are a relatively insignificant part in the total NGRS estimate, and it seems evident that the 62 entries in the "omitted" category (b) are small fields. The two dissolved gas estimates differ by 1.7 Tcf or by about 5 percent.

These reserves estimates provide the basis for computing various ratios which can be used as indicators of natural gas supply. For example, the reserves to production (r/p) ratio *i.e.*, the year-end proven recoverable reserves divided by production during the same year, is a widely used measurement of available supply in relation to production rates. Based on A.G.A. data the r/p ratio at the end of 1970 was 13.1[4] years. However, when computed on the basis of the NGRS estimated the r/p ratio is reduced to the less optimistic figure of 11.9[4] years.

Similarly, projections of future production of natural gas from proven reserves which have been based on A.G.A. figures should still be considered reasonable. However, they may be optimistic and the natural gas available from this source in the future may be more limited than previously reported.

The quality and reliability of the statistical analysis and the field reserves estimations were assured because the teams performing these tasks were composed of qualified government and academic experts. Both the Independent Accounting Agent and the Gas Field Identification Agent were awarded contracts in accordance with standard government service procurement practices, to act as agents of the Commission and assist in conducting the NGRS. Similarly, academic personnel participated in the NGRS as agents of the Commission.

The publications of state regulatory and conservation agencies were considered the primary source of data for gas field identification. In addition, many state agencies indicated a willingness to participate in the study by assigning space, providing access to data and, in some cases, providing personnel. These states included: Alaska, Arizona, Arkansas, California, Colorado, Florida, Indiana, Kansas, Kentucky, Louisiana, Michigan, Mississippi, Montana, Nebraska, New Mexico, New York, North Dakota, Oklahoma, South Dakota, Texas, Utah and Wyoming. In order to determine the status of fields indicated as potential omissions from the A.G.A. field name list, field team personnel visited the agencies in the following states: California, Colorado, Kansas, Louisiana, Michigan, New Mexico, Oklahoma, Texas, Utah and Wyoming.

Reserve analysis teams composed of geologists, engineers, economists and other professional employees of the Federal Power Commission, United States Geological Survey, Department of the Interior,[5] and the Office of Naval Petroleum and Oil Shale Reserves of the United States Navy, Department of Defense,[5] analyzed and evaluated the information and prepared the estimates of recoverable gas reserves.

When the reserves teams analyzed an individual field, their estimate was developed on a reservoir-by-reservoir basis. The teams estimated the reserves for each reservoir in the field and summed the reserves of all reservoirs to obtain the field reserves estimate. Estimates were developed from the basic raw data which were supplied by the company.[6] These data usually consisted of various types of electrical, radio-active and acoustical well logs; core analysis; fluid analyses, open hole, production, back pressure, draw down and build-up, and other type well tests; temperature measurements; gas analyses; structural and isopachous maps; and pressure and production history. The basic data were reviewed to determine their adequacy, accuracy, and validity. The independent reserves teams utilized this information, and by applying accepted geological and engineering methods, made their own independent estimates of reserves. Rather than rely solely upon the various factors developed by the company, the teams derived their own factors for measurable physical properties such as porosity, water saturation, temperatures, and pressure. Additionally, they were required to exercise their professional judgment in the interpretation of structural and isopachous maps and records, and the selection of appropriate abandonment pressures, recovery factors and similar factors affecting the volumes of reserves which would be recoverable.

In making estimates of natural gas reserves the field teams used the definitions cited in the Reserves Estimation Manual (Appendix IV). They are as follows:

The reserves . . . are natural gas . . . reserves estimated to be recoverable from proved reservoirs under the economic and operating conditions existing at the time of the estimate. Such volumes of gas . . . are expressed in cubic feet at 14.73 pounds per square inch absolute pressure and 60°F. temperature. These reserves estimates . . . include gas . . . reserves of all types regardless of size, availability of market, ultimate disposition or use.

The field teams were further instructed to make the following assumptions relating to economic and operating conditions:

1. A ready market will exist for all volumes of gas produced.

2. If sold in interstate commerce, sales price for gas will be at the effective rate as of December 31, 1970, (or at FPC ceiling if the gas is not under contract) with no allowance for price escalations beyond those already approved in FPC area rate orders. . . .

3. Everything will be frozen at 1970 levels; *i.e.* prices, wages, etc.

4. Environmental effects will not restrict gas recovery.

5. Nuclear stimulation is not an economic method of gas recovery at present.

6. Compression will be installed if and when economically justified.

7. The recovery factor will differ significantly for water drive reservoirs, fractured reservoirs, exceptionally high pressure reservoirs, low permeability reservoirs and associated gas reservoirs, for example. The estimator will not limit his consideration to the "prevailing practice" in the field, but rather should consider the possibility of adding compressors or other equipment and base his estimate on the recovery efficiency which would result from installation of such equipment, if he felt it appropriate to install the equipment.

FOOTNOTES

[1] A discussion of the reliability of the estimate is given in the Report of the Statistical Validation Team of the National Gas Reserves Study (Appendix VI).

[2] "Reserves of Crude Oil, Natural Gas Liquids, and Natural Gas, the United States and Canada and United States Productive Capacity as of December 31, 1970", Volume 25, 1971. Published jointly by: American Gas Association, Inc., America Petroleum Institute, and Canadian Petroleum Association.

[3] The gas reserves of the fields which were analyzed by the field reserves teams were approximately 56 percent of the total NGRS estimate of non-associated and associated gas and 49 percent of the total NGRS estimate of all types of gas.

[4] Includes gas reserves for Alaska, but excludes gas in underground storage.

[5] See Appendix VIII for correspondence establishing the work program with the United States Geological Survey and the Office of Naval Petroleum and Oil Shale Reserves.

[6] In some cases, reserves estimates were developed using data purchased commercially or obtained from public sources.

EXHIBIT G

[From the Washington Post, June 28, 1973]

NATURAL GAS RESERVES UNDERSTATED, HILL TOLD

(By Morton Mintz)

Natural-gas producers regularly disclose only one-half to one-tenth of their true reserves to the government, a Federal Trade Commission official told Congress yesterday.

His testimony damages the claim—made by President Nixon, the Federal Power Commission and the petroleum industry—that gas consumers must accept multi-billion-dollar price increases to spur the search for adequate supplies.

The disclosure of "serious" and "consistent" under-reporting was made by James T. Halverson, director of the FTC's Bureau of Competition, to the Senate antitrust subcommittee. Not one case of over-reporting was uncovered in an investigation by his staff, he testified.

Just 24 hours earlier, the chairman of the Power Commission had insisted that the purported shortage is "real." "I have no evidence to the contrary," Chairman John N. Nassikas told Subcommittee Chairman Philip A. Hart (D-Mich.).

Halverson not only offered contrary evidence, but testified that Nassikas' agency had been uncooperative with his investigators. The Power Commission, he remarked acidly, did refrain from making "a public statement" that it opposed the FTC inquiry.

Halverson told Hart, who requested the FTC investigation almost three years ago, that gas producers report their reserves to the Power Commission through the American Gas Association.

The AGA mechanism "could provide the vehicle for a conspiracy . . . to under-report gas reserves, but more information is needed," he testified.

In another development, two Power Commission economists—giving their personal views—attacked President Nixon's proposal to deregulate the sale of new gas at the wellhead to interstate pipelines.

This would result "in billions of dollars of added consumer cost," Dr. David S. Schwartz, assistant chief of the FPC Office of Economics, testified.

Without referring directly to Mr. Nixon, Dr. John W. Wilson, chief of the FPC Division of Economic Studies, said deregulation would mean "capitulation to the monopoly power" of giant oil companies, which would be free "to extract the maximum possible price that the market will bear."

Rejecting the White House claim that deregulation would stimulate exploration and development, the economists said that steps taken by the commission to raise prices—including recent approval of a 73 per cent increase for three producers—have been accompanied by a decline in proved reserves.

Schwartz and Wilson depicted this as a logical result of the expectation, nurtured by the administration and the commission, that a doubling of prices is imminent. That expectation creates strong economic pressures on producers to hold back until speculation subsides, the economists testified.

One of the arguments for deregulation advanced by Mr. Nixon, in his April energy message, was that interstate pipelines can't get all the gas they need because unregulated intrastate pipelines can pay any price they want.

But Wilson said it is little known that interstate sellers, including Pennzoil United and Standard Oil of Indiana are also intrastate buyers. As such, he said, they are "in a unique position to manipulate" intrastate prices so as to force up the prices of gas destined to cross state lines.

The FTC's Halverson said that the Power Commission, in granting rate increases, relied on unaudited reports of inadequate reserves made to the AGA by 10 regional subcommittees of the trade group.

His investigators made a pilot study of the subcommittee for the rich South Louisiana region, obtaining some documents with supoenas of company records.

Each subcommittee member reports on fields in which his employer was the major producer, Halverson testified. "The member's data are reviewed only by other subcommittee members, and they "do not see the underlying data," Halverson said. Other major findings:

Producers make lower estimates of proved reserves for tax purposes than for decisions such as whether to build an off-shore drilling platform.

For certain fields, the estimates that companies had on their books were "as much as ten times" higher than the estimates the same companies gave to the AGA subcommittee.

In "numerous" cases, companies have discovered but have not developed "apparently substantial amounts" of proved off-shore reserves.

The Power Commission economists urged Congress not only to reject deregulation, but to extend controls to intrastate sales.

Wilson and Schwartz said that the White House deregulation bill, without clearly saying so, would remove controls from much old or flowing gas, threatening to burden consumers with additional billions of dollars in needless added costs.

Schwartz opposed as another threat to consumers a power commission plan to set a uniform nation-wide price for new gas, replacing the present system of ceiling prices for each producing area.

The economists suggested creation by Congress of an independent public petroleum authority to explore for and develop fuels and to provide a performance yardstick for what Wilson termed the "thoroughly interlocked petroleum companies."

EXHIBIT H

FEBRUARY 23, 1973.

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

DEAR SIR. Help!

We're in trouble and don't know who to turn to. Can you help?

I operate a retail gasoline service station in Milwaukee. Been at this location eleven years, and in the business for twenty. Business has never been better, and we have many happy customers. We sell the usual gasoline, tires, batteries etc., and service our customers cars. I have a family (wife and four children) a full time employee (with wife and four children) and usually three part time employees, all of whom look to my small business for all or part of their income and support.

Continental Oil Co., the owner of our business property, has just informed me that this business of mine will end no later than September 1973. Our lease will be cancelled and a company employee will be put in charge of our service station. Reason given is lack of profits in the Milwaukee marketing area. (Continental Oil Co. or Conoco as it is known had a pre tax net profit of 335 million dollars in 1971. Profits were higher in 1972.) A Conoco representative visited me yesterday and informed me that the company would like us to vacate the premises by May 1. All Conoco stations in the Milwaukee area will suffer a similar fate by Sept. 1st. at the latest. Our relations with the company are, and alway have been cordial, as is the case at most other Milwaukee stations. As if the company had any complaints about our operation, the rep stated this was not the reason for any change, but rather the company had just changed its policy and nothing could be done about it.

I want to continue in business at my present location. To do so, I'll need help. I can't fight a giant corporation in the courts, and I can't prevent them from cancelling my 30 day lease. (All Conoco stations in several midwestern states were made to accept a 30 day cancellation clause in their lease agreement last September.) Is there any way that you know of to save what we have worked years to build? Can you help?

Considerations other than my plight may or probably will enter into any solutions. Some of them are:

A shortage of motor fuel is expected which should drive up prices. Traditionally, when the fuel price to the customer advances one cent, the supplier gains .7 and the dealer .3 cents. (The reverse is true in cases of decreasing price, but only to a certain point. Trade publications have recently predicted fuel prices as high as fifty cents per gallon. Multiply this ten to twenty cent increase, by the dealers traditional three tenths, and you can see why the oil company might want to assume the retail function. Conoco's 335 million dollar profit isn't enough, they want mine too. After years of gasoline surpluses which saw oil companies competing against another in many markets, we see Gulf, Sunoco and probably others, leaving the Milwaukee market. Leaving it to whom? Have the companies arrived at an agreement dividing the country into territories? Will the oil companies stop competing, and set prices by agreement?

What is to happen to the independent oil jobber who buys surplus from major refiners? Will he cease to have an effect on prices with his unbranded gas stations? With no surplus, you can expect Conoco (eighth largest crude producer in the U.S.) to sell all its product through its company owned, company operated stations.

The fuel we sell, comes to us by way of a bulk plant in Milwaukee. If not physically, it is all billed through this facility. As each station in Milwaukee is changed over to a salary type operation, the bulk plant no longer has any part in supplying that station. Result is another slice of the pie for Conoco, and a vanishing list of customers for the bulk plant. If these small bulk plants close, can we do without their storage capacity? Our supplying pipe line has run out of product several times recently. What happens when there is no bulk plant to draw from?

The service station has been a traditional source of parts, accessories and repairs for the nations automobiles. Will we see the day when you can no longer take your car to the neighborhood station for an oil change, tire repair, battery, tune-up or safety check? Who will come to your house on a sub-zero day and start your car? Automobile dealers can't handle the business they have now, and some don't want it. But even if they can and will, do you want to drive across town to the dealer and leave your car for two days just for an oil change? And will you ever get to know that mechanic on a first name basis as my customers know me?

Much has been said about the public relations and corporations moral in the past few years. Oil companies are worried about pollution and damage to environment. Conoco has an employee pension plan and many other employee benefits. The company wants to be known as a good citizen. Well, isn't it just possible that Continental Oil Co. has some moral obligation to the service station dealers over which it has such tremendous control and power? Can Conoco in one sweep, wipe out the business of every dealer, good or bad, in a marketing area without even a pang of coincidence? Can they wipe out twelve years of business building, without even an offer of compensation?

Well, the answer is yes. Yes., they can do all these things and they will unless we can come up with some real help soon.

Can you help? I hope so, and will look forward to any reply.

Sincerely,

JOHN TIBBITTS,
Service Station Dealer.

Mr. JACKSON. Mr. President, the basic premise of amendment No. 319 is that we urgently need more, and better-coordinated information on the fundamental facts that are involved in the current fuel shortage and the energy crisis facing the Nation. The Senator from Wisconsin (Mr. NELSON) has correctly pointed out that the poor state of our information about the energy industries was noted, and strongly, in the March 1973 staff report to the National Fuels and Energy Policy Study.

Very possibly the establishment in the General Accounting Office of a massive, centralized, electronic library, where all existing data on the mineral fuels industries would be collected and subjected to regular and extensive comparison and analysis by computers and specialists, as the best way to deal with the well recognized problem of the immense volume and worldwide dispersion of existing data.

It is also quite possible that the proposal in the amendment offered by Senators NELSON, HART, HATHAWAY, HUMPHREY, KENNEDY, McGOVERN and STEVENSON—amendment No. 319—to require annual reporting of mineral fuels reserves by substantial fuel companies, is a sound way to deal with our well recognized lack of reliable information on reserves.

I am in agreement with the basic premise of amendment No. 321, offered by the Senator from Minnesota (Mr. HUMPHREY), that provision for onsite, spot-check inspection by geologists and engineers of the Department of the Interior would help improve the reliability and usefulness of the reports the companies would submit on their reserves. The provision in amendment 321 for reporting by the Secretary of the Interior on reserves of mineral fuels in the public lands is also sensible and valuable.

Nevertheless, I cannot support the amendment, as amended, at this time and in its present form.

My reasons are three.

First, the amendment does not do all that needs to be done. It does not, for example, make specific provisions for any new, centralized reporting by companies on their stocks of manufactured and refined products, but only on their reserves. Granted that reserves are the subject on which our present information is most deficient, there are deficiencies in our information on products as well. Also, the amendment does not deal at all with many other factors in the energy system, such as the transportation and conversion sectors which are tremendously important in the total energy-crisis picture. I am concerned that, were we to adopt this amendment now, we might unnecessarily, and for an unnecessarily long time, foreclose our options to enact more comprehensive, stronger legislation providing for better, more complete data collection and the best possible centralized information system. In short, this measure requires additional study and discussion.

Second, the rights-of-way bill, S. 1081, is not an appropriate vehicle. Even if this amendment were to pass the Senate, it is improbable that it could be retained throughout future legislative action on the bill.

Third, the amendment, while simple in basic concept, is complex in design—and necessarily so. The amendment would create a major new Federal program of information collection and management. It would impose a new reporting requirement on companies in the energy industries to which they can certainly be expected to object. The Government's hand in dealing with challenges will be weak if the program is adopted without benefit of committee hearings and the refinements, the understanding and support that only public hearings can produce.

I would like, therefore, to ask the Senator from Wisconsin (Mr. NELSON) and the Senator from Minnesota (Mr. HUMPHREY) if they would consider another approach to solving the problems to which their amendments are addressed, problems which I completely agree require early and innovative action by the Congress.

It seems to me that the need here is for a bill, which would be referred to the Interior Committee, and on which that committee could hold early hearings.

If the Senator from Wisconsin (Mr. NELSON) and his cosponsors would agree to withdraw their amendments—No. 319 and 321—at this time, I would certainly be willing to have the professional staff of the Interior Committee assist in the preparation of such legislation. I would be pleased to join the Senator from Wisconsin as a cosponsor.

Because this is so important a matter, I believe there should be hearings on that legislation, very promptly after it is introduced, as a part of the committee's energy study. I would like to have the Senator from Wisconsin, whose recent reappointment to the Interior Committee has been most welcome and helpful, agree to serve as chairman of those hearings.

Could the Senator from Wisconsin accept this alternative to present consideration by the Senate of his amendment?

Mr. NELSON. In my remarks in support of amendment No. 319, I said that there has evolved in this country during this century, and at an accelerating speed recently, a national policy of Government support for corporate secrecy. Under that policy, enormous corporate power is exercised in enormous secrecy, even though the power of the giant corporations often affects more lives, and more dramatically, than Government power. In my remarks I also suggested that there are signs the time is ripe for reversal of that national policy which supports corporate secrecy. Would the distinguished chairman of the Interior Committee agree that the legislation and the hearings he is suggesting, as an alternative to present consideration of these amendments, should have as their objective an across-the-board reversal of existing law and policy that support corporate secrecy, at least insofar as the energy industries are concerned?

Mr. JACKSON. The Senator's objective is my own. The Senator's concern on that subject is my own. I do agree to that.

Mr. NELSON. Mr. President, the Senator from Wisconsin would be very pleased to accept the alternative the Senator from Washington proposed and is prepared to withdraw the amendment.

I offered this amendment to this particular bill because the question of public information about the Nation's resources is a critically important one. I know that as a consequence of hearings and careful preparation and background, the amendment can be improved. The Senator from Washington has already suggested previously some strengthening amendment to this proposal.

I would be most happy to join with the Senator from Washington and the Senator from Minnesota in legislation which would be taken up before the Committee on Interior and Insular Affairs, and on which I would hope that we could get some early action.

Is the Senator from Washington talking about initiating hearings yet this fall?

Mr. JACKSON. Mr. President, it will certainly be this year. I doubt very frankly that we could have hearings before the August recess. As the Senator knows, we are stacked up with markup sessions and hearings every day between now and August 3.

The Senator from Wisconsin is aware that one of the early recommendations of the staff was to get the kind of information that both Senators have discussed here. In the economic area we have a good statistical organization available, the Bureau of Labor Statistics, as a source of information which has been looked upon with great respect by all elements of the American community, whether business or labor. All sources can look at the BLS reports and say, "Here are the data."

Mr. President, when we had the industry and the White House people in last fall, in connection with why they had goofed up on import allocation recommendations, we asked where each of them had got their data. The White House had obtained information from the oil companies, and the oil companies had their own information, even though a little different. To be very fair about it, I do not think it is fair to the oil companies to have to bear the responsibility of supplying data because they will always be suspect in this kind of situation.

There ought to be means by which we could get reserve information that we know can be verified and monitored so that those who have the information will know it is not self-serving information and that the information is such that proper governmental decisions can be made and, in fact, so that the proper business decisions can be made by the private as well as the public sector of our economy.

Mr. President, this is too important a matter to leave it to private enterprise alone to supply, compile, and interpret the information necessary for public decisionmaking. It should be supplied by an appropriate entity in the Federal sector on which all elements of the American community can rely, and can act upon so that decisions can be made.

I believe that is what the Senator from Wisconsin has in mind and what the Senator from Minnesota has in mind.

I want to assure the Senator that this is one of the items on our agenda for early action and a high priority action as far as our energy problems are concerned.

Mr. NELSON. Mr. President, I thank the Senator from Washington who has been addressing himself in great depth to this important question.

I am very pleased that we will be able to have some comprehensive hearings and determine if we can reach a resolution of this important problem of guaranteeing that the Government and the public have adequate information on availability, the reserves, and the estimates of those fuels upon which the very operation of this highly sophisticated technical society depends.

Mr. HUMPHREY. Mr. President, will the Senator from Wisconsin yield?

Mr. NELSON. Mr. President, I yield to the Senator from Minnesota.

Mr. HUMPHREY. Mr. President, I want to say to the Senator from Wisconsin and the Senator from Washington that the understanding that has been reached here in reference to special hearings on new legislation in this area, I think, is very desirable. I thank the leadership for giving this whole matter of energy policy consideration. I thank the Senator from Washington for his willingness to do this.

The distinguished Senator from Wisconsin, as subcommittee chairman, will look into this matter of our reserves and secure adequate documentation as to those reserves which we will have. I think then that we will have arrived at what could be a very sensible understanding.

Mr. President, I had intended to offer another amendment along this line that was numbered as amendment No. 340. However, it falls within the same framework of the study which will be undertaken by the Committee on Interior and Insular Affairs and under the subcommittee chairmanship of the Senator from Wisconsin. Therefore, I shall not offer it.

Mr. President, I believe that the colloquy today has satisfied what I believe is an urgent need, and if we can move forward with hearings, and hopefully with reports and legislation, I think we will have made a better contribution to all of this than any hasty action on the floor of the Senate today.

So I thank the Senator from Wisconsin and the members of the committee, both majority and minority, for their cooperation.

Mr. JACKSON. Mr. President, I express my deep appreciation to the Senator from Minnesota and the Senator from Wisconsin for their willingness to have this matter handled in a way in which the staff could put together all of the points we have endeavored to cover in this colloquy and draft an appropriate bill which would be referred to the Committee on Interior and Insular Affairs, in which a special subcommittee would be set up to be chaired by the Senator from Wisconsin, who would conduct and hold these hearings.

I believe that way we can move expeditiously.

Mr. NELSON. I thank the Senator from Washington. Mr. President, I withdraw my amendment No. 319.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. NELSON. Mr. President, I neglected to yield to the Senator from Maine, who wishes to make a brief comment on amendment No. 319, which I am withdrawing.

The PRESIDING OFFICER. Who yields time?

Mr. JACKSON. I yield the distinguished Senator from Maine whatever time he may require.

Mr. HATHAWAY. Mr. President, I wholeheartedly support the amendment of the Senator from Wisconsin (Mr. NELSON), which would make available to Congress, the Federal Government, and the public information on mineral fuel reserves held by every substantial fuel company and its affiliates.

I support in general the principle of making a broad range of corporate data available to the public. Major corporations are the dominant force in our economy; their operations have a substantial effect on all of us. Because the public interest in this matter is so great, it is essential that the public receive more information on the operations of large corporations than they presently receive.

I promoted this principle in my public disclosure amendment to the Economic Stabilization Act, designed to provide the public with cost and profit data underlying excessive price increases by major companies.

I support the same principle as presented in this amendment—providing the public, and the Federal Government as well, with vital data on fuel reserves.

I think we should have more public disclosures. I regret that the amendment will not be adopted today. Nevertheless, the fact that we are going to have hearings in this area may serve a better purpose, in bringing to the full view of the public the fuel reserves and the supplies of various oil companies, which I know the public does not know anything about at the present time, or knows very little about.

The fuel industry is particularly crucial to our economy. Recently we have all gained increased awareness of the various dimensions of the energy crisis.

Questions of supply, and shortages of fuel, and the price increases which are involved in this question, affect all of us.

For example, heating oil shortages and high prices which New England has suffered for some time, and which are getting worse.

For example, gasoline shortages throughout the country this summer.

For example, prospect of large increases in natural gas prices.

The industry argues that its reserves are insufficient to meet current and future demand. Thus, demands higher prices, tax privileges, and so forth, as necessary for more exploration for additional supplies.

But there is much evidence, most recently the startling revelations coming out of the FTC study, to indicate that the fuel industry is not giving an accurate picture of its reserves, that it is manipulating the energy crisis to gain higher prices and a stranglehold on the economy.

We must not allow this to happen. This amendment is essential because it will give the public information, and the Federal Government still more detailed information, to determine what reserves are available. Provide a basis on which to base a rationale and informed energy policy.

AMENDMENT NO. 251

Mr. NELSON. Mr. President, I call up my amendment No. 251.

The PRESIDING OFFICER. The amendment will be stated.

Mr. NELSON. I ask unanimous consent that the reading of the amendment be dispensed with.

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

Mr. NELSON's amendment (No. 251) is as follows:

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

TITLE III—MARKETING STRUCTURES OF ENERGY RESOURCES INDUSTRIES

SEC. 301. The Congress finds that a searching and comprehensive evaluation of the existing market structure of energy fuels industries, its relation to industry performance, and an assessment of the adequacy of that performance in terms of this society's goals is a matter of national importance. With our increasingly serious energy problems and the growing influence of energy fuels industries, such an inquiry is an especially necessary and timely step. The possible need for legislative remedies, and the detailed information which would be required for making any basic changes in energy structures clearly justify special study action at this time.

SEC. 302. (a) To conduct the study referred to in section 301 of this title, there is established the Temporary Study Commission on Energy Fuels Industries (hereinafter referred to as the "Commission").

(b) The Commission shall be composed of seventeen members appointed as follows:

(1) Three members appointed from the membership of the United States Senate by the President of the Senate;

(2) Three members appointed from the membership of the House of Representatives by the Speaker of the House;

(3) Two members appointed by the President of the United States from the executive branch of the Government;

(4) Two members appointed from industry, one by the President of the Senate and one by the Speaker of the House of Representatives;

(5) Two members appointed from labor organizations, one by the President of the Senate and one by the Speaker of the House of Representatives;

(6) Two members appointed from institutions of higher education, one by the President of the Senate and one by the Speaker of the House of Representatives;

(7) Three members appointed from among members of the public who have particular knowledge and expertise with respect to fuels and energy, one by the President of the United States, one by the President of the

Senate, and one by the Speaker of the House of Representative.

(c) The appointments specified in subsection (b) shall be made within thirty days of the date of enactment of this Act. Not more than ten of the members of the Commission shall be members of the same political party.

(d) The Commission shall elect a Chairman and Vice Chairman from among its members.

(e) Nine members of the Commission shall constitute a quorum. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner in which the original appointment was made.

(f) Each member of the Commission who is not otherwise employed by the United States Government shall receive an amount equal to the daily rate paid a GS–18 under the General Schedule contained in section 5332 of title 5, United States Code, for each day (including traveltime) during which such member is engaged in the actual performance of his duties as a member of the Commission. A member of the Commission who is an officer or employee of the United States Government shall serve without additional compensation. All members of the Commission shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties.

(g) The first meeting of the Commission shall be called by the President within the sixty-calendar-day period following the date of enactment of this Act.

SEC. 303. (a) Subject to such rules and regulations as may be adopted by the Commission, the Chairman shall have the power to—

(1) 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 chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but at rates not in excess of the maximum rate for GS–18 of the General Schedule under section 5332 of such title;

(2) procure temporary and intermittent services to the same extent as is authorized by section 3109 of title 5, United States Code, but at rates not to exceed $100 a day for individuals;

(3) hold such hearings, sit and act at such times and places, administer such oaths, and require by subpena or otherwise the attendance and testimony of such witnesses and the production of such books, records, correspondence, memorandums, papers, and documents as the Commission or any subcommittee or member thereof may deem advisable.

(b) In the case of contumacy or refusal to obey a subpena, issued under subsection (a) (3), by any person who resides, is found, or transacts business within the jurisdiction of any district court of the United States, the district court, at the request of the Chairman of the Commission, shall have jurisdiction to issue to such person an order requiring such person to appear before the Commission or a subcommittee or member thereof, there to produce evidence if so ordered, or there to give testimony touching the matter under inquiry. Any failure of any such person to obey any such order of the court may be punished by the court as a contempt thereof.

SEC. 304. Each department, agency, and instrumentality of the executive branch of the Government, including independent agencies, is authorized and directed to furnish the Commission, upon request made by the Chairman, such data, reports, information, and other resources as the Commission deems necessary to carry out its function under this title.

SEC. 305. (a) The Commission shall make a full and complete investigation and study with a view to determine the extent to which, if any, the present marketing structures of energy resources industries are responsible for current problems in the energy fields and whether alternative marketing arrangements involving less or more Federal control might be more responsive to the public interests. In conducting such study, the Commission shall consider and evaluate alternative marketing structures relating to such industries, including the degree, if any, to which the Government should involve itself in the operation and control of such industries, including the spectrum of options ranging from no governmental controls, restrictions, or other actions, to full governmental ownership and control thereof. Within such spectrum, the Commission shall consider—

(1) continued private ownership and operation of such industries, but with substantially increased governmental controls and regulations and institutional changes, such as requiring public members on the boards of directors of such industries;

(2) restructuring of the private ownership and operation of such industries as will assure the fullest possible competition between the industries as part of a free economic system;

(3) applying the public utility concept to all or part (such as refining) of such industries, where ownership would remain private but operations and results would be governmentally regulated;

(4) creating the concept of a public-private partnership, where the Government owns 51 per centum of the enterprise and the remainder is privately owned; or

(5) selective public ownership in such industries under the so-called yardstick principle of public control, wherein a sector which is generally in private ownership has within it public entities against which the performance of the private element of such sector can be measured.

(b) In conducting its analysis, the Commission shall establish agreed-upon standards of performance of such industries as a basis for evaluating marketing arrangements alternative to the existing system. The economic aspects of the present case of vertically integrated companies in such industries shall be assessed as well as the economic consequences of dissolution, divorcement, and divestiture proceedings against members of such industries. Important tests of performance shall include concentration and competition, entry and exit, investment behavior, pricing practices, returns, efficiency, employment, income generation, and corporate management and innovation, with particular emphasis on the present structure and the near-term and intermediate-term future. In conducting such study, the Commission shall consider the extent to which the Government itself is both a contributor to and a victim of the existing market structure by its regulations and procurement policies and the possible effects on the Government of alternative market arrangements.

SEC. 306. (a) The Commission shall submit to the President and the Congress such interim reports as the Commission deems advisable and, not later than twenty-four months following the date of the enactment of this Act, a comprehensive and final report to the President and the Congress containing the findings and recommendations of the Commission with respect to its study and investigation. Such recommendations may include such legislative and administrative actions as the Commission deems advisable.

(b) The Commission shall cease to exist sixty days after the submission of its final report.

SEC. 307. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this title.

Mr. NELSON. Mr. President, this amendment would add to this legislation a provision establishing a Temporary Study Commission on Energy Fuels Industries. I ask unanimous consent that the name of Senator MCGOVERN be added as a cosponsor.

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

Mr. NELSON. This Commission would examine the ownership, control and management of the energy fuels industry—principally oil, gas and coal—to determine if the industry is performing in the best interests of the country.

The chief task of the Commission would be to study possible alternative structures and controls of the energy fuels industry over the full range of options from virtually no Government restrictions on the industry to actual Government ownership and operation.

The specific study options would include:

Restructuring of the private ownership and operation of such industries to assure the fullest possible competition;

Continued private ownership and operation of America's energy resources, but with substantially increased Government controls and regulations;

Applying the public utility concept to the industry where ownership would remain private, but earnings and price levels would be governmentally regulated;

Creating a public/private partnership where the Federal Government owns 51 percent of the enterprise and the private sector owns the remainder;

Actual public ownership and operation.

The Commission would be composed of 17 members from Congress, the executive branch, the public, academia, industry, and labor. Seven of the members would be appointed by the President of the Senate; seven members by the Speaker of the House, and three members by the President. As is traditionally the case the congressional appointments would be on the basis of recommendations by the majority and minority leadership of the Senate and the House.

The Commission would in no way delay any court action or legislative or administrative action regarding the nation's energy policy or the structure and regulation of the oil industry.

For instance, reportedly, the Federal Trade Commission is now contemplating bringing a major antitrust action in court seeking divestiture in the oil industry. Based on past history, such a case could last 5 years. The famous antitrust case to dissolve Standard Oil of New Jersey in 1911 was in the court nearly 5 years. The 1937 Government antitrust case to dissolve the Aluminum Company of America and others for monopolizing interstate and foreign commerce was in the courts nearly 8 years.

The work of the 2-year energy fuels study commission proposed by this amendment should actually be complementary to court or legislative and administrative efforts and would be aimed at contributing as quickly and effectively as possible to action to assure that the energy fuels industry better serves the public interest and the Nation's energy needs and goals.

At a time when we are asked to pass

on a major public policy issue like the Alaska pipeline involving a consortium of the major oil industry members it is entirely proper that we provide for a long overdue comprehensive and fair analysis of the market structure of this industry and how it might legislatively be made more responsive to the public's long term energy needs and economic welfare.

America today is faced with the threat of a full-blown national energy crisis. While the duration and severity of the current gasoline and heating oil shortages are uncertain, it is dramatically clear that overall, this country is fast coming to the end of the age of unlimited, cheap energy.

The American energy squeeze is a product of fantastic, soaring levels of demand and ominously shrinking supplies. Our per capita electricity consumption has been doubling almost every 10 years. Our total U.S. automobile gasoline consumption was 24.3 billion gallons in 1950; in 1970, it was 65.8 billion gallons; in the year 2000, it is estimated the figure will reach 120 billion gallons.

Meanwhile, our domestic supplies of readily available natural gas could be drained by 1988 under present consumption patterns, and domestic oil reserves are under similar pressure. Only a 10 years' supply of uranium ore, the fuel for nuclear powerplants, is available to the United States at current competitive prices, according to one estimate. As yet unresolved technological problems are making it difficult to easily tap the massive coal reserves that might help ease the energy crunch.

Energy is the life blood of our highly sophisticated technological-industrial society. Substantial shortages of energy would create chaos, if not cause the total collapse of the whole system.

Yet we have only partial answers or no answers to most of the important questions involved in establishing a long range national energy policy. We have inadequate knowledge and understanding of the whole energy complex; how it works; who makes the decisions; what are our immediately available supplies; what are our reserves; what is the status of our research; what are our future needs; where can we cut wastage and how much; what social, cultural, and life style changes are going to be forced upon us. In short, where are we, where are we going and who is in charge?

This amendment is directed to just one aspect of this complex energy situation. It would immediately launch a high priority, full-scale study into the critically important question of the role of the energy fuels industries and their market structure in our accelerating energy problems.

I do not prejudge the question of what should be done to assure that the energy fuels industry better serves our Nation's energy needs and goals. I am suggesting that it is a question too important to be left unstudied, unevaluated and unresolved. It would be the task of the Temporary Study Commission on Energy Fuels Industries proposed by this amendment to study the options, evaluate the problems and supply basic information and recommendations for congressional and public consideration and action.

Now, Mr. President, since I proposed this energy fuels study commission as an amendment to the Alaska pipeline bill, there has been a sprouting of congressional and administration activity on several fronts regarding the oil industry and the extent of its responsibility for our present situation.

The Senate Commerce Committee recently sent the top 23 oil refiners questionnaires regarding the cause of the current gas shortage. The committee is trying to find out whether the shortage is rigged and what steps the companies have taken in recent years to improve refinery capacity to meet rising fuel needs. The chairman of the House Public Works Committee's energy subcommittee has announced hearings shortly on whether our energy problems are in part industry rigged. Mr. ABOUREZK has asked for a Justice Department investigation of possible antitrust violations in the gasoline supply and price situation and has introduced a bill to bring about early, widespread structural reorganization of the oil industry.

A bill to force producers and refiners to give up marketing oil products by January 1, 1974, was introduced by the junior Senator from New Hampshire (Mr. MCINTYRE) in late June. The bill would require the oil companies to divest themselves of stations they now operate plus divestment of lease arrangements. The senior Senator from Michigan (Mr. HART) has been holding hearings through his Senate Judiciary Antitrust Subcommittee on an Industrial Reorganization bill, a measure to restructure several industries, including oil, and on the issue of whether the failure of competition may have caused—or aggravated—our current energy problems.

The Federal Trade Commission just recently delivered a report to the Interior Committee, a report on the causes of the gasoline shortage, based on an FTC probe. The FTC report concluded that the current shortage has largely been created by the anti-competitive practices of the oil industry, aided by Government policies. "The major firms—have behaved in a similar fashion as would a classical monopolist: They have attempted to increase profits by restricting output," the FTC report concluded. Congressional efforts are now underway to provide funds for further FTC studies on how much a factor the market structure and a possible antitrust conspiracy may be in the energy shortage.

Finally, Mr. President, the able manager of the bill before us today (Mr. JACKSON) has been extremely active in pursuit of the truth about our present energy difficulties and in search of workable remedies. He has announced that the Permanent Investigations Subcommittee of the Senate Government Operations Committee will investigate whether the gasoline shortage is a premeditated plan by the oil industry. And for the last 2 years, Senator JACKSON has chaired an excellent, wide ranging study under Senate Resolution 45, on National Fuels and Energy Policy, involving the Interior Committee in conjunction with the Commerce, Public Works, and Atomic Energy Committees, though the study has not as yet comprehensively addressed this specific aspect of our complex energy issue, the structure of the energy fuels industry and the options for restructuring it.

The point of all this is that the initiatives that have been taken in Congress and by the Federal Trade Commission and other agencies are substantial steps in the right direction.

But it would be helpful to have some assurances regarding these congressional steps. I would hope that the basic issue of the structure, role and practices of the energy fuels industry will be fully studied by Congress and the appropriate Federal agencies on a top priority basis and that solutions will be seriously and urgently considered by the Congress. And while I do not plan to press this amendment to a vote at this time, I will reintroduce it as a bill for further congressional consideration.

Mr. President, I ask unanimous consent that several articles regarding the structure and role of the energy fuels industry in our energy affairs be printed in the RECORD at the end of this colloquy, along with an explanation of this study commission amendment, and a letter in support of the amendment from the Center for Science in the Public Interest, a nonpartisan public interest group. The articles from the Washington Post are concerned with the Federal Trade Commission report, the oil industry and international energy problems, a recent antitrust suit filed by the Justice Department against a major oil company, and an investigation by the Cost of Living Council on pricing and supply policies of major oil companies. An article from the Evening Star also reports on the Federal Trade Commission study.

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

EXPLANATION OF NELSON AMENDMENT TO S. 1081, THE ALASKA PIPELINE BILL PROPOSING A TEMPORARY STUDY COMMISSION ON ENERGY FUELS INDUSTRIES

WHAT WOULD IT DO?

This proposal would amend S. 1081, the Temporary Study Commission on Energy Fuels Industries to inquire into the need for legislative remedies to the present market structure and operation of the energy fuels industries (principally oil, gas and coal). Specifically the Commission would analyze alternative market arrangements to the present system ranging from virtually no governmental control to full governmental ownership and operation. The "in between cases" to be studied include:

(1) continued private ownership and operation of such industries, but with substantially increased governmental controls and regulations and institutional changes, such as requiring public members of the board-of-directors of such industries;

(2) restructuring of the private ownership and operation of such industries to assure the fullest possible competition between the industries as part of a free economic system;

(3) applying the public utility concept to all or part (such as refining) of such industries, where ownership would remain private but operations and results would be governmentally regulated;

(4) creating the concept of a public-private partnership where the Government owns fifty-one per centum of the enterprise and the remainder is privately owned; or

(5) selective public ownership in such industries under the so-called "yardstick principle" of public control, wherein a sector which is generally in private ownership has within it public entities against which the performance of the private element of such sector can be measured.

WHO WOULD BE ON THE COMMISSION?

Seventeen members from Congress, the executive branch, the public, industry, labor and academia appointed (variously) by the President, the President of the Senate, and the Speaker of the House of Representatives. No more than ten could be of the same party.

WHAT WOULD BE THE NATURE OF ITS PRODUCTS?

Hearings, analyses, interim report and final report written within two years—recommendatory in character.

WHAT WOULD BE ITS FOCUS?

The fundamental concern of the Commission would be to study whether and how the energy fuels industry could be made more responsive to the energy and other public concerns of the nation through altering its structure. The Commission would establish at the outset agreed-upon measures of performance of the industry as a basis for evaluating alternative arrangements to the existing system. In particular, the economic aspects of the present system of vertically integrated companies would be assessed as well as the economic implications of dissolution, divorcement, and divestiture proceedings against members of the industry. Among the study's tests of performance would be the traditional ones of concentration and competion, ease of entry and exit, pricing practices, investment behavior and innovation, returns, efficiency and employment.

WHY DO IT NOW?

With our increasingly serious energy problems and the growing influence of the energy fuels industry, such an industry is an especially necessary and timely step. At this critically important juncture in the nation's energy decision-making, we need an independent evaluation of the existing market structure of this industry, the structure's relation to industry performance, and an assessment of that performance in terms of this society's goals. This proposal, which will provide the detailed information necessary for making any basic changes in energy market structures, is complementary to other current investigative efforts in the energy field.

WHY CHOOSE THIS VEHICLE?

The rights-of-way bill (S. 1081) chiefly concerns the issue of the Alaska pipeline, a project which involves a consortium of major oil companies having individual interests in a major pipeline and indeed a total system. The intraindustry arrangements that would be fostered by the project are a nationally-important example of the kinds of structures and practices that would be studied and appraised by the Commission.

CENTER FOR SCIENCE IN THE PUBLIC INTEREST,
Washington, D.C., July 12, 1973.

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

DEAR SENATOR NELSON: In response to your request for comment on Amendment 251 to S. 1081, the Alaska Pipeline Bill, we would like to offer the following comments:

Sec. 305 (*a*) We applaud your call for an examination of the energy fuels industries. A full scale congressional investigation and subsequent congressional action is needed. We feel that your study should be broadened into a complete congressional investigation of our nation's energy needs, resources and conservation policies.

Your bill's recommendation for an examination of a broad spectrum of options is a good proposal. It may well be that the past and present antitrust activities of the FTC have proven ineffective in bringing about a desirable balance between the private enterprise activities of the major fuel industry companies and the public good. This examination you propose would be quite valuable because it expands the scope of the investigation beyond the present focus of antitrust probes.

Sec. 305 (*b*) Rep. George Brown (Cal.), James Halverson, Director of the FTC's Bureau of Competition, and Dr. John Wilson, Chief of the FPC's Division of Economic Studies, in testimony before the Senate Subcommittee on Antitrust and Monopoly on June 26–27, 1973, raised serious questions about the competitive nature of the oil and gas industry. While we feel that there is already a strong case for divorcement in the petroleum industry, we would like to see your commission appointed, its recommendations made, and appropriate congressional action taken.

Sec. 306 (*a*) Given the fast pace at which our country is approaching an energy crisis, a twenty-four month period to compile a report seems to be an unnecessarily long period of time to wait for the report. A report could conceivably be complied within twelve to eighteen months using the method described in our enclosed Appendix. We would like to see the choice of political & economic structuring of the energy fuel industry follow the decision-making process outlined in our Appendix. (It is the text of a talk to be given on Nov. 14 to the American Society of Mechanical Engineers.) We believe that the characteristics of public citizen participation pointed out in this paper are as important as having several representatives of the public on your report.

Sincerely yours,
ALBERT J. FRITSCH, Ph.D.,
JOHN W. EGAN.

[From the Washington Post, July 8, 1973]

OIL NONCOMPETITION CITED IN FTC STUDY

(By Carole Shifrin)

Anticompetitive practices by the nation's large oil companies, a general spirit of intra-industry cooperation instead of competition, and government policies have together created the nation's current gasoline shortage, a Federal Trade Commission staff report says.

The report says the "major firms, which consistently appear to cooperate rather than compete in all phases of their operation, have behaved in a similar fashion as would a classical monopolist. They have attempted to increase profits by restricting output."

The major companies—18 of them—have cooperated with one another in influencing legislation, bidding for crude oil leases, establishing the purchase price of crude oil from which petroleum products are made, transporting the crude oil, refining it, and marketing gasoline, the report charges.

"In sum, the majors continually engage in common courses of action for their common benefit," the report says.

The report suggests that the major oil companies are using the current gasoline shortage their activities helped create to eliminate "the only viable long-term source of price competition"—the independent marketer.

Noting that more than 1,200 independent gasoline stations were forced to close in the first five months of this year, the FTC staff report says: ". . . The majors have used the shortage as an occasion to attempt to debilitate, if not eradicate, the independent marketing sector."

They are not doing this by lowering prices in those areas where they compete with independents—who have generally charged two to six cents per gallon less than the majors—but by not permitting their prices to rise.

In a normal competitive market, the report explains, the "cure" for a shortage would be for prices to increase; this in turn would cause producers to increase supply and also discourage some consumption; thus, supply and demand would be brought into equilibrium.

Instead, the independents who are having to pay higher prices for their wholesale products—if they can get them at all—have to raise their prices, while the majors absorb their higher costs thus not allowing their gasoline prices to rise. "The independents, of course, simply do not have available supplies of gasoline to deal with such a tactic," the report says.

"As the shortage forces them to curtail sales, they must raise prices; the sole basis on which they can compete with the majors is destroyed."

The majors, the FTC staff report says, have never tried to compete on price, only in "secondary respects" such as appearance and location of stations, giveaways, credit card services, and maps.

At the same time they developed "an elaborate network of devices" to limit the supply of crude oil available to independent refiners and refined products available to independent wholesalers and retailers, the report says.

If the majors' current pricing tactic is at all successful, the staff predicts, "the consumer will pay dearly . . ."

The report, prepared by the FTC's Bureau of Competition—the antitrust enforcement arm—and the Bureau of Economics, is part of the culmination of an almost two-year study of the effects of the structure, conduct and performance of the oil industry and whether its firms are engaged in unfair methods of competition in violation of the law.

A copy of the report—sent to members of Congress who requested it—was obtained by The Washington Post. Not sent to the Hill was another report containing an analysis of alternative courses of action for the commission's consideration and the staff's recommendations.

The staff is said to have recommended the bringing of antitrust charges against the eight largest oil companies, which, if successful, would result in a considerable restructuring of the industry. The staff recommended that the FTC seek the divestiture of some of the industry's functions—now interrelated—to foster competition in its various phases: production of crude oil, transportation, refining and marketing.

The report points out that in 1970 the eight largest firms—operating in varying degrees in all phases of the industry—held 64 per cent of the nation's proved crude oil reserves, accounted for 58 per cent of refining capacity, and 55 per cent of the gasoline sold.

The top eight companies are Atlantic Richfield, Exxon, Gulf, Mobil, Shell, Standard Oil of California, Standard Oil of Indiana and Texaco.

The oil industry didn't get where it is today nor did it create the current gasoline shortage by itself, the FTC staff says.

"There also has been a significant contribution made by the United States government." The report says that federal and state governments ". . . do for the major companies that which would be illegal for the companies to do themselves." These things have included the oil import program, which restricted the flow of competing foreign supplies into this country; the oil depletion allowance, which allowed the firms to make most of their profits on crude while the independents have little crude production;

the foreign tax credit, and price controls, all of which altered the system of supply and demand to the industry's benefit.

The staff was not happy about its own past performance either. Its past approach—seeking to correct specific anticompetitive practices at the marketing level—really ignored "the market power associated with vertical integration and limited competition," the report says.

Among the report's significant findings:

The petroleum industry, and refining especially, is characterized by high barriers to entry, preventing new firms from being attracted into the market by the industry's excess profits. There has been no big entry into refining in 20 years.

With their economic resources and advanced econometric models "the major oil companies should have been able to predict the current increase in demand for petroleum products," the report says. "Whatever their forecasts showed" they failed to expand refinery capacity and to meet present and future need, the report says.

Even though some firms have plans to build new refineries, ". . . the prospects for the next three or four years (the period needed for construction of new refineries) appears bleak," the staff said. "As demand increases more rapidly than refinery capacity, shortages of petroleum products will become more acute." The degree of severity will depend upon prices—the lower they are, the more critical the shortages will be, the staff said.

[From the Washington Post, July 11, 1973]

OIL PRICING PROBE LAUNCHED BY UNITED STATES

(By Sanford J. Ungar)

The federal government has launched a nationwide investigation of the pricing and supply policies of the oil industry from the wellhead to the filling station.

Acting on the basis of a preliminary survey that uncovered violations in the petroleum industry of the latest price freeze, the Cost of Living Council yesterday announced "a comprehensive monitoring system" that could lead to "swift enforcement action . . . against the producer, the refiner, the wholesaler, or the person who sells gasoline at the pump."

At the same time, five major oil companies were served with subpoenas from a federal grand jury in Los Angeles looking into their pricing and marketing practices in the western states going back to early 1969.

There were also indications that the Antitrust Division of the Justice Department, now studying the alleged gasoline shortage that has raised prices and closed thousands of independent service stations, may soon issue further subpoenas returnable in other cities.

Meanwhile, the Nixon administration's oil policy coordinator, Deputy Treasury Secretary William E. Simon, said that enforcement of new federal clean-air standards may have to be postponed for two years to alleviate the fuel shortage.

Appearing before the House Commerce Committee, Simon also indicated that there would be an administration decision "within the week" on whether to introduce mandatory allocations of petroleum products, requiring major companies to share their supplies with independent marketers.

Increasingly under pressure after published reports last weekend that a Federal Trade Commission staff study accuses them of cooperation instead of competition, leaders of the oil industry began to counterattack.

Rawleigh Warner Jr., chairman of the Mobil Oil Co. and of the American Petroleum Institute, said in a Los Angeles speech that charges of a conspiracy to tighten gas supplies come "from elected officials who, in groping for the causes of the shortage, find it convenient to blame the oil industry."

He dismissed as "nonsense" a lawsuit filed on Monday by the attorney general of Florida against 15 oil companies, claiming they had manipulated supplies to increase profits.

In St. Louis, yet another lawsuit was filed by a propane and butane distributor servicing portions of Missouri, Illinois and Iowa, contending that three major companies were conspiring to drive independents in the area out of business.

Regional disputes broke out in the Senate.

Democratic Sen. Jennings Randolph of West Virginia, a coal state, called for a national energy policy based on the increased use of clean-burning coal and nuclear fuels. Republican Sen. Dewey Bartlett of Oklahoma, an oil state, complained that crude-oil prices and supplies have been kept artificially low by the artificially low price of natural gas.

The Cost of Living Council action was announced here by James W. McLane, director of the council's "special freeze group," who stressed a particular concern with "the identification and elimination of any black market activities within the (oil) industry."

McLane said a "test survey" was conducted last week in Atlanta, Philadelphia, St. Paul and Los Angeles.

Because some violations were uncovered in Atlanta, he added, Internal Revenue Service agents have now begun "an intensive monitoring sweep of the entire area." The IRS will also make spot checks in 29 key districts across the country, McLane said.

Lasting about six weeks, the Council survey will look at "the freeze base and current purchase and sale price for all gasoline products," as well as "changes in mark-ups at each level in the industry, volumes handled and distribution allocations," McLane promised.

He said the agents will look for instances where the octane ratings of gasoline may have been lowered without a corresponding cut in its price.

Neither the Justice Department here nor the Los Angeles field office of its Antitrust Division would confirm the existence of the west coast grand jury investigation of oil company pricing and marketing arrangements.

But spokesmen for five companies—Standard Oil of California, Atlantic Richfield, Union Oil of California, Shell and Texaco—said that the subpoenas served on them Monday called for extensive documents, including the confidential files of corporate executives.

The subpoenaed records cover the companies' operations in California, Nevada, Oregon, Arizona and the state of Washington.

According to Justice Department sources, the Los Angeles subpoenas stem from a long-pending probe and the Antitrust Division's new nationwide study could lead to similar actions in other cities.

There was no indication that the Cost of Living Council and the antitrust enforcers had coordinated their pleas.

Simon, in his appearance on Capitol Hill, warned that the country faces a shortage of home heating oil next winter that will parallel this summer's gasoline squeeze.

He told the congressmen that if the environmental standards set by the Clean Air Act of 1970 were postponed "a couple of years," the government could "get a handle" on the energy crisis.

[From the Washington Post, July 8, 1973]

GOVERNMENT AND OIL—ADMINISTRATION RESISTS PRESSURE TO MOVE IN

(By David B. Ottaway and Ronald Koven)

The Nixon administration is resisting intense pressure for government to become directly involved in the international oil business.

After gas stations throughout the country refused to fill up the tanks of motorists, there was a populist wave of resentment against Big Oil. Now some congressional voices are going so far as to demand nationalization of the oil industry, and the notion of regulating it like a public utility is even more current.

Simultaneously, the oil companies, whose once-privileged positions are under mounting attack from foreign government, are beseeching the administration to come to their aid.

Given the interests at stake and the political climate, some degree of increased government involvement seems inevitable. The question is how much and for whom.

William Johnson, the energy adviser to the administration's Oil Policy Committee, recently outlined to an audience of Texas oilmen what he considered to be the two likeliest scenarios for the industry.

In the first, Johnson said "buoyed by adequate prices, the producers embark on a new wave of exploration, discovery and development. The result is national self-reliance in energy.

"In the second scenario, public and congressional reaction to price increases, product shortages, so-called windfall profits, and other complaints about the industry, imagined or real, result in reimposition of price controls and, perhaps, even a rollback in price levels.

"A national oil company is created and the issue is not whether the government should be in the oil business, but how much of the business government will control and operate."

In the view of the adversaries of the oil companies, the government for years has already been all too helpful to the industry. Former Oklahoma Democratic Sen. Fred R. Harris, now launching an organization called New Populist Action, charges, for instance, that "international oil companies based in the United States avoid taxes on about one-half of their profits through the depletion allowance and by writing off intangible drilling costs. They avoid taxes on three-fourths of the remainder of their income through the foreign tax credit."

To this kind of criticism, Sen. J. W. Fulbright (D-Ark.), chairman of the Senate Foreign Relations Committee, recently commented that "bias and prejudice are built up against the oil companies in our folklore." He said that by the time the oil companies finish paying taxes in the oil-producing countries, they do not come out ahead of other U.S. corporations.

Top energy policy officials made it clear in a series of interviews that the dominant attitude in the administration is that the government should continue to provide the industry with incentives which would allow it to solve the nation's energy problem on its own. These officials almost invariably say, in effect, "Let the market do its job."

The attitude of Republican appointees, most of whom come from the world of business, seems to stem from an unexamined, deeply held ideological commitment coupled with a perhaps more pragmatic observation that government is habitually wasteful.

As Deputy Treasury Secretary William E. Simon, chairman of the administration's Oil Policy Committee, recently testified, "There is a fundamental question as regards this great free enterprise system of ours . . . Do we want the government to get into the business of competing with a very important industry in this country? And can government do better than the business community can?"

But some government planners immersed in the foreign policy implications of the energy problem are convinced that there is no longer any alternative to a more activist government policy. Says James E. Akins, the State Department's top oil analyst, public

regulation of the oil companies is "not desirable, but probably inevitable."

Analysts like Akins look at a world in which governments are becoming deeply embroiled in all phases of the international oil system. They see a number of forces at work pressuring the U.S. government to become more deeply involved in international oil operations. Among them are the following:

The Force of Example. Almost alone among the major industrial nations, the United States—the world's largest oil consumer—has resisted the pressures to become involved in the petroleum trade. Countries like France and Italy have long had national oil corporations, which have served as major instruments of foreign policy.

Every oil-producing country in North Africa and the Middle East also has a growingly important national oil company. Even in the most conservative Arab oil states, agreements have been concluded giving their national companies 51 per cent ownership of local operations by 1983.

At home in America, Exxon or Mobil may loom as Big Oil, but in their dealings with the national companies of the 11 states in the Organization of Petroleum Exporting Countries, the U.S. companies are proving to be weaklings. As Sen. Abraham A. Ribicoff (D-Conn.) recently said, the U.S. companies are "in an unequal contest" against the "combined bargaining power" of OPEC.

The oil-producing nations regard disposition of their most vital resource as a subject for government negotiation, and they have in fact been making government-to-government agreements with some European countries for years. Saudi Arabia tried last year to tempt Washington into such a direct new oil pact.

Calls for Cooperation. As a result of the growing imbalance of power between American oil companies and OPEC in a world of tight oil supplies, the U.S. government is urging formal cooperation with the other major consumers—Europe and Japan. The key U.S. proposal is for the allocation of available oil exports in case the producers cut off or restrict the flow of oil.

The implications of this proposal for times of emergency is that governments would establish standby procedures, dictating to whom the companies ship their oil and in what quantities. Even without an emergency, the very act of establishing standby mechanisms would seem to require the government to send in agents to learn a great deal more about the companies' daily operations.

Many oil analysts doubt that there will be a serious international allocation program. Nevertheless, there would still be growing pressure for domestic energy rationing plans, requiring a larger government role in the industry.

Furthermore, only the U.S. government can persuade suspicious European foreign ministries that the American international oil companies will not be required to supply America first in an emergency.

Another key objective of cooperation proposals is to prevent the oil-producing nations from forcing the consumers from bidding against each other for the available petroleum.

A Senate resolution this spring called upon the President to negotiate with the other major oil importers—Europe and Japan—to establish an organization to counteract the OPEC cartel with "common practices and policies affecting oil pricing, importation and consumption." Among the nine co-sponsors of the bipartisan resolution telling the government to get into the middle of the oil business was Sen. Barry M. Goldwater (R-Ariz.), the apostle of conservatism.

But the idea of a formal countercartel to OPEC has lost a great deal of ground because of fears of arousing the producers' ire. One respected oil economist, Prof. Walter Meade, says that the exclusive supplier negotiating with the exclusive buyer is a classic example of a "bilateral monopoly," which "inevitably leads to stalemate."

Price Controls. Any common consumers' front to prevent the bidding up of oil prices would seem to require government regulation of company offers to the producers.

If the government becomes involved in deciding the price paid to the producers, then it also becomes vulnerable to domestic political pressures to control retail prices.

The next logical step would be profit controls—a measure already being demanded by some voices in Congress. For many, profit controls imply treating the oil industry as a public utility with a government regulatory board.

Meeting the Foreign Competition. Not only are the American companies dwarfed by foreign governments at international negotiations, they are also at some disadvantage in competing for scarce new oil sources against European and Japanese government-backed groups that can offer attractive package deals to tie up assured supplies.

The Japanese have been offering to swap industrial development projects, including whole factories, for oil.

The European and Japanese governments are far ahead of Washington in responding to the growing OPEC demands that new oil agreements be tightly linked to a willingness to invest in the industrialization of the producing countries.

For companies to fulfill the demands and expectations of OPEC countries for industrial projects, U.S. government involvement in the planning stages of development packages may be needed.

At recent hearings of his committee, Sen. Fulbright and others complained that the government is good at giving out aid grants to poor countries, but that it does not know how to deal with rich underdeveloped countries which want U.S. technology and know-how. "We are not as good in helping others use their own money as we are in giving them money," Fulbright said.

America's Superpower Role. Not only do America's key foreign oil sources in the Persian Gulf seek technology. Living in an exposed stategic area surrounded by conflicts, radical governments and regional and world powers, the Gulf oil countries are also worried about military protection.

American oil contracts in the Gulf are not merely commercial. Increasingly, they are being negotiated in the context of complex, explicit or implicit, military and political relationships.

For example, in the past year, Saudi Arabia asked Washington for a special trade relationship allowing its oil in duty-free, inquired about the purchase of Phantom jets and made clear that its level of oil production will be tied to U.S. policy in the Middle East. Such delicate, complex relations, many analysts in and out of government argue, can hardly be left to the boards of directors of oil companies, whose main concern is profit.

For the two largest Gulf oil producers, Iran and Saudi Arabia—which represent 95 per cent of the expected growth in Middle East oil production between them through 1980—oil negotiations are in effect only part of a tacit "package deal" involving broader ties.

As Walter J. Levy, perhaps the top private oil consultant, says, those countries need U.S. friendship to protect their independence. "The United States will continue to be a dominant factor in world oil," he says, "not because of the foreign oil interests of its companies, but primarily because of its standing in the world balance of power."

Balance of Payments. U.S. planners now realize that there is no way the major oil-consuming nations can pay for all their fuel imports without huge deficits. Possibly the most conservative projection available points to an overall deficit of $8 billion in these countries' trade balance with the oil producers in 1980. The U.S. share of that deficit, according to the most optimistic estimates, would be $3 billion.

This strongly suggests that a trade war among the industrialized countries is inevitable as the United States, Japan and Western European nations vie for the markets of the oil producers and the Communist world, among others, to compensate for the hard currency outflows to buy oil.

Given the U.S. government's responsibility for the country's balance of payments, it can hardly remain aloof from the ongoing negotiations with OPEC. As Sen. Jacob K. Javits (R-N.Y.) recently observed, "Shouldn't the real negotiating party be the U.S. government? If we're going to have the responsibility, shouldn't we have the authority?"

If—despite its obvious disinclination—the foregoing pressures force the administration into seizing the authority, then it will be confronted with the problem of organizing itself to meet such highly coordinated, streamlined competitors as Japan.

There, public institutions work with private companies in what a U.S. Commerce Department study described as "a kind of participatory partnership between government and business operating toward generally agreed upon goals." One of these goals is for Japan, which must import practically all of its oil, to stake out exclusive foreign oil preserves, just as American companies did long ago in Saudi Arabia and Venezuela.

MITI, Japan's Ministry of International Trade and Industry, considered the headquarters for "Japan, Incorporated," has been prodding private companies into joint ventures with the oil producers, often sweetened by 70 per cent Japanese government financing.

Clearly outlined Japanese national interests are meshed with profit-seeking in the business strategies of major companies. In such a patriotic climate, the incentives and dispensations key industries get from government have a different flavor than special U.S. government favors to big business.

European governments have also demonstrated Japanese-style feats of rapid decision-making. Recently, companies from five European nations succeeded in getting government approval for a multi-billion-dollar deal to import large quantities of gas from Algeria within 90 days.

By contrast, it took El Paso Natural Gas Co. of Texas almost four years before final approval to overcome such varied obstacles as Federal Power Commission hearings for an import certificate, State Department, Pentagon and White House approvals, strict U.S. Import-Export Bank demands for Algerian repayment guarantees of a $153 million American loan, and environmentalists' court suits against East Coast gas import facilities.

The Algerians at one point threatened to accept rival European offers to buy the same gas if Washington did not act on the $1.8 billion deal.

In an attempt to put someone in charge of marshalling America's disorganized and conflicting agencies to meet what he calls the "energy challenge," President Nixon has just named Colorado Gov. John A. Love as White House "energy czar." He also proposed a new Cabinet department of energy and natural resources.

The reorganization plan has not even been formally approved by Congress yet. It is already clear, however, that the plan still leaves the energy landscape cluttered with enough jealous independent agencies to block administration policies.

Under Secretary of State William J. Casey remarked, "We're trapped in our federal system and arrangements where each institution is its own boss. Maybe those institutions should be changed, but they're not go-

ing to be in a hurry. Right now, you operate by knocking heads together. I'm not too sanguine about shaking things around and getting rid of these problems."

Casey went on, however, to stress the advantages that the United States has over countries with state oil companies.

"By and large the national oil companies haven't been terribly successful . . . Any one of those countries would gladly swap their state company for one of half a dozen of our companies. Our strength is that our companies are in the places where the oil is. We'd be stupid to elbow our own companies out of the way."

Casey also argues that the companies serve as a "very useful buffer" against turning commercial negotiations into political confrontations between governments. There are thoughtful proponents of governmental intervention who accept this point.

The role Casey advocates for the government involves turning the State Department into a kind of U.S. International Chamber of Commerce. He would have government offer leadership, set targets, give financial incentives and keep in far closer touch with the companies. But, he said, the government should be "damn cautious" not to undermine the effectiveness of industry.

Because bureaucracies lack the profit motive to make them efficient, many independent economists harbor similar doubts about the advisability of government intervention.

Prof. Meade thinks that turning U.S. oil companies into public utilities would also be unwise. "The history of public utilities is very dismal," he says. "Their regulatory boards generally become the creatures of those they are supposed to regulate."

The business-oriented Casey says, "Higher prices tend to augment the supply (of oil). I'm not saying it doesn't matter where the price goes. We pay 40 cents a gallon for gasoline. Most countries pay 80 cents. I don't say I view that with equanimity . . . But higher prices will make other energy sources more economic and you'll move to an equilibrium of supply and demand."

Such laissez-faire attitudes are running into an increasingly hostile reception on Capitol Hill. Sen. Hubert H. Humphrey (D-Minn.) recently complained "We have a peculiar policy of never doing anything in this government until we are literally up to the wall. . . . I hope we'll use this energy crisis as a way to get at the planning generally of our social structure."

Some in Congress complain that the energy crisis has generated a supercharged atmosphere in which sloganeering—including cries of "conspiracy" by Big Oil against the public and counteraccusations of "witchhunting"—has crowded out sober discussion.

Cautioning against "simplistic shibboleths," Rep. John G. Culver (D-Iowa), chairman of the House Foreign Economic Policy Subcommittee, nevertheless says, "To leave America's fundamental and critical need for oil willy-nilly to the *ad hoc*-ery of the large international oil companies is no longer compatible with the national interest."

FUEL BLAME UNFAIR?

(By Roberta Hornig)

Environmentalists may have been unfairly blamed by major oil companies for causing current fuel shortages, according to a study done by members of the Federal Trade Commission staff.

The study—a preliminary report of an investigation into oil company practices—points out that insufficient refinery capacity is one of the major reasons gasoline is in short supply this summer.

"Spokesmen for several majors argue that the lack of (refinery) expansion can be attributed directly to environmental problems," the report says.

"However, now that import controls have been removed, and governmental intervention into the industry has become a strong threat, these companies have suddenly overcome their environmental problems," it says.

In a related development, the Justice Department today confirmed reports that it is "currently engaged in an intense study to determine if the current fuel shortage is a result of collusion or other anti-trust violations."

A Justice spokesman said the investigation began in early June and that it is directed at several oil companies and at a "variety of operations."

Within the last two months, when gasoline shortages began appearing nationwide, Exxon, the world's largest oil company, and several other oil giants have reported plans to build more refineries or expand existing ones.

The FTC staff study, made public today by Sen. Henry M. Jackson, D-Wash., also raises the question of whether practices by companies themselves, aided by favorable government policies, have abetted the fuel shortage—or at least its sudden advent.

"With their advanced econometric models and computer simulations, the major oil companies should have been able to predict the current increase in demand for petroleum products," the study said. "Whatever their forecasts showed, however, they failed to expand refinery capacity sufficiently to meet this demand."

At another point, the study speculates on "the root causes of the current product 'shortage'" and then lists, presumably as possibilities, "mismanagement, poor forecasts, price controls, import quota or contrivance."

As reported earlier this week, the thrust of the study is that major oil companies cooperate rather than compete, manipulate their operations to protect profits and to try to exclude independents from entering or operating in the business. And government regulations contribute to these practices, the study says.

The study gives six "separate but interrelated factors" for the current petroleum shortage. They are:

The oil import control program, which was finally removed by the Nixon administration on May 1.

Interdependent and cooperate behavior by the largest oil firms.

The failure of these firms to construct refinery capacities sufficient to meet current needs.

Government-induced barriers which have inhibited firms from entering into refining.

An insufficient supply of domestic crude for independent refiners.

The fact that major station gasoline prices have not been allowed to reach their natural level during the period of shortage in certain areas of the country.

The industry "operates much like a cartel, with 15 to 20 integrated firms being the beneficiaries of much federal and state policy," the report says, adding:

"Thus, the federal and state governments with the force of law do for the major companies that which would be illegal for the companies to do themselves."

Jackson released the study over the objections of FTC Chairman Lewis E. Engman, who maintained its release could undermine the commission's efforts to police the oil industry and possibly impair later legal steps.

Mr. JACKSON. Mr. President, I wish to express my appreciation again to the able Senator from Wisconsin for proposing what I think is indeed a provocative proposition, and one that should be thoroughly explored, so that all of us will understand what options are available. I believe that is the import of his proposal, among other things.

I assure the Senator that I shall cooperate in every way to see that there will be appropriate hearings, if the matter is again assigned to the Committee on Interior and Insular Affairs. As the Senator knows, the Antitrust and Monopoly Subcommittee, of which the Senator from Michigan (Mr. HART) is chairman, is in the midst of important hearings on this question, and I would therefore want to take cordinating with him into consideration.

I assure the Senator that I will do everything I can to assist in seeing to it that there is expeditious handling of the matter, and expeditious hearings, so that we can get a better picture of the total problem, the options that are available, and the alternative courses that can be followed.

Mr. NELSON. The objective of this proposal, as the Senator knows, is that we do study the question of the management and control of our fuel resources, since they are vital to the operation of our whole economic system. I have drawn no conclusion myself——

Mr. JACKSON. May I just interpolate at this point that we lawyers would say it is a businesss affecting the public interest.

Mr. NELSON. There is no other business that I can think of that is more deeply involved in the public interest than the question of fuel.

Without adequate energy supplies, the whole system would come to a halt. So I would like to have all the alternative methods of ownership, control, and management of our fuel industries studied so that we would have some basis on which to make decisions as to whether any substantial changes in that management and control should be made. I realize that in Congress there are overlapping committee jurisdictions involved in these issues. Subsequent to this proposal, the Federal Trade Commission made public its 2-year study, and I would hope that appropriate congressional committees would explore in depth the issues raised by the report. I am well aware of the concern, interest and effort that the Senator from Washington is putting into the fuels and energy field. I am satisfied that he and his committee, and the antitrust subcommittee under the distinguished Senator from Michigan (Mr. HART), are deeply concerned also. I would hope that we can get some substantial, in-depth consideration of this process. Being satisfied that we are moving in that direction, I will not press the amendment at this time but will introduce legislation on a separate bill for appropriate reference to the appropriate committee.

Mr. JACKSON. Mr. President, I want to commend the Senator from Wisconsin for a very fair statement. I will sum it up by saying that I do not think we should be afraid of alternatives. If we are to do an intellectually honest job of trying to analyze every aspect of the energy problem, we should look into all alternatives. This is what the Senator is suggesting. If we do that, we will be in a better position to make some intelligent decisions.

The thrust of the Senator's proposal is

one that does involve looking at every reasonable alternative. It does not mean that we go on and on ad infinitum, but that we do look at every relevant option that might be available to us in all the areas the Senator has referred to. Is that not correct?

Mr. NELSON. That is exactly correct. That is my objective.

Mr. JACKSON. I commend the Senator for that approach.

Mr. NELSON. I thank the Senator from Washington very much. Mr. President, I withdraw my amendment.

The PRESIDING OFFICER (Mr. BARTLETT). The amendment is withdrawn.

Mr. JACKSON. Mr. President, I now yield to the distinguished Senator from Alaska (Mr. GRAVEL).

Mr. GRAVEL. Mr. President, I had an amendment that I was going to call up but it was partially taken care of in the prior amendment the Senator from Washington (Mr. JACKSON) offered and was agreed to. However, I want the RECORD to show that if the issue were to come before the courts, there would be some history to that particular point.

That point is that if this issue goes back to the courts, after final disposition, they will handle this as expeditiously as possible, that they will place it at the top of their docket.

Mr. President, I ask unanimous consent to have the amendment in question printed in the RECORD. I want it to be considered part of the legislative record at this point in time.

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

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

SEC. —. In any action or proceeding pending or brought in any court of the United States (a) involving or relating to the construction of the trans-Alaska pipeline, including the issuance or granting of any right-of-way permit, special land use permit, easement, right, or other interest in connection therewith; (b) involving or relating to the sufficiency of the statement prepared by the Secretary of the Interior pursuant to the National Environmental Policy Act of 1969 with respect to such pipelines; or (c) arising out of or in connection with any provision of this Act or of any other law, or regulation issued pursuant thereto, and involving or relating to the construction of the trans-Alaska pipeline; it is the sense of Congress that such action or proceeding (including appeals in connection therewith) should, to the maximum extent feasible, be advanced on the docket of the court in which filed, and put ahead of all other actions and proceedings (other than actions or proceedings within the purview of clause (a), (b), or (c) of this subsection).

Mr. GRAVEL. Mr. President, I have another amendment which I send to the desk and ask that it be stated.

The PRESIDING OFFICER (Mr. NELSON). The amendment will be stated.

The legislative clerk read as follows:

At page 33, line 21, strike the word "States;" and insert the following new language: "States, including the use of tankers by way of the Northwest Passage;"

Mr. GRAVEL. Mr. President, this amendment has been agreed to by the manager of the bill. In fact, I do not know whether he has also discussed it with the distinguished minority manager of the bill. It involves the Northwest Passage, but I would explain it to him and I think he will be able to grasp what I am attempting to do.

We have basically three ways of bringing oil down from Alaska. One is the Alaskan pipeline route, the Alyeska route which we are presently considering; two, is a pipeline through Canada, which is clearly marked on the map in the rear of the Chamber; and three, is the Northwest Passage, the route to bring the oil to the east coast of the United States.

As can be seen by the chart in the rear of the Chamber, the oil that can come through the Alaskan pipeline would be a maximum of 2 million barrels a day. The amount that would come from the Canadian pipeline would be about 2 million barrels a day. The amount to come from the Canadian pipeline and the Alaskan pipeline, translated into barrels a day, amounts to about 2 million barrels each. This would mean that we would have a maximum of 6 million barrels a day that could come through existing planned sources.

Not too long ago, the Humble Oil Co. ventured on what I thought was a very imaginative experiment, which was to send the tanker *Manhattan* through the Northwest Passage. The *Manhattan* successfully negotiated the Northwest Passage and brought sufficient data to indicate that other tankers and other vessels could be slightly changed to negotiate the Northwest Passage very easily. However, the economics were such at that time that the entire project was shelved until some future date.

There is no question in my mind that with the advancing progress of the OPEC countries, the use of tankers and east coast ports would make the transportation of oil by sea economically very viable.

For that reason, and that simple reason alone, with the Northwest Passage we could satisfy a certain limited amount of the oil needs of the country. The Northwest Passage becomes a fuse for all. That is, if our country gets into some difficulty, which I anticipate it will in the mid-1980's, the way we can defuse the situation is by large shipments of oil by way of the Northwest Passage. It also would take a shorter time within which to come into being. We expect that the Canadian pipeline could not become operative until 1983, but shipments by way of the Northwest Passage could begin in 1979. The volume of oil could amount to from 1, 2, 3, or 6, to 10 million barrels a day or more, assuming that we have the reserves that we all anticipate exist under the Arctic tundra.

At the time of the Northwest Passage experiment, the Canadians took over what they claimed as environmental responsibility within a 200-mile radius, which would essentially encompass all of the Northwest Passage. So when we are negotiating with the Canadians concerning a Canadian pipeline, we would also include in the negotiations the tanker route by way of the Northwest Passage.

So all my amendment does is to alter the instructions to the administration, through the President in his negotiations, to include also in the pipeline negotiations a possible tanker route via the Northwest Passage.

As I have stated, the amendment to the bill is acceptable to the manager of the bill; and if the minority manager would have any comments to make at this time, I should be glad to have them.

Mr. FANNIN. Mr. President, we need to study every potentiality. I see no reason why this study should not include the means of delivery which the amendment provides.

I agree that we are in a desperate position so far as oil is concerned. If we can bring in oil from Alaska that would displace oil that we must now import from foreign countries, that would be extremely efficacious in cutting down our imbalance of trade with other countries. This is a very serious factor, and it is becoming more serious each day.

I think that the Senator's anticipation of the amount of oil that could be available will come true. I know that he has every reason to believe, from the exploration that has taken place already and what is projected for the future, that that will be the case. So I see no reason for not supporting the amendment of the Senator from Alaska.

Mr. GRAVEL. I thank the Senator from Arizona.

Since I do have the permission of the manager of the bill to accept this amendment, Mr. President, I move the adoption of the amendment.

The PRESIDING OFFICER. Do the Senators yield back their time?

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

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

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

AMENDMENT NO. 226 (AS MODIFIED)

Mr. GRAVEL. Mr. President, I send to the desk a modification of amendment No. 226. The yeas and nays have not been ordered on this amendment. I have modified the amendment once already, and I seek to modify it at this time and have the modification printed with the amendment as modified, No. 226.

The PRESIDING OFFICER. This would require unanimous consent. Does the Senator ask unanimous consent?

Mr. FANNIN. Will the Senator make the unanimous-consent request?

Mr. GRAVEL. I would be happy to do so. The yeas and nays have not been requested.

Mr. ROBERT C. BYRD. Action has been taken on the amendment by virtue of a time having been set on it for a vote tomorrow.

Mr. GRAVEL. I ask unanimous consent, Mr. President.

Mr. FANNIN. Mr. President, reserving the right to object, I think an explanation should be forthcoming as to what is involved.

Mr. GRAVEL. In connection with the present language of my amendment, I did not take cognizance of what had transpired since that time in the adop-

tion of subsequent amendments. An amendment of the Senator from Washington (Mr. JACKSON) has been adopted. This would cause some conflict with respect to the stipulations in question.

On page 3 of my amendment, paragraph (c) reads:

(c) At any time he complies with the Act by performing the ministerial act of issuing a right-of-way, lease, permit, approval, or other authorization required under subsection (a) of this section, the Secretary shall make such action subject to the terms and conditions of the stipulations contained in volume 1 of the final Environmental Impact Statement on the proposed trans-Alaskan pipeline issued by the Secretary on March 20, 1972, prepared by him to prevent or mitigate any adverse environmental impact.

I would go on to add:

And to the terms and conditions of the stipulation identified at page 43 of Senate Report 93-207, Ninety-Third Congress, First Session.

It only seeks to comply with what has already been placed into the report and is a subject dear to the manager of the bill.

Mr. FANNIN. Mr. President, I suggest the absenc of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GRAVEL. 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. GRAVEL. Mr. President, I yield to the Senator from Oklahoma.

The PRESIDING OFFICER. A unanimous-consent request to modify the Senator from Alaska's amendment is pending.

Mr. GRAVEL. Mr. President, at this time, I withdraw my unanimous-consent request.

The PRESIDING OFFICER. The unanimous-consent request is withdrawn.

Mr. BARTLETT. Mr. President, will the Senator yield me 4 minutes?

Mr. FANNIN. I yield the Senator time on the bill.

Mr. BARTLETT. Mr. President, I rise to announce my support of the Stevens-Gravel amendment which determines that the National Environmental Act has been satisfied and the construction of the trans-Alaskan pipeline should begin immediately.

The Department of the Interior and Secretary Rogers C. B. Morton have studied the trans-Alaskan route and the pipeline technology that will be used more thoroughly than any other pipeline ever has been studied. The six-volume environmental impact statement that resulted from 175 man-years of study has been available for public scrutiny since March 1972.

Secretary Morton is convinced that the trans-Alaskan pipeline should be built. He states:

A trans-Alaskan pipeline and tanker delivery system can be built and operated under safeguards that will protect the environment and wildlife of Alaska and the Pacific Ocean.

The intent of the National Environmental Act—NEPA—has been satisfied. The only actiton that remains to be taken is for a proper and informed body to make that judgment. Congress is that proper and informed body.

NEPA was not intended to be used as a vehicle for delay.

The lower 48 States need the oil from the Alaskan pipeline, and they need it as quickly as possible for the environment's sake as well as for the national security and economic well-being or our Nation. To clean the environment and to keep the environment clean requires energy. The two-million barrels that will come from Alaska to the 48 States will not provide enough oil to meet our additional, rapidly increasing environmental demands on energy. It seems to me that environmentalists should be in favor of this pipeline.

Mr. John Winger of the Chase Manhattan Bank estimates that by 1976, in just 3 years, the balance-of-payments deficit for oil will be about $17.5 billion.

We will be importing, according to Mr. Winger, about 50 percent of our oil by 1976. The OPEC countries will have us in a corner and will be able to use our dependence upon their imports to their economic advantage by charging higher prices and by various forms of political blackmail.

NEPA's authority is not being challenged. The Alaskan pipeline has been thoroughly studied. It is the duty of Congress now to decide to build this pipeline. The same information that has been presented to the Senate will be presented to the courts. Does not Congress have a responsibility to our national security, our economy and our environment. Why should we wait and let the American people suffer from our delay?

Congress should act on this important matter. Let us not shirk our responsibility. Let us support the Stevens-Gravel amendment.

TIME LIMITATION AGREEMENT—S. 1149

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent—having been authorized by the distinguished majority leader to do so, and having cleared the request with the other side of the aisle—that at such time as S. 1149, to increase the supply of railroad rolling stock, is called up and made the pending question before the Senate, there be a time limitation thereon of 1 hour; that time on any amendment, debatable motion, or appeal be limited to 30 minutes; and that the agreement be in the usual form, with the distinguished majority leader and the distinguished minority leader or their designees controlling time on the bill.

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

TIME LIMITATION AGREEMENT ON S. 1148

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at such time as S. 1148 is called up and made the pending business before the Senate there be a time limitation thereon of 30 minutes, the time to be equally divided and controlled by the distinguished Senator from California (Mr. CRANSTON) and the distinguished Senator from New York (Mr. JAVITS); the time on any amendment, debatable motion, or appeal be limited to 20 minutes; and that the agreement be in the usual form.

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

QUORUM CALL

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

ORDER FOR ADJOURNMENT UNTIL 9 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 9 a.m. tomorrow.

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

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, are there not two special orders for the recognition of Senators tomorrow?

The PRESIDING OFFICER. The Senator is correct—Senator MATHIAS and Senator STEVENSON.

UNANIMOUS-CONSENT AGREEMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at the conclusion of the two orders for the recognition of Senators tomorrow, or no later than 9:30 a.m., the distinguished Senator from Maine (Mr. HATHAWAY) be recognized to offer his amendment; that time on that amendment be limited to not to exceed 30 minutes, to be equally divided between Mr. HATHAWAY and Mr. JACKSON; and that at no later than 10 a.m. the Senate resume consideration of the amendment by Mr. GRAVEL; that time on that amendment be limited to one hour and a half, to be equally divided between Mr. GRAVEL and Mr. JACKSON; and that a vote occur on the amendment by Mr. GRAVEL at 11:30 a.m.

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

Mr. ROBERT C. BYRD. Mr. President, as I understand it, under the order previously entered, the vote on the passage of the bill still is to be at no later than 12 o'clock noon tomorrow. Am I correct?

The PRESIDING OFFICER. The Senator is correct.

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.

AMENDMENT NO. 226

Mr. GRAVEL. Mr. President, I renew my request and ask unanimous consent to modify my amendment No. 226, which was previously modified.

The PRESIDING OFFICER. Is there objection? Without objection, the amendment will be so modified.

The modified amendment reads as follows:

TITLE III—AUTHORIZATION FOR TRANS-ALASKAN PIPELINE

SHORT TITLE

SEC. 301. This title may be cited as the "Trans-Alaskan Pipeline Authorization Act".

CONGRESSIONAL FINDINGS

SEC. 302. The Congress finds and declares that:

(a) The early delivery of oil and gas from Alaska's North Slope to domestic markets is in the national interest.

(b) Transportation of oil by pipeline from the North Solpe to Valdez, and by tanker from Valdez to domestic markets, will best serve the immediate national interest.

(c) A supplemental pipeline to connect the North Slope with a trans-Canadian pipeline may be needed later and it should be studied now, but it should not be regarded as a substitute for a trans-Alaskan pipeline that does not traverse a foreign country.

(d) Actions of the Secretary of the Interior and all other Federal agencies and officers heretofore taken on behalf of the executive branch with respect to the proposed trans-Alaska oil pipeline shall be regarded as satisfactory compliance with the provisions of the National Environmental Policy Act of 1969 and all other applicable laws.

RIGHTS-OF-WAY AND PERMITS

SEC. 303. (a) The Congress hereby grants and the Secretary of the Interior and all other Federal agencies and officers are hereby authorized and directed to issue, without further action under the National Environmental Policy Act of 1969 or any other law, and notwithstanding the provisions of any law other than this title, such rights-of-way, leases, permits, approvals, and other authorizations of any kind that they deem necessary for the construction, operation, and maintenance of a trans-Alaskan oil pipeline system, a State of Alaska highway, and no more than three State of Alaska airports, all in accord with applications on file with the Secretary on the date of this Act.

(b) The route of the trans-Alaskan oil pipeline system shall follow generally the route described in applications pending before the Secretary of the Interior on the date of this Act: *Provided*, That the Secretary may approve amendments to said applications if he deems it appropriate.

(c) At any time he complies with the Act by performing the ministerial acts of issuing a right-of-way, lease, permit, approval, or other authorization required under subsection (a) of this section, the Secretary shall make such action subject to the terms and conditions of the stipulations contained in volume 1 of the final Environmental Impact Statement on the proposed trans-Alaskan pipeline issued by the Secretary on March 20, 1972, prepared by him to prevent or mitigate any adverse environmental impact "And to the terms and conditions of the stipulation identified at page 43 of Senate Report 93-207, Ninety-Third Congress, First Session."

(d) No right-of-way, permit, or other form of authorization which may be issued; nor any other action taken by the Secretary of the Interior or by any other Federal agency with respect to the construction of such pipeline system; no public land order or other Federal authorization with respect to the construction of such highway; nor any lease or permit granted by the Secretary of the Interior for such airports shall be subject to judicial review.

PUBLIC ROADS AND AIRPORTS

SEC. 304. A right-of-way or permit granted under this title for a road or airport as a related facility of the trans-Alaskan pipeline system may provide for the construction of a public road or airport.

ANTITRUST LAWS

SEC. 305. The grant of a right-of-way, lease, permit, approval, or other authorization pursuant to this Act shall grant no immunity from the operation of the Federal antitrust laws.

Mr. STEVENS. Mr. President, as I understand, during the period following the vote on amendment No. 226 there will be a period of time within which amendments would be in order, but the amount of time that is involved there is a maximum of one-half hour, at the present time.

Mr. ROBERT C. BYRD. The amount of time involved would be a maximum of 15 minutes. The vote is to occur on the Gravel amendment at 11:30, which would consume 15 minutes, and the vote on passage at 12 o'clock noon, so there would be a maximum of 15 minutes in which amendments could be called up and debated.

Mr. STEVENS. 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.

AUTHORIZATION FOR COMMITTEE ON LABOR AND PUBLIC WELFARE TO FILE REPORT ON S. 1875 BY MIDNIGHT TONIGHT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Labor and Public Welfare have until midnight tonight to file a report on S. 1875, vocational rehabilitation.

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 (Mr. HUDDLESTON). Without objection, it is so ordered.

REVISION OF ORDER OF RECOGNITION OF SENATORS MATHIAS AND STEVENSON ON TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the orders for the recognition of Mr. MATHIAS and then Mr. STEVENSON on tomorrow be reversed.

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

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the program for tomorrow is as follows:

The Senate will convene at the hour of 9 a.m. After the two leaders or their designees have been recognized under the standing order, the Senator from Illinois (Mr. STEVENSON) will be recognized for not to exceed 15 minutes, after which the Senator from Maryland (Mr. MATHIAS) will be recognized for not to exceed 15 minutes.

At no later than the hour of 9:30 a.m., the Senate will resume the consideration of S. 1081, the so-called Alaskan pipeline bill, at which time the distinguished junior Senator from Maine (Mr. HATHAWAY) will be recognized for the purpose of calling up an amendment.

At no later than the hour of 10 a.m. the Senate will resume the consideration of the Gravel amendment No. 226, as modified, on which there is a time limitation of 1 hour and 30 minutes.

The yeas and nays will occur on that amendment. The vote is to occur at 11:30 a.m. tomorrow on amendment No. 226, as modified, by the Senator from Alaska (Mr. GRAVEL), instead of 11 a.m. as previously scheduled.

The vote on final passage of the bill, S. 1081, will occur at no later than 12 o'clock noon on tomorrow. That likewise will be a yea-and-nay vote.

Following the vote on the Gravel amendment (No. 226), as modified, other amendments could conceivably be called up and voted on prior to the vote on passage of the bill.

Upon the disposition of S. 1081, the so-called Alaskan pipeline bill, the Senate will proceed to the consideration of S. 1861, the minimum wage bill. Yea-and-nay votes may occur on amendments thereto during the afternoon tomorrow.

ADJOURNMENT UNTIL 9 A.M.

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until the hour of 9 o'clock a.m. tomorrow.

The motion was agreed to, and at 5:53 p.m. the Senate adjourned until tomorrow, Tuesday, July 17, 1973, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate July 16, 1973:

OVERSEAS PRIVATE INVESTMENT CORPORATION

The following-named persons to be members of the Board of Directors of the Over-

seas Private Investment Corporation for the terms indicated:

For the remainder of the term expiring December 17, 1974:

Bradford Mills, of New Jersey, vice Dan W. Lufkin, resigned.

For a term expiring December 17, 1975:

Allie C. Felder, Jr., of the District of Columbia, reappointment.

IN THE COAST GUARD

The following members of the permanent commissioned teaching staff of the U.S. Coast Guard for promotion to the grade of Commander:

Bruce C. Skinner

Bruce A. Patterson

The following licensed officer of the U.S. merchant marine to be a permanent commissioned officer in the Regular Coast Guard in the grade of lieutenant (junior grade):

James W. Cratty II

The following Reserve officers to be permanent commissioned officers in the Regular Coast Guard in the grades indicated:

Lieutenant commander

William W. Barker III

Lieutenant

Roger G. Love	Craig E. Jud
Ronald R. DiGennaro	Edward J. Searl
James W. Calhoun	Frank E. Couper
Stewart C. Sutherland	Thomas J. Barrett
Douglas A. Smith	John H. Fishburn
Stephen J. McCleary	Lee M. Kenney
Frederick H. Edwards III	Robert J. Weaver
	Michael J. Goodwin

IN THE 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. Elvy Benton Roberts, [redacted] Army of the United States (brigadier general, 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. Patrick Francis Cassidy, [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. Allen Mitchell Burdett, Jr., [redacted] U.S. Army.

IN THE NAVY

Rear Adm. Oliver H. Perry, Jr., U.S. Navy, having been designated for commands and other duties determined by the President to be within the contemplation of title 10, United States Code, section 5231, for appointment to the grade of vice admiral while so serving.

EXTENSIONS OF REMARKS

HAWAIIAN NAMED OUTSTANDING FEDERAL CIVILIAN EMPLOYEE BY HAWAII CHAPTER ASSOCIATION OF THE U.S. ARMY

HON. PATSY T. MINK

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Monday, July 16, 1973

Mrs. MINK. Mr. Speaker, too often in our haste to criticize the workings of Government we forget to record the very real contributions that individuals in that Government's employ have been making towards the welfare of their fellow citizens.

I can think of no better example than Mr. Tamotsu "Barney" Ono, who was named the Outstanding Federal Civilian Employee for 1973 by the Hawaii Chapter Association of the U.S. Army.

Mr. Ono through his own efforts and sense of dedication rose from a position of aide to that of chief of the Pulmonary Function Laboratory at Tripler Army Medical Center in Hawaii and has unselfishly devoted his time and effort not only to his primary responsibilities but also to community activities.

The following words from the Caducean explains better than I could the depth of Mr. Ono's dedication:

[From the Caducean, May 25, 1973]

ONO AUSA'S CHOICE OUTSTANDING FEDERAL CIVILIAN EMPLOYEE

Mr. Tamotsu Ono, chief of TAMC's Pulmonary Function Laboratory, was named the Outstanding Federal Civilian Employee for 1973 by the Hawaii Chapter Association of the United States Army (AUSA). He was honored May 11 at a TAMC Officers' Club banquet.

The AUSA also named an Outstanding Junior Officer and Outstanding Enlisted Man during the recent ceremonies. Both military honorees were from other Hawaii Army installations.

Ono joined the TAMC staff in 1953 as a cardiopulmonary aide. He now operates the most efficient and productive Pulmonary Function Laboratory in the state. In a military hospital the size of Tripler, comparable laboratories require several technicians and at least one medical officer trained in pulmonary physiology to handle such a large load of patients with varied and often complex pulmonary problems.

However, Ono has provided professional services for TAMC's Pulmonary Lab largely single-handedly for years. A new blood-gas analysis section of the laboratory was spearheaded by Ono and now serves both the Department of Medicine and the Department of Surgery.

Evidencing Ono's enthusiasm for his work are the long hours he has contributed toward improving the laboratory during off-duty time and vacations. Without compensation, Ono has voluntarily placed himself on-call to assist physicians and other pulmonary technicians in emergencies and with critically ill patients.

Cardiopulmonary technicians from outlying hospitals often seek Ono's advice on their related problems and he has been active in planning Hawaii health meetings and symposiums. Serving on planning boards for the Pulmonary Section of the recent Honolulu Health Fair and for the Respiratory Care Symposium at Leahi Hospital and representing TAMC at the Instrument Laboratories Seminar in Burlingame, Ca. have been among his many tasks outside the laboratory.

Ono's efforts have not only provided the thrust to establish TAMC's Pulmonary Function Laboratory as the best in the islands, but also have insured through community outreach the laboratory's excellent reputation.

COMPLAINTS ABOUT THE MAIL SERVICE ARE GETTING MONOTONOUS

HON. BILL ALEXANDER

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 16, 1973

Mr. ALEXANDER. Mr. Speaker, my constant speeches and insertions on the quality of the mail service may seem monotonous to some, but they are no more monotonous than the mail I regularly receive complaining about the Postal Service. These complaints come all too often. We in Congress must stop merely criticizing this agency and act now to remedy this situation.

I would like to share with my colleagues at this point correspondence I received from Mr. E. B. Gee, Jr., of Blytheville, Ark.

Mr. Gee's letters follow:

JULY 12, 1973.

Mr. HUGH HUDSON,
Postmaster, U.S. Post Office,
Blytheville, Ark.

DEAR MR. HUDSON: Enclosed is a copy of the front of an envelope that we mailed from Blytheville, Arkansas to the address showing in Montana. This letter was mailed on June 20, 1973. You can see from the note the people wrote me on the letter that they received this on July 7, 1973. I think it is absolutely ridiculous that this mail should take so long to reach its destination.

This letter was mailed on a bulk rate meter. Apparently this dictates that it be handled third class. I would not have thought "third class" meant "three weeks". I think this is a ridiculously long period of time for this mail to be delivered.

I thought you would like to have information in regard to this particular letter. In addition to this, we have many instances of first class mail taking several days to a week to travel from one of our offices in Southeast Missouri to our home office in Blytheville, Arkansas. We have on occasion lost mail that was mailed from one of our offices to another.

I do hope some improvement can be made in these services.

Sincerely yours,

E. B. GEE, Jr.

E. B. GEE COTTON CO.,
Blytheville, Ark., July 12, 1973.

Congressman BILL ALEXANDER,
House of Representatives,
Washington, D.C.

DEAR BILL: Enclosed is a letter I have written to the Postmaster in Blytheville, Arkansas. This is depicting but one instance of ridiculously slow service with United States mails. The Post Office Department or the