H.R. 9356. A bill to authorize the disposal of various materials from the national stockpile and the supplemental stockpile, and for other purposes; to the Committee on Armed Services.

By Mr. SNYDER:

H.R. 9357. A bill to amend title II of the Social Security Act so as to liberalize the conditions governing eligibility of blind persons to receive disability insurance benefits thereunder; to the Commttee on Ways and Means.

By Mr. STUBBLEFIELD:

H.R. 9358. A bill to improve the conduct and regulation of Federal election campaign activities and to provide public financing for such campaigns; to the Committee on House Administration.

By Mr. BINGHAM:

H.J. Res. 665. Joint resolution, a national education policy; to the Committee on Education and Labor.

By Mrs. GREEN of Oregon (for herself and Mr. UDALL):

H.J. Res. 666. Joint resolution proposing an amendment to the constitution of the United States relating to the strengthening of the system of checks and balances between the legislative and executive branches of the Government as envisioned by the Constitution with respect to the enactment and execution of the laws and the accountability to the people of the executive as well as the legislative branches of the Government; to the Committee on the Judiciary.

By Mr. STEELE:

H.J. Res. 667. Joint resolution authorizing the President to proclaim the first week to begin on the first Sunday in September of each year as "National Apprenticeship Week"; to the Committee on the Judiciary.

H.J. Res. 668. Joint resolution, designation of the month of July of each year as "National Drum Corps Month"; to the Committee on the Judiciary.

By Mr. LOTT (for himself, Mr. BAKER, Mr. BLACKBURN, Mr. BUCHANAN, Mr. BURGENER, Mr. BURKE of Florida, Mr. FISHER, Mr. GILMAN, Mr. GROSS, Mr. GUNTER, Mr. HUBER, Mr. KETCHUM, Mr. RARICK, Mr. ROUSSELOT, Mr. SATTERFIELD, Mr. SYMMS, Mr. THOMSON of Wisconsin, Mr. VANDER JAGT, Mr. WINN, Mr. WYMAN, and Mr. ZION):

H. Con. Res. 268. Concurrent resolution providing for continued close relations with the Republic of China; to the Committee on Foreign Affairs.

MEMORIALS

Under clause 4 of rule XXII,

281. The Speaker presented a memorial of the Legislature of the State of California, relative to water pollution control facilities; to the Committee on Public Works.

SENATE—*Tuesday, July 17, 1973*

The Senate met at 9 a.m. and was called to order by the Acting President pro tempore (Mr. METCALF).

PRAYER

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

O God and Father of all mankind, touch our hearts this moment with the light of Thy presence that through every hour of the day we may have the counsel and companionship of Thy spirit. Keep us in our personal lives and as a "nation under God," knowing that we are always under judgment as well as providence. Lift us above all cynicism and doubt to the cleansing atmosphere of Thy light and love. Show us that we are in the world not only to work and serve but to develop a character worthy of eternal survival. So wilt Thou monitor our thoughts and guide our actions until the shadows lengthen and evening comes; then may we rest with thankful hearts and be at peace.

We ask it in the Redeemer's name. Amen.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Monday, July 16, 1973, be dispensed with.

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

COMMITTEE MEETINGS DURING SENATE SESSION

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

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

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Does the acting minority leader desire recognition?

Mr. BEALL. Mr. President, I reserve my time.

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

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time be charged against the time of the Senator from Illinois.

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

Mr. ROBERT C. BYRD. Mr. President, on behalf of the distinguished Senator from Illinois (Mr. STEVENSON), I yield 1 minute to the distinguished Senator from Alaska (Mr. STEVENS).

The ACTING PRESIDENT pro tempore. The Senator from Alaska is recognized for 1 minute.

TRIBUTE TO SENATOR AIKEN OF VERMONT

Mr. STEVENS. Mr. President, the Christian Science Monitor for Saturday, July 7, 1973, has published a delightful article written by Edwin P. Hoyt, entitled "Vermont's Senator AIKEN" about the dean of the Republican side of the aisle.

I ask unanimous consent that the full text of the article be printed in the RECORD.

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

VERMONT'S SENATOR AIKEN

(By Edwin P. Hoyt)

Early each morning, as the mists swirl up along the Potomac and official Washington begins to stir, two men can be found sitting in companionable consultation beneath a glittering chandelier in the dignified quiet of the U.S. Senate dining room. One of them is 70, thin-lipped, lean and angular, dressed in a neat dark suit and conservative necktie. The other, although face and figure belie his age, is a decade older, a short, spare white-thatched man who wears a single-breasted jacket, colored shirt, and—always—a bright red tie.

The younger man is a Democrat, Sen. Mike Mansfield of Montana, Senate majority leader and one of the two most powerful men in Congress. The older man is a Republican, Sen. George D. Aiken of Vermont, dean of the Senate, whose twinkling eyes and ready smile hide one of the shrewdest minds in the Congress. In these brief morning sessions, Messrs. Mansfield and Aiken assess the issue of the moment. Neither tries to sway the other, but says the majority leader, "There are some people whose advice is worth hearing. George is one of them."

"BALANCE OF THE SENATE"

Over his 32 years in the Senate, George Aiken has managed to walk a course all his own. He and Senator Mansfield, for example, vote together about half the time, which is as much as Senator Aiken votes with Republican Party leaders. "He is the balance of the Senate," said former Sen. John J. Williams, Mr. Aiken's old friend from Delaware. "He is neither to the right nor to the left."

The impress of the Aiken personality is felt by many around the Capitol. On the birthday of Sen. John C. Stennis (D) of Mississippi, there appears on his breakfast table a little bottle of maple syrup from the Vermont farm of Senator Aiken's son-in-law, with a few lines of dry humorous verse which Mr. Aiken scrawls for his friends. Freshman senators are surprised and grateful when Senator Aiken suspends his own crowded schedule to befriend them and show them the ropes.

When staff members of the Republican Policy Committee were under fire following publication of a controversial "white paper" on Vietnam, Senator Aiken bounced into the committee rooms to announce with a grin that he wanted a thousand copies. He didn't say he agreed with the document, but he let the staff know that he, for one, stood behind them.

Other senators constantly asked Senator Aiken to cosponsor legislation because they know that his name on a bill will be a big boost for passage (last year he cosponsored 19 bills).

THEY LISTEN WHEN HE SPEAKS

The public seldom sees Mr. Aiken's true effectiveness in the Senate; he prefers to operate behind the scenes. But because of

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his reputation for quiet competence the Senate listens when he does speak out.

After Easter 1972 the nation was badly shaken by North Vietnam's devastating invasion of the South and President Nixon's counter with renewed bombing and blockade of the North. The Senate echoed with cries to end the war and the House Democratic caucus voted to bring a tabled end-the-war resolution out of committee.

For six years Senator Aiken had opposed the war in Vietnam. "The way to get out of Vietnam is to declare victory and leave," he had said in 1966.

But now, on the morning of April 25, Senator Aiken sat at his desk in carpet slippers and an old rust sweater, writing in longhand on a big yellow pad. At noon he exchanged sweater for suit jacket and put on well-shined black shoes, then headed across Constitution Avenue toward the Senate. There he rose to speak. "We have no other course than the one the President is following," he said. "I am not about to be a party to a no-confidence vote in the President of the United States."

The whole speech took less than 10 minutes. Senator Aiken then went quietly about his other business. He made no calls to other senators, he sought no support from the Republican leadership nor from his many Democratic friends. But in a few hours word had spread from the galleries across official Washington: Senator Aiken had come to the President's support. In the Senate, his speech tilted the balance for the administration. And when report of that speech reached the House, it lent new strength to the Nixon forces and ended a crisis that might have undermined the whole American position in Vietnam.

UNLIKELY MAN OF POWER

As Senator from the third least populous state, Mr. Aiken seems an unlikely man of power. His seniority is overbalanced by Democratic control of the Congress. He has never sought a party position and is not a wealthy man; he was born of a family of teachers, artisans, and farmers that settled in Vermont in colonial days. After high school, Mr. Aiken became a landscape gardener and nurseryman in the town of Putney.

He did not enter politics until he was 39, when he went to the Vermont House of Representatives. Six years later he was a very vigorous governor, and in 1940 was elected senator. Since then, he has quietly become one of the most powerful men in the United States Senate. The explanation may be found in his unique personality.

Today Senator Aiken thinks of himself not as an important man but as a plain farmer. He tries to answer every letter himself. His second wife, Lola, is his unpaid administrative assistant. He lives frugally in a four-room apartment on Capitol Hill. Each morning he walks to work, feeding the pigeons peanuts as he crosses the Capitol Park. His office in the Old Senate Office Building is as plain today as it was when he entered the Senate in 1941.

At least once a month he drives up to Vermont to his house on an unpaved road in Putney, or to Mrs. Aiken's house on a mountain overlooking Montpelier. There, when he is not making speeches or traveling around the state, he chops wood, does the chores, and strolls to town to chat.

On one such trip he stopped to talk to a rural housewife about her washing and learned that she and her neighbors had to scrub by hand or take their laundry to town, the water supply would not permit her to use a washing machine. On study, Senator Aiken discovered that thousands of American villages faced the same problem—their water systems were inadequate for modern demands. The result was the Rural Water Systems Act, which has enabled small communities across America to build new systems.

LAST CAMPAIGN COST $17.09

Mr. Aiken sends out no newsletters, records, or television tapes, and does almost no election campaigning. In 1968 when he ran for his fifth term, he spent $17.00 on his campaign—for postage, transportation, and telephone calls.

When Senator Williams went up to Vermont to make a speech for him in a school gymnasium in Springfield, he found Republican workers tacking up bunting and handing pictures of President Nixon and Vermont Gov. Deane Davis. The meeting chairman was in a panic. No picture of Senator Aiken could be found.

The chairman called the state party office and asked it to get a picture from Senator Aiken's headquarters. Senator Aiken has no headquarters. It was suggested he turn to Senator Aiken's manager. Senator Aiken had no manager. Finally, an hour before the meeting, Senator Aiken turned up and the chairman asked him for a picture. "Didn't have any taken," said the Senator cheerily. "Hell, what do you want a picture for? You've got me."

Senator Aiken is one of the most effective legislators in Washington and is known among colleagues of both parties for his hard work. He is never content to let a committee staff frame a bill, he does it himself, as with the Nuclear Power Control law of 1969.

When this bill was suggested, staff members wanted to bring in lawyers to draft the measure. "Dammit," said Senator Aiken crustily, "I can read just as well as any lawyer. We want a bill that people can understand."

Senator Aiken himself made five drafts of the legislation, then presented it to the committee apologetically. "It don't stand out like a blackberry in a pan of milk," he said, "but it's a start." The result was a clear law the Department of Justice could enforce.

Senator Aiken's candor and conscience have guided through the treacherous bog of congressional politics some of the most complex legislation of the century, particularly in the agricultural field. Indeed, for 30 years, every agricultural law passed by Congress has borne the Aiken imprint. Anyone you talk to around the Senate gives you the same answer: no man in America has made a larger contribution to the betterment of American rural life than George Aiken.

Senator Aiken's voting—now with the conservatives, now with the liberals—has puzzled many people over the years, including Ralph Nader and his associates, in their recent survey of Congress. Other representatives and senators are perennially concerned with re-election, Mr. Nader noted, but not Senator Aiken.

Finally, the researchers had to admit that Senator Aiken did not fit the round holes or the square holes of their pattern; they concluded that Senator Aiken was successful in walking a path between isolationism and interventionism in foreign affairs and a lonely independent road in national affairs, and that Vermonters seem to be quite satisfied with Senator Aiken's understanding and representation of their interests. In that regard, Senator Aiken is like independent Vermont. He chooses his issues, as he chooses his friends, for the solidity.

NEW PRESIDENT RECEIVES HELP

Harry S. Truman, another small-town boy, was one of Senator Aiken's close friends when both were in Washington. Senator Aiken used to breakfast with Mr. Truman as he does now with Senator Mansfield. The two had a breakfast date on that spring morning in 1945 when the death of Franklin D. Roosevelt catapulted the stunned Vice-President into the leadership of the nation. Mr. Truman could not keep the date, but called Senator Aiken to the White House and poured out his woes.

President Roosevelt, in the American tradition, had kept Vice-President Truman waiting in the wings in virtual ignorance of governmental affairs. Mr. Truman had not attended Cabinet meetings and the President never discussed affairs of state with him. Now he faced decisions that would affect the whole world. What was he to do? he asked.

Senator Aiken told President Truman to call in Col. Ernest Gibson of Army G–2, who had just returned from the South Pacific. Colonel Gibson thought it vital that the new President receive a crash course of briefings. The Pentagon objected, insisting that it would take time to prepare the material.

Senator Aiken, still at the White House, got on the phone to the Pentagon and arranged a meeting between President Truman, Colonel Gibson, and Gen. Carter Clark, then second in command of G–2. The briefing program began that night, and the President never faltered. Nor did the Aiken-Truman friendship, even in the dark days of the 80th Congress which fought the President on nearly every issue.

Since the Truman days Senator Aiken has been a friend and counselor to every president. Dwight D. Eisenhower asked his advice frequently, and so did John F. Kennedy, whose respect for Senator Aiken dated back to the days when they were both members of the Senate's New England bloc. Lyndon B. Johnson sought Aiken support but seldom took his advice.

When Richard M. Nixon came to the presidency, Senator Aiken felt excluded by the tight staff ring around the President. Then, last year came a crisis in foreign affairs. President Nixon had just returned from his successful China trip when the Vietnam war blew sky high.

A summit visit to Moscow in search of peace was already scheduled and publicized, but in May the Soviets began issuing a bitter stream of propaganda against the bombings of North Vietnam, including veiled threats of Soviet counter-measures.

The President called congressional leaders to brief them on his plans for the trip. Some newspapers had suggested the trip would be canceled. After the meeting Mr. Nixon turned sharply to Senator Aiken, eyes searching. "What shall I do, George?" he asked. "Shall I go to Moscow?"

Senator Aiken looked up in his mild way and smiled.

"Aiyup," he said.

The answer, brief and to the point, was typical of Senator Aiken. He had not wasted a word, but as it turned out he was quite right. The independent Senator from Vermont has that habit.

ORDER OF BUSINESS—SUBMISSION OF AMENDMENTS

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time be charged against the time of the distinguished Senator from Illinois (Mr. STEVENSON.)

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered, and the clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

The Senator from Illinois is recognized at this time under the previous order.

(The remarks Senator STEVENSON made on the submission of amendments to S. 372, the Federal Elections Campaign Act Amendments of 1937, and the ensuing discussion are printed in the transaction of morning business section of the RECORD under submission of amendments.)

TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that we now have a period for the transaction of routine morning business, with statements limited therein to 3 minutes.

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

ORDER FOR RECOGNITION OF SENATOR PROXMIRE TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, after the two leaders have been recognized under the standing order, the distinguished Senator from Wisconsin (Mr. PROXMIRE) be recognized for not to exceed 15 minutes.

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

ORDER FOR TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that following any orders for the recognition of Senators on tomorrow, there be a period for the transaction of routine morning business of not to exceed 15 minutes, with statements limited therein to 3 minutes.

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

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BAYH, from the Committee on Appropriations, with amendments:

H.R. 8658. An act making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending June 30, 1974, and for other purposes (Rept. No. 93-321).

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

H.R. 3630. An act to extend for 3 years the period during which certain dyeing and tanning materials may be imported free of duty (Rept. No. 93-322).

EXECUTIVE REPORTS OF COMMITTEES

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

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

Charles S. Whitehouse, of Virginia, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary to the Kingdom of Laos;

Richard E. Pedersen, of California, to be Ambassador Extraordinary and Plenipotentiary to Hungary;

Robert C. Brewster, of Nebraska, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary to Ecuador;

Robert A. Hurwitch, of Illinois, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary to the Dominican Republic;

Ronal I. Spiers, of Vermont, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary to the Commonwealth of the Bahamas;

William N. Dale, of New Mexico, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary to the Central African Republic;

William Perry Stedman, Jr., of Maryland, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary to Bolivia; and

Hal F. Reynolds, of Virginia, to be U.S. Alternate Executive Director of the International Bank for Reconstruction and Development.

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

Mr. ROBERT C. BYRD. Mr. President, as in executive session, on behalf of the distinguished Senator from Washington (Mr. MAGNUSON) I report favorably sundry nominations in the National Oceanic and Atmospheric Administration which have previously appeared in the CONGRESSIONAL RECORD and, to save the expense of printing them on the Executive Calendar, I ask unanimous consent that they may lie on the Secretary's desk for the information of Senators.

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

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

Walter S. Simmons, and sundry other persons, for permanent appointment in the National Oceanic and Atmospheric Administration.

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. BIBLE (for himself and Mr. CANNON):

S. 2192. A bill to declare that the United States holds in trust for the Reno-Sparks Indian Colony certain lands in Washoe County, Nev. Referred to the Committee on Interior and Insular Affairs.

By Mr. FULBRIGHT (by request):

S. 2193. A bill to provide for increased participation by the United States in the Asian Development Bank. Referred to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BIBLE (for himself and Mr. CANNON):

S. 2192. A bill to declare that the United States holds in trust for the Reno-Sparks Indian Colony certain lands in Washoe County, Nev. Referred to the Committee on Interior and Insular Affairs.

Mr. BIBLE. Mr. President, for myself, and my colleague from Nevada (Mr. CANNON), I introduce, for appropriate reference, a bill to declare that the United States shall hold in trust for the Reno-Sparks Indian Colony certain lands in Washoe County, Nev.

This bill, Mr. President, is introduced in an effort to provide improved living conditions and a better community life for the Reno-Sparks Colony. It would add to the colony a 480-acre tract of land currently in the public domain situated near the former Stead Air Force Base. The selected lands are vacant and unappropriated public lands. The only improvements is a drift fence installed by the Bureau of Land Management.

Mr. President, the Reno-Sparks Colony badly needs all the assistance it can get in solving mounting problems of crowding and worsening living conditions. The area surrounding the colony was once a rural farming section, but has now become urbanized and was lately zoned for intense industrial development. These changes, coupled with a growing Indian residential population, have resulted in serious housing, health, and economic problems. Last April the colony was designated as a redevelopment area eligible for assistance under the Public Works and Economic Development Act of 1965. But legislative action is needed to provide additional land to relieve the present overcrowding and to permit the establishment of recreation areas. A portion of the 480-acre tract covered by this bill would also be suitable for light industrial use, and would enable the Colony Indians to expand their economic base.

Plans for the future include the formation of a tribal development corporation owned by the colony members. With income derived from expanded properties, such a corporation could provide services now paid for with public funds. The ultimate goal is a land and economic base that will not only afford decent living and working conditions for the colony but enable its residents to form an active community that is largely self-supporting.

This legislation was introduced in the 92d Congress, but was not acted on. It is overdue and I hope affirmative action will be taken expeditiously in this Congress.

I ask unanimous consent that a January 26, 1970, resolution of the Reno-Sparks Tribal Council in support of the legislation be printed in the RECORD following this statement.

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

RESOLUTION—RENO-SPARKS TRIBAL COUNCIL

Whereas, the Reno-Sparks Tribal Council has undertaken a study of the present and future prospects concerning the welfare of the residents of the Reno-Sparks Indian Colony and the economic development of the said colony, we take note of the following:

The Reno-Sparks Indian Colony had its genesis in certain acts of Congress which original intent was to provide homes and farm sites for Washoe and homeless Nevada Indians, with adequate water rights. In providing for the purchase of lands which make up the Reno-Sparks Colony, Congress originaly contemplated a resident population of 150 people. This legislation was enacted in 1917. At the time this legislation was passed

the area which makes up the Reno-Sparks Colony was on the outskirts of Reno. Under the circumstances which then existed, it was reasonable for Congress to envison a farming community of perhaps 150–200 people occupying the land. However, as most urban and semi-urban areas of the nation have grown and expanded outward to encompass what may have originally been the outskirts of a town or city, the city of Reno has expanded outward, and what was originally a farming area is now the center of industrial growth of Reno and Sparks. Presently the colony is used as residential property by some 600 residents. Even though the property is used as a residential area, it is not located in the residential areas of either Reno or Sparks.

The area surrounding the colony has been zoned by the Washoe County Regional Planning Commission as industrial and is rapidly becoming the industrial area of Reno and Sparks. Located directly east of the colony is a large sand and gravel operation, to the west a number of service industries border on Kietzke Lane, which is becoming the primary area for automobile sale outlets. Further to the west a number of industries are developing, including warehousing and electronics. The overall present growth pattern of the Reno-Sparks area when considered in conjunction with the zoning regulations applicable to the area surrounding the colony and its present population lead inevitably to the conclusion that there is no prospect in the present area for expansion and development of the colony as a residential area.

Among the problems which face the present residents of the colony are as follows: Population density, health, housing, community development and economic development.

As indicated above there are presently 600 residents occupying an area originally intended to serve the needs of some 150 to 200 people. According to statistics in the Overall Economic Development plan of March 1969, the comparison of population density prepared in 1967 indicates a population per square mile of 11,921 for the colony as compared with 6,410 per square mile for the rest of Reno.

Many of the health problems confronting the colony are indirectly caused by the population density and its effects on living conditions. As an illustration, in June of 1969, the colony was faced with an outbreak of hepatitis, which reached epidemic proportions. The disease spread and many more people were infected than would have been because there are 600 people occupying an area originally intended for 150 people.

Housing conditions in the colony are substandard. Although there is presently a mutual self-help housing program which will provide 20 additional units, the program originally contemplated 50 units, but the balance of 30 units cannot be built because of lack of available space. This lack of land area forces many families to double and triple up in houses which were originally intended for one family. Further, the statistics gathered in 1967 for the Overall Economic Development Plan indicates that there are 36 houses which are either unfit for occupancy or are considered to be in poor condition as housing facilities.

The prospects for community and economic development are affected by the nature of the surrounding area. As indicated above the growth pattern of the neighboring properties effectively precludes orderly community development of the colony as a residential area. Because of the limited land area, and the fact the colony is presently used as a residential area, there is virtually no prospect for orderly economic and industrial development.

After a consideration of the foregoing the Reno-Sparks Tribal Council took under advisement, the possibility of acquiring additional unused federal land in close proximity to Reno. Following a review of 18 possible locations, the members of the tribal council and other residents, chose an area in the vicinity of Stead, approximately 6 miles north of Reno. The area comprises 480 acres and is located at township 21 north range 18 east of the Mount Diablo Meridian, the south half of section 10 and the northeast quarter of section 28. The land would be held in trust by the United States of America for the benefit of the Reno-Sparks Indian Colony.

The advantages of such action to the peoples of the Reno-Sparks Colony would be numerous and would have effects as to the following areas; population density, health, housing, the return to the colony of those Indians who have been unable to secure homesites at the present location and Indian self-determination with regard to economic and community development.

As mentioned previously, the present site of the colony is wholly inadequate to meet present population demands. In the Overall Economic Development Plan of 1969, the figures for population by age as of 1967 indicates that 51% of the present population is comprised of people under age 21. Based on these figures, the projected population for 1975 by conservative estimate will be 1100. This will mean a population density per square mile at the colony equal to that of New York City at present. With the addition of the land at Stead, 320 acres is proposed for use for both residential and recreational purposes. Of this, 200 acres would be utilized for residential homesites, which would mean in effect, a population density based on present growth rates of 3300 persons per square mile. The balance of 120 acres, while rough and mountainous, with proper planning could be used for community recreational purposes. The above figures do not take into account those Indians who at present are living off the colony due to unavailable land for assignment purposes. There are many people who have made application for assignment of land in the present colony, but have been refused by the tribal council because there simply is not enough land to fulfill all the requests.

The land at Stead would provide homesites for those people who are presently forced to live off the colony because of lack of available land, as well as alleviating the situation which now exists where two and three and sometimes as many as four or five families are living on one assignment. The return of those Indians now forced to live off the colony would help strengthen the bonds of the overall community for the preservation of family ties and cultural values.

With the acquisition of land at Stead, much would be accomplished in the areas of health and safety. As indicated above, the overcrowded living conditions at the present colony site pose a definite threat to the health of the inhabitants. The proposed site would eliminate the overcrowding, thus removing the main factor which contributes to the spread of communicable diseases at the colony. The zoning of the present area supports industrial development, and it is obvious that the area is becoming increasingly congested with heavy trucking and commercial traffic. With over 20% of the present population age 10 or under, there is a real safety hazard involved with children crossing streets and playing on industrial sites during both working and nonworking hours. The land at Stead would provide an environment which would be far more conducive to the health and safety of the members of the Reno-Sparks Colony.

Of the proposed 480 acres it is envisioned that a parcel of 160 acres, which is located two (2) miles south of the 320 acre residential area, would be used for industrial development. As mentioned previously the present colony site provides no opportunity for industrial development. When the land at Stead is acquired, the present colony site would be used for industrial development. Thus, the people of the Reno-Sparks Colony would have a substantial base with which they would establish a source of tribal income. What is imagined in the near future is a Tribal Development Corporation owned by the members of the colony which, with income derived from the use of these properties, would provide services and facilities now paid for with public funds.

At the present time 17.6% of the labor force at the colony is unemployed, this is three times unemployment rate of Washoe County. One of the basic objectives of economic development would be to eliminate much of this unemployment, thereby reducing the dependence on welfare as means of support. The industrial development would be keyed toward providing jobs for Indian people. This could be arranged through leases to corporations who would draw in the labor market of the nearby Indian community at Stead. Financing for these industries is available through the Economic Planning Unit of the Inter-Tribal Council. Therefore, the people of the Reno-Sparks Colony consider the opportunity presented by acquisition of the land at Stead a monumental step toward long range goals of Indian economic self-determination.

After a careful consideration of all the foregoing points the Tribal Council feels that it is imperative that the land at Stead be acquired to secure the present welfare and future potential for all the residents of Reno-Sparks Colony.

Therefore, be it hereby resolved, that all right, title, and interest in the following vacant and unappropriated public domain land located in Washoe County, Nevada, to wit; south one-half section 10 and northeast one-quarter section 28 in township 21 north, range 19 east, of the Mount Diable Meridean, be declared by the Congress of the United States of America, to be held in trust for the benefit of the members of the Reno-Sparks Indian Colony.

By Mr. FULBRIGHT (by request):

S. 2193. A bill to provide for increased participation by the United States in the Asian Development Bank. Referred to the Committee on Foreign Relations.

Mr. FULBRIGHT. Mr. President, by request, I introduce for appropriate reference a bill to provide for increased participation by the United States in the Asian Development Bank.

The bill has been requested by the Secretary of the Treasury and I am introducing it in order that there may be a specific bill to which Members of the Senate and the public may direct their attention and comments.

I reserve my right to support or oppose this bill, as well as any suggested amendments to it, when the matter is considered by the Committee on Foreign Relations.

I ask unanimous consent that the bill be printed in the RECORD at this point, together with the letter from the Secretary of the Treasury to the President of the Senate dated July 10, 1973.

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

S. 2193

Be it enacted by the Senate and House of Representatives of the United States of

America in Congress assembled, That the Asian Development Bank Act, as amended (22 U.S.C. 285–285p), is further amended by adding at the end thereof the following new section:

"SEC. 20. (a) The United States Governor of the Bank is authorized to subscribe on behalf of the United States to 30,000 additional shares of the capital stock of the Bank in accordance with and subject to the terms and conditions of Resolution No. 46 adopted by the Bank's Board of Governors on November 30, 1971."

"(b) In order to pay for the increase in the United States subscription to the Bank provided for in this section, there is hereby authorized to be appropriated without fiscal year limitation $361,904,726 for payment by the Secretary of the Treasury."

THE SECRETARY OF THE TREASURY,
Washington, D.C., July 10, 1973.

Hon. SPIRO T. AGNEW,
President of Senate,
Washington D.C.

DEAR MR. PRESIDENT: There is transmitted herewith a proposed bill "To provide for increased participation by the United States in the Asian Development Bank."

The proposed legislation would authorize the United States Governor of the Asian Development Bank to subscribe on behalf of the United States to 30,000 additional shares of the capital stock of the Bank in accordance with the ordinary capital replenishment resolution which was adopted by the Bank's Board of Governors on November 30, 1971. Authorization for an appropriation of $361,904,726 to pay for the increase in the U.S. subscription would also be provided by the legislation.

It is our intent to seek the total appropriation in equal annual installments over a three year period. The first installment has been included in the President's 1974 budget proposals.

The replenishment of the ordinary capital resources of the Bank—the first replenishment since its inception in 1966—provides for an increase of $1,791 million in the authorized capital stock of the Bank. This increase by 150 percent will bring the authorized ordinary capital stock to a new total of $2,986 million. It will permit the Bank's lending operations to grow by 10 per cent *per annum* over the years 1973–1975 without damage to the Bank's liquidity position or over-dependence on borrowing.

The share of the United States in the increased subscription will be less than 20 percent. The cost of the increased United States subscription, assuming approval of the proposed legislation authorizing a change in the par value of the dollar, will amount to $362 million. Of this amount, 80 percent or $290 million will be callable capital and will not involve a budgetary outlay. The remaining 20 percent or $72 million will constitute paid-in capital which is required to be paid over a three-year period. Of the $72 million involved, only $29 million (40%) will be payable in cash while $43 million will be payable in noninterest bearing letters of credit to be drawn down later as needed for disbursement. The required cash outlay resulting from the additional subscription will be substantially less than that relating to the original capital subscription, under which we paid $200 million half in callable and half in "paid-in." Payment for the latter was in the form of equal amounts of cash and letters of credit. This considerable change reflects the fact that the Bank is now recognized as a sound financial institution and can, therefore, readily borrow funds from the private capital markets for its lending operations.

The ordinary capital replenishment became effective in November of last year with the subscription by ADB members, not including the United States, to over 60 percent of the additional shares. As of February 28, 1973, twenty-eight member countries had subscribed to over 113,000 of the authorized 165,000 shares. Indeed, in addition to the United States, only eight countries whose total subscriptions amount to 7,440 shares, have failed to subscribe to the new replenishment.

The failure of the United States to participate in the replenishment has reduced its voting power from 16 percent to 8 percent. As an additional consequence, Japan's voting weight, which had been equal to that of the U.S. at 16 percent under the original scheme of equivalent contributions, rose to 19 percent with the Japanese subscription. The United States is, therefore, currently fourth in voting power behind Japan, India and Australia. The United States must subscribe if it is to regain the voting power it had prior to the coming into effect of the replenishment.

The Bank deserves the active support of the United States. Its record during its five years of lending operations has amply justified the hopes of the founding natiens of Asia, Europe and our own continent. It is a development institution financed to a large degree by the Asians themselves which has used the resources entrusted to it effectively and efficiently in fostering Asian economic development. It has significantly contributed to the economic growth that is so necessary in stabilizing the region. It has loaned $197 million to South Korea, $100 million to the Republic of China, $105 million to the Philippines and $75 million to Thailand.

We can expect the Bank to continue playing an effective role in promoting the economic development of Asia and serving our national objectives. With the cease-fire in Indochina and ADB may be able to have an important part in the reconstruction programs in its member countries of the area—South Vietnam, Cambodia and Laos—in conjunction with the United States and other donor assistance efforts.

I urge the Congress to give the proposed legislation its prompt approval. A Special Report of the National Advisory Council on International Monetary and Financial Policies on the ordinary capital replenishment of the Bank will be transmitted separately to you and to the Speaker of the House of Representatives.

It would be appreciated if you would lay the proposed bill before the Senate. A similar proposal has been sent to the Speaker of the House of Representatives.

The Department has been advised by the Office of Management and Budget that enactment of the proposed legislation would be in accord with the program of the President.

Sincerely yours,

GEORGE P. SHULTZ.

ADDITIONAL COSPONSORS OF BILLS

S. 1098

At the request of Mr. BIBLE, the Senator from Connecticut (Mr. WEICKER) was added as a cosponsor of S. 1098, to amend the Internal Revenue Code of 1954 to provide income tax simplification, reform, and relief for small business.

S. 1769

At the request of Mr. MANSFIELD (for Mr. MAGNUSON), the Senator from Nevada (Mr. BIBLE) was added as a cosponsor of S. 1769, to establish a U.S. Fire Administration and a National Fire Academy in the Department of Housing and Urban Development, to assist State and local governments in reducing the incidence of death, personal injury, and property damage from fire, to increase the effectiveness and coordination of fire prevention and control agencies at all levels of government, and for other purposes.

SENATE RESOLUTION 143—ORIGINAL RESOLUTION REPORTED ESTABLISHING A LIMITATION ON EXPENDITURES BY THE COMMITTEE ON POST OFFICE AND CIVIL SERVICE

(Referred to the Committee on Rules and Administration.)

Mr. McGEE, from the Committee on Post Office and Civil Service, reported the following original resolution:

S. RES. 143

Resolved, That section 2 of Senate Resolution 52, 93d Congress, agreed to February 22, 1973, is amended by inserting immediately before the period at the end thereof a comma and the following: "of which amount not to exceed $5,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended)".

SENATE RESOLUTION 144—SUBMISSION OF A RESOLUTION RELATING TO CONGRESSIONAL PAY RAISE

(Referred to the Committee on Post Office and Civil Service.)

CONGRESSIONAL PAY RAISE

Mr. HANSEN. Mr. President, on Monday, July 9, the Senate passed by a voice vote without debate a bill, S. 1989, to clear the way for an increase in pay this year for Members of Congress, the judiciary, and top-level employees of the executive branch. I am opposed to any such pay increase, and I hope a majority of my colleagues will join with me in working to prevent it.

S. 1989, if approved by the House and signed by the President, would require the President to submit his recommendations with regard to pay raises for the Congress, the judiciary and top levels of the executive to Congress before August 31 of this year. Unless the President's recommendations include a delayed effective date, these raises would take effect in early October of this year. The Congress could prevent the increases from taking effect if either House took specific action to disapprove these increases prior to their effective date.

There are a number of approaches that can be taken to try to prevent this proposed pay raise.

S. 1989 presently is pending before the House Post Office and Civil Service Committee, and I understand it is the subject of hearings today. There is always the possibility the House of Representatives will not agree as quickly and effortlessly as did the Senate to the passage of this bill. However, according to news reports on this issue, the House is expected to approve the measure because members are reluctant to face the pay raise next year—an election year—when, in the absence of S. 1989, the President would be expected to recommend increases under the formula in the existing law governing such matters.

If S. 1989 is approved by the House and sent to the President, the effort could be made to encourage the Presi-

dent to veto the bill. In order to override a Presidential veto, there would have to be a vote on the record, thus enabling the American people to discern where some of their representatives stand on this issue. Or, if the President does sign the bill, he could be urged to recommend zero pay raises for those persons covered by this legislation, or to submit recommendations with a delayed effective date which would be tied to a time when overall economic conditions might warrant increases. I have written the President urging his consideration of these courses in the event the measure is approved by the House of Representatives.

If, in the final analysis, the bill is passed by the House, signed by the President, and the pay increases recommended on June 30 by the Commission on Executive, Legislative, and Judicial Salaries are, in fact, submitted by the President for implementation this year, they can still be prevented from taking effect if either House of the Congress approves a resolution prohibiting the pay raises. I shall introduce such a resolution if events make it appropriate.

Mr. President, Wyoming people have reacted with outrage to views report suggesting congressional pay might be increased this year, and though I have not seen a poll of the overall national public sentiment on this issue, I would suspect the vast majority of citizens everywhere view the prospect with similar feelings.

Watergate aside, the issue that most concerns the American people at this time is the economy. They are unhappy about inflation, about a weakened dollar; they are worried about our economic future; and they are anything but confident about their own economic security as it is affected by national economic policies and trends. The people look to the Congress to exercise good judgment and to seek solutions to our economic problems. They look to Congress, with its responsibility for and control over the national budget, to find ways to cut spending—not increase it. The very last thing the people expect the Congress to do at this point is to permit Members pay to be increased, or to permit pay raises for other top-level Government officials, at a time when the emphasis should be on spending less—not more.

Further, Mr. President, I believe the people are entitled to know where their Representatives in the Congress stand with regard to the question of these proposed pay raises. A citizen should be able to determine whether his Senators and Congressmen are for or against these pay recommendations. I am against them so long as our current economic problems persist, and I suspect a number of my colleagues share the same view. I want the record to show what my position is, and I will vote to deny these increases if circumstances permit.

Mr. President, I am today submitting a "Sense of the Senate" resolution concerning the issue of pay increases for Members of Congress, the judiciary, and top-level employees of the executive branch. If approved, it would express the Senate's view that the President should recommend against these pay increases during fiscal year 1974, and that if the President does recommend such increases, they should be disapproved by the Senate.

I ask unanimous consent that the resolution in its entirety be printed at the conclusion of my remarks, and I invite any of my colleagues who would be so inclined to cosponsor the resolution as a means of making known their position on this issue.

I ask also that the text of my July 17 letter to the President on this subject be printed in the RECORD.

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

S. RES. 144

Resolved, That it is the sense of the Senate that (1) the President should recommend, with respect to his recommendations to be transmitted to Congress during fiscal year 1974 under section 225 of the Federal Salary Act of 1967, that salaries of positions referred to in such section not be increased, and (2) if recommendations are made during fiscal year 1974 for increases in such salaries, those recommendations should be disapproved.

U.S. SENATE,
Washington, D.C., July 17, 1973.

HON. RICHARD NIXON,
President of the United States,
The White House, Washington, D.C.

DEAR MR. PRESIDENT: It is my intent to make an effort legislatively to prevent pay increases to the executive, legislative and judicial branches of government that would appear to me inordinate and untimely.

The immediate future of the nation's economy at this time, in my opinion, is unclear. I believe it would be unwise and show a poor example for government employees of the higher echelons, elected or appointed, to receive large pay raises.

For example, Members of Congress only five years ago received annual salary increases of more than 41 per cent—from $30,000 to $42,500. To the average American whom we represent, this is a substantial salary, and to increase it further under present economic conditions would damage the national morale and weaken citizen confidence in both the bureaucracy and elected officials.

Therefore, I ask that you consider the several courses of action that presently may be open to you under the law to prevent such increases. I urge you to veto S. 1989, a bill passed by the Senate that would require you to submit salary recommendations to the Congress prior to August 31, 1973, should it pass the House of Representatives. Should you decide not to veto this legislation, I urge that you recommend no increase in salaries for those high-level salaried categories defined in Section 225 of the Federal Salary Act. Should you decide to recommend salary increases, it is my hope that, as the law permits, you will delay the effective date until a time when overall economic conditions might warrant increases.

Knowing of your interest and leadership in efforts to curb inflation, and to reduce federal spending, your support in this matter is earnestly requested.

Kind personal regards,

Sincerely yours,

CLIFFORD P. HANSEN,
U.S. Senator.

ADDITIONAL COSPONSORS OF A RESOLUTION

SENATE RESOLUTION 123

At the request of Mr. MONDALE, the Senator from Delaware (Mr. BIDEN), the Senator from South Dakota (Mr. (ABOUREZK), the Senator from Iowa (Mr. CLARK), the Senator from Minnesota (Mr. HUMPHREY), the Senator from California (Mr. CRANSTON), the Senator from Michigan (Mr. HART), the Senator from Alaska (Mr. GRAVEL), and the Senator from Rhode Island (Mr. PELL) were added as cosponsors of Senate Resolution 123, to amend the standing rules of the Senate to provide for a question and report period.

FEDERAL ELECTION CAMPAIGN ACT AMENDMENTS OF 1973—AMENDMENTS

AMENDMENTS NOS. 349 THROUGH 358

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

Mr. STEVENSON. Mr. President, we stand amid the aftermath of Watergate, with all its abuses of the democratic process—and on the threshold of another national election. This is an opportune moment for us to act against shoddy campaign practices that undermine our people's faith in their political leaders.

Surely this is the year for us to attack the corruption of campaign financing abuses—and to attack the problem realistically, in a way that will insure the integrity of Government and not more scandals.

We have an opportunity to do so—in the Federal Election Campaign Act Amendments of 1973, S. 372, recently reported by the Rules Committee of the Senate.

Early in June, I submitted a bill, joined by the Senator from Maryland (Mr. MATHIAS), which promised a strong deterrent against the corrupting power of money in our politics—the Federal Election Finance Act of 1973.

The Rules Committee bill keeps many of the best features of our bill:

It establishes a Federal Elections Commission with power to oversee campaigns for Federal office, to investigate and bring action against violations of law and breaches of good practice.

It sets up a system of strong criminal and civil penalties for violations of elections laws.

It sets limits on the amount that a candidate may spend in his pursuit of Federal office.

Finally, it sets a ceiling on the amount an individual may contribute to a candidate for Federal office.

These are all important and greatly needed reforms—and they represent such progress that none of us should be eager to quibble.

At the same time, however, we cannot afford to be careless about what we write into law; even a good bill can, and should, be better.

In that spirit I am submitting today, again with Senator MATHIAS, amendments to the Rules Committee bill. They are designed to give additional clarity, force, and meaning to the Rules Committee draft.

They are simple amendments, and I can describe them in brief and simple language:

PRESIDENTIAL CAMPAIGN SPENDING

Existing law places no limits of any sort on campaign spending.

The Rules Committee bill would limit spending by all candidates for Federal office in general elections to 20 cents per eligible voter in each State, respectively. But in the case of Presidential elections, the limit is hardly a limit at all: it would permit Presidential candidates in 1976, for example, to spend more than $60 million each. That is fully $10 million more than was spent last year in the most expensive campaign in history: the campaign to re-elect the President.

Our amendment would prevent such excessive spending by placing lower ceilings on expenditures in Presidential elections: 15 cents per eligible voter in each State.

REPORTING OF LARGE DONATIONS

Existing law requires, in the case of campaign contributions of $100 or more that a report be submitted which includes the donor's name, occupation, and principal business address.

The Rules Committee bill omits the reporting of occupation and principal business address. Reporting would be meaningless without identification of the economic interests the donors represent. So our amendment restores this requirement in the interest of the public's right to know.

CASES OF INSUFFICIENT INFORMATION

This amendment would add a new requirement concerning the handling of contributions of $100 or more. If campagin officials are unable, within 20 days, to obtain after receiving a contribution, sufficient information about the donor for a legal report, the contribution must be returned to its donor. And if not enough information exists within 20 days to permit a return of the donation, it shall revert to the Treasury of the United States.

DISBANDING CAMPAIGN COMMITTEES

Existing law requires that a political campaign committee may disband or dissolve itself at will, simply by notifying the appropriate Federal officials.

The Rules Committee draft has no provision changing this requirement.

Our amendment would require that such a committee notify the Federal Elections Commission of its intent to disband. And in certain cases the committee would be required to delay its dissolution—if it appeared to be in violation of elections laws, tax laws, or in default on campaign debts.

CONVENTION DELEGATES' EXPENSES

Both existing law and the Rules Committee draft are ambiguous on this question: Shall funds raised and spent by a would-be political convention delegate, if he is pledged to a certain candidate, be counted as contributions to that candidate.

Our amendment would make it clear that such funds shall not be counted as contributions to candidates for the purpose of the law.

DEFINIING "A CANDIDATE"

Under existing law, and in the Rules Committee, a candidate is defined as actually becoming a candidate, for purposes of the law, when any of three conditions is met: When he legally files as a candidate; when he raises or spends funds on behalf of his candidacy; when he authorizes someone else to raise or spend funds on his behalf.

Our amendment adds another dimension. It states that a potential officeseeker shall be legally defined as a candidate if he becomes aware that others are raising or spending money on his behalf and does not order his supporters to stop their efforts.

OUTLAWING CASH DONATIONS

Under existing law, a donor may contribute any amount of cash to a political campaign—a fact that literally invites abuse.

The Rules Committee draft would make cash gifts illegal in amounts of $100 or more, and would require that donations of this size be made in a form other than cash.

Our amendment would outlaw not just cash gifts of $100 or more, but those of $25 or more.

REPORTING LATE GIFTS

Existing law requires that gifts of $5,000 and over, if they are received after the legal reporting deadline, shall be reported within 48 hours of their receipt.

The Rules Committee draft would reduce this time requirement from 48 to 24 hours.

Our amendment would affirm that 24-hour limit—and require that not only late gifts of $5,000 and over, but late gifts of $1,500 or over, shall be reported within 24 hours of their receipt.

PARTY COMMITTEES SUBJECT TO THIS LAW

The obligations and requirements outlined in the Rules Committee bill would apply to national and State party committees.

Our amendment would broaden the act's requirements to include county, city, or local party committees which raise or spend over $25,000 in a calendar year, any part of which is used in an election for Federal office.

REPORTING $100 DONATIONS

Existing law requires that for each donation of more than $100 the name, occupation, and principal business address of the donor must be reported. Since many campaign contributions are of exactly $100, our amendment would require such reporting for all donations of $100 or more.

FUTURE AMENDMENTS

There remain several areas of concern in S. 372 which the distinguished Senator from Maryland (Mr. MATHIAS) and I will address with additional amendments. One in particular concerns the amounts which individuals may contribute to political campaigns, and the roll of committees—dummy and otherwise—in political campaign financing.

The law once set some limits on political contributions. But because the law was, in the words of one experienced observer, "more loophole than law," the limits were virtually ignored. And since 1971, there have been no limits on the size of contributions.

In an effort to deal with the skyrocketing and potentially corrupting campaign donations that resulted from this no-holds-barred situation, the Rules Committee has proposed certain limits on contributions: $15,000 to Presidential candidates in any contest: primary, primary runoff or general election; and $5,000 to congressional and senatorial candidates in any contest. This means that a donor could actually contribute up to $45,000 to a Presidential candidate, and up to $15,000 to congressional candidates.

Senator MATHIAS and I are jointly preparing an additional amendment which we believe will be an improvement upon the Rules Committee draft.

Because it is still in progress, and because it represents, in its sweep and complexity, the most important of all the additions we shall suggest for the Federal Election Campaign Amendments of 1973, we have chosen to introduce and discuss this last amendment at a future time.

A few years ago, Mr. President, after he had left the White House and retired to Texas, Lyndon Johnson is said to have reflected on the paradox of his Presidential years: Great reform accompanied by even greater turbulence. "You know," he told a visitor, "reform is like whiskey. The system can take only so much at a time."

I hope his observation is not true of election campaign reform—and I believe it is not. For our danger today is not too much, but too little reform.

I submit that campaign reform legislation, and the amendments I have described, will have, not the staggering effects of whiskey, but the abundant benefits of fresh air. It will purify, refresh, and invigorate our system.

But half-hearted, piecemeal, insufficient reform, like too little air, will leave our system still vulnerable to the diseases of corruption and manipulation and public cynicism. The absence of creative change, like the absence of good, clean air, can most surely weaken, choke and even suffocate the free political system that Lincoln called "the last, best hope of earth."

I commend to the Senate the necessity of campaign reform legislation and the strengthening amendments submitted by Senator MATHIAS and myself.

I send the amendments to the desk for printing, and I ask that they lie at the desk.

The ACTING PRESIDENT pro tempore. The amendments will be received and printed and will lie on the table.

Under the previous order, the Senator from Maryland (Mr. MATHIAS) is recognized for not to exceed 15 minutes.

Mr. MATHIAS. Mr. President, I shall be happy to yield additional time to the Senator from Illinois if he wishes to speak further.

Mr. STEVENSON. I thank the Senator from Maryland; I have completed my speech.

Mr. MATHIAS. Mr. President, I take this opportunity to thank the Senator from Illinois for the leadership he has displayed and to commend the understanding and interest he has exhibited in his investment of time and energy to

correct the abuses of our electoral system, abuses which I believe must be corrected. I believe that the correction of these abuses takes the kind of broad and far sighted approach that the Senator from Illinois has demonstrated.

This is not a partisan problem. It is not a problem of factions within parties. It is a problem which is common to the entire American political system. That is the way the Senator from Illinois has approached the question. I thank him for his help and assistance in the whole effort.

In 1971, the Committee on Commerce and the Committee on Rules and Administration reported S. 382, a bill which ultimately became the Federal Election Campaign Act of 1971. The bill made a good many reforms in the electoral system, but I thought at the time that S. 382 could be improved. Accordingly, I offered a number of amendments and was happy when the Senate saw fit to adopt 13 of them. As finally passed, the bill was a major step toward reform of our electoral system.

During the past week, the Committee on Rules and Administration reported S. 372, which is another bill that could be a good step toward reform. But, as in the previous case, I think that this effort toward reform can itself be strengthened. So I am happy to join the Senator from Illinois in submitting at this time a number of amendments to S. 372. In submitting them, I should observe that I think the bill is a step in the right direction as it stands. It contains a number of progressive provisions. Some of the features in the bill were proposed earlier this year by the distinguished Senator from Pennsylvania (Mr. SCOTT), the minority leader, and by the Senator from Illinois (Mr. STEVENSON) and myself.

Perhaps the most important of these, is the independent elections commission which would be charged with the primary responsibility for enforcing the Federal Election Campaign Act. Second, there is the requirement that every candidate designate a single central campaign committee. This would greatly simplify the process of collecting reports from candidates and making them available for public scrutiny.

The bill contains a provision which would, as I have proposed, eliminate the equal time requirement on the media for all Federal elections.

The bill proposes limits on contributions to candidates, the amount of permissable cash contributions, and the amount a candidate can spend in his campaign.

After some debate, both within the Senate and within my own heart, I have come to support the concept of these provisions. I know that some good arguments can be made against them, but I believe the final judgment must be in their favor. I do, however, question the levels set in the bill.

In spite of all these excellent provisions, I think that further improvements can be made. To that end, Senator STEVENSON and I are proposing the following amendments:

First. The present law requires the reporting of contributions "in excess of $100." In S. 1094, we proposed that the wording be changed to cover contributions "of $100 or more". As we know, the common unit of contributions for political causes is $100. For instance, there is the $100-a-plate dinner. It would seem logical that a person would be more likely to give a contribution of $100 than $101, and if the objective of the law is to disclose to the public contributions of the $100 level, we are defeating the purpose of the act by keeping to present language.

The bill seems to invite evasions when it says, "You do not get reported unless you give $101." We, therefore, are renewing our proposal in the form of an amendment.

Second. Also in S. 1094, we proposed that the provision in the present law—which requires that any contribution of $5,000 or more made after the final report before the election be reported within 48 hours—be altered to require reports of $2,500 or larger contributions within 24 hours. The committee bill adopts the 24-hour requirement but retains that $5,000 limit. Since an individual's contribution limit under the bill is $5,000, we believe little is gained by retaining that amount here. Our amendment proposes, therefore, requiring the reporting of contributions of $1,500 or more within 24 hours.

Third. A third proposal that I have offered before was to expand the definition of a candidate to include a person for whom money is being collected or spent and who does not ask that such collecting or spending cease. This additional definition will prevent a person for whom funds are raised or spent—with his knowledge, but without his explicit consent—from avoiding the requirements imposed by the law.

Fourth. The bill proposes to place a limit of $100 on cash contributions. We believe that, while the idea is good, the amount can be lower.

We do not want to discourage the average contributor who wants to make an investment in his nation and in the political system out of his own modest resources, but who may not have a checking account or may not want to bother with a check. It seems to me that contributors are unlikely to want to contribute more than $25 at a time. Therefore, we propose a limit of $25 which would be an even stronger bar to the abuse of the use of cash.

Fifth. The present law requires that candidates report the occupation and principal place of business of any contributor who gives more than $100. The bill proposes to delete this requirement. Two of our amendments propose to require this information with any contribution of $100 or more and to further require that if a contribution is received without the requisite information, and such information is not obtained within 20 days, that the contribution shall escheat to the United States.

I know that those who are required to provide the information under present law consider that it is very burdensome to have to call and find out the full name, address, and occupation of the contributor. Such a procedure is burdensome, and there is no doubt about it. But it is a burden which must be borne if we want our political system to be as it should be and if we want to restore confidence in that system. I believe it is simply one of the burdens we have to share. I do not think it should be avoided. We should not return to the practice where you could simply list a contribution and designate the donor as J. Doe, or D. Smith, or K. Jones. Such a procedure is not adequate to satisfy the requirements of our time.

Sixth. The bill sets expenditure limits for campaigns for Presidential Senate-House elections. For a campaign for the Presidency in a general election the bill permits 20 cents per person of voting age, or about $28 million in 1972. Our amendment proposes lowering this limit to 15 cents per person, or about $21 million in 1972.

I think commonsense would indicate this is more than a sufficient amount to run a campaign. The past election, if it demonstrates anything at all, demonstrates the danger that arises not from having to save and scrimp as you go through a campaign, but the availability of excessive amounts of money.

Seventh. The bill would permit the dissolution of a political committee under certain circumstances. Our proposed amendment would require that a committee intending to disband would have to notify the Commission of its intention, and the Commission would have 30 days within which to halt the disbanding if the committee were out of compliance with any provision of the Federal Elections Campaign Act or the Internal Revenue Code. Thus a committee which was not in compliance would be prevented from disappearing as an entity.

The mind offers many reasons why this is a necessary provision. One that immediately occurs is the case of a committee which incurs substantial financial liabilities and then simply dissolves itself leaving the liabilities in existence with a creditor who did not want to be a donor but was willing to allow the credits to be extended, fully understanding there was little chance they would be repaid. Such a case shows a loophole in the committee bill through which a campaign could be financed. By preventing the disbanding of a committee unless it is in full compliance, I think we close that loophole.

Eighth. The requirements contained in the bill would apply to national and State party committees. Our amendment would broaden the bill's coverage to include county, city or local party committees which raise or spend over $25,000 in a calendar year, any part of which is used in an election for Federal office. This would insure that all committees which attempt to influence Federal elections would be covered by the bill.

Ninth. Finally, we propose an amendment which states that expenditures by candidates for delegate to a national party nominating convention would not be counted as contributions to or expenditures by the candidate for the Presidential nomination to whom the candidate for delegate is pledged unless the

money comes from the candidate or his agents or they advise on how the money is to be spent. We have seen many instances in recent Presidential races where many people pledged to the same candidate competed against each other for delegate slots.

I do not believe that it is fair for us to charge the expenditures of those who are really running for the honor of being delegates to national conventions to the candidates that they would ultimately support if they were to become members of that convention. It seems to me, as a matter of equity, that they are really competing in a different contest and that the expenditures should not be charged to the principal candidate who may be competing within the convention once elected.

So, Mr. President, these are some suggestions which we offer.

I think we are all in the debt of the Committee on Rules and Administration and the Committee on Commerce. We are in the debt of those who have worked with these committees to improve the election laws so that the climate within which the political system works will merit a new sense of confidence. We offer these amendments with the hope that they will further improve the recommendations of the Committee on Rules and Administration.

Mr. STEVENSON. Mr. President, I wish to commend the Senator from Maryland. He has demonstrated once again his keen awareness of just how fragile are the threads of decency and trust from which our public institutions are suspended. He brings to this extremely complex and important bill an unusual blend of practicality and idealism, and I am very pleased to join with him in introducing these 10 amendments. In doing so, I think it demonstrates once again that the concern for reform and for the integrity of our political system knows no political party.

Mr. President, I ask unanimous consent to have the amendments printed in the RECORD.

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

AMENDMENT No. 349

On page 13, strike everything on line 15.

On page 13, following line 19, insert the following:

"(4) any county, city or local committee of a political party which collects, receives, or expends $25,000 or more in a calendar year, any portion of which is directly or indirectly allocable to an election for Federal office;".

On page 13, line 19, strike everything after "Code;" and insert the following in lieu thereof: "and".

AMENDMENT No. 350

On page 15, line 16, strike "and" and insert in lieu thereof the following: *"Provided,* That with respect to individuals making contributions of $100 or more to any candidate or political committee in any calendar year, 'identification' shall include the occupation and principal place of business, if any, of such individual; and".

AMENDMENT No. 351

On page 16, following line 18, insert the following:

(c) Section 302 of such Act is amended by adding at the end thereof the following new subsection:

"( ) In each case where a contribution of $100 or over is received by a candidate or political committee, and identification required by this Act is not known, the campaign contribution shall be returned to the contributor if the required information has not been obtained within 20 days after receipt of the contribution. If sufficient information is still not known concerning the source of the contribution to permit its return within 20 days after receipt of the contribution, the contribution and its proceeds shall escheat to the United States."

AMENDMENT No. 352

On page 19, following line 2, insert the following:

"(e) Subsection (e) of such section (as redesignated by subsection (a) of this section) is amended to read as follows:

'(e) The filing of a statement of organization required by this section is permanent and establishes the continuing obligation of a covered political committee to file reports under this title unless—

'(1) after filing one or more statements of organization the committee disbands, dissolves, or otherwise terminates its operations and notifies the Commission of its intention to terminate its operations in a manner prescribed by regulation: *Provided,* That no committee which is out of compliance with any provision of this title or with any provision of the Internal Revenue Code or which has outstanding debts or obligations shall be permitted to disband or terminate without the express written consent of the Commission: *Provided further,* That the Commission shall act on notices of intention to terminate not later than 30 days after receipt of such notices; or

'(2) the committee determines that it will no longer receive contributions or make expenditures during any calendar year in an aggregate amount exceeding $1,000 and so notifies the Commission.' "

On page 19, line 3, change "(e)" to "(f)".

AMENDMENT No. 353

On page 19, line 21, strike the numeral and insert in lieu thereof "$1500".

AMENDMENT No. 354

On page 52, following line 18, insert the following:

"Amounts contributed to and expended by any candidate for delegate to a national nominating convention or a State convention or caucus which select delegates to a national nominating convention shall not be counted as contributions to or expenditures by a candidate for his party's Presidential nomination to whom the prospective delegate is pledged, bound or otherwise committed unless the amounts contributed to or expended by the prospective delegate are made by or at the request or suggestion of the candidate, his agents, or political committees operating in his behalf, or in cooperation with them."

AMENDMENT No. 355

Strike everything from line 19 on page 52 through line 10 on page 53 and insert in lieu thereof the following:

"(2) No candidate for election to the office of President may make expenditures in any State in connection with his campaign for election to such office in excess of 75 per centum the amount which a candidate for election to the office of Senator (or to the office of Delegate, in the case of the District of Columbia) might expend within the State in connection with his campaign for election to the office of Senator (or Delegate)."

AMENDMENT No. 356

On page 16, after line 18, insert the following new subsection:

"(3) Section 302 (d) of such Act (relating to preservation of receipts) is amended by—

(a) striking out 'in excess of $100 in amount' and inserting 'of $100 or more'; and

(b) inserting 'equals or' before 'exceeds'."

On page 21, after line 3, insert the following new subsection:

"(2) Subsection (b) of such section 304 is further amended by striking out 'in excess of $100' each place it appears and inserting 'of $100 or more'."

and redesignate subsequent subsections accordingly.

(3) On page 23, line 1, strike "in excess of $100" and insert "of $100 or more."

(4) On page 44, after line 4, insert the following new subsection:

"(D) striking out 'in excess of $100' in paragraph (7) and inserting '$100 or more'."

AMENDMENT No. 357

In section 4(a), after subsection (1), insert the following new subsection:

"(2) at the end of paragraph (b) strike ';' and insert 'or (3) has knowledge or information that any other person or political committee has received contributions or made expenditures for the purpose of bringing about his nomination for election, or election, to such an office and has not notified that person or political committee in writing to cease receiving such contributions or making such expenditures.' "

and redesignate the subsequent subsections accordingly.

AMENDMENT No. 358

On page 59, line 17, strike "$100" and insert "$25".

AMENDMENTS OF FAIR LABOR STANDARDS ACT OF 1938—AMENDMENTS

AMENDMENT NO. 359

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

Mr. CANNON. Mr. President, I send to the desk for myself and Senator BIBLE, an amendment to S. 1861, a bill to amend the Fair Labor Standards Act of 1938, as amended, to extend its protection to additional employees, to raise the minimum wage to $2.20 an hour, and for other purposes.

S. 1861 retains the student certificates provisions of the FLSA and it would also expand the student certificate program to include full-time students employed part-time by their educational institutions and those employed full-time during school vacations by such institutions. This bill would require educational institutions to obtain certificates from the Labor Department in order to employ their own students at 85 percent of the applicable minimum wage.

My amendment would drop the requirement that certificates be obtained from the Labor Department in order for educational institutions to employ their full-time students on a part-time basis at 85 percent of the applicable minimum wage.

While I realize that the purpose of the student certification is to prevent a substantial probability of reducing employment opportunities for other workers, I do not feel that this procedure

should be required by schools who provide part-time jobs for their own students. Evidently the House of Representatives is in agreement with me on this point as the minimum wage bill passed by the House earlier last month provided for a similar certificate exemption for educational institutions.

AMENDMENT NO. 360

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

Mr. SCOTT of Virginia submitted amendments, intended to be proposed by him, to the amendment No. 336, proposed by Mr. BUCKLEY to Senate bill 1861, supra.

AMENDMENT NO. 367

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

Mr. McGOVERN submitted an amendment, intended to be proposed by him, to Senate bill 1861, supra.

USE OF THE ARMED FORCES IN THE ABSENCE OF A DECLARATION OF WAR BY CONGRESS—AMENDMENTS

AMENDMENT NO. 361

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

Mr. FULBRIGHT submitted amendments, intended to be proposed by him, to the bill (S. 440) to make rules governing the use of the Armed Forces of the United States in the absence of a declaration of war by Congress.

AMENDMENTS NOS. 364 THROUGH 366

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

Mr. EAGLETON submitted three amendments, intended to be proposed by him, to Senate bill 440, supra.

AMENDMENT NO. 368

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

Mr. GRIFFIN submitted an amendment, intended to be proposed by him, to Senate bill 440, supra.

AMENDMENT OF TRUTH IN LENDING ACT—AMENDMENTS

AMENDMENTS NOS. 362 AND 363

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

Mr. PROXMIRE submitted two amendments, 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.

ADDITIONAL COSPONSORS OF AN AMENDMENT

AMENDMENT NO. 252 TO S. 1861

At the request of Mr. TOWER, the Senator from North Carolina (Mr. HELMS), and the Senator from South Carolina (Mr. THURMOND) were added as cosponsors of amendment No. 252, to the bill (S. 1861) to amend the Fair Labor Standards Act of 1938, as amended, to extend its protection to additional employees, to raise the minimum wage to $2.20 an hour, and for other purposes.

ANNOUNCEMENT OF FIELD HEARINGS BY SUBCOMMITTEE ON PARKS AND RECREATION, SENATE INTERIOR AND INSULAR AFFAIRS COMMITTEE

Mr. BIBLE. Mr. President, I wish to announce for the information of the Senate and the public that open public hearings have been scheduled by the Subcommittee on Parks and Recreation at 10 a.m. on July 24, in room 3110, Dirksen Senate Office Building, on the following bills:

S. 333, to establish the Spessard L. Holland National Seashore in the State of Florida, and for other purposes.

S. 1372, to establish the Spessard L. Holland National Seashore in the State of Florida, and for other purposes.

S. 1818, authorizing certain members of the Armed Forces of the United States who were captured and held by an enemy force during the Vietnam conflict to enter, without charge, certain designated units of the National Park System and national recreation areas.

S. 988, to designate certain lands in the Shenandoah National Park, Va., as wilderness.

ANNOUNCEMENT OF FIELD HEARING ON "BARRIERS TO HEALTH CARE FOR OLDER AMERICANS"

Mr. CHURCH. Mr. President, the Subcommittee on Health of the Elderly, U.S. Senate Special Committee on Aging, has conducted hearings in Washington, D.C., and in the field during the past few months on the subject of "Barriers to Health Care for Older Americans." As chairman of the full committee—and after consultation with the subcommittee chairman, Senator EDMUND MUSKIE—I would like to announce that these hearings will continue on at 10 a.m. on August 4 at the gymnasium of the North Idaho College, Coeur D'Alene, Idaho.

NOTICE OF HEARINGS ON VARIOUS PRAYER AMENDMENTS

Mr. BAYH. The Subcommittee on Constitutional Amendments is scheduling hearings on the various prayer amendments which have been introduced in the 93d Congress. These hearings will be held on Friday, July 27, in room 2228, Dirksen Office Building, beginning at 9:30 a.m.

The proposed amendments to be considered at these hearings are Senate Joint Resolution 7, Senate Joint Resolution 10, Senate Joint Resolution 15, Senate Joint Resolution 57, Senate Joint Resolution 84, Senate Joint Resolution 89, and Senate Joint Resolution 122. Although there is some variation in the specific language of these amendments, their common purpose is to amend the Constitution to permit voluntary prayer or meditation in public buildings.

Persons wishing to testify or submit statements and other supplementary material for inclusion in the hearing record should contact J. William Heckman, chief counsel for the subcommittee, at 225-3018, as soon as possible.

NOTICE CONCERNING NOMINATIONS BEFORE THE COMMITTEE ON THE JUDICIARY

Mr. EASTLAND. Mr. President, the following nominations have been referred to and are now pending before the Committee on the Judiciary:

Walter J. Link, of North Dakota, to be U.S. Marshal for the District of North Dakota for the term of 4 years, reappointment.

Donald J. Stohr, of Missouri, to be U.S. Attorney for the Eastern District of Missouri, for the term of 4 years, vice Daniel Bartlett, Jr., resigned.

On behalf of the Committee on the Judiciary, notice is hereby given to all persons interested in these nominations to file with the committee, in writing, on or before Tuesday, July 24, 1973, any representations or objections they may wish to present concerning the above nominations, with a further statement whether it is their intentiton to appear at any hearing which may be scheduled.

ADDITIONAL STATEMENTS

DÉTENTE, CULTURE AND HUMAN RIGHTS

Mr. JACKSON. Mr. President, today, when East-West negotiations are going forward in a variety of areas, it is vital that we have the deepest possible understanding of the Soviet view of détente and peaceful coexistence. It is equally important that we insure that these negotiations move ahead in accordance with the principle of reciprocal advantage. If détente is to last it must be a two-way proposition which serves the interests of both sides—it will have to be based on true reciprocity, not on a series of unequal bargains.

In particular, I believe the U.S. Government should be taking much stronger initiatives in the area of culture and human rights. Without freer movement of people and ideas across national frontiers, there can be no genuine détente; there can be no real progress toward peace. What we need is a real détente between peoples, not some formulas between governments for capitulation on the issue of human rights.

In this connection, the Permanent Investigations Subcommittee, which I chair, received highly significant testimony last week from Mr. Leopold Labedz, a distinguished British interpreter of international affairs and editor of Survey, the internationally known journal of East and West studies. This testimony was given in the subcommittee's ongoing study on negotiation and statecraft.

I believe my colleagues will find Mr. Labedz' formal statement before the subcommittee of unusual importance in clarifying significant issues in East-West relations.

I ask unanimous consent that Mr. Labedz' statement be printed in the RECORD.

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

DÉTENTE, CULTURE, AND HUMAN RIGHTS

(By Leopold Labedz)

A TENDENCY FOR WISHFUL THINKING IN THE WEST

In his television address to the American public Mr. Brezhnev said that he is convinced that the agreements he signed "will be unanimously approved in the US, as they undoubtedly will in the Soviet Union, and hailed throughout the world." On the middle point he could not be more correct. His conviction must have been confirmed in this respect when, on the previous day, *Pravda* (23 June 1973) reported the results of the local elections in the Soviet Union and Mr. Brezhnev learned that 99.96 of those entitled to vote supported the party of which he is the leader. *Pravda* called it "a striking illustration of the consistently democratic character of the Soviet state," *Izvestiya*—"a triumph of socialist democracy". Mr. Brezhnev no doubt felt relieved: in the circumstances it is indeed unlikely that his American achievements will not be unanimously approved in the Soviet Union.

His other two points may be less well-founded. How can there be unanimity outside the Soviet Union on such a sensitive subject? There never has been and there isn't now. Yet *detente* encourages hopes and summitry reinforces them. As a result there is a tendency for wishful thinking: a sober approach to Soviet political initiatives is lost in the general euphoria over diplomatic incantations about "peace, good will and mutual understanding." Many Western press reactions indicated a preference for taking the ostensible significance of Mr. Brezhnev's public declarations for granted rather than for looking closely at his political aims.

Newsweek (2 July 1973) wrote editorially: "Though they are still rivals, the US and Russia have bound themselves so closely in a network of common interest that cooperation has become as natural today as confrontation was in the past." This *obiter dictum* was not accompanied by any attempt to explain the reasons for such a change in Soviet policy or to critically assess how genuine it is. But, ironically, in the same issue of *Newsweek* the Senior Editor, Arnaud de Borchgrave wrote:

"Only a few experts know or care that Soviet Party chief Leonid Brezhnev won his arguments for a 'new look' foreign policy by convincing his colleagues that it would be the most effective way to break up NATO and neutralize Western Europe. While Moscow has made an important shift in tactics, policy planners say the goals the Kremlin has pursued since the early 1950s are unchanged.

"For practical purposes, Moscow has achieved two of its four main geopolitical objectives: conventional military superiority in Europe over the US and its allies, and recognition of Moscow's hold on Eastern Europe. Next on the Kremlin hit parade is the withdrawal of US forces from Europe and the collapse of NATO. This, in the Kremlin scenario, is to come about as a result of internal pressures in the United States and growing European doubts about American reliability."

If this is the case what is the political basis of the "common interest" between the US and Russia which *Newsweek* discovered as the reason for the transformation of "confrontation" into "natural cooperation" between them?

An original proof of the sincerity of Mr. Brezhnev's assurances that *detente* is irreversible was provided by the Washington correspondent of the London *Observer* (24 June 1973). Quoting Mr. Brezhnev's toast speech made at the gala dinner at the Soviet Embassy in Washington, he commented:

"Given the importance of the formal toast in Soviet usage these could not be idle remarks. Mr. Brezhnev seemed rather to be trying to convince his domestic constituency as well as Americans and international audiences that he would personally defend his policy of ending the Cold War as consistent with the principles of the Russian Revolution."

The official toast has of course no more significance in Soviet usage than other paraphernalia of the official diplomatic game: Stalin even toasted *Der Fuhrer* after the conclusion of the Soviet-Nazi Pact in 1939 in Moscow. What is significant about the *Observer* correspondent's argument is not the piece of anthropological fiction he believes, but the fact that it so well illustrates the more general tendency to take Soviet diplomatic pronouncements at face value. Historical evidence suggests that they should be seen as instruments of wider political strategy and assessed in the light of the contemporary political situation as the Soviet leaders see it.

SOVIET VERSION OF PEACEFUL COEXISTENCE AND DÉTENTE

Is there any reason to believe that a qualitative change has occurred in the political perception and attitudes of the Soviet leaders? Their present interpretation of the "principles of peaceful coexistence" is not fundamentally different from their past interpretation of it. Only such a change would indicate that the present *detente* is not just a breathing space for the Soviet Union, an interval to prepare a further shift in its favour, but the acceptance of a permanent *modus vivendi* on the basis of the *status quo*. Mr. Brezhnev's "offensive of smiles" and the official declarations kindled the hope that such "a new era of cooperation" has actually arrived. But the Soviet leaders continue to speak "with two tongues." They continue at the same time to stress that "the policy of peaceful coexistence in its Leninist understanding signifies neither the preservation of the social or political *status quo*, nor the moderation of the ideological struggle. In fact, it has facilitated and facilitates the development of the class struggle against imperialism inside individual countries as well as on a world scale . . ." [1]

Mr. Brezhnev who in his American television broadcast declared that "mankind has outgrown the rigid 'cold war' armour", previously explained, almost candidly, the tactical motives of *detente* policy in a speech to the Conference of the European Communist Parties in Karlovy Vary on 24 April 1967:

"Experience teaches in particular that the 'cold war' and the confrontation of military blocs, the atmosphere of military threats, seriously hampers the activity of revolutionary, democratic forces. In conditions of international tension in bourgeois countries the reactionary elements become active, the military raise their heads, anti-democratic tendencies and anti-Communism are strengthened. And conversely, the past few years have shown quite clearly that in conditions of slackened international tension the pointer of the political barometer moves left."

Not that Mr. Brezhnev has many illusions about the limits and the temporary nature of *detente*; ultimately he relies on the growing power of the Soviet Union:

"Imperialism, which has reached its highest stage, has become more reactionary and aggressive. And we cannot fail to consider the fact that imperialism still possesses great strength. . . . Therefore, the process of the class struggle in the international arena continues. In the course of this process there are periods of intensification and periods of abatement. . . . At the present time no question of any importance in the world can be solved without our participation, without taking into account our economic and military might." [2]

Footnotes at end of article.

After the 1972 Moscow agreement on "The Basic Principles of Relations between the United States and the USSR" the Soviet press explained:

"The strategic course of US policy is now changing before our very eyes from 'Pax Americana'—the Americanized formula of world domination—to a definite form of necessity for peaceful coexistence. But we must clearly understand that it is a forced change and that it is the actual power—social, economic and, ultimately, military power of the Soviet Union and other socialist countries—that compels the American ruling circles to make an agonizing reappraisal . . ." [3]

It is not surprising that when Mr. Brezhnev was faced with a direct question during his Washington visit—"how he reconciled the [Soviet military] build-up with his 'peace policy', he laughed it all off as being an aberration of intelligence services of the North Atlantic Treaty Organization." (US News & World Report, 2 July 1973). But the NATO report to the Defence Ministers who gathered in Brussels on 7 June made it clear beyond doubt that the Warsaw Pact is substantially more powerful than it was at the time of the invasion of Czechoslovakia and its strength is growing on the land, in the air and on the sea. At the same time, several NATO countries shortened military service considerably (in Denmark it is now six months, but in the Soviet Union it is still two years). The disparity in conventional arms, already large, is likely to increase and the abandonment of the word "balanced" in the M(B)FR talks does not exactly improve the chances of European security.

In the present phase of *détente* the Soviet leaders' stress is on the consolidation of Soviet gains. At the 24th Party Congress they said that the immediate task is to achieve "the final recognition of the territorial changes which occurred in Europe as a result of the Second World War" and "the convocation of the European Security Conference" (*Izvestiya*, 16 June 1973). Having practically achieved these goals, the objective is to make "the already achieved favorable changes in the international situation irreversible" (*Pravda*, 28 April 1973). But they still stress the dual character of their strategy, "the peace-loving and at the same time revolutionary character of the foreign policy of the Soviet Union" (*Izvestiya*, 29 April 1973).

One of the Senators present at the luncheon at Blair House on 19 June quoted Mr. Brezhnev as saying: "Our policy is not one based on considerations of the moment. It is a long-term policy" (*U.S. News & World Report*, 2 July 1973). The reference was to trade and *détente*. But at the same time *Pravda* reminded its readers that:

"Only naive people can expect that the recognition of the principle of 'peaceful coexistence' by the leaders of the most powerful capitalist country will eliminate or weaken the fundamental contradiction of our epoch: the conflict between socialism and capitalism. Only naive people can expect that the ideological struggle of the two systems will lose its significance". [4]

Perhaps, as Mr. David Rockefeller said, the Soviet leaders do not believe their own propaganda, but they can certainly recognize politically naive people. Anyway, after Mr. Brezhnev's return, while the whole Soviet press waxed over his "historical mission", *Pravda* (29 June 1973) published a Politburo statement welcoming him which included the following passage:

"As before, the Soviet Union will be rebuffing resolutely any intrigues of the aggressive imperialist forces, and will continue to assist the peoples fighting for peace, national liberation, democracy and socialism".

The music never changes. Only the conductor shows different faces to different audi-

ences, particularly during the time of *détente*.

The "offensive of smiles" is of course not Mr. Brezhnev's invention. It has a long history in Soviet diplomacy and foreign policy, in fact as long as the concept of "peaceful coexistence" itself. Each time the Soviet Union needed something from Western powers this tactic was employed.

It was Lenin, Trotsky and Chicherin who first developed it, although the concept of "peaceful coexistence" was not used by Lenin.[5] But Lenin stressed the need for tactical flexibility (while remaining "true to the revolutionary purpose") and of the "breathing space" (peredyshka). He applied it internally in 1921 in his NEP policy and externally in 1922 when the post-war revolutionary expectations faded and it was decided to strengthen the Soviet state by obtaining recognition from more capitalist states and exploiting their "contradictions". At the Genoa Conference in 1922 Chicherin presented "a broad pacifist programme" (endorsed by Lenin) which asserted that "in the present historical epoch, which makes the parallel existence of the old and the nascent new social structure possible, economic cooperation between states representing these two systems of property is imperative".[6] In a letter to Chicherin in which he advised him to remove any references and terms which may frighten "the capitalist states", such as "the employment of violent means" or "the unavoidability of new world wars". He added: "We shall disgrace them and humiliate them 'in a benign manner' ".[7]

Since that time the basic ideas of this political strategy have been used repeatedly, although its concepts have undergone an evolution and were adapted to the changing circumstances. Stalin used dual tactics particularly blatantly in the "Popular Front" period; he began courting the Western powers when he (belatedly) recognized Hitler's menace. But in his case there was no correlation between the internal and the external NEP. On the contrary, the economic and "peace" offensives coincided with the most savage periods of repression under his rule. When he was "liquidating kulaks as a class" and millions died after the forcible collectivization of Soviet agriculture, American and German capitalists were invited to help in the building of factories in the first Five Year Plan. When Litvinov was lecturing the world about the definition of aggression and collective security, in the Soviet Union itself Moscow Trials and the Great Purge, deportations and forced labour camps, were demanding further millions of victims. The "soft sell" in foreign policy and lectures about the indivisibility of peace ended of course with the Stalin-Hitler Pact, but after Hitler's attack, when Stalin became "Good Uncle Joe" in the West, he used "soft sell" in his conversations with Roosevelt and up to the hilt in his propaganda, securing agreements which contributed to the shape of the post-war world.

Nikita Khrushchev made a doctrinal revision of the concept of "peaceful coexistence" finally abandoning the Leninist perspective that in the end "frightful collisions between the Soviet Republic and the bourgeois states will be inevitable". Although at first he rejected Malenkov's thesis that such a war in a nuclear era "would mean the destruction of civilization", he eventually proclaimed the new interpretation of "peaceful coexistence" as a struggle which, although necessary and inevitable, should stop short of general war with its frightful nuclear possibilities. How short he had shown by placing missiles in Cuba, when his own "offensive of smiles" (which led to the "Camp David spirit") did not produce the expected results and the conflict with China was close to the surface.

"Peaceful coexistence" as a doctrine of class struggle without nuclear war remained essentially the same under his successors. Brezhnev was ready to accept as its corollary the SALT I agreement (which established Soviet nuclear parity), but politically it is still the case of the sauce for the goose not being the sauce for the gander:

"Peaceful coexistence . . . rests on a system of principles that make it possible to avoid a major international conflict in the course of development of revolutionary processes within individual countries . . . Ideological struggle and cold war are totally different concepts. Cold war in the ideological sphere, supported by aggressive forces of anti-communism throughout the world, is a slanderous campaign intended to subvert the socialist system and disorientate the masses in order to facilitate the adventurist actions of the imperialists. The struggle against bourgeois ideology, on the other hand, involves proving on the basis of facts and strict scientific analysis the advantages of socialism over capitalism, exposing the ideological myths of anti-communism, affirming the truth and uniting the masses for the struggle for the bright ideals of mankind." [8]

WESTERN REACTION TO SOVIET "OFFENSIVE OF SMILES"

Soviet economic and "peace" offensives have been invariably greeted with sympathy, if not enthusiasm, in the West. Somehow or other they have been seen by sympathizers and "realists" alike as signifying the Great Post-revolutionary Turning Point when the Manichean perspective is given up by the Soviet leaders and "live and let live" becomes the new rule.

The NEP and the Genoa Conference were seen by many as the symptoms of Thermidor, the end of revolutionary aspirations. The building of "socialism in one country" through forceful industrialization was similarly interpreted. The *New Statesman* (4 July 1931) proclaimed that "the whole attitude of the Soviet Government towards the West has changed since the exile of Trotsky and the adoption of the Five Year Plan". The recognition of the Soviet Union by the United States in 1933, accompanied by the official Soviet pledge not to intervene in the internal affairs of the United States, was greeted likewise and so was the dissolution of the Comintern in 1943. After that, Stalin's post-war political and territorial aspirations were seen as simply a case of legitimate concern with defence and security. Under Khrushchev hopes reached a new pitch, in spite of all the previous disappointments, and many optimists persuaded themselves that the Cold War had ended, thus anticipating Mr. Brezhnev. Even Mr. David Rockefeller's remark was preceded ten years earlier by the British press lord, Lord Thompson, who, after his visit to the Soviet Union in 1963, assured the British TV audience that Khrushchev secretly admired capitalists.[9] But, obviously, he could not promote his business in Moscow; he owns the London *Times* and other newspapers. Ironically, The *Times'* own correspondent was not long ago expelled from Moscow.[10]

The most recent example of Western reaction to a Soviet "offensive of smiles" is of course the present one, but as we are still in the middle of it, one can perhaps refrain from quoting similar comments made today: we all read them daily in the press where hope springs eternal in spite of past disappointments. However, even though history points towards scepticism and the Soviet leaders' own Janus-like attitude reinforces it, this is not sufficient to dissuade the optimists from again believing that the Great Turning Point has arrived: After all, history offers no proofs; if it has not happened before, that is no reason why it might not be happening now; as for the Soviet leaders' own words testifying to the contrary, they are just lip-service to the ritually-observed doctrine but have no relevance to the actual political situation; besides, have the Soviet leaders not accepted some of the realities of the situation (such as the nuclear facts of life)? Wouldn't the expansion of trade tie up their foreign policy, making them dependent on the outside world? Is trade not the great instrument of peace as Mr. David Rockefeller announced? And, above all, are we not witnessing ideological exhaustion and a decline of Soviet dynamics in a polycentric world? It was Khrushchev who said (*Pravda*, 6 April 1964):

"If it depended only on our desire to make revolution, I can guarantee you that the Central Committee would have done everything so that there would be no bourgeois world and the Red Flag would wave over the entire world. But comrades, let's not indulge in fantasies, let's be realistic. Just to want something is not enough, even if the Party wants it."

Is not Brezhnev even more realistic? Has he not demonstrated this during his American visit?

NEEDED: A SOBER ANALYSIS OF RISKS

These are seductive questions. How can a reasonable man decide between opposing views here? A reasonable man will judge Soviet policies by actions—not by declarations, by deeds—not by words; he will look closely at the political equation and even if optimistic arguments are not taken by him with more than a grain of salt in view of the Soviet record, he will keep the powder dry and will not go in his own policy beyond limits dictated by the caution which this record must inspire in any reasonable man.

In fact, the answers to the seductive questions enumerated above are to be sought neither in extravagant hopes, nor in a denial that one can learn from the past, but in sober analysis of the risks involved in the present. Anybody approaching the problem from this angle would soon be labeled by Soviet propaganda as a "cold warrior", while Western "realists" would accuse him of indulging in the "politics of nostalgia." Yet this does not alter the necessity for exposing some of the illusions and fallacies contained in the above "questions".

It is true that revolutions and empires do not last forever and that one day there will be a Great Turning Point in the Soviet Union, but that day has not yet come. The diagnosis which might fit the Roman Empire under Emperor Nerva does not fit it under Augustus.

Ideological formulas, however empty and ritualistic, provide the necessary element of legitimacy to Party rule; it cannot be effectively exercised in an ideocratic totalitarian state without ideological authority.

The Soviet leaders were always realistic enough to recognise the obstacles to their ideological and/or power ambitions, but that does not mean that they accept them permanently.

Trade is not necessarily a major factor in political relations between states, as even a cursory glance at twentieth century history would make clear, particularly in the case of states like the Soviet Union where economics is ultimately subordinated to politics. Trade as a paramount road-to-peace formula made Benjamin Constant [11] see the obsolescence of war in the future, a somewhat unfortunate prediction from the perspective of the twentieth century.

Concession to and "accommodations" of the expanding Soviet empire would not make its leaders more "realistic" in accepting the *status quo* as a *modus vivendi*. On the contrary this will only happen if they cannot escape some difficult dilemmas created by their own ideology (for instance the one between the Party's *principio dominandi* and economic efficiency resulting in—say—higher agricultural productivity and greater autonomous innovation). If the West, in response

Footnotes at end of article.

to *detente* policy, provides unconditional means of escape for them each time the Soviet leaders find themselves on the horns of a dilemma, there will be no incentive leading to an internal evolution in which these leaders would have to become more realistic by abandoning some of their Utopian totalitarian heritage and by accepting both internally and externally a more civilised posture of real *detente* both vis-a-vis their own citizens and foreign countries.

No reasonable man can object to a genuine *detente* and an equitable expansion of trade; the real problem, however, is that a fake *detente* and a trade that is not based on risk capital and ordinary economic calculations of private entrepreneurs may simply result in a further shift in the balance of power—or as the Russians call it: the "correlation of forces"—in favor of the Soviet Union.

Proper safeguards, including political safeguards, would be necessary for the process of civilising the Soviet state rather than allowing the growth of its power. Guaranteed long term credits would permit Brezhnev:

(1) to maintain the present high level of military spending

(2) not to antagonise the Party *apparatchiki* as Khrushchev did when faced with similar politico-economic dilemmas

(3) to consolidate his internal and external power position.

It would seem a good idea for any economic concessions, such as the granting of the Most Favored Nation Clause, to be made dependent on periodic scrutiny of the Soviet performance and of whether the conditions attached to it are being observed.

A headlong rush into economic and technological aid-as-trade, without a clear political perspective, may simply help the Soviet Union to eventually achieve political and military superiority over the United States. It would indeed be a supreme historical paradox if the perennial Soviet goal of "overtaking America" was to be reached through American economic help (and political negligence). The consequences of such development for other countries, particularly for Western Europe, need not be elaborated.[12] It is not difficult to imagine, in the present American disarray, how harmful these consequences would be for both the internal stability and the international position of the United States (which for a variety of reasons can no longer insulate itself against such consequences, however politically isolated it may become from the rest of the world). It may not be what some Senators call "the politics of nostalgia" but it would certainly be the politics of amnesia.

The idea that the risks and dangers inherent in the present *detente* policy of the Soviet Union may be avoided through the creation of economic interdependence ("intermeshing" of vested interests) is an illusion. It is based on the usual fallacy of projecting Western categories on the Soviet scene—the familiar mirror-image misperception. In the Soviet perspective the question would be political: who will become relatively more dependent as a result of the U.S. granting and the Soviet Union receiving long term credits? The answer seems obvious and that is why Mr. Brezhnev is so eager to get them and shows no anxiety about it.

CULTURE AND HUMAN RIGHTS

It is in the sphere of culture and human rights that the real crux of the problem of future Soviet evolution lies. This was generally recognised in the West during the Khrushchev era when those who favored concessions to his foreign policy demands stressed the perspective of the internal liberalisation which would somehow guarantee good Soviet behaviour abroad. Khrushchev demonstrated that such a correlation does not necessarily exist and Brezhnev—that "destalinization" was reversible.

We do not hear much now about the liberalization perspective, although in the early days of *detente* it was frequently invoked as the allegedly inevitable concomitant (and from the Soviet point of view the necessary risk) of *detente*. What has happened so far is precisely the opposite.[13] Censorship has been tightened in the Soviet Union and in Eastern Europe; *Samizdat* has been hit if not silenced; dissenters are imprisoned, exiled, or put into lunatic asylums; the foreign press is still prohibited, foreign broadcasts still jammed, foreign travel still a privilege of the most trustworthy. Yuri Galanskov is dead because of medical neglect in the concentration camp. Andrei Amalrik, having spent three inhuman years in a Magadan concentration camp where he contracted meningitis, was not released at the end of his sentence, but awaits another trial. Vladimir Bukovsky, who has already spent six years in prison where he developed a rheumatic heart, has been sentenced to another twelve years. The tragic list of those rotting in prisons or in exile can be extended: Pavel Litvinov, Anatoly Marchenko, General Grigorenko, Anatoly Levitin-Krasnov, and hundreds of others. The number of inmates in the concentration camps (which were supposed to have disappeared forever after Stalin's dethronement by Khrushchev) is at present estimated at over a million.

The possible positive effects of *detente*—from the Western point of view—have been prophylactically dealt with in the Soviet Union and Eastern Europe. The Western hopefuls are now pointing to the "inevitable" long term liberalization effect of *detente*. But if "irreversible" destalinization proved to be reversible after all, what guarantee is there that *detente* is not reversible either? And if it is, how much hope can one invest in its long term effects? The words written in 1965 [14] by Dr. Kissinger's former adviser on Soviet affairs, Helmut Sonnenfeldt, appear today even more topical than before:

"What the West can do—and this requires perhaps more consistency and harmony than has been feasible of late—is to keep before the minds of Soviet leaders a realisation that the advantages they seek from their dealings with the West must be reciprocated. Without some move on their part to eliminate the abnormality of the division of Europe, without a more constructive approach towards orderly change in the developing world, and without explicit measures to mitigate the alienation of their own people from those of the West, genuine progress in *detente* is unlikely."

NEGOTIATING EFFECTIVELY WITH THE SOVIETS

There is one lesson to be derived from the history of Western negotiations with the Soviet Union—a very simple one: the Soviet Union always tries to get something for nothing and it is ready for a *quid pro quo* only when its opponent is equally stubborn and persevering. The few Western successes in negotiations with and pressures on the Soviet Union show that its usual attitude: "What is mine is mine, what is yours is negotiable" can be overcome. The elimination of the Pishevari regime in Northern Iran after the war, the peace treaty with Austria, and now the reluctant Soviet permission given to some of the Jewish citizens to emigrate to Israel are the not very numerous examples.

Senator Jackson's amendment was greeted with undisguised hostility in the Soviet press. At that time Western correspondents in Moscow were told that Soviet and American legislatures were on a collision course, that the "educational" tax had been introduced and could not possibly be lifted without the Soviet Union losing face, that the Jackson amendment constituted interference in the internal affairs of the Soviet Union, that it would jeopardize *detente*, etc. All this was reported by the Moscow correspondent of a Washington paper with a suggestion that the Senator Jackson initiative should be abandoned for fear of worse consequences. And what happened? Mr. Brezhnev lifted the ransom tax. Even though this permission may only be temporary, it has demonstrated that persistence pays when the Soviet leaders need something and an appropriate pressure is applied.

THE ISSUES AT STAKE

This is the most obvious conclusion that the Western representatives in Helsinki and Vienna, and the American negotiators in SALT II must keep in mind. The course of *detente* until now gives little room for satisfaction. The West has found itself weak, divided and outmanoeuvred. It is on the defensive although the cultural and human rights issues have given it a good opportunity to turn the tables on the Russians and promote its own cultural tradition and values. Instead the West has abandoned its perfectly legitimate position and agreed to a formulation of the agenda which, though "open", omits insistence on the "free circulation of ideas". This cannot but signal to the Russians the psychological readiness of Western negotiators for further concessions. The Chinese proverb says that even the 10,000 mile march begins with one small step. The same applies to the road to capitulation. As Alexander Solzhenitsyn expressed it in his Nobel Prize lecture:[15]

"The spirit of Munich has by no means retreated into the past; it was not merely a brief episode in our history. I would even venture to say that the spirit of Munich prevails in the twentieth century. The timid civilised world has found nothing with which to oppose the onslaught of a sudden revival of barefaced barbarity, other than concessions and smiles."

The Western public is generally ignorant of the issues at stake, of their historical importance, and of the implications of a further shift in the balance of power against the West. The United States, like Europe, could have to either find new reserves of political strength or accept a gradual decline.

FOOTNOTES

[1] Editorial in *Kommunist* (No. 14, September 1970). This point is incessantly repeated in Soviet publications.

[2] Mr. Brezhnev made these points in a speech in Minsk on 14 March 1970. It is reported in V. S. Riabov (Editor), *Dvina*, Moscow, Voenizdat, 1970.

[3] *Komsomolskaya Pravda*, 4 June 1972.

[4] Quoted by the Warsaw weekly, *Polityka* (23 June 1973).

[5] Cf. Frankly Griffiths, "Origin of Peaceful Coexistence", *Survey*, No. 50, Jan. 1964, also Foy D. Kohler et al., *Soviet Strategy for the Seventies*, Center for Advanced International Studies, University of Miami, 1973.

[6] *Materialy Genuezskoi konferentsii* (Moscow, 1922), p. 78.

[7] Lenin, *Sochineniya*, 4th edition, Moscow, 1952, vol. 33 p. 236. When Soviet authors publish articles for foreign consumption hailing Lenin as the father of the concept of "peaceful coexistence" they present him as a benign non-revolutionary statesman. Thus E. Chossudovski in his article in *Foreign Affairs* (April 1972), "Genoa Revisited—Russia and Coexistence" carefully omits to mention Lenin's more candid remarks about the real goals behind his tactics, although he claimed that the "updated case for peaceful coexistence certainly does not lack forthrightness . . . [and] can hardly be likened to a Trojan Horse to entice the capitalist world and lull its vigilance". Similarly, Melor Sturua in his article in *Le Monde* (19 June 1973) refers to Lenin describing himself as "a resolute partisan of economic cooperation with America" in an interview with the correspondent of the *Chicago Daily News*, but he did not mention that Lenin said at the same time: "As soon as we are strong enough to defeat capitalism as a whole, we shall immediately take it by the scruff of the neck." (Lenin, *Selected Works*, Vol. 8, p. 270). It would be easier for Soviet propaganda in the

West if its representatives, instead of invoking Lenin's parenthood of "peaceful coexistence," could present it as a brand new "Brezhnev's doctrine". This, however, also has some undesirable connotations.

[8] "Problems of War and Peace: A Critical Analysis of Bourgeois Theories," Moscow 1972, quoted in Foy D. Kohler et al., op. cit, pp. 124/5.

[9] Mr. Melor Sturua, who was a Soviet correspondent in London and New York, wrote in his recent article in *Le Monde* (19 June 1973): "The gentlemen from the Chase Manhattan Bank are proud to have their office in Moscow at No. 1 Karl Marx Place. Is it not symbolic?" I think it is.

[10] Cf. David Bonavia, "The Technology of an Expulsion", *Survey*, No. 85, Autumn 1972.

[11] Benjamin Constant, *Oeuvres*, Biblioteque de la Pleiade, 1957. Cf. De l'Esprit de la Conquete et de l'Usurpation, pp. 993–5.

[12] Cf. the articles of the present author in *Survey*, No. 87, Spring 1973 and No. 88, Summer 1973.

[13] Cf. the present author's "Shadows over Helsinki", *Encounter*, June 1973.

[14] In: Leopold Labedz (Ed.), *International Communism after Khrushchev*, The M.I.T. Press, 1965, p. 216.

[15] Leopold Labedz, *Solzhenitsyn, A Documentary Record*, Indiana University Press, 1973, p. 314.

THE COMPREHENSIVE PLANNING GRANTS UNDER HUD

Mr. MATHIAS. Mr. President, on June 30 of this year, this body approved the HUD appropriations bill for fiscal year 1974, H.R. 8825. As ranking minority member of the Appropriations Subcommittee which initially considered this bill, and as its minority floor leader during the full Senate's deliberations, I was most gratified at the support which greeted all of the committee's recommendations, and in particular our recommendation that the full administration budget request of $110 million for section 701 comprehensive planning grants be restored.

As my colleagues are no doubt aware, the House-approved version of H.R. 8825 included a substantial cut in this crucial program, down to only $25 million for fiscal year 1974, a full $85 million below the budget request, and $75 million below the amount we appropriated last year. I viewed these proposed cuts with considerable alarm, because I firmly believe that we must succeed in gearing better planning into our housing development if our other programs are to work, and work satisfactorily.

As my colleagues well know, Mr. President, I have not hesitated in the past to criticize the Department of Housing and Urban Development when its actions—as in the current moratorium on housing programs—appear to me to be counterproductive or shortsighted. But similarly, I do not hesitate to give credit where credit is due, and I believe HUD is to be commended for its strong support of the "701" program, without which many of our cities and metropolitan areas would be hard pressed to undertake even minimal long-range and management planning in the housing field.

It is for this reason that I am heartened by the Senate's support for the full budget request for the "701" program, and would like to state my intention and commitment, as a member of the conference committee, to spare no effort in securing at least the $100 million level of appropriations we approved last year, if not the full $110 million budget request for "701," in the conference which will seek to resolve our differences with the House in these matters.

I am sure every major city in the Nation has a stake in the outcome of this issue. In my own State, for example, the Baltimore City Planning Commission recently passed a resolution regarding funding for the "701" program, and I commend it to the attention of my colleagues in this regard. I ask unanimous consent to have this resolution printed in the RECORD.

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

RESOLUTION

Whereas, the City of Baltimore has recently received a Federal "701" Planning and Management Grant in the amount of $420,140 for Fiscal Year 1973, and

Whereas, these funds have provided critical support for the City's planning program at a time when the City has been forced to reduce its General Fund appropriation for Planning, and

Whereas, large metropolitan area center cities have recently been recognized under this program for the first time, and

Whereas, the City of Baltimore, and the Baltimore Regional Planning Council, of which the City is a member, depend on the future availability of these funds, and

Whereas, these Federal Planning Grant funds support the local planning reviews required under the Federal A–95 project referral program, support programs required under existing Federal housing, public works, and other programs, and will be needed to provide the planning base required under the new Revenue Sharing programs, and

Whereas, the House Appropriations Committee has reported out H.R. 8825 with a reduction of HUD "701" Planning and Management grant funds from $110 million to $25 million, and the Senate Appropriations Committee is now considering the HUD budget proposal.

Now, therefore, be it resolved, that the Baltimore City Planning Commission, acting in Public Session, urges restoration of the HUD "701" Planning and Management Grant Fiscal 1974 budget to the level of $110 million in the United States House of Representatives, and earnestly requests the Senate Appropriations Committee to approve this program at the same level of funding for Fiscal 1974, and

Be it further resolved, that copies of this resolution shall be forwarded to our Congressional Delegation and to both Senators from the State of Maryland to elicit their active support in restoring this important Federal Planning Grant program to a level commensurate with the needs of our large cities and metropolitan areas.

CHILD ABUSE RECEIVING NEEDED ATTENTION

Mr. RANDOLPH. Mr. President, on Saturday the Senate approved by a vote of 57 to 7, S. 1191, the Child Abuse Prevention and Treatment Act. For far too long, the shocking problem of child abuse has been swept under the rug. More recently the press, all forms of the media, has been attacking this problem, bringing the ugliness of badly beaten and neglected children into the open.

During debate on Saturday, I mentioned an article that was to appear in the Sunday Washington Star-News magazine section, "Washington," entitled "The Brutal Sickness of Child Abuse—Who Beats the Children?" Much of the article centers on Dr. Annette Heiser and her fellow "abused child team" members at the Washington, D.C., Children's Hospital Center.

The subcommittee, under the leadership of Senator MONDALE, on Children and Youth while studying S. 1191, received testimony from the "abused child team" and visited the Children's Hospital Center to view the facilities and the team at work. They are doing a wonderful job of serving abused children and abusive parents in a program that is functioning primarily on a voluntary basis. Because of S. 1191, Children's Hospital and other fine facilities like it will be able to receive Federal support to strengthen their program.

Mr. President, I am hopeful that Senators will read this very informative article. I ask unanimous consent to have the article from the Sunday Star and the Washington Daily News be printed in the RECORD.

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

WHO BEATS THE CHILDREN?

(By Vernon Pizer)

Reaching into her pocket, Dr. Annette Heiser pulled out a thick bundle of photographs. "I carry these around for the skeptics who say child abuse can't be as bad as I say," she explained.

"Look at this"—she held up a rear view of a naked child, a long and ugly arching burn scarring one thin buttock—"it was made by an iron. The mother claimed the iron fell on the floor while she was doing laundry and the child sat on it. There was no way she could describe how an iron can balance itself on its narrow handle with its heavy soleplate sticking straight up. The only way that injury could be caused is by design, with the mother intentionally holding the hot iron against her child's buttock."

Anger tilling furrows in her youthful face, Dr. Heiser held up other photos. "Know what these are? Stab wounds from a fork. These are cigarette burns on the abdomen. This arm was broken with a broomstick. Acid was thrown in this child's face. These lacerations were caused by a wire whip, and those are human bites. Name the horror, and I can show you a picture of it."

Normally soft-spoken and decorous, Annette Heiser becomes assertive and wrathful when she discusses willful mistreatment of the young. And she is convinced that we have yet to touch bottom in this quagmire. At D.C. Children's Hospital, where she is a member of the "abused child team," the statistics bear out her apprehension. "So far in 1973 we are admitting about 10 cases a month," she says. "Last year we averaged about seven abuse and neglect cases a month."

John M. Bischoff, director of D.C. Superior Court's Family Division, reveals that 577 cases of child neglect (of which at least 15 percent were outright physical abuse) were referred to the court in 1972, up 110 from 1971 referrals. "What is as disturbing as the increase is the changing nature of the offenses," he says. "We see less of the old child-in-a-basket kind of thing. Now, instead of abandoning kids as they used to, parents seem more prone to mistreat them seriously."

Abuse is as prevalent on one side of the District line as the other. "Whether in manicured-lawn suburbia or the concreted-over city, parents are turning on their children

in record numbers," Bischoff says. Dr. Heiser, pointing out that Children's Hospital is a regional facility, with patients from throughout the area, agrees with him. So do the facts. In March alone, for instance, a Montgomery mother was found guilty in the vicious torture slaying of her 9-year-old stepdaughter; a Montgomery couple was charged with slaying a 3-month-old daughter; a Prince Georges mother was charged in the fatal crowbar-beating of her 4-year-old daughter, and the Alexandria parents of an infant were found guilty in her beating death. If the rate of reported child abuse in Montgomery so far in 1973 holds up, total for the year will be more than 100—as against 53 in 1972 and 12 in 1971. In neighboring Prince Georges parents are being charged on an average of once a month in the death of their offspring.

According to Dr. Philip Calcagno, Georgetown University psychiatrist specializing in child care problems, abuse of the young is a national sickness whose virulence is only now being recognized. "Even with improved reporting systems, nobody can say just how deeply this repugnant disease infects us. The estimated 60,000 child-batterings nationally each year, with perhaps 10 percent resulting in fatalities, are only the tip of the iceberg. Some 15,000 children under 14 die each year from accidents—who can say how many are really accidents and how many are actually lethal abuses? Who can define the point at which a disciplining parent crosses the line from correction to battery? Who can reduce to statistics the terrible harm wrought by less outwardly bruising abuses—lack of proper care, of proper feeding, of a wholesome environment?"

Ann, college-educated and attractive, doesn't think of herself as an abusive mother. "I never beat the boy or starved him," she says, and you must admit that, in a technical sense, she is accurate. But because her husband, refusing the responsibilities of fatherhood, deserted Ann when the child was born, she was hostile toward her son, regarding him as the destroyer of what had been a happy marriage. So she rejected the child's affection, never touched him except coldly, clinically, when contact was unavoidable, never gave him a toy, a smile, a kind word. The scars Ann inflicted on her son are evident as he sits in a corner—withdrawn, apathetic, silently staring fixedly at his hands hour after hour.

Myrtle (Mickey) Wolff, chief of HEW's Division of Vulnerable Children, is convinced that "the truth, however unpalatable, is that parental mistreatment is a part of our heritage. We have a long-entrenched attitude of 'spare the rod and spoil the child,' a historic proclivity for harshness. Add the violence that has characterized so much of society and that shows no signs of abating, and it is no surprise that so many children have been, and continue to be, victimized by parents and guardians. The only thing new about abuse is the growing willingness to face the sordid facts."

Margaret A. Chambers, director of Children's Hospital's Department of Social Work, adds that "traditionally, even the law has been pitted against children. Until fairly recently, they were chattel—things, not persons—under common law. The first abuse case ever tried in the U.S. was only 100 years ago, in New York. Charges had to be brought under the cruelty-to-animals laws, because there was no law in New York or anywhere else in the country to protect children from cruelty. Think of it—we were quicker to protect animals than children. Walk these wards and you have to wonder if we've advanced much from that mentality."

Who are the abusive parents? What leads them to commit what one experienced observer terms "perversions of the human procreative drive"?

Experts seem agreed that few abusers are truly psychotic. Dr. Heiser believes as few as 10 percent may be genuine psychopaths. Dr. Calcagno says, "Given the proper circumstances, almost anyone can at some point be a child-abuser—you, me, or the nice couple down the street."

To an 8-month-old infant, anything within reach of his questing fingers is fair game for tugging. When his father bent over him, the lock of hair hanging down was irresistible. The child grabbed it and yanked. His father, who describes himself as "not a harsh person," later confessed remorsefully that he "hauled off and hit" his son impulsively. The blow shattered the infant's liver, killing him.

Though abusers are as diverse as is society itself, there is a discernable pattern among those who persist in their aberrant behavior. According to Dr. Calcagno, "Often they were themselves abused by their own parents during their childhood. Very frequently they are caught in the vise of stress—a marital rift, an economic crisis, strong social pressures, maybe an overwhelming family health problem. And usually they are impulsive and immature, though not necessarily immature in years, and a relatively minor event can act as a detonator."

Bill is clean-cut, neat, makes a good appearance. But at age 20, with a job that pays poorly and with a tendency toward outbursts of temper—he admits "I have a bad temper when I lose it"—he is ill-suited for parenthood. Exactly how ill-suited was tragically demonstrated on a recent night when, tired and irritable, Bill lay in bed sleepless because of the incessant screaming of his infant son. Finally, enraged, Bill ran to the crib and lashed out until the wailing ceased. In the morning the child's battered body was lifeless. Bill, contrite and freightened, insists that "I don't know how it happened."

The abused, as well as the abusers, follow a pattern. Their most consistent similarity is their extreme youth. "Most are younger than 6, very often less than 2," says Margaret Chambers. Analyzing 1972's 577 referrals to Superior Court, Bischoff says. "It is a curious and tragic commentary on our society that by far the highest number of referrals deal with children in the youngest age category"—57 percent from newborn to 6, 28 percent from 7 to 10.

But more than age draws the dismal lines in the profile of the mistreated. In a multi-child family, frequently one will be singled out for abuse because he is in some way different from his siblings—deformed or retarded or puny, a result of a difficult or unwanted pregnancy, more withdrawn or more mischievous, brighter or duller than his brothers and sisters. The difference, because it is almost always in itself deleterious, should be cross enough for the child to bear, but it is commonly the catapult into the ranks of the abused.

The abuse itself also reveals a pattern. Studies show that most serious mistreatment occurs in the night hours—when parents are tired, their nerves frayed, when children are restless and cranky; the most vulnerable time for the young is midnight to 3 a.m. Esther Pollard, head of the Intra-Family and Neglect Branch of Superior Court, notes an odd correlation between greening of the trees and bruising of the children. "For some inexplicable reason, our cases mount in the spring and reach a peak in July." Another oddity: while every conceivable device—from 2-by-4s to pans of sizzling grease—has been used as an instrument for child torture, there is a predilection for extension cord whippings.

Because parental mistreatment of the young is so loathsome, one might expect those most familiar with the phenomenon—doctors, social workers, legal specialists—to be overwhelmingly bitter and punitive toward the transgressors. This is not the case. Their deep bitterness is directed primarily toward the offense, while their condemnation of the offender is, in most cases, tinged with a measure of sympathy.

"You have to understand that bizarre abuse surpassing all understanding captures the headlines, but most abuse is not so monstrous and most abusers really do not mean to harm their children," Margaret Chambers says. "Let me cite a specific, representative case. Not long ago, we had a mother who was clearly maltreating her children—they were filthy, poorly nourished, and suffering from skin rashes and sores. When we dug into it, we found that the mother was not malicious; she was simply engulfed in a sea of family problems and could not cope with the problems and the children at the same time. We worked with her, guided her, helped cut the problems to manageable size, and showed her how to care for the children properly. She is grateful and, more important, her children are now thriving.

"In other cases, harsh treatment may result from frustration in trying unsuccessfully to have a child accomplish something it is not yet capable of doing, like overcoming bed-wetting. We can correct these situations by altering the parents' outlook, convincing them the child is acting normally and will end the wetting naturally at the proper stage of development. When the outlook changes, the harsh treatment ends."

A Children's Hospital colleague, Rita Giordan, adds that "we are continually surprised by the many abusive mothers who bring their children to us on flimsy excuses—runny noses, minor scratches, that sort of thing. What they are really doing is seeking help in halting their abuse. The runny nose is simply their wedge to break open the real problem and solve it."

One who is familiar with all the painful details of abuse and neglect is Ann Litford. She is a "child advocate," one of a handful of dedicated lawyers serving as unpaid, volunteer attorneys for the children in cases brought before Superior Court's Family Division. (Where there are grounds for criminal action, the parent may be simultaneously charged in Superior Court's Criminal Division.)

"The proceedings are shattering, an emotional bloodbath," Mrs. Litford says. (Each day brings its fresh tragedy—such as Mrs. Litford questioning a little girl to learn how her infant sister choked to death on her own vomit and having the child reply, oblivious to the terrible import of her words, "Mommy held her face in it to teach her a lesson.") "But the cases are not only excruciatingly painful, they are also enormously difficult. You grapple with so many fundamental problems, so many heart-rending situations, always intensely conscious that so much depends on the wisdom of your answers. How can the child's best interests be secured, his safety assured? What of the parent—is this a one-time thing where pressure made an otherwise decent parent boil over? Can we make certain it won't be repeated? What is the soundest, surest way to see that these kids are not denied their unchallengable right to rational, threat-free lives? My colleagues and I speak for children who can't speak for themselves, use our skills to secure for them what they can't secure for themselves."

Neither Ann Litford nor her fellow advocates dissipate their efforts in vindictiveness toward the parents. "Our primary concern is not punishing the parent—that is the role of others—but protecting the child." Ann Litford explains, "We always hope this can be done without permanent removal of the child from his family. The ideal is to maintain integrity of the family unit, but with threat to the child completely erased and replaced by a wholesome atmosphere of being wanted and watched over. And in many, many cases this can be done. I've seen instances where

within one month of forensic psychiatric treatment of the parent, it was possible for the child to return home in complete safety. Admittedly, such a rapid turnaround is rare, but it does happen. We strive to make it happen, if possible, and to insure that the child doesn't return until and unless it does. And we enjoin the court to order adequate, continuing follow-up to make sure there is no subsequent reversal."

Sweeping a hand over the documents on her desk, she says, "These are all living, breathing people. It is no easy thing to play God, to conclude that children should be taken from their homes and families forever, that parents are unfit to keep their own children." Then the steel creeps into her voice. "But you never allow a child to remain in hazard. His welfare is paramount; you can't gamble with that. Far better to be placed with a guardian or foster home than remain with natural parents who are a threat."

If there is strong belief among experts that much abuse is correctable and many abusers salvagable without permanent dismemberment of the family, even stronger is their conviction that the upward trend of mistreatment of the young will not be reversed unless fresh, energetic approaches are introduced. Until now, they charge, it has been too little, too late, and too unimaginative.

"We use a fire brigade approach, waiting for the flames to appear and then trying to put them out," Dr. Calcagno asserts. "What is sorely needed is preventive measures, stopping the fire before it starts. We must go into the community actively seeking families with children who are in the kinds of stressful situations that foster abuses, and solve those stresses before the damage is done. We must work with new parents, teaching them how to cope with the needs and quirks of children, creating in them awareness of the natural limitations of the young so they won't expect the impossible, inculcating appreciation of parental responsibilities and understanding of how to discharge those responsibilities intelligently and compassionately. Certainly, we can't weaken efforts to correct abuse, but we must get in much earlier in the game by establishing abuse-prevention agencies and staffing them with energetic, resourceful specialists."

Margaret Chambers points to pediatricians in private practice as a weakness in society's defenses for children. "Most private practitioners are just not attuned to child abuse. They are too unsuspecting, too ready to accept without question a parent's explanation of a child's injury, too unaware of the need to examine each young patient closely for old scars and other signposts of past abuse and neglect. They have to look beyond the injury to its probable cause. A properly trained doctor can examine a fracture and determine whether it is accidental or a result of a viciously twisted limb."

Repeatedly, those most knowledgeable emphasize a serious flaw in metropolitan area child protection: the lack of exchange of abuse information among local jurisdictions. HEW's Mickey Wolff faults the Washington region for not initiating a cooperative central registry. "As it is," she says, "an abusive parent can take a child to a Prince Georges facility for treatment this month, to a D.C. facility next month, and to Fairfax the following month, and none of the medical people involved will be any the wiser, because they have no central registry from which to discover this critically significant pattern." Ann Litford terms the situation ridiculous. "Why is it," she asks, "that local jurisdictions can set up a regional exchange of data on stolen cars but not on mistreated youth? Are cars more important?"

But the experts criticize local agencies for more than insularity. "They need more, better trained personnel, more emergency shelters and foster homes, better around-the-clock availability of people and resources," says Mickey Wolff. Dr. Heiser complains that many administrators don't recognize that specialized child-abuse caseworkers, not across-the-board generalists, are required, and that individual caseloads are seldom kept reasonable enough to permit intensive work and adequate follow-up. This charge is leveled especially against the District, where Protective Services and Special Services—two highly refined units of the Department of Human Resources that deal exclusively with neglect and abuse—are being phased out. After the current phase-out, such cases will go into a common pot to be ladled out to all caseworkers without regard to their expertise in the area of child abuse.

"It's the old numbers game," Margaret Chambers says. "In the past the child-abuse specialist handled about 30 cases at a time and was able to stay with each one, working on it intensively and getting good results through intimate understanding of the problem. Now caseloads will be equalized among all social workers in the department so each will handle as many as 300 cases at a time, all of them running the full gamut of social problems. Child-abuse expertise will be submerged under the deluge, and the children will suffer for it. Child abuse isn't arithmetic—it's life and death.

"The sad truth is that children are victimized by society generally and by budget-makers and priorities-setters specifically, because they are unable to exert leverage. An astute individual once said to me, 'The two greatest handicaps children suffer from is that they neither vote nor pay taxes, which places them at the end of the line when the bureaucrats set up their programs and fund their activities.' His cynicism is well founded."

EPA REGULATIONS WILL HAVE DRASTIC EFFECTS ON ECONOMY

Mr. FANNIN. Mr. President, the anti-pollution recommendations issued recently by the Environmental Protection Agency have touched off a great deal of debate around the Nation. It is inconceivable that any arm of government would be given the dictatorial powers that the EPA is exercising in carrying out its interpretation of the Clean Air Act of 1970. The regulations proposed by EPA will have drastic effects on our economy, and upon our way of life, especially in the West. Freedom of choice and freedom of movement will be greatly restricted.

For some time I have been convinced that the Congress has acted very unwisely in attempting to set environmental deadlines which were unrealistic. Only now are the people beginning to realize the consequences of these unwise actions.

Mr. President, last Friday the Tucson Daily Citizen ran a series of articles concerning the proposed EPA program for Arizona. These articles gave a sampling of how officials at the State and local levels regard the regulations. I ask unanimous consent that these articles be printed in the RECORD.

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

EPA RULES VERY IMPRESSIVE, BUT WHO WILL OBEY THEM?

(By Marc Adams)

Spokesmen for the national organizations concerned with travel in the cities and on the highways—from the Automobile Association of America to the petroleum industry—concur that anti-pollution recommendations issued by the Environmental Protection Agency last week are impressively strong, but the possibilities for enforcing them are perilously weak.

The agency's western regional office in San Francisco said yesterday much of the enforcement duties would be entrusted to the states, and that further extensions may be offered according to "individual capabilities."

In Los Angeles, the Motorcycle Industry Council of America convened yesterday to discuss legal action to forestall the implementation of regulations imposing a partial ban on the two-stroke motorcycle in Tucson and other cities. One manufacturer chided the federal agency for testing "faulty motorcycles" to determine the percentage of poisonous exhausts.

"We are meeting with the motorcycle council on an informal basis right now," said Paul DeFalco Jr., the environmental agency's regional administrator. "You have to understand that the motorcycle industry is where the automobile industry was 10 years ago. They've made no effort thus far to clean up their engines."

In Washington, Asst. U.S. Transportation Secretary Martin Convisser said his department is prepared for the barrage of requests from cities, including Tucson, which need "the means and the money to compensate for the immobility that will result from the EPA guidelines."

The Automobile Association indicated it would employ its congressional lobby to plead for further delays in the program before its formal adoption next month.

Last Thursday, the Environmental Protection Agency released rigid recommendations for urban centers in Arizona, California, Utah and six other states, most of them destined to replace inadequate guidelines submitted by the states themselves before the June 15 deadline.

Federal officials looked with favor on Arizona's plan to require the installation of the unperfected catalytic converter on most cars at a cost of $7.5 million to the state's motorists, but scuttled the rest of the proposal, and laid down an index of its own that would remove at least 30 per cent of the cars from the roads in five counties, greatly reduce motorcyle licensing and eliminate 20 per cent of downtown parking by 1975.

"Certainly, we're very much concerned about it," said J. K. Aldous, vice president of the Automobile Association of America. "The EPA for the first time, really, is adhering to the strictest letter of the law. And now, for the first time, the public is realizing the price tag of the Clean Air Act of 1970, that it means pure air, not just clean air.

"Some of these standards and numbers have been pulled out of the air arbitrarily," he said, citing the goal of the Environmental Protection Agency to slash automobile travel in the Los Angeles basin by 82 per cent within the next two years. "We're finding now that some of the measurements of the various harmful oxides and pollutants were in error.

"Although we know we've got to develop a pollution-free source of automobile fuel by the end of the decade, it would be economic suicide to follow all of these regulation," Aldous said.

J. S. Streiner, spokesman for the Gulf Oil Corp. southwestern division, criticized the agency for its failure to incorporate petroleum industry recommendations, and said the complexity of the plan could contribute to the possible increase in consumer gasoline prices.

"So the EPA says let's run everybody off the road. Then the question becomes, who shall we allow on it? What I'm saying is that you can only reduce the demand so much, even

if there are a lot fewer cars on the road eventually."

Neither the automobile association nor its parallel agencies were consulted to any great extent before the plans were published, and Aldous predicted the lack of coordination would involve the protection agency in procedural wrangles and cripple its enforcement powers.

The Department of Transportation will take no part in the enforcement of the regulations, according to Convisser, but DeFalco said the agency hoped the states would assume that burden by adopting their own statutes equivalent to the new clean air guidelines

Convisser did speculate, however, that highway construction eventually would be de-emphasized. Referring to the administration-backed Mass Transit Capital Grants Communities Program, the assistant secretary said the legislation "does allow local communities greater flexibility in choosing between more highways and mass transit plans."

"For example, additional buses would be the most likely solution in a city like Tucson, and the Mass Transit Act provides $82 million for these purposes," he said.

A. S. Baker, consultant to the National Traffic Engineering Research Institute at Northwestern University in Evanston, Ill., said enforcement simply is a matter of "making it difficult or impossible" for commuter car travel.

"Our interest is in the traffic enforcement problem more than anything else," Baker said. "You just have to make some roads inaccessible enough so the commuter can't use them, then limit the number of garages available, so when he gets to where he's going, he doesn't have anyplace to leave his car.

"But you have to have stiff penalties for violations, otherwise the motorist is going to do what he wants, anyway. Enforcement is expensive."

A spokesman for the American Honda Motor Co., Gardena, Calif., said his firm supports the purpose behind the regulations, but disputes their practicality. Honda, like other manufacturers, foresees an expanded market for its relatively more economical motorcycles if automobile transportation is curtailed, and plans to challenge the proposals.

DeFalco said his agency expected a series of lawsuits and repercussions, but emphasized the regulations are subject to public hearings in Tucson and Phoenix next month, and in other cities before the Senate reviews the program in September.

"I don't think that anyone here is as concerned with the actual regulations as they are with the accomplishment capabilities of the individual states," DeFalco said. "Remember, we only acted on what Congress recommended, and that was as much as a 75 per cent cutback on all auto transportation by 1975. There probably will be some extensions if the states are accomplishing the rules according to their capabilities."

TUCSON LEADERS SEE PLAN AS UNWORKABLE

(By Jerry S. Seper)

The federal government's route to an environmental utopia of unpolluted air resembles Pima County roads after a monsoon—unnavigable.

That's the opinion of most Tucson officials on the U.S. Environmental Protection Agency's recent directive on reducing auto smog. Its means to achieving the end—worthy though it be—are unworkable, they claim.

The directive, copies of which were received only Wednesday by city and county officials, would require limitations on the sale of gasoline and advocates the setting up of a car pool computer system. It also would limit parking spaces in the downtown area and provide special traffic lanes for car pool vehicles and bus use.

Don Bufkin, director of the Pima Association of Governments' transportation planning program, said the proposal is unrealistic.

He said, "Nobody would suggest that the maintenance of clean air is not a worthy objective, but the price of severely restricted urban travel seems too high."

He said a really significant step would completely eliminate the automobile internal combustion engine as the power plant for automobiles "and not just restrict its use."

James A. Betts, Tucson director of Public Works, questions how the directive would be enforced on the local level—particularly relating to the special traffic lanes.

"After just a hasty reading of the directive, I was concerned about the control problems for the proposed car pool and bus lanes. It would be a fantastic job and enforcement by police would necessarily be a momentous effort," Betts said.

He said the directive would have a significant impact on city activities, particularly in the areas of traffic engineering. Betts, however, would not elaborate, pending further study on the directive by his department.

Edward Bell, Tucson's transit manager, is also pessimistic about the EPA directive.

"The purpose of the directive is substantial, but I'm not whole-heartedly in favor of the specifics," he said.

Bell said mass transportation should be offered to the people on a desirability basis—that is, giving commuters the type of transportation they desire and selling others to join in.

"The big thing is to make mass transportation so it is desirable, such as establishing more frequent schedules and more area coverage. I hate, however, to see it forced on the people. The normal reaction, as I see it, will be that it will become distasteful," Bell said.

He said he would rather operate a bus system people wanted to ride than one they had to ride.

The EPA plan would limit all gasoline stations as of July 1, 1974, to annual sale of the amount of gasoline they sold the preceding 12 months. Echoing the sentiments of many Tucson gas retailers, Jim McMahon, who operates a Texaco service station at 3902 E. Speedway Blvd., said the proposal will hurt.

"Of course the allocation plan by the EPA will hurt me, and most service station owners. With the normal increase in population in Tucson, gas usage increases and gas sales rise proportionately. If sales can't increase, we won't be able to keep up with rising costs."

He said the service station owners are limited in how they can respond to the direction.

"We can either cut expenses or raise prices, or both" he said.

The EPA plan also requires developing computerized car pools by businesses with more than 10 employes. This is designed to reduce vehicular traffic by as much as 70 per cent.

The effect of this will be felt most at public parking lots.

Tim Marcy, at Herb's Auto Parks, 70 E. Alameda St., said the directive would "drastically" hurt business.

"Most people who park their cars in parking lots in the downtown area work in the big companies, so it would hurt us pretty bad if they reduced the flow of cars by as much as they hope to," he said.

Bufkin said the local contact with EPA has been minimal and the result is that most officials are not certain exactly how the recommended proposals would be implemented.

"These proposals," he said, "will require significant local planning. The actual means by which we will accomplish them will take a lot of planning and extensive programing."

Bufkin is not a strong supporter of the plan, however. He said the proposals take away a choice from the people of how they will travel in the urban area.

"It's a severe restriction and with severe restrictions come traumas to the community—particularly in the area of development and the economy," he said.

EPA will hold a public hearing on its plan Aug. 8 at the Tucson Community Center Members of the EPA regional council will explain details and record alternative suggestions by groups or individuals.

Bufkins, Bell and Betts think community response will be significant.

"We haven't really heard from the majority yet, and when we do I'm sure the EPA will find out that the people are most unhappy with this plan," Bufkin said.

STATE OFFICIALS FEEL EPA WENT TOO FAR

(By Sam Negri)

Gov. Jack Williams and many other government officials say the latest edict from the Environmental Protection Agency to reduce air pollution generated by automobiles is too drastic.

The governor said that while he has not yet studied the EPA decision, "it seems to be unworkable."

He added, "We have our own law which I think is viable. We have not really been briefed on the EPA matter. There's been a great deal of speculative information."

The agency is calling for the state to limit gasoline sales, encourage car pools, improve public transportation system, reduce parking spaces and limit motorcycle licensing.

The governor said he had received some mail from Arizona citizens concerning the EPA ruling, "but not in any great volume." He observed, "I don't even think most people have been following it."

Asked whether he had instructed Atty. Gen. Gary Nelson to examine the legal ramifications of the EPA ruling, the governor said no.

Dr. Ernest Siegfried, director of the Pima County Health Department, summarized the thinking of many other officials when he commented:

"One can't quarrel with the intent that we've got to do something to control carbon monoxides, but the EPA's ruling is pretty drastic. The EPA is going to have to ease off a bit to make the whole thing functional. In reality, EPA will have to compromise."

Most officials said the EPA time schedule is impossible to meet.

But Arizona Health Commissioner Louis Kossuth said the question was more basic than timetables or intent. Kossuth asked of the EPA order, "Is it needed?"

And he replied: "The data we have seen do not indicate health problems of such severity that repressive measures of this type might be needed."

He added, "There is an air pollution problem and it does affect health, but we thought we proposed a good program that could benefit health. We did not feel that the gain that EPA was proposing was equal to the disruption it would cause. Furthermore, the state plan was not only realistic, but as EPA said, it was technically sound."

Kossuth said the federal agency was approaching the problem in the wrong way. What Arizona really needs, said Kossuth, is an alternative to the internal combustion engine.

He does not question the idea that automobiles cause more pollution in Tucson and Phoenix than do copper smelters. "The smelters put out more tons of contaminants," Kossuth commented, but they do not put them out where the people are. There's no question that the automobile affects more people."

Wayne Burt, president of Magma Copper Co., agreed with Kossuth. "The approach

being taken is not radically different from what has been applied to smelters," Burt said.

"My feeling is that the approach of the EPA was very arbitrary and based on inadequate information. I think the general feeling is that the EPA is being highly arbitrary in respect to automobiles."

Burt also agreed that automobiles are the most serious polluters in metropolitan areas, and that the EPA action would curtail this pollution.

In his words, "I think it's axiomatic that if you reduce the number of automobiles that it will reduce the pollution in metropolitan areas. If you reduce the fuel burned, you reduce the amount of air pollution."

John Ensdorf, director of Pima County Environmental Health, declared, "I think eventually something good will come out of all this. Somewhere along the line we're going to have to grapple with this problem, and why not now?"

UDALL, FANNIN SAY UNITED STATES MUST REVIEW GOALS VERSUS REALITY

(By Phil Hamilton)

The time has come for Congress to decide if it really meant to change the lifestyle of Americans when it passed the Clean Air Act of 1970, say Arizona's congressional spokesmen.

Last week the Environmental Protection Agency sent out a directive that will require limitations on sale of gasoline and parking spaces for Arizona cities as well as requiring car pool computer systems, and special traffic lanes for car pools and bus use.

Similar directives have been sent to other metropolitan areas across the nation.

The result is a confrontation between the goals set down in the Clean Air Act three years ago and the realities of today.

Arizona congressmen agree that the squeeze put on city dwellers by the EPA is not the fault of the agency, but that Congress adopted goals that were unreachable by the time limit set down in 1970.

"There is a move on in Congress now to take a look and see if Congress really intended to take these harsh measures when it passed the Clean Air Act," said U.S. Rep. Morris K. Udall, D-Ariz. "We may have to back off and adjust the timetable."

U.S. Sen. Paul J. Fannin, R-Ariz., echoed Udall, saying: "Congress moved without the studies that should have been made. Consequently we have provided stipulations in the bill that can't be met by 1975."

"I don't think we can retreat from those goals," Udall said, "But the Environmental Protection Agency is saying to Congress, 'We have been given a mandate to clean up the air. This is what it is going to take to do it. Is this what you want? And Congress is going to have to decide."

The legislators agreed that there was no choice except to revise the Clean Air Act to allow more time for reaching the standards, and both expressed hope that breakthroughs could be made that would allow for those standards as quickly as possible.

Fannin, who spent yesterday in hearings with the environmentalists and at a floor debate on the Alaskan oil issue, said that although he had been critical of the auto manufacturers in the past, he felt they would come up with an engine by late 1975 that would cut down on the emissions.

Fannin said he would not favor a federal research program to come up with a pollution-free engine. "I think the industry is doing more research than anyone realizes. I believe the breakthrough will come through private industry."

Udall, who is chairman of the House environment subcommittee, said he had received very little feedback from the EPA directives since they were announced almost a week ago.

FOOD CRISIS

Mr. RIBICOFF. Mr. President, Connecticut shoppers will find no meat and vegetables in the grocery store within the next few weeks unless the present economic control program is ended immediately and replaced by an adequate and reasonable phase 4 economic control program which includes price controls on raw agricultural products.

Phase 3½ has been an economic disaster for Connecticut and the Nation. The price squeeze is forcing retailers and wholesalers to discontinue selling certain food products rather than sell them at a loss. The reason for this is that wholesale and retail prices are frozen but raw agricultural product prices—exempt from the freeze—are continuing to increase. Once these prices exceed wholesale and retail price levels, no grocery store operator or food processor can afford to buy farm products.

In recent weeks my office has been deluged with complaints from food processors, wholesalers, and retailers. They all tell the same story. The present price freeze is driving them out of business. They all want to continue supplying food to the grocery stores and most of them are doing so at a daily financial loss to their businesses. But this situation cannot go on forever. They will soon be forced to shut down.

The result will be empty grocery stores and empty dinner tables.

The Connecticut Food Store Association says there will not be bread, canned goods, fruits and vegetables on many grocery shelves in a few days because of the price freeze.

The Greater New Haven Chamber of Commerce reported a week ago that "extremely serious shortages" of some fresh fruits, baked goods, eggs and poultry products can be expected in a matter of days because food processors are not willing to pay prices being asked at the grower's level. The New Haven Chamber's chairman, Cornelius P. Courtney, pointed out as an example that some stores are having to pay $5.50 to purchase a 100-pound bag of flour but are forced to sell it at $4.89.

Richard Economou of the Connecticut Celery Co. is being forced to cut back on purchase of tomatoes rather than take a loss on resale.

Frank Perri, vice president of R. Perri & Sons of New Haven, a well-established firm in the meat industry has brought to my attention the fact that the present control program may very well force him and many others out of business. At this time at least 40 meat plants nationwide have been forced to close because of the present economic control programs.

Charles Alpert, president of the Herman Alpert Co. of New Haven, Conn., an interstate meat processor, has informed me that the current economic regulations are causing extreme financial hardship which utimately could result in the closing of the company.

The Grote and Weigel Co. of Bloomfield, Conn., is likewise faced with an emergency situation because the prices they must pay for raw products exceeds the prices at which they can sell.

Chester Hale of Eggs, Inc. of Brooklyn, Conn. is forced with a cutoff of feed supplies to feed his chickens because his supplier is caught in the price squeeze.

Many other examples of the price squeeze's economic injury to the egg, chicken, meat, dairy and vegetable industries could be cited. These firms are not seeking merely to increase their profit margin. They are fighting for survival. If they lose the fight we will all suffer.

The result of the ill-considered economic control program will be more food shortages, eventual higher prices, and increased unemployment as those in the food chain are forced to cut back on workers.

These situations could have been averted if Congress had adopted my proposal to place strict controls on farm prices. Unfortunately, on three separate occasions my legislation was defeated.

My office is in constant touch with the Cost of Living Council, the White House and the Agriculture Department urging an end to the present economic control program.

It is time for Congress and the administration to bite the bullet and stand up to the powerful agri-business lobbyists who have worked to defeat my amendments. Price controls must be placed on raw agricultural products and the multibillion farm subsidy program ended.

I ask unanimous consent that the following articles from Connecticut newspapers and communications from Connecticut be printed in the RECORD.

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

[From the Stamford (Conn.) Advocate, July 12, 1973]

WHOLESALER SQUEEZE FORCES JOB LAYOFFS

HARTFORD, CONN.—The price squeeze on tomatoes and other vegetables has forced a major produce distributor to lay off 25 men, and the firm said the men won't be rehired unless the market becomes profitable.

Richard Economou, vice president of the Connecticut Celery Co., said his firm will reduce its volume or not handle produce that is priced above the frozen wholesalers' price, and "the net result will be lack of employment."

Economou said the firm is handling tomatoes on a very small scale because of an increase in the price. But he said tomato crops in California, Maryland, Virginia and Connecticut will be harvested in the coming weeks, and the price should drop.

Even so, Economou says, high prices for other produce may force the firm to permanently reduce its employment of drivers and other workers.

"We don't anticipate rehiring unless there's an improvement in the situation," he said.

The wholesalers' reluctance to buy produce has led some growers, Economou says, to sell produce in Canada to avoid price controls.

Another distributor, Robert Weiner, vice president of Weiner Bros., said "it's going to get worse as this thing goes along."

"There is absolutely no control on anything that's grown," Weiner said. "The farmer is told he can get anything he wants."

Cornelius P. Courtney, the head of the Connecticut Food Stores Association, also warned Tuesday that consumers can expect serious shortages of fruits and vegetables unless the price ceiling is lifted.

Courtney said processors aren't willing to

buy food because they can't make a reasonable profit on it.

[From the Norwalk (Conn.) Hour, July 12, 1973]

GROUP CLAIMS FREEZE ON PRICES WILL CAUSE GROCERY SHORTAGES

The Connecticut Food Stores Association is claiming there won't be bread, canned goods, fruits or vegetables on many grocery shelves in a few days because of the price freeze.

The New Haven Chamber of Commerce is charging that the price freeze's ill effect on business and consumers is not being monitored by the Cost of Living Council.

And the Internal Revenue Service reports it has received over 1,000 complaints from consumers on price freeze violations.

Cornelius P. Courtney, executive director of the 800-member association, said Tuesday that "extremely serious shortages" of some fresh fruits, baked goods, eggs and poultry products can be expected in a matter of days because food processors are not willing to pay prices being asked at the grower level.

"Some retailers are being forced to discontinue certain food products rather than sell them at a loss," Courtney said.

He said some stores are getting a 100-lb bag of flour for $5.50 for resale at $4.89. "Processors are no longer producing because of the high cost of foodstuffs," he said.

He said under the current price freeze, retailers are being made to absorb the high cost of labor and unprocessed foods because they are not frozen.

"We hope that the absolute freeze will be lifted at once, because the longer it lasts, the greater problem it is going to be," the food stores association head said.

The Greater New Haven Chamber of Commerce said the current price freeze "is creating distortions in the economy" because the Cost of Living Council has no way of knowing its ill effects on businesses and consumers to enable it to take corrective measures.

Frederick J. Mancheski, the chamber's board chairman said the council needs information from businessmen on problems as production cutbacks, cancellation of orders, rationing, postponement of shipment and shortages of raw materials.

Mancheski announced that the Chamber of Commerce of the United States has created a price freeze impact data exchange which will receive and transmit hourly information from businessmen to the Cost of Living Council.

The Internal Revenue Service in Connecticut confirmed it was not monitoring information mentioned by the New Haven Chamber of Commerce, but it was filing weekly reports on complaints and price freeze violations to the council.

"We have received over 1,000 complaints from consumers so far, but they were mainly due to misunderstanding," an IRS spokesman said.

She said 90 establishments investigated for alleged violations were found to be in compliance with regulations.

According to her about half of the complaints involved food prices, the rest gasoline prices. She said over 200 retail gas stations were checked last week and 70 per cent were in compliance with the freeze.

The spokesman said consumers were baffled with differing prices. "But even those selling at the highest prices may not be in violation if the figures were in effect between June 1 and June 8," she said.

The IRS said letters are being sent and meetings held to inform the public on the new price freeze.

Senator ABRAHAM RIBICOFF,
Old Senate Office Building,
Capitol Hill, D.C.:

The current meat industry ceiling price regulations are directly causing extremely serious financial losses to us. An immediate release of controls must be effected to prevent us and many others from closing our doors. We are an interstate meat processor and an integral part of our area employment picture and the area economy. Your strong immediate influence is urgently requested.

CHARLES ALPERT,
President, Herman Alpert Co., Inc.

Senator ABRAHAM RIBICOFF,
Washington, D.C.:

Follow up of our July 6 wire to you. Meat industry ceiling price regulations continue to very seriously cause financial losses in the operation of our sausage manufacturing business. Close down of our business eminent unless controls are immediately lifted or drastically reduced. Our community economic picture will be adversely affected if forced to shut down. We plead for strong immediate influence to correct this tragic condition.

FRANK PERRI,
Vice President, R. Perri & Sons, Inc.

GENETIC DISEASE

Mr. JAVITS. Mr. President, the Health Subcommittee of the Committee on Labor and Public Welfare—of which I am ranking minority member—has conducted 6 days of hearings on human experimentation in biomedical research. On the hearings' legislative agenda were two bills which I authored: S. 878 which, to protect the rights and welfare of human subjects in all research activities, would set in place the NIH ethical research guidelines as a condition for Federal funding support; and S. 974 which would authorize special project grants to medical schools to establish programs on the ethical, social, legal, and moral implication of advances in biomedical research and technology.

As a result of these hearings, Senator KENNEDY and I introduced a bill (S. 2072) incorporating in substantial measure, the provisions of S. 878 and S. 974, and in addition, establishing a Commission to develop the basic ethical principles which should underlie the conduct of research.

An article in the February 1973 Hastings Center Report focuses our attention on one facet of biomedical research—the urgent need to understand and to act as informed citizens regarding the genetic manipulation of our population. The article discusses amniocentesis—a medical procedure, which by inserting a hollow needle through the abdominal and uterine walls into the amniotic sac and withdrawing fluid and cells of the fetus, permits us to diagnose certain genetic abnormalities of the fetus—and its implications for mankind. The article concludes—and I agree—

We must recognize that we are morally bound to continue in the effort to find cures for those who have genetic diseases whom we currently detect and abort in the womb. The greatest danger of the institutionalization of prenatal diagnosis is that it will so blunt our moral consciousness, that we may forget that a "selective" abortion is only a temporary expedient reflecting our utter helplessness now to deal with the burden of genetic disease.

I commend the article entitled "How Much Do We Want To Know About the Unborn?" to the attention of my colleagues and ask unanimous consent that the full text be printed in the RECORD at the conclusion of my remarks.

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

HOW MUCH DO WE WANT TO KNOW ABOUT THE UNBORN?

(By Marc Lappe)

(NOTE.—Dr. Lappe, an experimental pathologist, is the Institute's staff Associate for the Biological Sciences.)

When we are part of a revolution, the truly revolutionizing events may all but be invisible to us. One of the key hidden events that comprise the Biological Revolution may be the advent of techniques which enable us to predict the anatomical, physiological and genetic constitution of the unborn. *Endoamnioscopy* in which a fiber-optic device is used to visually probe, and someday allow surgery on the fetus, and *ultrasound* in which high frequency sound waves are used to locate the placenta and most recently to record whether or not the fetus is breathing, are but two of these techniques. Neither compare in revolutionary impact with the ability to make a prenatal diagnosis of the genetic composition of the fetus. This feat is accomplished by the technique of *amniocentesis.*

Amniocentesis, from the Greek roots *amnion* for lamb, and *kentesis* for puncture, entails inserting a hollow needle through the addominal and uterine walls into the amniotic sac and withdrawing fluid and cells shed by the fetus. This procedure has been heralded as a development which makes it possible for parents to have children free of genetic disease. But the image of the sacrificial lamb conjured up by the Greek etymology of "amniocentesis" is more than accidental: in order to allow the birth of those free of genetic disease, it is necessary to kill those affected by it. It would not be possible for society to blithely accept this equation (as it has) without two prior, equally revolutionary, developments: The Pill and legalized abortion.

The Pill and legalized abortion make it unnecessary for every woman to consider herself fated to bear unlimited numbers of children. Adult genetic testing and prenatal diagnosis make it necessary for *any* woman who wants to bear children to ask herself if she should. The profundity of the questions raised by introducing any technology which can tell a woman whether or not she is an "appropriate" mother are self-evident. The questions posed by prenatal diagnosis and genetic testing of the fetus are no less profound; what is really at stake is the question of whom we are ready to admit into the human community.

IN SEARCH OF "HEALTH"

As John Fletcher has uncovered in the first systematic study of the experience of amniocentesis (*Pastoral Psychology* Vol. 23, April, 1972), discovering the genetic fate of one's children and ending a pregnancy may lead people to the borderline question of the meaning of human existence. For most of the 25 couples he studied (all of whom had already had one damaged child) undertaking amniocentesis was in fact an experiment to get a healthy child. One of the mothers early in the study reflected on this and said, "These days you have a choice about having a healthy baby." In his interviews there was a buoyancy, a hope for the "healthy life," which often split the parents' loyalty to their damaged child from the new norm they imagined was opened to them by amniocentesis. As expected, the values of health and intelligence which their largely middle class style embodied, raised their expectations for these same qualities in their children. More insidiously, however, the very health, intelligence and normality of their yet-to-be-born children became what many of these parents used to formulate their *own* sense

of adequacy and success. It was as if the birth of a defective child, in Daniel Callahan's words, would be "the ultimate undoing of themselves."

When, as in three cases, the experiment ended in failure, all of the women elected to be sterilized. When asked why not the husband, one woman replied, "It's my fault, why should he have to pay for it." This self-imposed sense of genetic responsibility and guilt appeared to be markedly impressed on all of the female members of the pregnancy partnerships. One woman receiving a diagnosis of defect in her fetus stated, "You spend all your life looking at pictures of pretty babies and their mothers and thinking that will be you. It's pretty gruesome when you are the one who is different."

Prenatal diagnosis promises then not only to reinforce tendencies towards denial of human frailty and fallibility, but also to raise the specter of parents who believe that they can and *must* guarantee the normality of their children. This is the one thing which prenatal diagnosis *cannot* do. Contrary to offering a test for "normalcy," a prenatal diagnosis only rules out the possibility of (usually) a *single* abnormality. It does little if anything to reduce the average risk of defect which is as high as 1 child in 40.

Apart from the limited benefits and heavy responsibilities it offers to families who must avoid the birth of another like-damaged child, prenatal diagnosis poses profound questions for society itself. The allure of a genetic test for a normal, or in the future an *optimal* baby, threatens to reinforce an inexorable trend in Western society towards typecasting the less-than-optimal into categories for assortment and ultimate disposal. There is a long tradition in the West to regard those whose appearance approximates an idealized image as "normal," and those that fail to miror that image as "defective." The Greeks thought they recognized man's approximation to godhood in the mathematical abstraction of the harmonic mean to the human proportions: yet, they were ready, in Aristotle's words, "to let no child be brought up flawed." It was no accident that the renaissance of that ideal (Michelangelo's *David* or Leonardo's *Man Inscribed in a Circle*) brought with it a wholesale rejection of the imperfect and impure among the varieties of men. Then, as today, the genetic Gypsies of the world were isolated from their normal brethren in institutions that mixed the insane with the genetically damaged. What God had neglected during the Dark Ages, Renaissance Man had now to perfect. After the second Fall, the perfection of His creation desperately needed to be reasserted. Even common barnyard animals whose behavior or appearance transgressed God's Laws (a "cock" laying an egg as a result of normal senile sex reversal in hens, for example) were actually tried in *human* courts of law.

VARIABILITY

It should come as no surprise that a society which derives its historical continuity from this period can still regard homosexuality, transvestism or other gender role distortions as crimes against nature, when our forebearers were burning animals at the stake for like "crimes." It is noteworthy that the key which opened the door to the notion of the intrinsic *variability* of Man—indeed the mutability of all species—was the final acceptance in the mid-1700s that human monstrosities were *part* of Creation.

In this light, Jerome Lejeune, the first to report the chromosomal basis for Down's Syndrome, has argued for the acceptance of the genetically "unfit" as part of the human community. He believes that it is just as wrong to stereotype our notions of the "defective" as we have the "normal." His views are borne out in the most recent review of the physical stigmata of Down's syndrome which listed 18 characteristics of the condition (palmar creases, epicanthic folds, deformed ears, etc.). An individual could have as many as 11 of the stereotyped feature of "Mongolism" and still be normal or as few as 5 features and still have Down's syndrome. Moreover, many individuals with the chromosomal composition signifying "Down's syndrome" are capable of such "normal" human activities as caring, loving and working. The relevance of these observations to the moral decisions involved in prenatal diagnosis and postnatal societal attitudes are obvious.

We are faced then with a paradox; knowledge of the unborn is crucial if we are now to avoid the birth of the untreatably genetically defective and later to treat them—but now do we move from abortion to tentative treatment? Our problem is compounded by the fact that we do not yet know how to interpret all genetic knowledge. We simply do not have the wisdom to decide, for example, if parents should be told their child has an extra Y chromosome, or if a particular balanced chromosomal translocation means the child will be normal or abnormal. We do not know for sure what certain genetic tests mean—not *every* child with a positive test for phenylketonuria develops the mental retardation usually associated with the untreated disease. What then do we do with the onus of genetic information about the unborn which we will inevitably acquire?

BROAD EFFECTS

First, we must be extremely conscious of the broad effects such knowledge may have in shaping our thinking and feeling about the genetically defective already alive. Second, we must resist the tendency to stigmatize those parents who, given full knowledge of the risks of child-bearing, still proceed to have a child with a defect like Down's syndrome. Third, we must incorporate the new technologies surrounding the unborn into our lives as sensitively and ethically as possible. This means that the expedient of selective abortion for the genetically defective must not become the "final solution" in our attempts to ameliorate the sequelae of genetic defects. It would be unthinkable and immoral if in our zeal to "conquer" genetic defects, we failed to recognize that the "defective" we identify and abort are no less human than we. The Tay-Sachs child may have but one out of 10,000 pairs of genes non-functional, yet still be rendered incapable of a truly human existence. Our empathy for the genetically unfortunate should lead us to develop therapies—even for those conditions that we consider so hopeless that all affected fetuses are currently sacrificed.

There will inevitably be those who, armed with cost -benefit analyses, demonstrate that it is always easier and cheaper to terminate a "genetic illness" than to treat the child burdened with it—and cheaper still to prevent the conception of a "defective" in the first place than to have to live with the burden of the person who embodies the defect. Nevertheless, we must recognize that we are morally bound to continue in the effort to find cures for those who have genetic diseases whom we currently detect and abort in the womb. The greatest danger of the institutionalization of prenatal diagnosis is that it will so blunt our moral consciousness, that we may forget that a "selective" abortion is only a temporary expedient reflecting our utter helplessness now to deal with the burden of genetic disease.

ADDRESS BY SENATOR TALMADGE AT 59TH ANNIVERSARY OF DRUID HILLS BAPTIST CHURCH, ATLANTA, GA.

Mr. ERVIN. Mr. President, on July 1, 1973, our colleague, Senator HERMAN TALMADGE, made an eloquent address at the Druid Hills Baptist Church in Atlanta, Ga., on the occasion of the observance of its 59th anniversary. Incidentally, Dr. Louis D. Newton, one of America's most distinguished ministers, was pastor of this church during the 40 years preceding his recent retirement.

This address merits the widest dissemination. For this reason, I ask unanimous consent that it be printed in the RECORD.

There being no objection, the address was ordered printed, as follows:

ADDRESS BY SENATOR TALMADGE

I greatly appreciate this opportunity to join you this evening in this program.

It is a special pleasure to me, and I know to all of you as well, that we have our old friend Dr. Louis Newton up here with us. I am grateful for his kind introduction.

It is a great honor to temporarily assume a position at the pulpit that was held for so many wonderful years by Dr. Newton.

Louis Newton is a man of great faith who has devoted his entire life to the Baptist Church. Dr. Newton is the personification of devoted ministry, hardworking stewardship, and spiritual leadership that has seen our State and nation through good time and bad.

I am also very proud to join your church in the observance of its 59th anniversary.

This is indeed an important milestone and I congratulate your pastor and all the congregation.

In the biblical description of the Exodus, when God chose to reveal himself and his law to Moses, the Lord said of the children of Israel:

"Let them make me a sanctuary, that I may dwell among them."

More than just bricks and mortar, your church is a sacred place of worship and refuge in your community.

Here in this tabernacle, you find comfort and consolation from the cares of the world. And, as all you well know, our cares today are many and complex.

These are indeed difficult times. Men the world over are greatly troubled. Nations stand in mortal fear and suspicion of one another.

And, here at home, where there ought to be unity and strength, there is too much discord and distrust.

This is also the week that we celebrate the birthday and independence of our nation. It is a week for study and recollection. It is a week to contemplate the heritage of America that has been handed down to us for generations.

On the 50th anniverary of the Declaration of Independence, Thomas Jefferson—the author of that great document—wrote to a friend and recounted the blessings of liberty.

A half century had passed since the American colonists chose to fight for freedom and found a new nation.

Thomas Jefferson wrote to his friend that all eyes are opening to the rights of man, and to the fact that man was born free—and not with a saddle on his back.

At the time he wrote that letter, Jefferson's death was only a few days away. It was one of his final wishes that the Fourth of July be marked as a day for patriotic observance.

Citizens would do well to read again and again the Declaration of Independence. It was the cornerstone for the American Republic.

It is also important to consider the Declaration of Independence along with the Constitution. The Declaration sets forth the principles to which the American people pledged their lives, fortunes, and sacred honor.

The Constitution sets forth the means for carrying out these principles.

Both these documents are approaching their 200th year. But the principles they stand for are timeless.

As a nation of people, we are very often guilty of backsliding. These ideals that made America great, and that kept us free and prosperous, need to be reexamined and strengthened all the time.

One of the strongest characteristics of the Founding Fathers was their strong faith in the Almighty. They believed that no nation could be founded, or could long endure, in the absence of religion.

The Founding Fathers no doubt would be shocked by the present state of the American Republic.

They would find a country torn by dissention and disorder. Principles and institutions that once were cherished by all are now scorned by many.

Old-fashioned ideals of self-restraint, personal initiative have been abused.

Patriotism and loyalty to God and country mean different things to different people—if they mean anything at all.

The Founders of America no doubt would be greatly discouraged. But, this nation was not created by men who lost heart when things were going badly.

By the same token, neither our nation nor our freedom are going to be preserved today by the fainthearted.

Not in recent history has there been a greater need for men to turn to God. Never have we had so much to gain by securing divine guidance, or so much to lose if we do not.

We have in the United States Senate a prayer breakfast group. It meets in the Capitol each Wednesday morning while Congress is in session.

It is an intimate and deeply personal gathering. Each week, a selected member of our group brings a spiritual message.

There are also responses and discussion thereby involving all those present.

I have been a regular participant in the prayer breakfast for the 16 years I have been in the Senate.

I like to think of it as a meeting of the minds and souls of senators in recognition of the higher power that guides all of us in our service to state and nation.

By coming together each week as we do, we pay respect to the eternal truth, as enunciated by the Psalmist.

"Blessed is the nation whose
God is the Lord."

If man cannot attain goodness, greatness, or righteousness in the absence of God—how then can a nation?

Wise old Ben Franklin said it best when he urged that the Constitutional Convention of 1787 be opened with prayer. I still find great meaning in his words.

Said Franklin:

"I have lived, sir, a long time, and the longer I live, the more convincing proofs I see of this truth—God governs in the affairs of men. If a sparrow cannot fall to the ground without His notice, is it probable that an empire can rise without His aid?"

We live today in an age of great change.

The environment is changing.

Our rivers and lakes and oceans and our air are being polluted.

The unemployed and the unemployable are abandoning rural areas for cities—which already are overcrowded and have more problems than they can handle.

At the same time, the more affluent city people are fleeing to the suburbs.

We are taking giant strides in science, medicine, and technology.

In short, everything around us is changing, sometimes so fast that we can barely keep up.

There is an old French proverb to the effect that the more things change, the more they seem to be the same.

Charles Dickens, writing around 1848 in "The Tale of Two Cities," about the French Revolution, had this to say:

"It was the Best of Times—It was the Worst of Times."

Our times today can be described in similar terms. In many respects, we have today the best of times.

Unparalleled prosperity.

National wealth in both human and economic resources.

Advances in science and technology that have virtually opened up the world, and indeed even outer space.

A higher standard of living and more freedom than any other society in the world.

Yet, the era today can also be described as the worst of times.

Our nation and the world are moving at a very rapid pace toward greater progress.

But we are going just as fast in another direction.

We are rapidly departing from fundamental national ideals and human principles that are far more important to our well being now, in the future, and for all time, than national wealth and all the things that prosperity can buy.

The poetic lament of William Wordsworth is particularly appropriate:

"The world is too much with us. Late and soon, getting and spending, we lay waste our powers . . ."

In my humble opinion, we need to place a great deal more emphasis on the soul and the spirit of man, than upon his social, scientific, and economic progress.

The Apostle Paul warned against this in his message to the Philippians:

"Whatsoever things are true,
Whatsoever things are honest,
Whatsoever things are just,
Whatsoever things are pure,
Whatsoever things are lovely,
Whatsoever things are of good report;
If there be any virtue, and if there be any praise, think on these things."

We all know the familiar prayer:

"Oh God, give us serenity to accept what cannot be changed; courage to change what should be changed; and wisdom to distinguish the one from the other."

God's love has not changed.

Nor has the immortality of the soul . . . the Gospel message . . . and the need to pray, and the power of prayer.

None of these will ever change.

But, in considering some of the great changes that have taken place in our society, let us turn to an examination of character—the qualities and attributes of our people—to see if there are areas in which no advancement, no change for the better, has taken place.

First, I suggest that in the area of spirituality there has been no improvement in the last two centuries.

Compared with 200 years ago, there is less reverence, less of a feeling that God is a part of our everyday lives, less of a feeling that God rules and that God cares, less of a feeling that we are accountable to God for our actions.

In short, I am concerned that we are no longer the God-fearing nation that we once were, and that we no longer subscribe to the religious principles which guided our forefathers.

In the area of man's ability to live in peace and harmony with his fellow man, there has been little change for the better.

This applies to individual and personal dealings with our own neighbors, as well as relationships between nations.

Also, in the area of individual enterprise, self-reliance, and resourcefulness—what we once called the pioneer spirit—there has been no change for the better.

All too often, the feeling is, let the government do it, let the government assume the burden and pay the cost.

In these areas, all of which have to do with the human character, there has been no change for the better in this so-called age of great change.

To refer once again to Paul, in his epistle to the Colossians, the Apostle wrote further on the real and lasting values in life.

"Set your affection on things above, not things on the earth."

Other nations may some day surpass us in the production of things.

Be that as it may.

But let no one weaken or take from us our faith. Let no one undermine fundamental principles which have guided our country for almost two centuries.

We are a great and powerful nation.

We have the best government in the world.

We have more freedom and more prosperity than any other people.

For these, and all our blessings, we are thankful.

But after all has been said and done, from the highest to the lowest, we are all but mere mortals in the eyes of God.

We are a prosperous nation.

But we have no wealth without the riches that come from the blessings of God.

We are a strong nation.

But there is no real security outside the safety of the Almighty.

We are a free people, but as we are told in Second Corinthians, there is liberty only in the spirit of the Lord.

It is my prayer that we shall always remember that power and love and security come not from the things of this earth.

They are the blessings of faith.

SENATE TOASTMASTERS CLUB ESTABLISHES FINE RECORD

Mr. HANSEN. Mr. President, in April 1972, I was privileged to become a charter member of the U.S. Senate Toastmasters Club, an organization affiliated with Toastmasters International, a group representing 60,000 men and women, here and abroad.

The Senate club has grown rapidly, and now boasts 40 members, the maximum permitted by Toastmasters rules, and has become one of the most active clubs in the country.

One of the past presidents of the club, Mr. Williamson Day, entered the annual Toastmasters speaking contest last March and, since then, has won speech competitions at the club, area, division, district, and regional levels. He now proceeds to the international finals in Houston on August 18, 1973.

Mr. Day's winning speech at the regional level—which encompasses Toastmasters clubs on the eastern seaboard—was titled "Perspective."

I am pleased to share his thoughts with my colleagues.

I ask unanimous consent to have printed in the RECORD the speech by Mr. Day.

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

PERSPECTIVE

(By Williamson Day)

"My orders are to kill you—all of you—and to leave you 'til your bodies rot and your bones bleach."

So swore a Government agent in 1830, reflecting frontier policy toward the American Indian, a policy of virtual extermination. That policy came home to me last month when my seven-year-old son said, "Dad, what was it like to be an Indian?" I told him I didn't know, that I had never seen America through the eyes of the First American.

Tonight, for just a few minutes, trade places with the American Indian of the frontier. See if, in part, your perspective changes.

It is 1838, The Great Smokies, North Caro-

lina. You are a Cherokee woman, wife of a brave, and you look at lush woodlands and sparkling streams. You look for the last time. The White Father has torn up his paper that guaranteed you your land in perpetuity. He has found minerals and timber in your hills, so you leave for Indian Territory, 1,000 miles away.

You carry your six-month-old baby and a little dried food. White men force the pace, whipping stragglers, cutting rations. Finally, you can go no further. Your feet bleed in your moccasins. Your child's skin is stretched tight across his ribs; he no longer wakes. It doesn't matter—your breasts are dry.

You drop in the snow and draw a knife from your belt. You have very little strength, but you have enough to kill your child and then yourself. You are one of 4,000 who die, and your march is called The Trail of Tears.

It is 1864, Sand Creek, Colorado. You are Black Hawk, Arapaho brave, waiting for hunters to return with buffalo. The white man has sworn eternal peace, has touched his pen to paper, so your camp sleeps.

Out of the morning mist, without warning, shadowy figures take shape: bluecoat soldiers. Machine guns open fire, ripping teepees, ponies and people. You shout for parley. Old men make the sign of peace. A six-year-old girl holds a white flag on a stick. Their answer: bluecoat bullets.

But you are Black Hawk. You have met the Great Father Lincoln. You carry his flag with its great white stars. You bear his promise: "Under this flag no bluecoat will harm you."

You hold your flag high, and watch as your old men, women and children die. Then you fall, wounded.

In death you clutch your flag: red, white and blue; but now the great white stars are stained blood red.

1877, Fort Reno, Nevada. You are a ten-year old Cheyenne, son of a chief. You stand with your father on white man's reservation, looking at mesquite and brackish water. You are hungry and your sisters whimper for food. Your mother has white man's coughing sickness.

Promised you could leave, you go; you and 300 Cheyenne start North for the Cimarron and your hunting grounds. But the white man changes his mind; and 10,000 bluecoats give chase. Five times they catch you. Five times you escape.

Now it snows. You put on your father's moccasins and he walks barefoot, his cut feet leaving crimson footprints in the snow. You are colder than you've ever been. Your father kills his pony and puts your feet and hands inside to keep warm. He lies close to the pony—very close and very still. You can't feel your feet any more, or your hands, or your face. You want to cry, but sons of chiefs do not cry as they go to their deaths.

And so, my friends, has your perspective changed a shade? Has history one more comma, one more footnote than it had before?

Tell the story of the American frontier. Tell it to your children and your children's children. Tell it to the world. But, if you would serve humanity, tell it with truth and compassion. Tell it, in part, through the eyes of the first American.

THE JAMES A. MAY NOMINATION

Mr. FULBRIGHT. Mr. President, last week the Committee on Foreign Relations approved the nomination of Mr. James A. May for promotion from a U.S. Foreign Service officer of class 3 to class 2, and ordered the nomination reported to the Senate with the recommendation that it be confirmed. The nomination is now pending before the Senate.

Mr. James May's nomination was first included on a Foreign Service promotion list which was submitted to the Senate and referred to the Committee on Foreign Relations on December 1, 1971. This list was returned to the President after the Senate adjourned on December 17, 1971. The next promotion list containing the May nomination was received on June 20, 1972. When the committee considered this list in executive session on June 24, 1972, testimony was received from Congressman SAMUEL STRATTON that the My Lai Incident Subcommittee of the House Armed Services Committee had found—after an investigation completed in July of 1970—that Mr. May failed to make reports of the My Lai incident of which he allegedly had knowledge. Accordingly, the propriety of promoting Mr. May at that time was questioned.

Subsequently, at the committee's suggestion, Ambassador William O. Hall, the Director General of the Foreign Service, appointed a special panel to investigate Mr. James May's alleged involvement in the cover-up of the My Lai incident. On February 9, 1973, the members of that panel—Mr. Robert S. McCollum, a Colorado businessman; former Ambassador Jack K. McFall; and Mr. Henry Leroy Jones, a Washington lawyer—submitted their report to Ambassador Hall, who in turn transmitted it to the Committee on Foreign Relations on February 14, 1973. The panel, after extensive interrogation of alleged participants, concluded as follows:

We have carefully reviewed all the findings of the My Lai Incident Investigating Subcommittee of the House Armed Services Committee to the extent that they relate to Mr. May or the Quang Ngai Province Advisory Team of which he was the head.

We conclude that Mr. May was never informed of the allegations of a massacre or other atrocity committed by the troops of Task Force Barker on March 16. 1968 in Son My village.

Further, we conclude that there were no circumstances which would justify our finding that Mr. May should have known of the allegations.

On March 13, 1973, the White House submitted another Foreign Service promotion list which included the name of Mr. James A. May. During an executive session held on March 23, 1973, it was decided that, prior to taking final action on the May nomination, each member of the Committee on Foreign Relations should be sent a copy of the House Armed Services Subcommittee report on the My Lai Incident and the full report of the special panel referred to above. Finally, on July 11, 1973, the May nomination was considered in executive session again and the committee, by a voice vote and with a quorum present, ordered it reported favorably to the Senate for confirmation.

Mr. President, I ask unanimous consent that the letter dated February 9 from the members of the special panel to Ambassador Hall and Ambassador Hall's letter dated February 14, which is addressed to me as chairman of the committee, be printed in the RECORD. The entire report of the special panel, as well as the transcripts relating to the nomination of Mr. James A. May, are available in the committee's offices for any Member who wishes to examine them.

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

FEBRUARY 14, 1973.

Hon. J. W. FULBRIGHT,
Chairman, Committee on Foreign Relations, U.S. Senate

DEAR MR. CHAIRMAN: On August 28, 1972, I informed you that I was naming a Special Panel as you suggested to review the findings of the Report of the Armed Services Investigating Committee of the Committee on Armed Services of the House of Representatives in the matter of Mr. James A. May. The panel, Mr. Robert S. McCollum, a private businessman from Colorado with previous Government experience; former Ambassador Jack K. McFall of Washington; and Mr. Harry Leroy Jones, a Washington lawyer and former Department of Justice attorney, has now completed its investigation.

I am pleased to inform you that they have concluded that Mr. May was never informed of the allegations of a massacre or other atrocities committed during what has come to be known as the My Lai incident. Further, they concluded that there were no circumstances which would justify a finding that Mr. May should have known of the allegations. I am enclosing a copy of their report and conclusions.

In view of these findings, I intend to recommend to the Secretary that Mr. May's name be included in the next list of Foreign Service nominations for promotion. I anticipate this list will be forwarded to the Senate in the near future.

Should you or the staff of the Committee wish to discuss the report with me or the Chairman of the Special Panel either or both of us will be pleased to meet with you or them.

Sincerely yours,

WILLIAM O. HALL.

DEPARTMENT OF STATE,
Washington, D.C., February 9, 1973.

Ambassador WILLIAM O. HALL,
Director General of the Foreign Service, Department of State, Washington, D.C.

DEAR MR. AMBASSADOR: On October 4, 1972, you appointed a special panel to investigate the involvement or lack of involvement of Mr. James A. May, FSO, in the activities surrounding the knowledge and reporting of incidents connected with the My Lai Massacre in South Vietnam. The panel has spent three months in reading materials, and in interviewing both civilian and military who might supply our panel with facts related to their knowledge of Mr. May and his possible connection with the so-called "cover-up" of this incident.

We have enjoyed complete cooperation from the Secretary of the Army and from the Secretary of the Navy in the making available of material and personnel which we deemed necessary in our investigation. In addition, we would like to thank the Department for the full cooperation it afforded us. In particular our thanks go to Mr. Ammon Bartley, FSO, who has performed, in a superior way, the staff functions which we required.

The initial part of our investigation was devoted to reading voluminous material about My Lai including articles and books by independent reporters, and in reviewing numerous transcripts taken from the Peers Commission report. These transcripts of testimony by individuals with whom Mr. May had a reasonable measure of contact during the first six months of 1968 were supplied us by the Army. Following this background study, we established a schedule of interviews with approximately thirty individuals who were most closely involved. In addition, of course, we spent considerable time over a one-week period interviewing Mr. May.

Since the transcripts of the My Lai in-

vestigation by the My Lai Incident Subcommittee of the Armed Services Committee of the House of Representatives were not made available to us, we requested the assistance of that Committee in supplying names of individuals who they felt were particularly key to our study. The Chairman of this Committee, Congressman F. Edward Hébert, helpfully supplied such a list. Since three of the listed names were Vietnamese, it was decided by the panel that we would be remiss if we did not interview these identified individuals. By coincidence the Panel Chairman, Mr. McCollum, was going to the Far East on a vacation and agreed to spend the necessarry time in South Vietnam to obtain first-hand the required interviews. This was accomplished at considerable savings to the Government since Mr. McCollum's trip to the Far East was at his own expense.

As a result of our intensive investigation it would be possible for our panel to write a report of book size on this investigation which involved conditions in Quang Ngai Province at the time of the My Lai incident; the psychological atmosphere surrounding the post-TET period; the organizational structure of the Province, the relationship between the military and nonmilitary; and the involvement of the Voluntary Agency personnel who were in abundance in Quang Ngai Province during these days. Suffice it to say we are attaching a report in some detail of our investigation. Copies of the exact testimony, as taken by the court reporters provided us by the Department, will be filed with the Department and may be made available to those in the Department or to appropriate Committees of Congress. In addition, the panel stands ready to appear in person before you or any Congressional authority if it should be requested.

As a result of our inquiry, we unanimously conclude that Mr. James A. May, FSO, did not know about the My Lai incident during his stay in Quang Ngai. Any information which might have come to his attention or was reported in the daily briefings was in the context of a minor incident or as another example of VC propaganda. Not one Vietnamese admitted to having talked with Mr. May about the incident. Previous testimony linking him in any way was agreed to have been based on supposition and not on fact. It is particularly important to note that not one Voluntary Agency representative stationed in Quang Ngai acknowledged hearing about any massacre, even in the rumor stage. Had they so heard, they all vehemently agree they would have enthusiastically exposed such charges. Many, at least, admit they are strongly opposed to our involvement in Vietnam. Details of this and other testimony is included in the enclosed report.

Our panel made no attempt to evaluate Mr. May's overall performance in the Foreign Service or his relative merit compared to other FSO's in the same rank classification. Our only assignment was to investigate events connected to My Lai to the extent that we would be able to pass a considered judgment on whether or not Mr. May had knowledge of the massacre and was involved with any "cover-up" of the event. We repeat our conclusion that Mr. May did not in fact have actual knowledge of the My Lai Massacre, nor were there any circumstances from which knowledge of the massacre must be imputed to Mr. May. Mr. May was not involved in any "cover-up" of the incident.

We believe our investigation has been thorough and objective and in thus discharging our responsibilities, we have served the cause of justice regarding one man.

ROBERT S. MCCOLLUM,
Chairman.
JACK K. MCFALL,
Member.
HARRY LEROY JONES,
Member.

THE WATERGATE

Mr. HATFIELD. Mr. President, the facts that have recently surfaced regarding the matter of the Watergate break-in have prompted a great deal of public discussion about the possible damage that these irresponsible acts have wrought upon the confidence in the foundations of our entire system of government.

The concern that these discussions indicate also reveals a fear that indeed the very moral fibre of our Nation has been sapped of strength at a time when confidence in the American system is of great importance to enable us to meet the challenges that confront our great country.

I have had the opportunity to read some very timely and appropriate remarks entitled "The Moral Implications of Watergate" given in an address by Congressman Brooks Hays, a former Member of Congress and former president of the South Baptist Convention on June 26 at Potter's House, a coffee house here in Washington, D.C. which is sponsored by the Church of the Savior.

I ask my colleagues for unanimous consent to include the full text of Congressman Hays' remarks in the RECORD.

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

THE MORAL IMPLICATIONS OF WATERGATE

(Remarks of Brooks Hays)

It is appropriate to speak of public morals in a meeting sponsored by a church organization. While the Church cannot claim a monopoly of moral influences, we can invoke history to confirm that, without the Church, our American political institutions would be quite different. There are moral men outside the church, of course, and even religious men outside the Church, but the Church has been the conduit for the Judeo-Christian morality which underlies our culture.

Our forebears, determined to sever ties to tyrannical forms, left something behind to come to these Western shores, but they also brought something with them. They brought their Biblical faith, the faith which has sustained precious values, many of which have to do with our politics.

These values have been such a natural part of our daily lives that we experience a shock when we find a few men in power displaying an indifference to them and others a defiance of them. The undeniable facts associated with the Watergate experience should and do create a concern that, unchecked and uncorrected, the immoral political practices that are now known will erode these values and permanently damage the political structure in which these values have been conserved.

It is not chauvinism to speak of a special concern for these spiritual values which underlie the American political system. Dreams and hopes were spoken of before the skills of statesmen produced the republic. The religious settlers in Plymouth and Jamestown understood St. Paul's statement, "I am debtor to the Greek". They were also debtors to other older civilizations as we all are, and our special legacy must not blind us to these relationships.

The fashioning of new forms, in other words, was neither an intervention of Providence nor the existence of a special chemistry in the air and soil but rather the flowering of ancient ideals and standards which had not had a fair chance until this new continent provided a fresh experiment. Donald Peattie had that in mind I presume when he said "Our eager soul was born before the body politic". But more than a hope and an ideal is required. The political mechanisms of a free and just society are necessary, and without reverence for these implementations of our principles we cannot survive.

Jefferson produced the most eloquent expressions of this faith. His "Government by Consent of the Governed" was anticipated however, by the Psalmist who proclaimed that God made man "to have dominion" (8th Psalm). The democratic process also had scriptural sanction in the Book of Job, "let us find out among ourselves what is right." (Job 34:4)

What does this have to do with Watergate? Basically, it was distrust, even contempt, for popular rule and judgments that led to the criminal actions that were finally revealed in pleas of guilty and jury convictions for the night-time burglaries and the invasions of opponents' rights of privacy. Related to these overt acts were other depredations which I shall mention later.

The subversion of our political procedures was unprecedented. There have been efforts in every presidential campaign to learn as much as possible of the opposition tactics but generally these were rather innocent and no one can point to a single event in political history to support the claim that "it goes on all the time".

Let me add, however,that most of the public men I know are free from the condemnation of Henry Stimson, one of our greatest public servants, "Cynicism" he said, "is the only deadly sin."

The essential immorality of these activities is their subversive character. Democracy is primarily a process, and men who resort to crime to subvert it commit an assault upon the electorate—upon us all. Thoughtful politicians of both great political parties recognize this. That's why a Democratic mayor says "this hurts us all". It's why the Senate voted unanimously to investigate Watergate and why Republican Members of Congress say "this damages our party".

The convicted perpetrators of these terrible offenses against our electoral system, while never elected to public office, were in a definite sense guardians of a vital part of our government; but that guardianship was betrayed by their execution of directives which they had helped design. A tragic aspect of the event is that apparently sharing in the final decisions were men who held solemn responsibilities to help conduct our campaigns in conformity, not only to law but to the ordinary rules of sportsmanship and decency.

The betrayal of these responsibilities by party functionaries is just as shocking as if committed by occupants of public office.

I stress the point that my approach is nonpartisan. Unfortunately, this is necessary when judgments regarding actions by members of another political party are expressed. I would never assert that "our morals", meaning Democratic morals, are better than "their morals", meaning Republican morals, and referring to both in their corporate character.

And this is not to suggest that partisanship is always an unworthy attribute. In a political forum, critical judgments could well be considered the normal function of "the loyal opposition". Truth itself may on occasion be clearly partisan. It is the morality of results, not the morality of motive, that should engage the electorate in this tragic circumstance.

I believe that I may say, however, that while a loyal party man, I would certainly avoid partisanship where basic morals are involved. I could cite, for example, the comment of a lady in Arkansas who said during the Little Rock school crisis, "I voted for Ike and Brooks—I never split a ticket." President Eisenhower and I were on the same side of a moral issue.

The remedy for Watergate is three pronged—the first two judicial and legislative, are proceeding in traditional fashion

but the third remedy, the political one, presents problems. In this area we are all challenged. Leadership is a vital part of the problem of making secure the moral base for a good and a stable society. "If the gold rust, how can the iron be saved?" asked Chaucer. A second question follows. "If the gold does not rust, can the iron even then be saved?" Madison would say in the 20th Century, as he said in the 18th, "without popular education, popular government will be a farce or a tragedy, conceivably both." It then follows that the truth must be revealed and disseminated and respected. If we are fearful of the results of a search for truth we cannot as a nation climb to a finer moral posture.

One way of posing our national problem (considering now, not the sinfulness of the seven wrongdoers, and their accomplices, if any) is to point out that we have not yet learned to live with affluence. This human frailty was also contemplated by the early saints. "Love of money is the root of all kinds of evil," said Paul.

And at least some of the Committee must have seen that there was dubiousness in a forty million dollar campaign budget not only from a practical point of view but also from a moral stance. Republican members of Congress generally supported legislation, modest though it was, to improve procedures.

A footnote to the relevations record is the sad mistreatment of a college student who was talked into posing as a McGovern volunteer while being paid to spy on the Democrats he was deceiving. It would be interesting to know what counter influences are required to dissolve the cynicism produced in this young man's mind regarding the area of politics which is so vital to the happiness of all young men.

This system by which presidents and Congresses are chosen is a valuable heritage. It must be guarded. New legislation will be required. More important, however, is an awakened public conscience and a determination to do all things that will make a recurrence of Watergate impossible. We might well ponder the words of Christopher Morley, "There is nothing so tragic as to find something of value and of beauty committed to the care of those who do not appreciate it." Let succeeding generations find that this generation does appreciate this valuable legacy we call democracy.

Looking at the moral aspects of Watergate one must inevitably turn to theology for the needed words. Love is such a word. The fact is inescapable that those who committed the Watergate offenses were not cultivating a love of people and the peoples' system for electing their president, although that quality is basic for all who function as a part of the election machinery.

Lincoln Steffans, known in his time (50 years ago) as a "muckraker" because he exposed corruption, was once asked by a big city boss, "Why have you been so critical of me?" Steffans replied, "Because you have not been loyal." "But" replied the troubled man, "No one has been more loyal to friends than I"—"Oh, yes, to your allies, but your loyalty to the people has been betrayed. You were indebted to them, not these so-called friends, for your power, and you promised them you would be loyal, but you sacrificed their interests for your henchmen and those in your inner circle—you forgot the people."

To love people means one will resist temptations to promote a special interest which conflicts with their general interests. This quality of love and concern (the Greeks called it philos or agape) is essential to the success of the Senate's Investigation. Without it, there could be no comprehensive judicial probing of the complicated facts.

Sensitive viewers of the T.V. screening of the appearance of Herbert Porter and Jeb Magruder must surely have been moved by the concluding comments of Chairman Ervin and Senator Baker, both of whom exhibited deep sympathy for two men whose remorse over their false steps was obvious. Thus it would appear that the principal business before the Nation and the Congress can be satisfactorily dispatched with due regard to the moral principles upon which our form of government historically rests.

THE GENOCIDE CONVENTION PLACES RESPONSIBILITY ON THE STATE

Mr. PROXMIRE. Mr. President, the Genocide Convention has been constructed in such a manner that no one involved in the act of genocide should be able to go unpunished.

If genocide is instigated by a state—as was the case with Nazi Germany against the Jews in World War II—article VIII of the convention enables any other signatory to bring charges before the United Nations. This is true even if the crimes are committed by one country against an ethnic group within its borders—such as, Cyprus against its Turkish inhabitants. Without the Genocide Convention, a nation could claim that the U.N. had no jurisdiction over this matter because it was a domestic affair. But with this treaty, U.N. intervention in legitimate cases is legalized.

Acts not initiated by the Government are also covered by the Genocide Convention. This provision is especially important at the present time as we witness the actions of Middle Eastern guerrilla groups. Without the treaty, a state could try to absolve itself of the responsibility for the actions of these groups, arguing that, first, the state had no control over them, second, the deeds were the work of individuals, and third, the acts took place outside of the country. But article V nullifies these arguments by requiring contracting parties to punish people guilty of the acts listed in article III—including "complicity to commit genocide."

Thus, the Genocide Convention makes a two-pronged attack on state responsibility for genocide. Officials cannot claim that the acts were "acts of state," nor can the state claim that the acts were "acts of individuals." This is one more reason why this treaty must be ratified without delay.

DEVOTIONAL DELIVERED BY SENATOR SAM NUNN AT THE SENATE PRAYER BREAKFAST ON WEDNESDAY, JULY 11, 1973

Mr. HANSEN. Mr. President, it is my privilege to submit a message which was delivered at this week's Prayer Breakfast by my honorable colleague Senator SAM NUNN.

Senator NUNN's presentation has particular relevance for each of us. It is our pleasure to share his message with you and invite each of you to join us next Wednesday for your presence would add another dimension to our discussions.

I ask unanimous consent to have printed in the RECORD the devotional delivered by Senator SAM NUNN.

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

DEVOTIONAL DELIVERED BY SENATOR SAM NUNN AT THE SENATE PRAYER BREAKFAST ON WEDNESDAY, JULY 11, 1973

As I was struggling to develop a theme for today that might have some meaning to this distinguished group, I remembered a story that I heard as a young boy in Sunday School in my home town church. This story made a lasting impression on me, and though the details are somewhat vague in my mind, I still recall the main thrust.

One evening after an extremely busy day in a large city, a businessman rushed to catch the commuter train which would take him to his suburban home. In the station he noticed a small, poorly clothed, crippled boy selling apples at a small stand. Another man obviously in a great rush accidentally knocked the boy from his stand and all of the little fellow's apples were left scattered over the dirty floor of the station.

The man who caused this accident paused for a brief moment and muttered a meaningless apology before quickly departing in a rush to avoid missing the train. The businessman, also in a hurry, quickly passed by but had a second thought as he started aboard his departing train and returned to the scene.

As he stooped over to help the crippled boy recover his apples from the floor, he suddenly realized that the little fellow was also blind as he groped about in pursuit of his only merchandise.

The businessman who took a little time from his busy life recovered all the apples, brushed each one off with his handerchief and placed them on the fallen stand, which he had re-erected.

In departing he handed the young lad a crisp dollar bill. As the businessman started on his delayed journey, the little crippled boy clutched him by the coat and with large tears in the eyes that could not see, he asked him, "Mr., are you Jesus?"

I have never forgotten that story. It drove home to me the importance that can surround the routine acts of everyday life.

Jesus was saying the same thing when he told the story of the Good Samaritan. We all recall the setting. Along comes the man from Samaria. We don't know his name, but his admirers have called him the Good Samaritan. He is going along on horseback over the road that dips down from Jerusalem toward Jericho and, suddenly, there in the bushes beside the road he sees a groaning Jew, beaten up, bleeding, half-dead, robbed by bandits, helpless and pitiful.

The Priest and the Levite, seeing the man, walked by on the other side, but the Good Samaritan went over to him, poured oil and wine on his wounds and bandaged them. Then he put the man on his own animal and took him to an inn. The next day he took out two silver coins and gave them to the innkeeper. "Take care of him," he told the innkeeper, "and when I come back this way, I will pay you back whatever you spend on him."

We should not just take note of the obvious thing that the Good Samaritan did, but also what he did not do:

He did not wring his hands in pity and murmur, "Poor fellow, how I pity you, my heart goes out to you."

He did not stroke his beard and mutter, "I wonder who this chap is and how it all happened."

He did not unload that product of free advice and say cheerfully, "Come on my man, you must learn to help yourself, on your feet with you."

He did not get official and shake his head and say, "This situation is horrible and when I get to Jericho I shall report it immediately to the proper agency."

The marvel of the whole story is that the Good Samaritan saw a man in trouble; he did something immediately; he did it personally; he did it effectively and further-

more, he did it for someone who meant nothing to him at all.

There was no human attraction in the case; he wasn't playing the gallant knight to a beautiful young damsel in distress. There was no love lost between the Samaritans and the Jews, but he never thought of these things. All he knew was that there, in trouble, was his brother in the great family of humanity—his brother because they were both children of God. So, like a brother, he helped him.

Charity often stops dead in its tracks when there is a cost involved. We often will make the noblest promises, the highest resolves, but then draw back when the sacrifices involved become apparent.

But not the Good Samaritan. It cost him too; it cost him time and trouble, oil and wine; it cost him physical effort. He had to bandage up the poor man as best he could, lift him up on the horse and himself walk along on foot all the way to the village. Yes, and it cost him money, the money he gave the innkeeper. And that's the last we see of the Good Samaritan as he goes riding down the road of history, an obscure and humble figure with no thought of reward or fame.

The Bible is full of such references to seemingly small deeds, and their enduring effect on the lives of others.

I'm sure that each one of us can think of many examples from our own experiences of the abundant fruitfulness of a casual word or deed.

And the lesson proclaimed in these accounts should move each of us to re-examine our lives, our actions, our words, even our thoughts.

As U.S. Senators perhaps we should ask ourselves periodically: Just how important, in God's sight, are the things that can easily totally consume us: committee work, debate, votes on major issues?

Is God measuring us in terms of the magnitude of our world-shaping decisions and the recognition we may receive from man; or is He measuring our performance in terms of our willingness to emulate the life of the Master, who left us with these instructions: "In as much as ye have done it unto the least of these, ye have done it unto me"?

I do not mean to belittle the importance of our legislative tasks. They are essential to an effective government. But let us not forget the importance of the small things we say or do. Every action we take during the day, every word we utter, may have a lasting effect on someone, someone we may never know.

As I prepared my remarks today, I found this old proverb: "Though the words of the wise be as nails, yet their examples are the hammer to drive in the nails to take the deeper hold."

One young man who lives by example is Roger Staubach of the Dallas Cowboys. Asked by a reporter if he was proud to be known as a "square," Roger responded with a strong profession of his personal faith, "I am a Christian caring about other people . . . In this day and age when everyone is doing his own thing, I believe there is something greater that we are here for."

Asked if he thought there were zone defenses in Heaven, Staubach said, "From what I understand every pass you throw up there goes for a touchdown."

We must remember that every deed we perform may enable someone to go for a touchdown.

No other legislative body has the camera of the world turned on it and its individual members with such close scrutiny as the U.S. Senate.

It is incumbent upon us as Senators and Christians to constantly be aware of our opportunity to set an example in everything we do with our lives.

In God's sight and under his law, there is no insignificant life and no unimportant deed. In God's great order and in his good time the small may become vastly large.

As we ponder the great questions before the Senate and think that our lives are so totally involved in what takes place in the Chamber, let us never lose sight of the fact that if we take a careful look some day, we may notice the spilled apples of a blind, crippled boy . . . and we may hear the question: "Mister, are you Jesus?"

THE AUGUST 15 BOMBING DEADLINE

Mr. HARTKE. Mr. President, as a vocal opponent of the war in Indochina for the past 10 years, there is one question which continues to haunt me during this period when the war is supposedly "winding down."

What happens to the August 15 bombing deadline if Congress recesses from August 3 to September 3, as scheduled?

Unless we make preparations now to return to Washington in the middle of the recess, the administration will have 3 more weeks to continue the killing and maiming of innocent Southeast Asians. I know that this Congress has been hard at work during the past several weeks, but I believe that we should be prepared to cut short our vacation so that we can act to stop the bombing of Cambodia should it continue past the August 15 deadline which Congress has established.

Only recently, we learned that the bombing of Cambodia began long before the public was informed. Now, we are faced with the specter of continued bombing past the August 15 deadline. Late last month, I stood on this floor and urged my colleagues to end a decade of vacillation and confront the administration with a resolute determination to end the bombing immediately. We must not allow it to continue for one minute after the August 15 deadline.

We have been told that the level of bombing in Cambodia now surpasses anything undertaken over North and South Vietnam, and we know that more bombs fell there than fell throughout World War II. Will it take years, once again, to discover what our Government is doing in Southeast Asia? For the sake of our own men and the thousands of innocent victims who are being slaughtered, we must end our involvement in Southeast Asia now.

Mr. President, before we take our August recess, I urge that we make provision to come back if it becomes apparent that the administration does not intend to abide by the spirit of the August 15 deadline. Congress is being put to the test: Can we cope with the responsibility of ending a war which has devastated millions? I, for one, am willing to stay in Washington until it is clear that we have met our responsibilities.

THE CRISIS IN OUR FOOD INDUSTRY

Mr. TALMADGE. Mr. President, if the Government had deliberately set out to establish a policy which would have the effect of driving up food prices to consumers, creating severe shortages of basic foods, and generally damaging our food production capacity, I do not believe that a better system than the current 60-day freeze could have been devised.

In the committee resolution that was adopted on June 21, we warned the President exactly what would happen to our food supply of meat, poultry, and eggs. We told him of the liquidation of brood sows by pork producers and reduced herds of beef cattle.

In the intervening month, these events have occurred much more rapidly than even we thought. Already supermarkets in the Washington area report that they are unable to obtain adequate supplies of broilers and pork. I dislike to think of what will happen in a few short months.

This country has many problems right now. The dollar has plummeted in world markets; we have not been able to bring our involvement in Southeast Asia to a successful conclusion; the tight money market is making it impossible for the low- and middle-income family to purchase a home; the Watergate scandal is ever present in the news, but I believe that the most important problem that is facing our Nation at the present time is the growing crisis in our food supply. Already the folly of the past 2 months has created shortages and high prices for the next several months.

As chairman of the Committee on Agriculture and Forestry, I grow increasingly concerned about this impending crisis. Every day I receive numerous calls, letters, and telegrams concerning the disastrous effect of the current price freeze. Yesterday I received a letter from the National Independent Meat Packers Association indicating that the association knows of 40 meat plants that were closed because of the price freeze.

I know of many others where production has been severely curtailed and workers have been laid off. If they are not granted immediate relief, they too will have to close their doors. Processors of many other agricultural products face the same dilemma.

The producers of many foodstuffs have also sharply curtailed production. Dairy farmers are selling their cows for beef, thus cutting back on milk production at a time when domestic milk production is already below national demands. Everyone is familiar with the news accounts of drowning baby chicks and slaughter of pork breeding stock. During the week of June 27, the slaughter of laying hens was up 25 percent over the same week a year ago. The week of July 4 slaughter of laying hens was up 60 percent over the same week last year. These figures give dramatic testimony to the fact that restrictions on the exports of soybeans and other feed components will not stem the tide of liquidation of the broiler and egg industry.

The impending shortage of eggs is being reflected in rapidly escalating prices of shell egg futures. Dollar-a-dozen eggs are a good possibility.

The shortages of pork that are being created by the current freeze will be of longer duration than the poultry and egg shortages. While it takes 6 months to replace a hen that is slaughtered, it will take almost 2 years to bring pork production back to the needed levels. It will take even longer to increase the production of beef.

On June 21, only 8 days after the President announced the price freeze, the Senate Committee on Agriculture, realizing that this policy would prove to be disastrous, adopted a resolution and sent an urgent plea to the President to immediately lift the freeze and go on to a phase 4 program which would be better adapted to the special needs and problems of American agriculture. We have waited anxiously to see whether our advice would be taken. The committee has met on two separate occasions with Cost of Living Council officials. I have met privately with Dr. Dunlop, the Director of the Cost of Living Council and Secretary of Treasury Shultz. On each of these occasions, I have stated my objections to the current disastrous policy in the bluntest manner possible.

In fact, I have repeated the warnings about what is happening to our food supply so often that I feel like a prophet of doom. However, 4 weeks have elapsed since our plea was submitted to the President. I have waited—hoping that sanity would prevail and that the freeze would be lifted. Unfortunately, nothing yet has been done. We hear rumors that the freeze will be lifted any day now, but that a tight phase 4 program will be implemented.

All people who know agriculture know that in order to provide the abundance of food and fiber so necessary for our very existence, it is imperative that our producers have the opportunity, not only to cover costs of production, but to achieve at least a small profit.

This is impossible under existing rules for most of the livestock, dairy, poultry, and egg industries and for some of the fruit and vegetable producers as well.

Therefore, Mr. President, unless phase IV rules are fair and reasonable, I predict that this country and our best foreign markets will suffer immeasurably in the very near future. Shortages of these and other foods will be magnified unless the phase IV regulations recognize the cost-price situation which exists within the entire food industry.

I fully realize that consumers are faced with bulging food prices—but, at least the food is there.

The alternative to a realistic food policy is food shortages, rationing, and black markets.

I hope that the President's phase 4 plan will not be a halfway measure. I hope that it will provide the relief that will enable America's agricultural producers to replenish our depleted food reserves.

The Senate Committee on Agriculture and Forestry reported earlier this year and the Senate passed on June 8 a farm bill that is designed to increase agricultural production. This bill, the Agriculture and Consumer Protection Act of 1973, would encourage adequate production by giving farmers the incentive to produce. Under this target price program, the Federal Government would pay the farmer nothing in years when market prices reach a fair level. However, the farmer would receive a payment in years when the market price falls below the target price. Thus, the farmer would be encouraged to produce because he would receive protection against rock-bottom prices.

Mr. President, the farmer has to face a number of uncertainties. He is at the mercy of floods, drought, hailstorms, and other aberrations in weather. He has no control over the price that he receives for his product. Over the past several decades he has survived by dramatically increasing his efficiency and his productivity. Only the more efficient farmers have survived. However, even these efficient farmers must have a profit to continue farming.

Many farmers have had an opportunity to make a profit this year, but they are being faced with a new uncertainty, a new peril that is as bad as any whim of nature—the heavy hand of Government control. It has created higher prices and short supplies for consumers in the months to come. I hope that the phase IV program of the President will provide relief. I hope we will return to sanity in our food and agriculture policy.

Mr. President, I ask unanimous consent that there be printed in the RECORD at this point in my remarks the committee's resolution on the price freeze, a telegram from the United Egg Producers, and a letter from the National Independent Meat Packers Association.

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

STATEMENT ADOPTED AS A RESOLUTION BY THE U.S. SENATE COMMITTEE ON AGRICULTURE AND FORESTRY

Be it resolved that the Committee on Agriculture and Forestry of the United States Senate adopts the following statement regarding the impact of the current price freeze on food supplies:

The Committee wishes to compliment the President on his decisive action to halt inflation. We realize that rapidly escalating food prices have caused a severe hardship on many American consumers.

However, we fear that the present freeze on farm products will result in greatly increased prices in the future and severe shortages of some foods. Although raw agricultural products are supposedly exempt under the regulations implementing the present price freeze, the absolute freeze on all food prices at the retail level does in effect cause a freeze on all raw food prices at the farm level. In his message of June 13, the President stated:

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

Unfortunately, the freeze on prices of all agricultural commodities at all levels in the marketing chain does have the effect of freezing all prices at the farm level and it will have the effect that the President sought to avoid—it will prevent the increased supplies of food that we must have to meet domestic and world demand. In fact, the Committee fears that the current freeze will result in severe shortages of some agricultural products in the immediate future and make it difficult to buy some foods at any price. On March 29 the President imposed a price ceiling on beef, pork, and lamb. This freeze has already had an adverse impact on meat production, for red meat production was down five percent in the first four months of this year. Pork production was down 11 percent in January–April. There is no indication that beef and pork production can be increased sufficiently to meet increasing domestic demand.

Consumers have traditionally been able to ameliorate the effects of high red meat prices by increased consumption of poultry and eggs. However, rising feed costs have reduced poultry production, and broiler meat output will continue below 1972 levels. Also, egg production, which was down 6 percent during the January–April period, will be below the 1972 levels for the rest of this year. Indications are that turkey output will be smaller this year. The conditions which have produced these shortages are now frozen in.

We have received calls from all over the country expressing dismay and alarm about the impact of the current 60-day price freeze. There are reports of vegetable producers being unable to deliver vegetables at freeze price levels, the liquidation of brood sows by pork producers and reduced herds of beef cattle. There threatens to be an absolute breakdown in the marketing system of some farm products which have traditionally been marketed in an orderly fashion according to the law of supply and demand.

These problems may be further aggravated by a shortage of fuel for agricultural production and harvesting. Also, the shortage of fuel for motor transportation and the shortage of boxcars for rail transportation could seriously hamper the proper distribution of our food supplies.

The Committee recognizes the need to maintain a stable supply of food and to protect consumers from excessive price increases. It knows that the President must take firm action. However, we feel the current 60-day price freeze is not only counterproductive, it could prove to be disastrous. Therefore, we urge the President in the strongest terms possible to remove agriculture from the price freeze at once and place it under a Phase IV plan which hopefully will be better adapted to the special needs and problems of agricultural production.

In writing the Agriculture and Consumer Protection Act of 1973, which was passed by the Senate by a vote of 78 to 9, the Committee attempted to establish a farm program which would guarantee consumers a stable supply of food at fair and reasonable prices while protecting farmers' income. However, the Committee fears that a failure to lift the price freeze on food immediately will make the attainment of this goal impossible.

[Telegram]

UNITED EGG PRODUCERS,
Washington, D.C., July 12, 1973.

The PRESIDENT,
The White House,
Washington, D.C.

Mr. PRESIDENT: Early this week we called your attention to the 25 percent increase over last year in the slaughter of laying hens during the week of June 27 according to USDA report. Today's USDA fowl slaughter report for the week ending July 4 indicated a 60 percent increase in slaughter over the same week last year. This is further evidence that the American egg producer is rapidly liquidating his laying flocks because of the current freeze. It takes six months to replace a hen that is slaughtered. This action is being taken despite the fact our industry's flock size on June 1 was the smallest since 1961. Every day this accelerated slaughter is encouraged to continue by current policy, greater will be the shortage of eggs in future weeks. Only a change in Government policy to return some economic incentive to the marketplace will cause egg producers to discontinue this rapid liquidation of flocks and make plans to meet the needs of America's consumers in the future.

Respectfully,

JERRY BOOKEY, *President.*

THE NATIONAL INDEPENDENT
MEAT PACKERS ASSOCIATION,
Washington, D.C., July 11, 1973.

Hon. HERMAN E. TALMADGE,
U.S. Senate,
Washington, D.C.

DEAR SENATOR TALMADGE: For more than 100 days meat packers have been operating under a ceiling price freeze while their raw materials have remained free of federal intervention.

During 70 days of the freeze period, non-meat costs increased substantially, all of which had to be absorbed by the packers. Packaging materials, boxes, gas and other fuels, trucks and equipment have all increased substantially with no provisions for a passthrough of these costs.

The demand for meat products is highly seasonal and under normal circumstances prices for wholesale and retail cuts vary substantially from season to season. (Prices for products not in demand are reduced in order to maintain an even flow of all cuts of beef and pork. Prices for other products are raised to offset the lower return from products with little demand.)

Since the advent of the freeze on meat prices on March 29, the meat industry has been prohibited from exercising its traditional pricing mechanism with the result that products in high demand are selling at abnormally low ceilings and other products, of necessity, are being sold below ceiling.

While the meat industry has been laboring under price ceilings and while their non-meat costs have skyrocketed, other factors have also been working to the detriment of the meat packer—and the consumer.

Feed, equipment and operating costs have also increased for the cattle and hog producer and feeder. Although technically there are no ceilings on the price of raw agricultural products (livestock), in practice, the producers and feeders realize meat packers are limited in the price that can be paid and still stay in business.

Consequently, the livestock and meat industry is going out of business at an ever increasing rate. Livestock producers and feeders cannot raise red meat animals to a marketable weight and sell at a profit. Small cattle feeders are not restocking their feed lots. Commercial feed lots are replacing feeder cattle at much lower rates. Hog producers are getting out of the business at an alarming rate.

While pork production is down as much as 14% from a year ago, sow slaughter is up 2–3%. From 40% to 80% of the sows coming to market have been bred. This means that next winter's pork supply will not be born. As a result an even greater burden will be placed on an already short supply of beef.

Presently, beef production has been reduced 20% because meat packers cannot continue to lose up to $11 per head on all cattle slaughtered and continue to stay in business. Additional cutbacks in production are occurring as packers' earlier earnings are depleted.

Pork production has been reduced more than 20% and is dwindling rapidly. Hog prices have increased an average of $9 cwt since the March 29 freeze began. This has forced pork packers into a substantial loss position after a mediocre year in 1972.

The reduction in the production of beef and pork has necessarily resulted in reduced supplies of meat for the processed meat industry. Many manufacturers of luncheon meats have indicated they have raw materials to last through midweek but have little or no hope for supplies beyond that period.

Plant closings are increasing almost geometrically in rate. A week ago, there were only about 5 known plants that had closed. Today we know of 40 meat plants that have closed because of the price freeze. There are undoubtedly many more that we are not aware of.

As long as the meat price freeze is in effect, livestock production will decrease and meat production will decrease. Livestock men and meat packers cannot be expected to stay in business and operate at a loss. We do not believe that the Economic Stabilization Act was passed with this intent nor do we believe that any industry should be *forced* to operate at a loss—for even a day, much less for weeks and months.

Notwithstanding the deplorable financial situation of the meat industry as a result of the price freeze, the American Consumer is the big loser. Her opportunity to choose among a selection of meat products is rapidly diminishing. Within a few short months, she will no longer be able to go to the market and decide whether she wants to buy meat or what meat product she prefers. Soon she will have to stand in a queue and hope that there is still some meat available when she gets to the head of the line. The price will be low enough but the supply will be low also.

Is all of the foregoing a fairy tale? No, not a bit. It's a recitation of the hard facts resulting from the price freeze imposed on meat, March 29. The meat supply is becoming critical. Fewer products will be in the meat cases beginning this week. Why? Because, the natural supply and demand economy of the livestock and meat industry was disrupted.

If the American Consumer is to have a choice of meat products in the future, the U.S. Government will have to get out of the price manipulation business. No producer nor packer will engage in the business if he does not have an opportunity to make a profit.

True, if price ceilings were removed today, meat prices would increase. But, the incentive to produce livestock would be encouraged and farmers who have gone out of the business would begin to produce again. Within two years, livestock supplies would be back to normal and on the increase. Meat prices would also seek a more reasonable level. And, equally as important, consumers would have a choice of which products to buy or not buy.

The time has come to abandon ill-advised, short-term goals and strive for realistic long-range objectives. The cure for meat prices may result in higher prices in the immediate future but will assure reasonable prices and adequate supplies in the years ahead.

We respectfully request you urge the President to remove price ceilings from all agricultural products, unprocessed and processed. You will be striking a blow for the consumer and the economy.

Very truly yours,

JOHN G. MOHAY,
Executive Vice President.

FOOD SHORTAGES: A LONG RUN VIEW

Mr. McGOVERN. Mr. President, we are in the midst of a national debate over food shortages—whether the American consumer will have a sufficient supply of poultry, eggs, milk, and other foods this fall.

But there is an even more disturbing aspect to this debate, one on which very little has been said or written. And that is the long-term prospect for the world's ability to keep its production of food, especially high-protein food, abreast of population growth and increased rates of food consumption.

In a very short time, we have moved in the United States from a surplus mentality, the result of an embarrassment of riches, to a growing awareness that our food production capability may not, in the long run, be adequate to our needs and those who depend on us abroad.

One of the world's leading authorities on the food economy, Lester R. Brown, has written a thoughtful and probing article which appeared in the Outlook section of the Washington Post on Sunday, July 15. Because it is so valuable a contribution to the dialog, I ask unanimous consent that this article and one by L. H. Bean, which appeared in the Washington Post of July 16, be printed in the RECORD.

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

SCARCE FOOD: HERE TO STAY
(By Lester R. Brown)

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 percent 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 competing 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 millions tons. The average annual increase in the catch of nearly 5 percent, 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 over-fished—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 phenome-

non, is now being viewed with considerable alarm by many biologists. There are growing indications that the stock has been seriously damaged by over-fishing.

If, as now seems probable, the global fish catch does not continue rising in the next decades 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 percent 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 idle 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 temperate 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 the 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 scarity. 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 social 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 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 possible 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.

THE DEMAND FOR PROTEIN

(By L. H. Bean)

The sudden rise in the price of soybeans from a normal price of $2 to $3 per bushel to more than $10 has made us aware of the rising demand for protein feed. More of us now know that the major sources of protein are our soybeans, African peanuts and Peruvian fish, most of which is used as feed for poultry, cattle and hogs. There is another bit of knowledge that needs to be brought to the fore. It was contained in the President's Science Advisory Committee report on the World Food Problem released by the White House in May 1967.

That report makes us aware of the fact that protein derived from oil seeds is consumed mostly by animals and that this method of conversion of protein feed into ultimate food is most inefficient. The world, in effect, is feeding two populations, four-legged and two-legged. The animal population yields only a very small fraction of its protein intake for the human population.

On the "Efficiency of Conversion of Feed" the President's Science Advisory Committee says:

"One must also consider the competition for food and feed between the human and animal in those areas of the world where food is not plentiful. One must recognize that the greater the percentage of food energy being supplied from animal products, the more land is needed to provide for each person. One must also recognize that the relative productivity of animal protein per acre of land varies with the type of plant grown and with the type of animal fed . . . Human food cannot be produced efficiently when one turns to animal production as when grains are consumed by man himself."

The report provides data to support these conclusions. It shows that it takes 50 per cent more crop land to supply food energy

derived from a high, liberal-cost livestock diet than for a low-cost low-livestock diet. It shows that an acre of soybeans provides several times the protein required daily by a moderately active man than does an acre of feed for livestock products. It shows that in the conversion of ingested protein to edible protein, beef yield only about 5 per cent, swine only about 12 per cent and poultry only about 20 per cent. Thus the four-legged population of cattle and hogs, which in this country are as numerous as the human population, absorbs 100 units of protein and yields only 10.

The report further states that "Technologies exist and new ones are being developed rapidly to produce from these (oil seed) proteins a wide spectrum of food products which include flaked, and extruded cereal protein mixtures, protein beverages, bakery products, desserts, spreads and textured (meat-like) products. Only a small fraction of the proteins in oil seeds is consumed directly by humans . . . One of the greatest opportunities for increasing the world protein supply, without increasing agricultural production is to utilize the presently available oil seed resources directly for humans."

In the seven years since this report was issued food processors have taken the hint, and you can now see a broad range of meat, poultry and dairy substitutes derived from oil seeds on display on supermarket shelves, attesting their growing popularity as consumers seek relief from inflated food prices.

For the Biblical-minded who may be reluctant to shift from their accustomed meat diet, the President's Science Advisory Committee offers a gentle hint. It leads off its section on Oil Seed Proteins with a quotation from the Book of Daniel. Daniel and his three buddies, you may have read, were raised in homes where neither meat nor wine was served. Picked to be reared and educated in the invader King's court, Daniel held out for a meatless diet. The moral of the quotation is clear:

Then said Daniel to the steward, "Try thy servants, I beseech thee, ten days; and let them give us pulse to eat, and water to drink. Then let our countenances be looked upon before thee and the countenances of youths that eat of the King's food" . . . and at the end of ten days their countenances appeared fairer and they were fatter in flesh than all of the youths that did eat the King's food. —*Book of Daniel 1:3–16*

PHARMACY ECONOMIC SECURITY

Mr. HUMPHREY. Mr. President, the leadership of the National Association of Retail Druggists—NARD—and the American Pharmaceutical Association—APhA—are extremely concerned about the personal economic distress of the Nation's pharmacists and pharmacies. Pharmacists, both salaried and self-employed, must be adequately compensated for their services in order to insure quality professional service and to maintain economic parity among the health professions.

Pharmacists have been caught up in a web of circumstances. While the profession and its practitioners have been busy expanding and improving pharmaceutical services rendered to patients, third parties—government, health organizations, unions, insurance companies, and so forth—are becoming the major consumers of pharmaceutical services. This trend is having a major impact upon the economic welfare of the profession of pharmacy and its practitioners.

During the past few months, the officers of the American Pharmaceutical Association and the National Association of Retail Druggists have held meetings to discuss cooperative efforts that could be lawfully undertaken to improve the economic welfare of pharmacists and pharmacies. As a result of these discussions, the executive committee of the NARD and the board of trustees of the APhA have approved the immediate establishment of an APA–NARD Committee on Pharmacy Economic Security—COPES. Each association will appoint its president, executive body chairman, and executive officer as members of the joint committee. In addition to staff support from APhA and NARD, the joint committee on pharmacy economic security will be assisted by special consultants retained by NARD and APhA.

The purpose of COPES will be to identify courses of action that APhA and NARD collectively and individually may pursue to help pharmacists gain a reasonable return on their educational, professional, and capital investments. While pharmacists are justifiably proud of the unique record they have established in keeping down the cost of pharmaceutical services regardless who has paid for them, pharmacists personally are just as much victims of inflation as other members of society. Those pharmacists who have invested capital to insure the convenience and availability of pharmaceutical service in the neighborhoods of urban communities and on main street in rural towns must have a fair return just as much as do the investors in drug manufacturing, hospitals, clinics, extended care facilities, and nursing homes.

While every effort will be made to help pharmacists and pharmacies improve their efficiency and increase their productivity, the failure to provide adequate return on invested capital for pharmacists can only lead to the retrenchment of a vital health care service.

THE THRESHOLD OF THE SUN AGE

Mr. HUMPHREY. Mr. President, the "energy crisis" that we face in this Nation has both a "short-term" and a "long-term" dimension. Most of the action taken by Congress to date has been aimed at easing the crisis today and for the remainder of this century. However, many experts are now voicing the opinion that no source of energy now available will meet our needs for clean energy during the next century and beyond—except the Sun.

Many have recognized the potential of this greatest and cleanest of all sources of energy and I, for one, have called for stepped-up efforts to tap this tremendous potential for many years. The total Federal effort specifically directed toward solar energy research and development has been totally inadequate, given the energy needs of our Nation and the important researchable projects available.

Expenditures in the 1973 fiscal year for all types of solar energy research and development by all Federal agencies totaled only about $13 million. This amounts to less than 2 percent of the $700 million Federal energy research and development budget and a mere three-one-hundredths of 1 percent of our total Federal R. & D. budget. Certainly the nature of the "energy crisis" demands and the potential for practical uses of solar energy require much greater support from the Federal Government.

The experts generally agree that the need for solar energy exists today and will grow rapidly in the future. They also agree that the present grace period, which permits reliance on traditional fuels, is so short that a much accelerated effort in solar energy research and development is required.

Recently, 600 scientists from around the world met, under UNESCO auspices, to consider the future of solar energy. The conclusions of those discussions were reported by Claire Sterling in a most informative article entitled, "The Threshold of the 'Sun Age'," which appeared yesterday in the Washington Post. This is an important article highlighting what "could be" accomplished if solar energy research and development were adequately supported.

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:

THE THRESHOLD OF THE SUN AGE

(By Claire Sterling)

PARIS.—Six hundred scientists from all over the world gathered under UNESCO's roof here made it clear, in a recent week-long conference, that man is moving into the Sun Age.

Just five years from now, solar heating could be in commercial use around the globe. In less than 10 years, one out of every 10 new homes built in the United States will probably be both heated and cooled by solar rays. In less than 15 years, these rays could be producing commercial electric power. In 20 years, we may well have a 25-million-pound prototype satellite in synchronous orbit 22,300 miles above us in space, beaming power to the planet by microwave. In 50 years, whether by this or other processes, harnessed solar rays could be covering at least 20 percent of all the United States' energy needs—nearly the total consumed altogether in 1970 by the world's most spendthrift nation.

This is not the familiar wishful thinking of solar energy enthusiasts, or cranks, as most of us used to call them. Apart from the prototype satellite—by no means a pipedream either—all the above projections were presented to the conference by hardnosed American experts reporting conclusions reached by a NASA-National Science Foundation panel last December. They reflect a dramatic rise in governmental interest, backed for the first time by the promise of big money for research and development. With the latter, in particular, solar energy is moving from the narrow realms of gadgeteering to the big-time.

No great scientific breakthrough was reported here to warrant what looks unmistakably like the take-off. All the so-called "large-power" schemes for harnessing the sun, whether in space or on earth, by solar cell or thermal conversion, are still beset by tormenting difficulties, and certainly offer nothing like a quick fix. Furthermore, practically all the "small-power" devices that might soon become commonplace have been known for centuries: a solar furnace on display in Stockholm Museum, made by somebody in quest of the philosopher's stone in 1612, differs hardly at all in principle from the spectacular one of 1,000-kilowatt capacity

presently operating in the French Bas-Pyrenees.

Apart from the French installation, at Odeillo, an infinite variety of solar installations have been functioning the world over for years. Among them are some 2,000,000 solar water-heaters in Japan and 8,000,000 elsewhere around the globe; solar stills to purify and desalinate water, one turning out 10,000 gallons a day on the Greek island of Patmos; "small-power" solar pumps, seven of which are working smoothly in West Africa; and a solar furnace successfully drying industrial timber in Australia.

But scientists might have been puttering around indefinitely with such projects on a cottage-industry level if not for a sudden and extraordinary change in thinking at high government levels in many parts of the world. What has made the difference is that the big energy-using countries did not really believe they had to harness the sun before, and do now.

The difference has been increasingly apparent since President Nixon first spoke of the sun as an "inexhaustible source" of energy in June 1971. His message reflected a growing realization not only that all other energy sources were indeed exhaustible and more or less rapidly approaching exhaustion because of an exponential growth in their use, but that critical shortages might soon create intolerable economic, environmental and, internationally, political strains.

Since then, the energy crisis has become a household word for Americans, and hardly less so for highly industrialized nations everywhere. As William H. Wetmore of the National Science Foundation pointed out to delegates here, the United States now estimates that its deficit in oil supplies alone will reach from 10,000,000 to 16,000,000 barrels a day by 1990, causing a trade imbalance for this one product of about $15 billion a year. It is hardly surprising, then, that the United States should be taking an exponentially rising interest now in the possibilities of tapping an energy source at once eternally renewable, limitless and pollution-free.

Since 1971, accordingly, the National Science Foundation's budget for solar energy research has risen from nearly zero to $13 million for the next fiscal year. While that may be chicken-feed, the NSF–NASA panel has recommended a U.S. government investment of $3 billion in solar research and development over the next 15 years.

Compared to the $21 billion spent on the American space program in 10 years, that may still look like chicken feed. But it has evidently helped awaken American industrialists to what one speaks of as the "staggering possibilities" of a new market in solar heating and cooling that could easily run to a billion dollars or more in barely seven years.

The market, known now as "solar climate control," is already being explored by 26 top-ranking American companies, including Du Pont, Corning Glass, Kennecott Copper and Spectrolab division of Textron. The initiative in forming this imposing group was taken last April by Dr. Pete Glaser, a vice president of Arthur D. Little, Inc., and moving spirit behind the proposed satellite solar power station—under study in his laboratory for several years.

Perhaps more than any single factor at this conference, the willingness of these big American companies to actually put money into solar research and development has brought about a stunning change in thinking. From an essentially "do-good" movement of scientists hoping to help the poor countries of this world with cheap solar cookers, there has suddenly emerged a rich-state research and development movement on a supremely sophisticated technological level. If there is no doubt that success in this endeavor is going to cost many billion dollars in the end, there is no longer much doubt that, in the end, many billion dollars will bring success.

Though the 600 scientists at the conference may disagree violently about almost everything else, they are unanimous in saying that money—an enormous amount of it—is the problem remaining in tapping the energy of the sun. There is essentially nothing left to be solved in a physics laboratory: what remains to be solved is simply a matter of costs.

Where mere costs are concerned, or so the scientists say, there is practically nothing that money could not do. A crash program backed by billions of dollars might eventually bring down the literally astronomic cost of the crucial solar-cell which, whether of silicon or cadmium sulphide, generates electricity directly from the sun—at a price a thousand times higher than the competitive level. Both the National Science Foundation spokesmen and those of Textron's Spectrolab have maintained here that this cost can be reduced to acceptable levels in anywhere from 10 to 20 years, provided enough money goes into the effort.

If that assertion has been heatedly challenged by other delegates here, most have been fairly optimistic about bringing costs down for small power thermal conversion through devices such as flat-plate collectors. Here in particular, they are encouraged (rather perversely) by the fact that while they try to get these costs down, the costs of conventional fuels are going up. Sooner or later, the lines must cross over on the charts, they feel—and in four sizable regions of the United States, where small-powered heating and cooling of buildings can now be done as cheaply by solar devices as by oil, the lines have crossed already.

Time and again during the week of debate, however, the point was made that the question of actually matching costs per kilowatt hour, cent for cent, is not altogether relevant. There are large areas of the world where fuel-free, maintenance-free power would be welcome even at four or five times the price of conventional fuels: In vast rural areas of Soviet Russia, for instance, or in the drought-stricken West Africa, where millions of cattle are dying—and humans are starting to die as well—for lack of water lying underground, which might be brought up by solar pumps far more easily than by diesels requiring maintenance and fuel transported over perhaps 500 miles of desert.

How much West Africa's poverty-stricken Sahelian states might stand to benefit from a crash solar-energy program is another question, however. With the shift of emphasis now to the needs of highly industrialized nations, the take-off will inevitably be in the direction of mass commercial use for relatively rich consumers. Almost certainly the poor states will have to wait 10 or 20 years, or however long it takes, for the spin-off.

NEW FEDERAL DRUG POLICY ON SEARCH-AND-ARREST PROCEDURES

Mr. PERCY. Mr. President, in view of some of the recent outrageous offenses committed by drug law enforcement officials on decent, law-abiding citizens in Collinsville, Ill., in Chicago, and around the country, yesterday's statement on search-and-arrest policy by the new Drug Enforcement Administration represents a welcome and needed clarification of policy. I am especially pleased that "no-knock" forcible entries on private dwellings henceforth will be authorized only by the Administrator or his deputy, and that agents will be required to appear and dress in the manner expected of agents, to wear identifying badges, to conduct themselves judiciously at all times, and to avoid needless seeking of publicity and indiscriminate use of guns.

I would have hoped that the notion of "probable cause" to permit a forcible entry of a private residence could have been better spelled out in the interest of reducing the frequency of dangerous confrontations as well as safeguarding fundamental individual rights.

I ask unanimous consent to print the DEA Statement of Policy in the RECORD.

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

SEARCH AND ARREST: A STATEMENT OF POLICY

INTRODUCTION

Public confidence is the absolute cornerstone of effective law enforcement. It can only be earned by the professional conduct of every agent—no matter how challenging and difficult the circumstances. There is no more difficult area of law enforcement than the suppression of the narcotics traffic. The Drug Enforcement Administration is taking firm steps to insure that public confidence in DEA and the integrity of its personnel will be a continuing asset.

This Statement of Policy outlines the measures taken by the Drug Enforcement Administration to prevent incidents which might infringe on individual rights or jeopardize the successful prosecution of a case. The guidelines require clear-cut lines of command and control in enforcement situations and stress that operations must be carried out in a manner that is legally correct, morally sound, with full respect for the civil rights, human dignity of persons involved, and the sanctity of the home.

It is well recognized in the law enforcement community that agents and officers must not be hamstrung in their efforts by the imposition of arbitrary and unyielding operational parameters. Ours is a dangerous and difficult task requiring judgment, maturity, and courage. Hindsight is easy; to reach the same decision during the excitement and danger of an encounter is a much more difficult task. These policies are also designed to serve another purpose—the protection of DEA Agent personnel. These new procedures are intended to reduce the frequency of dangerous confrontation without a marked reduction in operating efficiency.

MATTERS OF POLICY EMPHASIS

This Section contains matters of new policy as well as matters presently contained in the Agents Manual. All of these policy statements, however, will be incorporated into the Agents Manual by the Office of Enforcement Policy and Communications.

GUIDELINES TO INSURE CONTROL OF ARRESTS AND SEARCHES

1. Use of "no-knock" authority

The "no-knock" authority contained in 21 U.S.C. 879 will not be requested by DEA Agents unless specifically authorized by the Administrator or the Deputy Administrator.

During the 26-month period that the "no-knock" authority has been effective, it has been utilized by drug enforcement agents on limited occasions. This policy does not imply that "no-knock" is without value when used judiciously, but that employment should be preceded by high-level review of existing circumstances.

2. Forced entry for arrest

DEA Agents will not engage in any forced entry of a premise to execute an arrest with or without a warrant except in cases in which the Agents have probable cause to believe that the defendant is within the premises. Only in those cases when it is not practical to secure a warrant, will an agent execute an arrest without a warrant inside a premise. Before entering any premises, the agent will

knock and announce his purpose and authority in an audible and distinctive manner.

Only when it is not practical to secure a warrant, should Agents force an entry without a warrant to effect an arrest, such as in "hot pursuit" or destruction of evidence situations. In all other cases, forced entry should not be undertaken without an arrest warrant unless the specific approval of the Group Supervisor is obtained.

3. Dress and identification

The enforcement team will wear distinctive markings, such as badges, caps, or other devices, to identify themselves to the public and their fellow officers in all cases involving forced entry and will give prior notice of authority and purpose before forcing entry after being denied admission. Good judgment will be used at all times regarding dress and appearance. The assistance of uniformed police officers should be requested when their presence will provide recognized authority in appropriate situations, such as forced entry.

Statutes require that an officer must give loud and clear notice of his authority and purpose and be refused admittance before he may forcibly enter a house. It is also essential that the operational team dress in a manner to invite confidence by the public and to lessen the possibility that an Agent be mistaken for someone other than a responsible Federal official. The markings will be also employed so that Agents may easily recognize all enforcement personnel who may accompany the team. The use of a uniformed police officer as part of the enforcement team is encouraged.

4. Planning

A DEA supervisory official will approve all procedures to be utilized in cases which involve the execution of a search or arrest warrant on a premises and he will specifically designate an Agent on the scene to be in charge of the entry if the supervisor does not personally accompany the Agents. When practical, photographs of the premises should be taken.

It is particularly important that good planning be utilized in any case which may involve a forced entry. Every contingency should be examined and intelligence relative to the site and people involved should be considered in preparation of the operational plan. A clear line of authority should exist in any field situation The enforcement team should take a camera with them.

5. Securing the premises

Where a legal entry to a premises has been made, the Agents may secure the premises from the inside, pending the issuance of a search warrant. However, when the Agents have no legal right to enter the premises, they may only secure the premises from the outside while they await the issuance of a search warrant. In all cases, as soon as practicable, before the warrant is issued, the Agents should receive authorization to secure the premises from the United States Attorney's office.

There is no legal authority to enter a premises to "secure" it before warrants are obtained. If, however, an arrest is made from within premises and a search for persons or an arms-length search reveals the probable cause for a search warrant, then Agents may remain within the premises until the warrant is received.

6. Vehicular arrests

DEA Agents should consider all available alternatives to avoid the necessity of arresting a defendant in a vehicle.

Attempts to arrest defendants in vehicles often result in high-speed chases, attempts by defendants to strike the Agents with their vehicles, the use of weapons concealed in the vehicles, and attendant gun battles.

7. Federal/State operations

DEA Agents participating in joint enforcement operations will at all times conduct themselves in compliance with the provisions of the Agents Manual and the guidelines set forth in this Statement of Policy.

It is recognized and expected that DEA Agents will on occasion involve themselves in joint enforcement efforts. When participating in non-DEA sponsored efforts, Agents will nevertheless conduct themselves in accord with Federal standards. Agents will immediately disassociate themselves from compromising situations and report the facts to their Supervisor.

8. Participation of nonenforcement personnel

Unless approved in exceptional cases by the Regional Administrator in advance, no press representative or other non-enforcement personnel will be present during any DEA search or arrest activity.

This procedure will prevent the "Hollywood" type of raids often engendered by the presence of reporters and make DEA searches and arrests low-key professional operations. In the interest of general safety, it is essential that the size of the enforcement team be minimized

9. Reporting use of weapon

Other than during supervised official target practice, no DEA Agent will fire his weapon other than in self-defense or in defense of another person. Every firing of a weapon other than target practice will be immediately reported to the Agent's supervisor.

An Agent is required to exercise discretion and good judgment in drawing his weapon. Any unusual situation requiring the display of firearms—whether utilized or not—shall be detailed in the investigative reports.

10. Conflicting address

In the event that advice is received from local or Federal prosecutors which is in conflict with DEA guidelines, that conflict will be reported to the Regional Administrator, who will seek advice from Headquarters if necessary for resolution.

As a practical matter, the occasion may arise when an Agent receives legal advice from a prosecutive source which may be in conflict with the policy of the United States Attorney, the policies of the Department of Justice, or the enforcement agency concerned. These conflicts, when they occur, will be resolved immediately.

GUIDELINES RELATIVE TO PLACING AGENTS ON LIMITED DUTY

DEA Agents who are involved in specified incidents will be placed on Limited Duty; such duty will consist of (1) no participation in surveillance, arrests, or searches, (2) no development of new enforcement matters, (3) maintaining a presence within the DEA office, and (4) such other restrictions that may be dictated by the Administrator. Limited Duty will continue for an appropriate period of time dependent on the circumstances and investigation necessary to determine the facts of the incident. Limited Duty will occur in the following instances:

1. When a person is shot by a DEA Agent.

2. When it has been determined that a DEA Agent has violated one of the DEA Guidelines to Provide Control of Arrests and Searches.

3. In other situations of alleged misconduct as deemed appropriate by the Administrator.

GUIDELINES RELATIVE TO REPORTING INCIDENTS

In the event of a mistaken arrest or the entry of a wrong premises, the Agent in charge will immediately report the circumstances of such incident via the appropriate channels to the Regional Administrator. The Regional Administrator will notify in a timely manner the Assistant Administrator for Enforcement who will advise the Office of Inspection and the Office of Public Information. Written reports detailing the circumstances of the incident will be submitted to Administration Headquarters within 24 hours.

SOME UNDERLYING PROBLEMS IN MEETING WORLD PROTEIN NEEDS

Mr. HUMPHREY. Mr. President, three articles dealing with related aspects of the impending shortages of meat and eggs appeared in Washington newspapers yesterday. Taken together, they provide important insights into some of the underlying reasons for these shortages from three very different perspectives.

The first article, "The Demand for Protein," by L. H. Bean, from the Washington Post, discusses the growing worldwide demand for protein, the limited sources of protein, and the use made of these protein sources. Mr. Bean points out that the conversion of protein feed into human food through livestock is a very inefficient use of increasingly scarce protein.

The second article, "Cost Rises Linked to Lost Anchovies," from the Washington Star, points out that for the second consecutive year Peruvian fishermen may be forced to cancel the fall anchovy fishing effort. Since anchovies from Peru's coast have traditionally been one of the major sources of protein feedgrain—"fishmeal"—the result of this cancellation will be a continuation of scarce protein feed supplies and higher meat prices.

The third article, "His Egg Operation Is About To Crack," by Lance Gay of the Washington Star, describes the plight of one egg farmer in Virginia. Since phase 3½ began, this farmer has sold off 18,000 of his 30,000 hens. The reason for his action was the fact that he has been losing between 9 and 10 cents a dozen on his eggs. These losses are a direct result of two factors, the President's "price freeze" and continued high costs for high protein feedgrains. This egg farmer details the dilemma he faces of rising costs on items he buys and frozen prices on the eggs he sells.

I ask unanimous consent that these three articles be printed in the RECORD.

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

THE DEMAND FOR PROTEIN

The sudden rise in the price of soybeans from a normal price of $2 to $3 per bushel to more than $10 has made us aware of the rising demand for protein feed. More of us now know that the major sources of protein are our soybeans, African peanuts and Peruvian fish, most of which is used as feed for poultry, cattle and hogs. There is another bit of knowledge that needs to be brought to the fore. It was contained in the President's Science Advisory Committee report on the World Food Problem released by the White House in May 1967.

That report makes us aware of the fact that protein derived from oil seeds is consumed mostly by animals and that this method of conversion of protein feed into ultimate food is most inefficient. The world, in effect, is feeding two populations, four-legged and two-legged. The animal population yields only a very small fraction of its protein intake for the human population.

On the "Efficiency of Conversion of Feed" the President's Science Advisory Committee says:

"One must also consider the competition for food and feed between the human and animal in those areas of the world where food is not plentiful. One must recognize that the greater the percentage of food energy being supplied from animal products, the more land is needed to provide for each person. One must also recognize that the relative productivity of animal protein per acre of land varies with the type of plant grown and with the type of animal fed . . . Human food cannot be produced efficiently when one turns to animal production as when grains are consumed by man himself."

The report provides data to support these conclusions. It shows that it takes 50 per cent more crop land to supply food energy derived from a high, liberal-cost livestock diet than for a low-cost low-livestock diet. It shows that an acre of soybeans provides several times the protein required daily by a moderately active man than does an acre of feed for livestock products. It shows that in the conversion of ingested protein to edible protein, beef yield only about 5 per cent, swine only about 12 per cent and poultry only about 20 per cent. Thus the four-legged population of cattle and hogs, which in this country are as numerous as the human population, absorbs 100 units of protein and yields only 10.

The report further states that "Technologies exist and new ones are being developed rapidly to produce from these (oil seed) proteins a wide spectrum of food products which include flaked, and extruded cereal protein mixtures, protein beverages, bakery products, desserts, spreads and textured (meat-like) products. Only a small fraction of the proteins in oil seeds is consumed directly by humans . . . One of the greatest opportunities for increasing the world protein supply, without increasing agricultural production is to utilize the presently available oil seed resources directly for humans."

In the seven years since this report was issued food processors have taken the hint, and you can now see a broad range of meat, poultry and dairy substitutes derived from oil seeds on display on supermarket shelves, attesting their growing popularity as consumers seek relief from inflated food prices.

For the Biblical-minded who may be reluctant to shift from their accustomed meat diet, the President's Science Advisory Committee offers a gentle hint. It leads off its section on oil and proteins with a quotation from the Book of Daniel. Daniel and his three buddies, you may have read, were raised in homes where neither meat nor wine was served. Picked to be reared and educated in the invader King's court, Daniel held out for a meatless diet. The moral of the quotation is clear:

Then said Daniel to the steward, "Try thy servants, I beseech thee, ten days; and let them give us pulse to eat, and water to drink. Then let our countenances be looked upon before thee and the countenances of youths that eat of the King's food" . . . and at the end of ten days their countenances appeared fairer and they were fatter in flesh than all of the youths that did eat the King's food. —Book of Daniel 1: 3–16

COST RISES LINKED TO LOST ANCHOVIES

For the second consecutive year, Peruvian fishermen may be forced to cancel the fall anchovy season, spelling trouble for that country's export earnings and higher food prices for the American consumer.

The Peruvian anchovy, or anchoveta, a variety of the salted anchovy that adorns Caesar salads and "pizza with," is a prime source of protein-rich fishmeal used to fortify livestock feeds.

Last year, however, the warm Humboldt Current, which appears off the Peruvian Pacific coast about every eight years, drove the anchoveta to inaccessible depths. Consequently, fishing was impractical and the price of fishmeal rose from a 1971 level of from $120 to $150 per ton to about $300 per ton.

This year the anchovetas did not return as expected—only two million to five million catchable tons compared with 15 million tons in an average year. The fishmeal price recently has soared to $700 per ton and experts expect the price to go still higher.

U.S. beef and poultry producers, who must vie with Europeans for this available fishmeal supply, ultimately will have to pass on a proportionate share of the added cost to consumers.

After extensive surveys, Peru's Sea Institute and the United Nation's Food and Agriculture Organization reported that the present anchoveta population is barely large enough to sustain itself.

COST SQUEEZE: HIS EGG OPERATION IS ABOUT TO CRACK

(By Lance Gay)

MATHEWS, VA.—For the past five years, Robert M. Lewis has battled the weather, disease and wildly fluctuating prices to keep his modest egg farm in Virginia's Northern Neck out of the red.

By this spring, the 63-year-old Mathews County farmer said he thought he'd almost made it. For the first time in three years, he was running in the black and was able to pay off debts accumulated during the bad years.

But then on the heels of U.S.-foreign grain deals came skyrocketing prices for chicken feed topped by President Nixon's 60-day price freeze, and Lewis says he's now caught in a squeeze that threatens to throw him into bankruptcy.

"It's always been up and down," Lewis said of his egg business, "but it's never been down for so long like this. And it's getting worse. We'll be gone soon if things don't change around."

Lewis said that since the price freeze went into effect last month, he and other moderately large egg producers in Virginia have been forced to cut back in the size of their laying flocks rather than lose more money.

In the last month, Lewis said, he has sold off 18,000 hens, leaving him only 12,000 in his half empty coops.

The result of these cutbacks are just beginning to be felt in Virginia's supermarkets, and last week a number of chain stores and independent outlets in the central part of the state reported they temporarily had run out of eggs.

"There's a shortage now and it's just beginning," said the manager of one of the state's largest egg producing farms, who asked not to be identified.

"And it's going to be more severe later this year, "he said." About Christmas time, you will really feel it."

James Fleming, director of government relations for the United Egg Producers Assn.—the egg industry's trade group based in Atlanta, Ga.—said the shortage will be felt sooner and predicted it will show up in the Washington area before the end of the month.

"It could get to the point where the consumer will go to the store not to ask 'What prices are your eggs,' but rather, 'Do you have any eggs for sale,' " Fleming said.

"That sounds a little strong, "he said," but we're already seeing some supermarkets in some states shorted on their egg requests and a 10 percent reduction in egg supplies in some areas of the country."

Fleming pointed out that the size of the nation's flock of laying hens is the lowest this year since 1961.

According to statistics compiled by the U.S. Department of Agriculture, the number of laying hens being slaughtered in the last month since President Nixon put the 60-day price freeze into effect has increased between 10 to 20 percent over last year's figures.

With fewer hens and fresh eggs, this should be one of the best periods for egg producers since there is greater demand.

Last fall, a ton of the feed cost him $78.60. He now pays $161.80 for it.

Last month, he recalls he went into the small office he has in the back of his chicken coop and began to total up his costs.

For each dozen eggs he sells, Lewis says he puts 15 cents aside to buy a new pullet (a hen has an average laying life of 10 months), 4 cents for labor, and 2 cents for supplies and repairs.

In addition, he figures 4 cents from each dozen eggs goes towards interest, mortgage and loans. All these charges are approximately the same as last year.

However, he estimated that last fall he spent 24 cents on chicken feed to produce the dozen eggs, whereas this year he is spending more than 35 cents.

Thus, last fall, Lewis said it cost him 49 cents to produce a dozen eggs, this year it costs him 60 cents.

For the 5,317 dozen eggs that Lewis' hens laid in one week earlier this month, he said he received $2,442 in payment—or about 46 cents a dozen.

"I figure I've been loosing between 9 and 10 cents a dozen on the average," Lewis said.

Lewis said he has also canceled orders he placed at area hatcheries for new laying hens and will try to see through the remainder of the freeze with his present flock, which has about eight months of productivity left.

"When they're gone, if things haven't changed around here, then that's it," Lewis said. "I don't have much of a choice then. If I pay off everything, and stop, then that will be it."

Lewis, noted that Nixon's freeze has caused retailers to set a limit on the price of eggs they sell and that they are refusing to pay more to the farmers during this period.

The manager of the large egg farm said he is not in as critical shape as Lewis, partly because he has been saving some of his feed costs by making his own feed and by reducing labor and other costs.

He said he has not reduced the size of his laying flock because he hopes that the tight egg market in the next few months will turn his profits around.

However, Fleming said that unless the administration removes the freeze on retail farm items soon, there will be no incentive for the moderative or large egg farmers to keep in the operation.

"And once you slit a chicken's throat, that chicken's not going to lay any more eggs" and it will take a long time for the egg industry to recover, he said.

CORPORATE RESPONSIBILITY AND THE CONSUMERS

Mr. PERCY. Mr. President, with respect to legislation I am sponsoring to create a Consumer Protection Agency, I point to some recent enlightened and well-chosen remarks by Mr. Peter Jones, vice president for legal and government affairs of Marcor, Inc., the seventh largest retail corporation in America.

Mr. Jones, speaking before the Urban Affairs Committee of the National Association of Manufacturers, underscored the desirability of a heightened corporate stance toward the American consumer.

In the face of declining public confidence in American business, as evidenced in polls taken by Time magazine, Yankelovitch, and Harris, the business community cannot rest on past laurels.

Rather, businessmen should take a more active part in supporting legislation that, in the final analysis, will help consumers and responsible businesses alike.

Marcor, the parent company, and Mongomery Ward, its subsidiary, have assumed a leadership role in assuring that adequate rules, procedures and safeguards for both Government agancies and business are included in Senate legislation to create an advocate for consumers. The company's endorsement of S. 707, along with that of the Zenith Corp., underpins their fervent hope that a deteriorated public confidence in business can be restored.

Mr. President, I ask unanimous consent to have the remarks of Mr. Peter Jones printed in the RECORD.

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

REMARKS OF PETER JONES

In terms of new dimensions of corporate responsibility it may be useful to present a case study as to the need for business selectively to support and shape certain kinds of new legislation concerning corporate responsibility. Professor Ackerman of the Harvard Business School has just described the overwhelming problems standing in the way of our companies doing as much as we know the public demands we ought to. I believe he has strengthened the case that "there ought to be a law . . ."

The case study starts with a press conference on the Consumer Protection Agency called by Senator Charles Percy on September 26, 1972, in Washington. Senator Percy opened by saying:

"For most of you who are here this morning, I don't think it came as any surprise when you heard or read my remarks on the Senate floor last week, during consideration of the Consumer Protection Agency Act of 1972, that the lobbying effort directed at this bill from various segments of the business community has been the most intensive and at the same time ill-founded as any I have encountered in my six years in the Senate.

"From simple epithets such as 'super agency,' to concerns about this 'dreadful legislation,' the statements that the bill constitutes the 'most serious threat to free enterprise and orderly government ever to be proposed in Congress,' the charges abound. Precisely where some of these allegations came from, I guess we'll never know, although the last is a direct quote from the so-called business responsiveness kit authored by the Grocery Manufacturers of America. That national trade association says that it supports the concept of consumer advocacy underlying the bill, but it is nevertheless proposing a crippling 'amicus' amendment, presently the subject of what seems to be an extended debate on the floor of the Senate, which would cut the heart out of the bill. The National Association of Manufacturers is less disingenuous; it says that it opposes the legislation outright and views as the best means of killing it, a motion to refer the bill to either the Agriculture, Banking or Judiciary Committee, take your pick, none of which have any legitimate claim to jurisdiction."

The Senator then added:

"I've called you together today at this press conference to announce that at least one major business firm in this country, one whose contributions to this bill have been responsive as well as substantial, believes as I do that this legislation is in the best interests of consumers, and also of the business community itself. Marcor, the parent company and Montgomery Ward, its subsidiary, have communicated to me their outright endorsement of this legislation and their fervent hope that the Senate will pass into law the Consumer Protection Agency Bill this year so as to strengthen protection for consumers, and public confidence in business now."

This last reference was taken from a letter from the chairman of the board and chief executive officer of Marcor.

As a result of that announcement, we were promptly accused by many of being in effect a corporate traitor to our class. A decent respect for the opinions of our business colleagues requires that we explain the reasons that impelled us to part company and why we believed all corporations should favorably consider like kinds of actions. Unless companies begin to respond selectively in this fashion, public confidence in business will at best remain at less than optimum levels and our enterprise and our society will be the worse for it.

The facts that led us to do what we did have and will repeat themselves time and again and thus warrant your attention. By early '72, there was overwhelming support in both Houses of Congress for a Consumer Protection Agency bill.

The House of Representatives had passed the bill in final form 344 to 44. But of those 44 votes against, 18 voted "no" only because they didn't think the House bill was tough enough. So the real count in favor of a bill was 362 to 26. The House bill did however have a major provision for information-gathering powers which was wide open, without adequate procedures, standards, or safeguards. We felt this was simply bad law.

The Senate, in turn, passed a preliminary version of the same Consumer Protection Agency bill, 74 to 4. Their bill was much worse than the House bill; it was without adequate rules, procedures, safeguards, for either other government agencies or business, in four major areas.

We took a hard look at both bills: the House bill needed some improvements and the Senate bill needed substantially more. We went to our counterparts in the business community and suggested we work together at recommending improvements in the Senate bill so that when the House and Senate in Conference moved toward a compromise on a final bill the end result would be something we could live with which would also serve the national interest. The most common response was that they would concentrate primarily on killing the Senate bill altogether.

We looked around the country and saw that almost every major state legislature today had groups promoting consumer legislation leading to the creation of some sort of consumer protection agency. Yet each state proposal has different standards for what that consumer protection agency is going to do. In addition, some of the municipalities, are now doing the same thing, again with their own varying standards. If we could have one federal agency that was effective, had some reasonable safeguards, with uniform standards, people might be persuaded that that agency ought to be given a chance before 50 more are spawned, each one with a different set of criteria.

Another fact: poll after poll, (Time Magazine, Yankelovitch, Harris and others) stressed the declining public confidence in business. One of the conclusions that seemed fairly obvious was that if business continues to oppose every single piece of legislation that consumers and their representatives propose, we would never convince the public that we mean what we say when we declare that the consumer comes first.

So, in February 1972, Tom Brooker, Chairman of Marcor's Executive Committee, wrote to Senator Percy, indicating that, in principle, the time had come for consumer legislation that could be useful for all concerned if properly implemented. However, we were interested in discussing some major problems in four particular areas of the bill that passed the previous year 74 to 4. Our interest was to help work toward an effective piece of legislation that was fair and practical for all concerned. The Senator's response was affirmative. We then spent considerable time during the following six months with Senators Percy, Ribicoff, Javits and their staffs, recommending—at times literally line by line—drafting and redrafting suggested provisions in an attempt to get the bill to the point where it had reasonable procedures and safeguards. When it was finally voted out of committee 15 to 2, there were sections of the Senate bill that were substantially clearer and more precise in terms of sound administrative agency practice than the House bill. Then, with the addition of two needed amendments, which were worked out by and with the sponsors, we announced we would support the bill as passed by the Senate Committee.

The results were two-fold: First, we really believe that the bill is substantially better than it would have been if all of us in business had completely opposed the Senate bill. We believe there's virtually no way anyone can stop a Consumer Protection Agency bill from passing at some point in 1973–1974 during the 93rd Congress. Thus it is better to work for an improved bill than just to fight it. And as Mr. Brooker wrote Senator Percy, properly implemented, such a bill could be useful for all concerned. In addition, there was the unexpected dividend in the overwhelmingly favorable response from the press, TV, radio regarding the fact that we'd stuck our neck out a bit and supported the bill. Besides favorable editorials and columns in the Washington Post, the Chicago Sun-Times, the Chicago Tribune and Ralph Nader's column, there were news stories in papers in virtually every state in the nation. A column in the Wall Street Journal's National Observer probably summed up the most frequent response we've gotten from public officials, consumer advocates, journalists, lawyers, etc. It also bears on the growing attitude in the country today towards business' traditional opposition to any new legislation.

The editorial pointed out that although business opposition to the proposed law was predicated on concern with "harassment" of business, the bill would have the positive effect of putting housewives and wage earners on a somewhat more equal footing with the major corporations. The proposed agency would have had no regulatory power; it could merely intervene on behalf of consumers in regulatory proceedings before other federal agencies and courts. The column asked, "Why should any honest corporation object to that? And what will the public think of companies that try to suppress participation in governmental affairs by their customers?" The editorial added that such Cro-Magnon attitudes won't improve the business image, and, in all probability, the filibuster in the Senate of the bill in the 92nd Congress only delayed the inevitable. The legislation will be introduced in the next Congress and support for it continues to grow. The last paragraph noted that there was one exception to business opposition and threw a large bouquet to Marcor and Wards.

We agree that business is making a mistake in such cases. When Giant Foods in Washington and Jewel Supermarkets in Chicago took a stand for regulation and innovation on behalf of consumers, sales and consumer loyalty improved. Their positive and reasoned response to certain consumer proposals not only is responsible corporate behaviour, it can be good business too.

This leads to the broader question concerning other kinds of social legislation that many companies will be asked to comment on and react to one way or the other in the coming years. Are we going to continue to join in one lobbying effort after another to

kill all such legislation? Or are we going to support, and where needed, try to improve legislation on a selective basis, especially where some new law, bad or good, is likely to pass sooner or later. Federal and state administrative legislatures and agencies are going to put out new rules that will require all of us in the same industry to take on the same new social obligations. Burke Marshall, when he was IBM's General Counsel, preached a sermon to the effect that what business needs—hard as it may be for us to accept it—is more government regulation of this sort rather than less.

Of course, that's anathema and businessmen automatically tend to ask, "Is he out of his mind?" The answer, of course, is "no"—if business is seriously interested in helping to solve society's problems, including that directly related to us. Professor Ackerman has just, rather brilliantly, explained why our companies are not constituted to do so on their own. If one automobile manufacturer puts out a pollution device on its own, declaring it was the socially responsible thing to do, and raising the price of the car $500, it would obviously lose out. But, if you require every automobile company to have an anti-pollutant device, so they're all required to spend money for this purpose, we've accomplished something that one company alone can't do.

The same principle applies in other areas: We were talking about the Civil Rights Act of 1964 at breakfast. No Southern business could have taken the lead in desegregating in any Southern town without going out of business—prior to the passage of the law that made desegregating a requirement of everyone in the land.

And in regard to Burke-Hartke and rising attacks on U.S. foreign investment and foreign trade, I think we're asking for it unless business shows greater concern about unemployment and effectively persuades the Administration to do something more about it, including support for an expanded trade act adjustment assistance program.

On the positive side of this question, Senator Mathias of Maryland wants to hold hearings this spring on the undue restraints that anti-trust put on U.S. business in competing overseas with the Japanese, Germans, and the French who don't have equivalent anti-trust restrictions. On a related aspect of the anti-trust debate, Simon Ramo, TRW Vice Chairman, who is the father of ICBM, points out that in the same way as the ICBM was developed with business support, and as business, academia and government worked together to put a man on the moon, the public is now beginning to demand that we do something about our cities and about cleaning up the Great Lakes. Ramo holds that to do this we've got to change the anti-trust laws. He feels this will come, because business, government and academia are going to have to work together again at some point to launch a Marshall Plan for the cities. If it happens soon enough, with a strong push from business statesmen, we may eliminate the need for some of the major changes in business that Ralph Nader and Professor Kenneth Galbraith are now pushing for.

Ralph Nader is already pushing a federal charter for all the major companies, in which some directors would be publicly elected and others elected by the employees. Galbraith has said that within five years, one of the hottest political issues in the country will be the nationalization of the Fortune 500. Whether it's five, ten or fifteen years to government ownership, or not at all, will depend, in large measure, on what we do. And what we do, especially with the built-in restraints underlined by Professor Ackerman, depends upon whether we're prepared selectively to support, and not always oppose, laws that require us to do some things we're not now doing.

PLASTICS INDUSTRY RESPONDS TO U.S. FIRE PROBLEMS

Mr. SAXBE. Mr. President, the problem of fire in America is a difficult one and I was interested to read an address by G. R. Munger, general manager of The Society of the Plastics Industry, dealing with the industry's reaction to the national fire problem and the role which synthetic materials play. Mr. Munger's address was presented to the National Fire Protection Association, meeting in St. Louis, Mo., on May 18.

Mr. President, because I believe Mr. Munger's comments will be of interest to my colleagues, I ask unanimous consent to print the text of his talk, entitled: "The Plastics Industry's Response to the Fire Problem" in the body of the RECORD following my remarks:

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

THE PLASTICS INDUSTRY'S RESPONSE TO THE FIRE PROBLEM

(By G. R. Munger, general manager, the Society of The Plastics Industry, Inc.)

Ladies and gentlemen,

For the past week, we have heard about as much as we can absorb at one time on the fire situation in general. I do not intend to go over this ground again. We know that fire can be a wonderful tool for man, or a horrible weapon against him. We are here to try to blunt it as a weapon.

I represent The Society of The Plastics Industry which comprises 1,200 companies in various aspects of the plastics business—raw materials, machinery, and finished products. SPI member companies do about 75 percent of the net dollar volume of the domestic plastics industry.

Our companies have been concerned for many years about the role of synthetic materials in fires. Much of the $30- to $40 million a year they are spending on research within their own firms is devoted to this subject of fire.

In addition, nine separate divisions of SPI—representing interests in various aspects of synthetics—have been involved in fire studies over the years.

Within the last three weeks, SPI announced a new series of research projects supported by our entire membership on such questions as ignition, flame spread, heat release, smoke and gas. I will make an announcement on one of these projects in a few minutes.

To make sure all this research will do the utmost good, SPI also has begun an information and education program to get the results promptly—and in understandable form—to those who need them.

Here I am referring to members of the fire suppression community—chiefs, marshals, firemen— as well as code officials, architects, engineers, contractors, specifiers, and insurors to help reduce fire risk to life and property.

The results of our investigations will not remain buried in reports.

In short, the plastics industry has committed major resources toward this ages-old problem of trying to attain a fire-safe environment.

We intend to be informative and frank about our materials and we expect a similar spirit of cooperation and openmindedness by others. We have supported from the beginning the work of the National Commission on Fire Prevention and Control. In our view, the chairman of that commission, Richard Bland, epitomizes the "keep-it-in-perspective" approach required to achieve the appropriate balances of risk, cost and benefit in the use of materials.

Now, let's get down to some of the fine points.

Why do we have synthetic materials at all?

Simply because they have proved more desirable in so many ways over more traditional materials for certain uses.

Many factors go into determining whether synthetics or natural materials should be used—weight, cost, ease of manufacture or application, appearance, color, durability, maintenance, properties of combustion, light and heat transfer characteristics, and so forth.

I mention these points because in a gathering such as we have here, we intend to focus on a limited aspect of the materials and use picture—in this case the properties of combustion. We must keep the other factors in mind.

What kind of a world would we be living in today without synthetics?

For one thing, the drain on natural resources would likely be much greater. The U.S. Geological Survey just last week released a report stating that severe shortages of minerals will arise in the next few decades unless we stop wasting resources and find better ways of exploiting low-grade ores.

Synthetics comprise a prime example of what is needed. The industry was born of what once were wastes of gas and oil production.

Today, we still rely on gas and oil to produce most plastics and other synthetics, but the industry uses substantially less than one percent of our domestic gas and oil production for feedstock.

One of the questions to be resolved at some time in the future is the role synthetics can play in conserving the earth's very finite deposits of minerals and fossil fuels. We believe it will be a major role which will lead to substantial growth in the use of plastics and other synthetics for building materials and furnishings.

Studies by independent research organizations have established that less energy is used in the production, manufacture and transportation of plastics products than for many similar products made from traditional materials.

And because plastics come from oil and gas, they can be turned back into energy as fuel feedstocks when they have outlived their primary function.

What's that you ask? If plastics are a good fuel, isn't that a reason to keep them out of building materials and furnishings?

The answer is categorically no. Although some of the testing techniques would lead you to believe otherwise, structural fires and incinerator fire present two very different types of burning environments.

The structural fire is a free-form fire with an infinite number of variables in terms of temperature, ventilation, space and so forth. The incinerator or furnace fire takes place in a confined area where the combustion process can be controlled by aeration, fuel feed, etc. We must keep these differences constantly in mind. Materials considered suitable for structural use from a combustibility standpoint might nevertheless burn very well in an incinerator or furnace.

So where does that leave us on the issue of fire safety?

Although the goal of everyone at this conference is to strive for the principle of *absolute* fire safety, we recognize that increased *relative* fire safety is probably the best we can do at present. But the technology is increasing so rapidly that we may see some dramatic improvement in the near future.

Like wood, paper, wool and cotton, plastics are organic and will burn. And, like the other materials, they will give off heat, smoke and toxic gases.

What we must turn our attention to, then, is whether the use of plastics as an alternative in construction and interior furnishings for more traditional materials creates any

significant additional threat of harm to life and property, and whether they offer opportunities to decrease such threats.

There are—depending on how you classify them—from 20 to 30 families of plastics. And within each of those groups there are many, many sub-groups. Some types are difficult to ignite, and some burn very easily. Some support flame and some have self-extinguishing characteristics. Each gives off different gases according to its composition, just like other organic materials.

In contrast to many other materials, plastics products are uniquely susceptible to the "designing out," within reasonable limits, of characteristics of combustion. Due to the flexibility of their composition, they can be formulated or modified in a vast variety of ways to meet certain definite performance standards and to overcome weaknesses in previously used materials.

The industry already has designed out some combustion hazards in numerous end-uses, and current research promises further improvements.

As one example, the combustion characteristics of some of the modern foamed urethanes used for insulation today are so different from earlier days that they almost need a new name. They really are different products as far as the construction industry and the fire community are concerned.

These changes do not come about by accident. They stem from constant research by our member companies, both individually and in concert.

One of the organizations within SPI is known as the Urethane Safety Group, which has been and is very active in determining what degree of hazards exists with these products and how they can be reduced.

The Urethane Safety Group's research projects in the past have included:

Corner Wall fire tests of urethane plastics wall insulating materials conduced by Factory Mutual Research Corporation;

A literature search and analysis of the combustion characteristics of urethane carried out by Southwest Research Institute;

A literature search and analysis of the toxicity of combustion products of urethanes conducted by Southwest Research Institute; and

A status report on the safety and environmental aspects of urethane plastics.

Current research projects include:

A new series of Corner Wall tests by Factory Mutual, and

A series of studies on the combustibility and toxicity of flexible urethanes.

A number of other projects are being studied by USG as part of its research and development effort and will be implemented as the program progresses.

Other studies have been conducted by SPI's Coordinating Committee on Safe Use of Plastics, the Cellular Plastics Division, the Plastic Pipe Institute, the Reinforced Plastics/Composite Institute, The Plastics in Construction Council, the Appliance Council, the Furniture Council, and the Foam Tray and Carton Division.

In addition to these industry investigations, we have worked with and cooperated with every branch of government involved in fire safety programs.

Inevitably, government regulations and combustibility parameters of building codes have changed. And just as inevitably, the technology and production of flame retardants for synthetics have increased.

Presently, use of flame retardants is being directed at such markets as automotive and aircraft interiors, various aspects of construction, appliances and furnishings.

While the use of these flame retardants has been extremely successful in increasing the resistance to ignition and the rate of flame spread, questions have been raised in the area of smoke and toxicity. So now we are conducting research to develop smoke retardants, flame retardants and new types of synthetics that will reduce the amount of smoke and toxic gases emitted from burning materials.

As desirable and forward-looking as past programs have been, we recognized that they were not cohesive enough and, in some cases, presented duplication of effort.

Therefore, within the past three weeks, The Society of The Plastics Industry announced the entire SPI membership would sponsor a series of independent studies by both government agencies and independent research organizations in to the relationship of synthetic materials to fire and life safety.

The SPI Board of Directors approved detailed studies involving the following areas:

Investigations of actual case histories of fire situations. Observations and conclusions are expected to aid in development of realistic tests which can be used to reduce or eliminate hazards to life safety;

Analyses of the products of combustion to determine the proper relationship in a fire situation among the variables of oxygen, temperature, carbon monoxide and other gases; and

Research into the biological effects of smoke and gases from burning natural and synthetic materials.

I am pleased to report to you today that we have just signed the first of these contracts—an agreement with the respected Southwest Research Institute—to conduct more than 100 toxicity tests using the 18 cubic foot National Bureau of Standards Aminco test chamber.

SWRI will burn plastic pipe, furniture padding and other major end-use products and take measurements of temperature, carbon monoxide, carbon dioxide, oxygen, hydrogen cyanide, hydrogen chloride and so forth.

Hopefully, these tests will provide us with some guidelines on which products of combustion become hazardous first in each end-use situation.

After a set of basic principles have been developed using the smoke chamber, larger scale evaluations may be desirable.

Details of two other research programs contemplated by SPI will be announced in the near future.

Of themselves, these tests will not provide all the answers. But coordinated and correlated with other research going on by our industry, by other industries, and by government, we will be building a tremendous wealth of helpful information for the future.

The plastics industry fully realizes the difficulty of the task of evaluating and devising meaningful solutions to the fire problems faced by this nation.

They require total solutions involving such diverse groups as the building design and construction community, the fire suppression community, and individual families whose knowledge in such areas as evacuation techniques is virtually nonexistent.

It is clear that the only feasible way of dealing with this total fire problem is through a consciously coordinated systems approach. This approach includes such mechanisms as improved detection, warning, suppression and venting methods, architectural techniques, and public education. It also, of course, includes a consideration of materials used in construction and interior furnishings.

We are convinced that synthetics, properly used in construction and furnishings, do not present additional fire hazards when other factors in this systems approach are recognized and implemented.

The industry recognizes that there is need for improvement in the area of plastics-related combustibility to achieve added safety beyond that available through the use of existing materials. It is with these considerations in mind that we offered to the National Commission a number of specific recommendations which I am passing along to you today.

FIRE DETECTION, WARNING AND SUPPRESSION DEVICES

One of the most effective methods to combat combustibility problems in the built environment is to require installation of fire detection, warning and suppresson devices. This approach recognizes the fact that virtually all organic materials, whether natural or synthetic, will be consumed in a fire, an observation not too surprising in light of the fact that in many fire situations temperatures climb considerably above the ignition points of all commonly used organic materials. In this regard, our Society strongly recommends adoption and enforcement in building code requirements of detection, warning and suppression devices to be installed in all structures of general assembly, and even individual dwelling places.

Added protection can be afforded by systems combining the use of flame retardant plastics and fire-resistant barriers along with the fire detection and suppression systems.

BUILDING CODES

The building code system is the principal method employed today on a nationwide basis to regulate combustibility characteristics of structures. Four model building codes are in existence now. The regulatory scheme of the codes is a functional approach, whereby products and materials generally are governed in terms of their end-use applications in the building rather than on a material-by-material basis.

Plastics products in construction are regulated by the various codes on an end-use basis. The main functions for plastics in construction are (1) light transmission, including skylights, glazing, wall panels and light diffusers, (2) interior finishes, on wall or ceiling surfaces, (3) thermal insulation, (4) electrical insulation and conduit, (5) exterior panels, and (6) bathroom components including bathtubs, showerstalls, sinks and plumbing pipes.

One of the problems is that the combustibility requirements incorporated into the codes are based on test methods that are not necessarily accurate, meaningful or appropriate in all cases.

Another limitation is that code regulation is directed only at materials used in building construction and not at furnishings. Thus, all aspects of flammability within a given room or structure are not regulated.

An added problem is that the model codes are not binding unless specifically adopted by a given state, county, or municipality. Thus, codes are not in force in some areas throughout the United States.

Further, there is an enforcement problem. We strongly advocate a policy of improved enforcement of the building codes so as to preclude, to the extent possible, misuse or misapplication of plastics as well as other products.

We realize, of course, that numerous local code enforcement authorities lack sufficient manpower and funds for adequate enforcement. Therefore, the possibility of a national funding or a national assistance program to aid these localities should be considered.

FEDERAL STANDARDS

Another potential tool for effective regulation is federal standards. The newly created Consumer Product Safety Commission and its broad based standards-making authority may very well be a mechanism by which minimum performance requirements will be promulgated for certain end-uses.

Regulation of the flammability aspects of consumer products used in the built environment might best be achieved through a standards-making program conducted by the joint efforts of government and industry. In instances where public health will legitimately be enhanced by the promulgation of standards, we recognize that the adoption of mandatory, not voluntary, standards is

necessary. However, the consensus standards procedure must provide input to the development of these standards.

Voluntary standards have not always been effective because they do not have to be followed by all members of an industry. From the viewpoint of the cost of production, adherence to voluntary standards by the responsible manufacturer has at times penalized him in favor of his less responsible competitors. Furthermore, due to antitrust considerations, a trade association that participates in the creation of voluntary standards on an intra-industry basis may neither police not enforce those standards. It is for these reasons that government enforcement of consumer products safety standards may be needed. However, valid standards cannot be developed without the expertise of industry, and thus, any government mechanism instituted to promulgate consumer product standards should provide for the active participation of industry.

Various degrees of federally and locally created standards and specifications already apply to or are in the process of being developed for products in such markets as clothing fabrics, draperies and curtains, carpets and rugs, bedding materials, automotive interiors, aircraft materials, office furnishings, building materials and electrical equipment. The Plastics Society formally went on record in support of the implementation of standards in each of these areas. This support will continue to be forthcoming.

TEST METHODS, PRESENT AND FUTURE

Fire initiation performance has traditionally been evaluated by a series of standard small-scale tests specified by the National Fire Protection Association, the American Society for Testing and Materials, Underwriters' Laboratories, Factory Mutual Research Corporation, the military, the National Aeronautics and Space Administration, the Federal Aviation Administration, the Port Authority of New York and New Jersey, the Department of Transportation, and other bodies. These tests range from small flame and cigarette exposures to larger tests used to identify "approved" materials for building construction.

While such tests are useful for comparing materials, they do not always predict combustibility performance. They rely on such parameters as ease of ignition, flame spread and fire endurance. The behavior of the same materials when exposed to differing heat sources, air movements, ventilation systems, amounts of humidity and occupancies can vary significantly.

It is generally agreed that these small-scale tests which are useful where their limitations are understood can, at times, be misleading, conflicting or inconclusive. Materials that do not support combustion under one test can burn vigorously under another. Adequate tests do not presently exist for toxicity and/or corrosion factors.

The nomenclature utilized in existing test method systems has also created problems in some instances. Since most plastic products will burn in full-scale fire situations such a term as "self-extinguishing," while meaningful to the industrial expert, has the potential to be misleading to uninformed consumers. As a result of this confusion, SPI has already formally requested that the major quasi-public testing and standards-making organizations take steps to revise the nomenclature system promptly.

It has been suggested to us on numerous occasions—both in public and in private—that we should, as an industry association, establish standards and nomenclature and somehow make certain that our members and their customers adhere to them.

We are advised by counsel that any attempt by plastics manufacturers to develop a uniform system of standards or nomenclature, and impose that nomenclature upon themselves and other industry members through the use of labeling or advertising agreements, would constitute an illegal act under the antitrust laws.

It also has been suggested that plastics manufacturers should insure safe advertising and use practices among themselves and by parties located further down the distributive chain.

Counsel advises that any attempt by industry members or SPI to coerce any other industry member to follow safe practices or to punish a member for not following safe-use practices lead to inferences or findings of undue coercion and group boycotts—activities which have been enjoined on numerous occasions.

We are not trying to beg the issue here. What I am leading up to is that the work of the National Commission on Fire Prevention and Control is bringing into focus the many, many things that must be done to contain fire as a threat to man.

Certainly there are material problems.

But there also are problems of fire and smoke detection and automatic fire suppression systems.

There are problems of proper training and equipment for firemen.

There are problems of keeping architects, engineers and builders informed about the proper use and application of new materials as well as older materials about which new facts are discovered.

There are problems of maintaining up-to-date building codes and then providing the money and manpower for adequate enforcement.

There are problems with devising adequate nomenclature and meaningful test procedures.

And there are problems with problems—such as tailoring code requirements for various types of structures such as nursing homes and hospitals, high rise buildings, one family houses, factories and warehouses.

We believe that given the proper spirit of cooperation among the various segments of industry and government, many of these problems can be solved. Certainly the work of the National Commission has given us all a cause for renewed hope.

NATIONAL CENTER ON CHILD ABUSE AND NEGLECT

Mr. PACKWOOD. Mr. President, on Saturday, the Senate passed a vitally important measure designed to establish a National Center on Child Abuse and Neglect and to provide support through Federal agencies for research and demonstration on child abuse and neglect (S. 1191). This is legislation which I cosponsored with the distinguished Senator from Minnesota, Senator MONDALE, and it is gratifying that Senators have recognized the importance of speedy action in passing the bill and sending it to the House for its consideration.

Mr. President, the hideous incidence of child abuse in our society is a virtually undiagnosed problem and/or disease. This is partially due to the fact that its victims are frequently helpless to communicate the horrors of their experiences, or fearful to do so out of terror of reprisals by their tormentors. The emotionalism aroused in us by child abuse and child abusers is probably also partly responsible for the slow legislative action. All too often we have found ourselves temporarily enraged about the emotional issue of battered and neglected children, without any significant follow-up results. If we can clear away some of the emotionalism and get down to the facts and examine the etiology of child abuse, we can certainly come up with some conclusions and suggestions for eliminating the battered and neglected child syndrome altogether. Superficial descriptions of abused children are dramatic and sensational, and make the front page. But they do not serve one whit to help the abusive parent, protect the abused child, or avoid similar tragedies in the future.

To gain the additional knowledge that is so badly needed, we must first improve our investigatory and reporting procedures.

The first studies which appeared in the early 1960's were often more sensational than informative. Since that time, more substantive studies have been conducted, but many of these were conducted on small and nonrepresentative samples of physically abused children. Nationwide studies, such as that by Brandeis University, have helped to fill in the gaps, but there is still a great deal to learn.

We know that the number of cases of abuse reported is only a small fraction of the actual incidents. Estimates have indicated that as many as 60,000 incidents of child abuse a year go unreported. The study conducted by Brandeis University for the Children's Bureau gives startling evidence of the high degree of nonreporting of fatalities despite the passage of child abuse reporting laws in all 50 States. Because of different interpretations of the legislation which require reports, fatal injuries inflicted upon children frequently are not reported as child abuse. In a nationwide screening of the daily newspapers in the United States for a 6-month period the Brandeis survey found newspaper accounts of 164 fatalities due to child abuse. The official information submitted by the 50-State central agencies for the same 6-month period recorded only 17 deaths. That is almost 90 percent of the deaths due to child abuse going unreported. This startling statistic, according to the study, was probably due to the fact that at the time of the survey all but two of the States did not require medical authorities, coroners, or medical examiners to report suspicion of physical abuse as the cause of the child's death. One has to wonder about what happened to the other children in those 147 families where the fatal abuses were not reported.

It is this kind of information which can help us to know where the inadequacies of our current protective laws for children exist. Mr. President, my State of Oregon took several important steps in 1971 to better enable us to deal with child abuse and neglect. The Oregon Legislature in that year enacted mandatory reporting and investigation requirements, and also directed the children's services division to report back with details of child abuse activities and submit recommendations for further legislative action which might be needed. Mr. President, because Oregon is one of the few States to be dealing with child abuse so directly and so forcefully, I ask unanimous consent to have printed at this point in the RECORD the pertinent language in Oregon law, a description of

its implementation by the children's services division, and recommendations for additional legislative changes. Additionally I ask unanimous consent to have printed in the RECORD figures showing cases of child abuse reported during the first year of operation of Oregon's registry. I should note that this registry has been particularly valuable to the children's services division in bringing to their immediate attention and to the attention of law enforcement agencies those cases where there have been previous complaints of abuse.

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

OREGON CHILD ABUSE STATUTE

418.740 Defintions for ORS 418.740 to 418.775. As used in ORS 146.710 to 146.780, 146.990, 418.740 to 418.775, and 419.476, unless the context requires otherwise:

(1) "Abuse" means:

(a) Any physical injury to a child caused by blows, beating, physical violence or by use of a knife, gun, pistol or other deadly weapon where there is some cause to suspect that the injury was intentionally or wantonly inflicted.

(b) Neglect, including malnutrition, which leads to physical harm. A child who in good faith is under treatment solely by spiritual means through prayer in accordance with the tenets and practices of a recognized church or religious denomination by a duly accredited practitioner thereof shall, for this reason alone, not be considered a neglected child within the meaning of ORS 146.710 to 146.780, 146.990, 418.740 to 148.775, and 419.476.

(c) Any physical injury or disease caused by an apparent violation of ORS 163.220 as revealed by a physical examination.

(2) "Child" means an unmarried person who is under 15 years of age.

(3) "Public or private official" means:

(a) Physician, including an intern.

(b) Dentist.

(c) School teacher, school nurse or school principal.

(d) Public health nurse employed by a local health department.

(e) Social worker employed by the Children's Services Division, the Public Welfare Division, a county juvenile department, or a licensed child-caring agency.

(f) Peace officer.

(4) "Law enforcement agency" means:

(a) Any city or municipal police department.

(b) Any county sheriff's office.

(c) The Oregon State Police.

(d) A county juvenile department.

The Legislative Assembly finds that for the purpose of facilitating the use of protective social services to prevent further abuse and to safeguard and enhance the welfare of abused children, it is necessary and in the public interest to require mandatory reports and investigations of abuse of children.

418.750 Duty of officials to report child abuse:

Any public or private official having reasonable cause to believe that any child with whom he comes in contact in his official capacity has suffered abuse shall report or cause a report to be made in the manner required in ORS 418.755. He shall also make a report to his immediate supervisor, if any.

418.755 Report content:

An oral report shall be made immediately by telephone or otherwise, and followed as soon thereafter as possible by a report in writing to a law enforcement agency within the county where the public or private official is at the time of his contact. Such reports shall contain the names and addresses of the child and his parents or other persons responsible for his care, if known, the child's age, the nature and extent of the child's injuries (including any evidence of previous injuries), the explanation given for the injuries and any other information which the reporter believes might be helpful in establishing the cause of the injuries and the identity of the perpetrator.

418.760 Duty of law enforcement agency receiving report; investigation; protective services for child:

(1) Upon receipt of oral report required under ORS 418.750, the law enforcement agency shall immediately notify the appropriate medical investigator and the Public Welfare Division. The law enforcement agency and the medical investigator shall cause an investigation to be made to determine the nature and cause of the injuries to the child.

(2) If the law enforcement agency conducting the investigation or the medical investigator finds reasonable cause to believe that abuse has occurred, the law enforcement agency shall notify the district attorney, the Public Welfare Division and the juvenile department of the county in which it is located within 24 hours of the receipt of the oral report. The Children's Services Division shall offer protective social services of its own or of other available social agencies if necessary to prevent further abuses to the child or to safeguard his welfare.

418.765 Central registry of reports:

Central registries shall be established and maintained by the Children's Services Division. Every law enforcement agency shall forward copies of all reports received to the state registry after investigation has shown that the child's injuries were the result of abuse or if the cause remains unknown. Each registry shall contain information from reports catalogued both as to the name of the child and the name of the family.

(NOTE.—Section 18, Chapter 451, Oregon Laws 1971, provides: The Children's Services Division shall prepare and present to the Fifty-seventh Legislative Assembly a report detailing the activities in relation to section 6 of this Act and shall make such recommendations for further legislation as it deems appropriate.)

418.770 Confidentiality of records: availability to law enforcement agencies and physicians:

Notwithstanding the provisions of ORS chapter 192 relating to confidentiality and accessibility for public inspection of public records and public documents, reports and records compiled under the provisions of ORS 418.750 to 418.765 are confidential and are not accessible for public inspection. However, the Children's Services Division shall make records available to any law enforcement agency of this state or any other state for purposes of subsequent investigation of child abuse, and to any physician, at his request, regarding any child brought to him or coming before him for examination, cure or treatment.

418.775 Certain privileges not grounds for excluding evidence in court proceedings on child abuse:

(1) In the case of abuse of a child, as defined in ORS 418.740, neither the physician-patient privilege nor the husband-wife privilege shall be a ground for excluding evidence regarding a child's abuse, as defined in ORS 418.740, or the cause thereof, in any judicial proceeding resulting from a report made pursuant to ORS 418.750.

(2) In any judicial proceedings resulting from a report made pursuant to ORS 418.750, either spouse shall be a competent and compellable witness against the other.

IMPLEMENTATION OF CHILD ABUSE STATUTE

To assure the effective implementation of child abuse reporting law and the effective utilization of the central registry, the Children's Services Division developed a reporting form and written procedures.

This information, along with a copy of the statute, was sent to the following departments, organizations and agencies: Oregon Medical Association, Oregon Dental Association, State and County Public Health Departments, State Police, Association of Chiefs of Police, all Sheriff's Offices, and Juvenile Departments, State Department of Education for distribution to all I.E.D.'s, and the District Attorney's Association.

Protective Service's program staff of the CSD held regional meetings with local CSD staff in order to orient them regarding their responsibilities in implementing the statute. They were given the responsibility of organizing meetings with all local departments, organizations, and agencies having a responsibility in implementing the statute. Most of the offices utilized a person from their District Attorney's office to interpret the meaning and intent of the statute.

In most locales, certain law enforcement agencies accepted the responsibility for investigating abuse cases. For example, in Marion and Clackamas Counties, this responsibility was assumed by the Juvenile Departments, utilizing police agencies when appropriate. In most larger cities, the City Police accept the responsibility, while the Sheriff's offices assume the investigation role in the rural areas. Of course, in the City of Portland, the Women's Protective Division, Portland Police, handle all reports of child abuse.

In general, it appears that the child abuse statute has been implemented effectively, its requirements well-accepted, and the central abuse registry working efficiently.

RECOMMENDED CHANGES IN OREGON CHILD ABUSE AND RELATED STATUTES

Following are recommended changes in statutes which curtail the reporting of child abuse cases to law enforcement agencies:

418.740. As used in ORS 146.710 to 146.780, 146.990 [to] *and* 418.740 to 418.775, [and 419.476,] unless the context requires otherwise:

(1) "Abuse" means:

(a) Any physical injury to a child caused by blows, beating, physical violence or by use of a knife, gun, pistol or other deadly weapon where there is some cause to suspect that the injury was intentionally or wantonly inflicted.

(b) Neglect, including malnutrition, which leads to physical harm. A child who in good faith is under treatment solely by spiritual means through prayer in accordance with the tenets and practices of a recognized church or religious denomination by a duly accredited practitioner thereof shall, for this reason alone, not be considered a neglected child within the meaning of ORS 146.710 to 146.780, 146.990 [,] *and* 418.740 to 418.775 [, and 419.476].

(c) Any physical injury or disease caused by an apparent violation of ORS 163.220 as revealed by a physical examination.

(2) "Child" means an unmarried person who is under 15 years of age.

(3) "Public or private official" means:

(a) Physician, including an intern.

(b) Dentist.

(c) Schoolteacher, school counselor, school nurse or school principal.

(d) Public health nurse employed by a local health department.

(e) [School worker] all social service staff employed by the Children's Services Division, the Public Welfare Division, a county juvenile department, or a licensed [child caring agency] child-service facility.

(f) Peace officer.

(g) Individual providing child foster care or child day care, either in his own home or in other facilities.

(h) Individual or agency providing homemaker services in the child's own home.

(4) "Law enforcement agency" means:
(a) Any city or municipal police department.
(b) Any county sheriff's office.
(c) The Oregon State Police.
(d) A county juvenile department.

DISCUSSION

There has been considerable concern about the omission of the "school counselor," since they oftentimes have a more personal relationship with students than teachers do.

The term "Social Worker" generally does not include an aide or other persons in lower personnel classifications who are actually providing social services.

A number of private individuals are providing professional homemaker services. This is a person trained to observe, evaluate and work with problems in human behavior. By nature of this factor and their almost daily contact with families who have personal/interpersonal relationship problems, the CSD believes they should be included as responsible reporting officials.

418.750 Duty of Official to Report Child Abuse:

(1) Any public or private official having reasonable cause to believe that any child with whom he comes in contact in his official capacity has suffered abuse shall report or cause a report to be made in the manner required in ORS 418.755. He shall also make a report to his immediate supervisor, if any.

(2) Anyone participating in good faith in the making of a report pursuant to ORS 418.750 to 418.760 and who has reasonable grounds for the making thereof, shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed wth respect to the making or content of such report. Any such participant shall have the same immunity wtih respect to participating in any judicial proceeding resulting from such report.

DISCUSSION

This is a necessity in a statute requiring persons to report. It was included in the original draft of the statute and we believe it was inadvertently deleted in the final draft.

418.755 Report Content:

An oral report shall be made immediately by telephone or otherwise [and followed as soon thereafter as possible by a report in writing] to a law enforcement agency within the county where the public or private official is at the time of his contact. Such reports shall contain the names and addresses of the child and his parents or other persons responsible for his care, if known, the child's age, the nature and extent of the child's injuries (including any evidence of previous injuries), the explanation given for the injuries and any other information which the reporter believes might be helpful in establishing the cause of the injuries and the identity of the perpetrator.

DISCUSSION

It has been found by the law enforcement agencies and the CSD that requiring a written report of the reporting official has little value and only tends to delay the processing of cases. It is time consuming for the law enforcement agencies to follow-up to insure that oral reports are confirmed in writing. Upon receiving an oral report, they investigate, whether or not it was confirmed in writing. Considering the number of parties having reporting responsibilities and the content required by statute, the CSD saw the necessity for a standardized reporting form. It has been logistically impossible to establish and maintain a supply of these forms with all parties. Rather, it has been the preferred practice in most counties for the law enforcement agencies to keep the forms and complete them upon receiving the oral reports; thus, facilitating the reporting procedure.

Vincent De Francis, Director, Children's Division, the American Humane Association, the leading national child abuse standard-setting agency, states: "The usual reporting process prescribed in these laws sets up a roadblock to free reporting. This is because of their insistence that the immediate oral report be followed by a written report. This writer has serious reservations about the validity of the written follow-up report as a requirement in all cases . . . when the reporter is an individual, and he is reporting as an individual, there will inevitably arise a considerable amount of reluctance to going on record. This would apply with equal force regardless of whether the reporter is a professional person or not. As a matter of fact, a doctor, the usual target professional in reporting laws, who is sensitive about his image in the community would be more likely to be reluctant about sending a written report to a public agency. We strongly suspect that this single requirement in the law is largely responsible for the incidence of reports from doctors in private practice. The probability of more frequent reports from private practitioners would, we think, be greatly enhanced if their reporting could be made orally without the written follow-up. In this manner they would be relieved of the time-consuming burden of the written report and of the necessity of creating a permanent record in the possession of a public agency. Realistically, this would be a step toward making it easier for a doctor to report." [1]

418.760—Duty of law enforcement agency receiving report; investigation; protective services for child. ORS 418.760 is amended to read:

(1) Upon receipt of oral report required under ORS 418.750, the law enforcement agency shall immediately notify the appropriate medical investigator and the [Public Welfare Division] *Children's Services Division*. The law enforcement agency [and the medical investigator], *working in conjunction with other appropriate agencies*, shall cause an investigation to be made to determine the nature and cause of the injuries to the child.

(2) *The CSD shall or, the law enforcement agency conducting the investigation may determine the necessity for placing the injured child, and any other children in the home, in protective custody under paragraph (c) of subsection (1) of Section 16 of this 1973 Act.*

(3) If the law enforcement agency conducting the investigation or the medical investigator finds reasonable cause to believe that abuse has occurred, the law enforcement agency shall notify the district attorney, the [Public Welfare Division] *Children's Services Division* and the juvenile department of the county in which it is located within 24 hours of the receipt of the oral report. The Children's Services Division shall [offer] *provide* protective social services of its own or of other available social agencies if necessary to prevent further abuses to the child or to safeguard his welfare.

DISCUSSION

The CSD is mandated by statute to provide protective social services. Taking an abused child into custody is, without question, a function of a child protective services agency. Since removal of a child from his home is a very traumatic experience, it should only be done after an evaluation by an expert in protective services, except in cases where it is obvious that the child is in extreme danger. It is the intended purpose of CSD's amendment to stress (1) the mandatory role of a child protective services agency to assess the necessity of removing a child from his home and, yet, (2) provide the law enforcement agency sufficient latitude to take a child into custody when delay would further endanger the child.

Vincent De Francis, Director, Children's Division, the American Humane Association, the leading national child abuse standard-setting agency, states, "law enforcement's functional responsibilities and their *modus operandi* are not in tune with the legislative intent of 'invoking the protective social services.' Such a choice would be more compatible with a legislative intent to view the occurrence in terms of crimes and punishment. Social services are not a component of the law enforcement function. Law enforcement personnel are trained to investigate and are oriented to determine whether a crime has been committed. While some personnel in large police forces are given special training as juvenile officers, these constitute but a minute portion of the country's police force." [2]

The picture in Oregon is no different. Once outside of the large cities of the state, requisite knowledge and skills of law enforcement agencies in the area of protective social services are conspicuously absent. Also, jurisdictional disputes between law enforcement agencies are not uncommon. In matters of child abuse, we can ill afford such unevenness in skill or uncertainty in responsiveness.

In summary, the CSD strongly urges that we do not allow our statutory posture to be conditioned by what is practiced in our metropolitan areas unless we can assure ourselves of similar capabilities for the balance of the state.

418.765 Central Registry of Reports:

Central Registries shall be established and maintained by the Children's Services Division. Every law enforcement agency shall [forward copies of all reports received] *report* to the state registry in writing, after investigation has shown that the child's injuries were the result of abuse or if the cause remains unknown. *The written reports shall be on forms prescribed by the CSD.* Each registry shall contain information from reports catalogued both as to the name of the child and the name of the family.

DISCUSSION

This amendment is based on the assumption that "public and private officials" who are required to orally report to a law enforcement agency will not be required to do so in writing per recommended amendments in ORS 418.775.

418.775 Certain Privileges Not Grounds for Excluding Evidence in Court Proceedings on Child Abuse:

(1) In the case of abuse of a child, as defined in ORS 418.740 [neither] the physician-patient [nor] the husband-wife privilege, and the privilege extended to staff members of schools and to nurses under ORS 44.040 shall not be a ground for not reporting suspected child abuse as required in ORS 418.750 or for excluding evidence regarding a child's abuse as defined in ORS 418.740, or the cause thereof, in any judicial proceeding resulting from a report made pursuant to ORS 418.750.

(2) In any judicial proceedings resulting from a report made pursuant to ORS 418.750, either spouse shall be a competent and compellable witness against the other.

DISCUSSION

Some school districts have been advised by their legal advisors that if they reported a suspected child abuse case as required by ORS 418.750, they would be violating the confidentiality of information provided to

[1] *Child Abuse Legislation in the 1970's*, Vincent De Francis, The American Humane Association, Children's Division.

[2] "Child Protective Services—1967," Vincent De Francis, *Juvenile Court Judges Journal*, Spring, 1968, XIX, No. 1.

them by a student as defined in ORS 44.040 which may result in the suspension of their certification. We feel that this factor is responsible for only 12 suspected child abuse cases being reported by public schools during the first year of operation of the Central Registry.

SB 551 only provides that ORS 44.040 is not grounds for a teacher to exclude evidence regarding a child's abuse in a judicial proceeding and does not cover the actual reporting of a suspected child abuse case. The CSD is, therefore, recommending that this provision be included in ORS 418.775.

146.750 Injuries to be Reported to Medical Investigator:

(1) Except as required in subsection (3) of this section, any physician, including any intern and resident, having reasonable cause to suspect that a person brought to him or coming before him for examination, care or treatment has had injury, as defined in ORS 146.710, inflicted upon him other than by accidental means, shall report or cause reports to be made in accordance with the provisions of subsection (2) of this section.

(2) An oral report shall be made immediately by telephone or otherwise, and follows as soon thereafter as possible by a report in writing, to the appropriate medical investigator.

(3) When either an injury as defined in ORS 146.710 or abuse as defined in ORS 418.740 occurs to an unmarried person who is under 15 years of age, the reporting and other provisions of ORS 418.740 to 418.775 shall apply.

DISCUSSION

The primary purpose of ORS 146.710 to 146.780 is to ascertain whether or not a crime of violence where a deadly weapon is used has been committed and that the matter be referred to the District Attorney. There is no provision for the protection of the victim.

ORS 418.740 to 418.755 provides that if the physician has reason to believe that such an act has been committed against an unmarried person under 15 years of age, the matter must be reported to a law enforcement agency who, in turn, reports to the appropriate medical investigator and the CSD. This makes it possible for the immediate provision of protective services.

In the case of a child, if a physician chose to report such an act in accordance with ORS 146.750, the provision of protective services might be seriously delayed or never come to the attention of the CSD or a law enforcement agency.

The proposed amendment would eliminate this possibility.

TABLE I.—CHILD ABUSE IN OREGON (NOVEMBER 1971 TO NOVEMBER 1972)

NUMBER AND PERCENT OF CHILD ABUSE VICTIMS BY AGE, OREGON [1]

Age category	Number	Percent	Cumulative Number	Cumulative Percent
0 to 1	55	14		
1 to 2	46	12	101	26
2 to 4	76	19	177	45
4 to 6	51	13	228	59
6 to 9	57	15	285	74
9 to 11	28	7	313	81
11 to 14	60	16	373	97
14	2	1	375	97
15	5	1	380	98
16	2	1	382	99
Unknown	4	1	386	100
Total	386	100		

[1] In many cases it is impossible to find out exactly how the child was injured. Over ¼ of the child abuse reports involve children 2 years of age and under. Not only are these children unable to defend themselves, but they are unable to tell anyone how they are being hurt.

NUMBER AND PERCENT OF CHILD ABUSE VICTIMS BY SEX, OREGON

Sex category	Number	Percent
Boy	203	52
Girl	183	48
Total	386	100

TABLE II.—NUMBER AND PERCENT OF TYPES OF ABUSE REPORTED, OREGON [1]—NOVEMBER 1971 TO NOVEMBER 1972

Type	Number	Percent
Bruises, welts	265	52
Abrasions-lacerations	65	13
Sexual molestation	31	6
Neglect	28	5
Other [2]	30	6
Malnutrition	21	4
Burns, scalding	17	3
Broken bones, fractures	16	3
Wounds, cuts, punctures	13	3
Skull fractures	11	2
Internal injuries	5	1
Severe beating	7	1
Sprains, dislocations	3	1
Total	512	100

NUMBER AND PERCENT OF REPORTED ABUSERS, OREGON [1]—NOVEMBER 1971 TO NOVEMBER 1972

Suspected abusers	Number	Percent
Mother	130	32
Father	112	28
Both parents	9	2
Stepmother	5	1
Stepfather	42	10
Siblings	6	2
Relatives	1	0
Live-in	4	1
Boyfriend	24	6
Babysitter	5	1
Unknown	51	13
Foster parent	3	1
Other [2]	13	3
Total	405	100

[1] In some cases, more than 1 person may be abusing a child, therefore, the number of children involved and the number of perpetrators may vary. Similarly, a child may receive more than 1 injury, therefore, the number of injuries and the number of children will not correspond.

[2] Other includes hernia, pinch marks, swelling, lesions on penis, old scar, overuse of drugs, convulsions, drowning, exposure-freezing.

TABLE III.—NUMBER AND PERCENT OF CHILD ABUSE VICTIMS RETURNED TO OWN HOME OR PLACED IN ALTERNATIVE RESIDENTIAL CARE, OREGON—NOVEMBER 1971 TO NOVEMBER 1972 [1]

Residential placement	Number	Percent
Own home under protective supervision	131	49
Placed in foster care	81	30
Placed in shelter care pending court hearing	49	18
Placed with relatives	4	2
Other	2	1
Total	267	100

NUMBER AND PERCENT OF REGISTERED CHILD ABUSE REPORTS, BY SOURCE, OREGON—NOVEMBER 1971 TO NOVEMBER 1972

Source	Number	Percent
Children's Services Division	114	29
School	12	3
Juvenile departments	50	13
Law enforcement	105	27
Woman's Protective Division [2]	39	10
Physicians	57	14
Parents	2	1
Neighbors	3	1
District attorneys	2	1
Other	2	1
Total	386	100

[1] Number reflects only those children reported and receiving CSD services. Protective services were not provided in 119 cases reported for reasons such as: the complaint was not substantiated, the child was abused by a babysitter who was dismissed, the child was abused while on a home visit from a substitute care placement and visitation was discontinued, etc.

[2] Portland Oregon Police Bureau.

TABLE IV

NUMBER AND PERCENT OF CHILD ABUSE REPORTS, BY REGION, OREGON—NOVEMBER 1971 TO NOVEMBER 1972

	Number	Percent
Region:		
I	190	49
II	43	11
III	22	6
IV	25	6
V	37	10
VI	43	11
VII	26	7
Total	386	100

NUMBER AND PERCENT OF CHILD ABUSERS WITH PREVIOUS RECORDS OF ABUSE, OREGON—NOVEMBER 1971 TO NOVEMBER 1972 [1]

Total number of abusers [2]	405	
With previous abuse record	42	
Percent		11

[1] Literature in the field agrees that this suggests that the use of physical abuse tends to be patterned into child-rearing practices, and is usually not an isolated incident.

[2] More than 1 perpetrator may be involved in abusing the same child, therefore, the number of perpetrators and the number of children involved may not correspond.

Mr. PACKWOOD. Mr. President, the second and equally important step in dealing with child abuse, once it has been determined and reported, is to learn why people abuse their children. If we learn what makes a parent abuse or neglect a child, we can take the necessary preventive steps to help the parent deal with his or her problems in ways which are not destructive to the child. The multidimensional causes of child abuse make it difficult to project who may abuse a child and who will not. But the more studies and research we do and the more parents we treat, the more we will know. For example, studies have already established that most abusive parents were themselves abused as children.

It is encouraging that all States have taken at least preliminary steps to deal with child abuse. But much much more needs to be done, and we need to share our knowledge, experiments, and research. Our legislation is a big forward step in this direction, and I urge the other body to take up this measure at the earliest possible time. Every day of delay leaves more children open to abuse and neglect, to destruction of their young minds and bodies.

WHO IS THE PRICE FREEZE HELPING?

Mr. TUNNEY. Mr. President, the administration's present economic program—which might best be called phase 3½—is piecemeal and ill conceived for growers and processors, and disastrous

for the Nation's consumers. This latest price freeze has thrown the normal marketing procedures throughout the agricultural industry into a state of economic shock. Growing, processing, canning, shipping, wholesale, and retail sales are in total confusion. This 60-day freeze is seriously damaging the future economic health of the agricultural sector.

In California—the largest agricultural State in the Nation—the situation is reaching the disaster stage. Every grower and processor with whom I have talked views the freeze as totally ineffective. Every consumer group from whom I have heard, including the Consumer Federation of America, has agreed that the freeze will not reduce prices and, in the long run, will obstruct the path toward developing effective methods to halt inflation.

If growers, processors, and consumers are against this latest ill-thought-out price freeze, who is the freeze helping? Let me point out several examples of the impact in California.

Mr. President, 50 percent of all canned fruits and vegetables in the United States come from California. It is an industry which contributes substantially to the national food supply.

At the beginning of the growing season, canners agreed with growers to receive and can fruits but to wait until later to determine a price based on their full costs. Today, the canners and growers are at an impasse: the growers, for legitimate reasons, are demanding a price 50 percent higher than last year. The canners, however, are locked into a fixed price ceiling for their sales, which is less than the grower is demanding for the raw commodity. No one is going to buy a product for more than he can sell it. The canners, therefore, are either going out of business or withholding existing inventories until they can make a profit.

In California, asparagus is already being withheld and there is a strong possibility that apricots and other commodities will soon be in short supply.

This kind of economically forced retaliation causes shortages at the supermarkets and discourages farmers from planting.

The volatile feed grain industry is another example. With these prices skyrocketing, the cattle, hog, and poultry industries cannot afford to feed their stock. In southern California, the poultry feed processing industry is losing an average of $125,000 a week.

As a result, many feed grain processing plants are slowing their operation or shutting down completely because they have no customers. If these plants are shutting down, it is an obvious enough conclusion that livestock and poultry producers soon will be faced with unattractive alternatives: either they will be unable to afford feed or feed will be unavailable at any cost.

Mr. President, it does not take an extraordinary knowledge of agricutural economics to understand that a price freeze on the entire food production chain with the sole exception of the first link—the raw commodity—is "inoperative." Even if the President were to impose an acceptable phase IV today, serious damage has already been done, even without citing dramatic examples of drowning chickens and selling dairy cattle for beef. But it has happened and will continue if something is not done now.

There are pernicious ripple effects of the freeze which are not so obvious. Unemployment, for example, will extend across the industry. In California, nearly 15 percent of the meatpackers already have been laid off. One major porkpacking house in Los Angeles is on the verge of shutting down, thus laying off 700 employees. Now these unemployed workers will be eligible for some kind of unemployment assistance and that is going to be paid for by the Federal Government or the State.

Another side effect will be that of future Government expense. If food becomes scarce—thus more expensive—the cost of Government programs is going to increase. School lunch, commodity distribution, special milk, food stamps, will all be more expensive and it is going to be the taxpayers who will pick up that tab.

The irony and absurdity of this whole situation is that phase 3½ has done nothing—and will do nothing—to stop the rising tide of inflation. In fact, as I have pointed out, there is a real possibility of a sharp increase in prices as a result of supply shortages caused by a curtailment and closure of operations below the wholesale level.

I am as eager as anyone to see some relief in the continuing pressure of rising prices, but we cannot pursue the present course. Moreover, the fact that phase 3½ is such a disaster makes me apprehensive about what to expect from phase IV.

It is absolutely imperative that the President must outline fair and effective phase IV controls without further delay. Phase IV must terminate all agricultural programs which adversely affect the supply of food to the Nation's consumers and which damage the economic health of the agricultural community.

CONCLUSION OF MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, is there further morning business?

The PRESIDING OFFICER (Mr. McINTYRE). Is there further morning business? If not, morning business is closed.

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

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

The second 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.

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. 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.

Under the previous order, the Senator from Maine (Mr. HATHAWAY) is recognized for the purpose of calling up his amendment.

Mr. HATHAWAY. Mr. President, I call my amendment No. 348.

The PRESIDING OFFICER. The clerk will report the amendment.

The second assistant legislative clerk proceeded to state the amendment.

Mr. HATHAWAY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with and that the amendment be printed in the RECORD.

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

The amendment is as follows:

AMENDMENT NO. 348

On page 35, between lines 20 and 21, insert the following:

"SEC. 206. (a) Notwithstanding the provisions of section 104(d) or any other provision of this Act or any other law, the holder of any rights-of-way granted pursuant to this Act for the construction of a pipeline for transporting oil and natural gas resources and the owner or operator of a terminal or vessel engaged in transporting oil or gas shall, except when caused solely by an act of war, be liable for all damages and injuries resulting from their activities in connection therewith, irrespective of fault or wrongdoing.

"(b) Nothing in this section shall be construed to bar any holder of such right-of-way, or any owner or operator of such terminal or tanker, from recouping said damages under applicable law.".

On page 35, line 21, strike out "SEC. 206." and insert "SEC. 207.".

Mr. HATHAWAY. Mr. President, the amendment I am proposing today would provide substantial protection to fishermen, shore-front property owners, and others who may suffer damages as a result of oil spills from pipelines, from terminals engaged in transporting oil from pipelines, or from vessels conveying oil to or from U.S. ports.

The amendment provides absolute liability for all damages and injuries arising from the transportation of oil by any of these means, irrespective of fault or wrongdoing. The absolute liability provision would apply to the holder of any right-of-way granted pursuant to this act for the construction of an oil pipeline, to the owner or operator of a terminal engaged in handling oil, and to the owner or operator of any vessel carrying oil in bulk as cargo.

The liability of these parties to pay damages in the event of an oil spill would be absolute except when the damages were caused solely by an act of war. However, the holder of the right-of-way, or the owner or operator of a terminal or vessel, would have the right to go to court and attempt to recoup the damages if he felt that a third party was at fault, through negligence or for other reasons.

I feel it is essential to pass legislation which gives greater protection to persons who suffer damages or injuries from oilspills. Current law provides liability only for cost of cleanup, and only up to $14 million. There is no protection for the fisherman, the shore-front property owner, or others who may suffer long-term damage to their holdings and to their income as a result of oil spills.

Given the constant increase in tanker traffic, and particularly the strong possibility of hazards arising from the construction of the Alaska pipeline. I think we must pass stronger legislation.

I firmly believe that it is necessary and justifiable to provide absolute liability in the case of oil pipelines, terminals, and tankers. The oil companies know that they are taking a calculated risk in transporting oil by these means, and that the potential damages to be caused by oil spills are great. This is particularly true in the case of the trans-Alaska route, which involves transporting the North Slope oil by pipeline over earthquake-prone territory and then by vessel over stormy seas. The oil companies are willing to take this risk, because of the financial benefits they will get from exploitation of the North Slope oil resources. If they are to reap the benefit, they must also be required to pay the price of a disastrous oil spill. Whether or not the pipeline holder or tanker owner is immediately at fault for such a disaster, the fact that he is responsible for transporting the oil to begin with means that he has provided the conditions under which the oil spill can occur, and thus should be absolutely liable for damages.

In pushing for this absolute liability law, I am particularly concerned about protecting the rights and welfare of individuals—people with few resources, who could be severely hurt by an oil spill. Fishermen, for instance, may find that their catch is way down as the result of an oil spill; they are not protected under existing law for their loss of income. Operators of shore resorts may have to close down for some time when their beaches are covered with oil; they cannot obtain damages under existing law. These omissions must be rectified.

There is a real need for Federal law in this area, despite the existence of some strict liability laws on the State level, such as the law in force in my own State of Maine. State laws vary greatly in terms of strength and extent of coverage; many, for instance, do not extend absolute liability to third parties. Laws in neighboring States may be quite different, even though the problems they face are much the same. Washington State has an absolute liability law; Oregon does not. Given that the oil is transported all over the country, I think that the laws governing its transportation should apply uniformly on a nationwide basis.

I should also like to point out that passage of an absolute liability law by the United States would fill in a legal void that should eventually be filled by an International Convention. The convention, which provides absolute liability for oil spills in international law, has been negotiated but not yet ratified by the member states. If the U.S. Congress adopts such a law, it could speed ratification of this important international agreement.

For all of these reasons, I call for adoption of this amendment to provide absolute liability for damages and injuries arising from the transportation of oil by vessels, pipelines, and terminals.

I yield to the Senator from Washington.

Mr. JACKSON. Mr. President, as I understand it the amendment of the junior Senator from Maine would impose absolute liability for damage or injury to the United States and to third parties from first, any oil and gas pipeline or terminal, and second, any vessel transporting oil and gas, in the coastwise trade and in international trade. It further provides that anyone making any payments under this provision may recoup them from a third party under applicable law.

Mr. President, S. 1081 as introduced had an absolute liability provision. The committee considered the liability question very carefully during markup of this measure.

At one time during consideration of the bill, the committee considered language similar to amendment No. 338, an earlier amendment by the Senator from Maine, insofar as it applies to pipelines.

Imposition of absolute liability raises very complicated legal questions, particularly where tankers are involved. After review of these questions the committee determined not to attempt to write an all-encompassing absolute liability provision and instead adopted language recommended by the administration.

Section 104(g) of S. 1081 authorizes the Secretary of the Interior to issue regulations designed to protect the United States. It leaves questions concerning liability to third parties to be determined by the operation of State law.

Tankers and on-shore facilities are presently made absolutely liable for the costs of cleaning up oil spills by the Federal Water Pollution Control Act Amendments of 1972. This act limits liability to $14 million for cleanup costs from tanker oil spills and $8 million for spills from on-shore facilities.

At present, many States have laws on absolute liability including the States of Alaska, Washington and Maine.

The objective of the amendment proposed by the junior Senator from Maine is a worthy one. However, the subject it deals with is so complex that the questions raised should be considered very carefully. Hearings should be held and the legislation should be considered in light of the existing body of State, Federal and international law. A number of questions come to mind concerning the measure:

First, imposing absolute liability on all oil and gas pipline regardless of capacity, length, or financial capacity of the operation could work a hardship on small operators.

Second, the effect of the amendment on existing State laws and on the Federal Water Pollution Control Act is uncertain. The amendment may override these acts in part.

Third, the provision for recoupment of losses could be interpreted to run directly contrary to the absolute liability provision.

Fourth, adoption of the amendment could interfere with the United States negotiating position in the United Nation's Intergovernmental Maritime Consultative Organization—IMCO—and in the forthcoming law of the sea conference.

I am sympathetic with the objectives of the amendment. It raises important questions, however, which need to be examined in depth. These issues fall under the jurisdiction of the Committees on Commerce and Public Works as well as the Interior Committee. If the Senator will withdraw his amendment, I can assure him that it will be fully considered by the Interior Committee and that we will hold hearings on it as soon as possible.

Mr. President, I especially want to commend the Senator from Maine for his thorough analysis of this problem and the effective way in which he has presented it. I think he may agree with me that there are some real tough questions that should be explored in a committee hearing, at which time we could get at these special problems where hardship may result rather than accomplishing what we all seek.

The State of Maine and the State of Washington have two things in common: we also have laws that provide for absolute liability.

Mr. HATHAWAY. I thank the Senator from Washington for his very complimentary remarks. I appreciate the shortcomings of the amendment which he has pointed out, although I think that most of those could be cleared up without too much difficulty.

One does pose a problem in the limitation of liability particularly when we would be dealing with small companies. Originally, this amendment covered only the Alaska pipeline and transportation therefrom to the various States, but it was pointed out that that might be a violation of the equal protection clause of the Constitution and that we were discriminating against certain pipelines and certain vessels and terminal operators, and consequently the amendment has been broadened to cover all pipeline right-of-way permits and all vessel owners and terminal operators.

Particularly the imposition of absolute liability on very small operators could prove to be too burdensome. Consequently, I think we should hold further hearings, and I am, therefore, willing to withdraw the amendment.

I assume the Senator from Washington means that we could hold hearings sometime after the August recess, with the goal in mind of bringing to the floor of the Senate before this session is over an amendment to some other bill which would cover this situation.

Mr. JACKSON. Mr. President, that would be the objective and the goal of the chairman of the committee.

Mr. HATHAWAY. I hope that in addition to the points that have been made by the Senator from Washington, in the course of these hearings and the markup, the committee would consider the revision of existing laws. The purpose of this

amendment, of course, was to revise existing laws limiting the liability of the owner of a vessel to the value of the vessel and cargo at the time of the accident. But I would hope the committee would consider also the matter of a cause of action for loss of income in the fishing industry. We have already mentioned the consideration we would have to give to the question of dollar devaluation; and I think the committee should also consider carefully any contemplated exception to the absolute liability law.

Mr. JACKSON. Mr. President, I am glad that the able and distinguished Senator from Maine has mentioned the question of fisheries. I believe that in order to adequately protect the fisheries, we will have to do some revising of the language in the pending amendment. I believe the Senator from Maine has made that point.

Fisheries in the State of Washington and fisheries in Maine and Alaska, our respective areas—I speak for the west coast—are very important to the well-being and livelihood of our people, and I believe we ought to have some explicit language. I know the Senator intended to cover that, and I wrestled with this specific problem in the committee, and frankly was not able to come forth with an adequate stipulation that would cover the fishery resources.

The basic problem is the damage to the fish that are not yet in the possession of the fishermen; does the Senator agree on that?

Mr. HATHAWAY. That is correct. There again, the courts have held that fishermen do not have a cause of action for loss of income; but an oil spill could destroy the entire catch for a fisherman for many, many years.

Mr. JACKSON. That is the ironic thing. The Senator from Maine is wise in deferring action now until we have the benefit of the opinions of legal experts on the question the Senator very properly has raised regarding protection to our fishery resources and those who engage in that industry. I again commend him for his objectivity and his thoroughness in trying to tackle this problem in its totality. It is a complicated problem, as my good friend has pointed out, Mr. President.

I believe that the hearings that have been suggested here will go a long way toward dealing with the problem on a comprehensive basis. I am sure this is what the Senator from Maine has in mind. It is what I have in mind, and I assure him we will move forward on it.

Mr. HATHAWAY. I thank the Senator for his assurance of hearings in the fall, and his assurance that we will have as a goal an amendment to some bill that will come to the floor sometime before the end of this session.

Mr. STEVENS. Mr. President, the amendment proposed by Senator HATHAWAY, would cause the owners of a trans-Alaska pipeline and associated facilities to be liable to the United States for any damages resulting from their activities, irrespective of fault or wrongdoing, except when the damages or injuries are caused solely by either an act of war or negligence on the part of the United States. Liability for damages and injuries to third parties is also imposed except when they are caused solely by an act of war or negligence on the part of the third party. Consequently, liability would be imposed in the following situations:

First. When a third party is injured as a result of the sole negligence on the part of the United States;

Second. When a third party is injured as a result of a malicious act or the sole negligence of a fourth party;

Third. When a third party is injured as a result of the concurrent negligent or willful acts of himself and either a fourth party or the United States;

Fourth. When the United States is injured as a result of the malicious act or sole negligence of anyone other than the United States;

Fifth. When the United States is injured as a result of the concurrent negligence of itself and a third party; and

Sixth. When either the United States or a third party is injured solely as a result of an act of God.

In all of these situations liability would be imposed upon the owners and operators of the trans-Alaska pipeline notwithstanding scrupulous adherence to detailed technical stipulations and conformity—in construction and operation—with the highest state of the art.

This amendment would seem to stem from a "deep pockets" theory, rather than from a concern for environmental protection. The Secretary of the Interior has imposed numerous conditions upon pipeline construction and operation which minimize any adverse environmental impact which might be occasioned by a trans-Alaska pipeline. Moreover, even in the highly unlikely event that any damage were to be caused to any "structure, property, land, fish and wildlife habitats, or any other resource by the permittee regardless of fault such property will be reconstructed, repaired and rehabilitated by permittee to the written satisfaction of the authorized officer." Stipulation, hereafter STIP 1.7.1, volume I, Final Environmental Impact Statement. The trans-Alaska pipeline will be constructed and operated in accordance with the strictest safeguards ever developed for any pipeline. If, however, through no fault of the pipeline owners or operators damage were to be inflicted in connection with the construction, operation, maintenance, or termination of the pipeline, the owners and operators will be required to repair the damage.

In addition to requiring repair of any damage caused by pipeline operation—STIP 1.7.1—the Secretary of the Interior has imposed the following requirements upon the right-of-way permittee: Upon failure of the permittee to clean up any discharge from the pipeline, the Authorized Officer will do so at the full expense of the permittee, regardless of whether the discharge was the fault of the permittee—STIP 2.1.4.4; the permittee shall be liable to the United States for any damage suffered by it which in any way arises from the pipeline, except when such damage is caused by employees of the United States acting within the scope of their authority—STIP 1.7.2; the permittee shall indemnify the United States against all demands, claims or liabilities of every nature arising from pipeline activities or the use or occupancy of Federal land which is the subject of any permit or right granted in connection with the pipeline system, except for damages for which the United States may be liable under the Federal Tort Claims Act—STIP 1.7.3; the permittee must also indemnify the United States against any claims or damages arising from the approval by the United States of any design or plan pertaining to the pipeline—STIP 1.7.3; the permittee shall abate any potential harmful pipeline condition and the Authorized Officer may suspend pipeline activities which threaten serious harm to life, property or the environment—STIPS 1.7.1, 1.3.4; and, all of the conditions set forth in the stipulations apply to any agent, subcontractor or employee of the permittee—STIP 1.2.3; and the owners of the pipeline are responsible for compliance by all contractors and subcontractors.

The authority of the Secretary of the Interior to condition the grant of right-of-way to the trans-Alaska pipeline or any other pipeline upon terms such as these is expressly recognized in section 101(c)(3) of S. 1081, as reported. Amendment 348 would largely nullify this authority, the effective exercise of which can be postulated upon the previously drafted stipulations for the trans-Alaska pipeline. These stipulations, prepared by the Secretary of the Interior in conjunction with other Departments and agencies of the Government, are a thoughtful and effective response to what were considered to be the major problems posed by a project of this magnitude.

In less than 20 lines and after having been considered for a negligible period of time, amendment 348 would, at best, statutorily nullify the stipulations drafted by the Secretary; moreover, if the stipulations were to be considered still effective, with the amendment merely superimposing a different liability in certain instances, the extent of the permittee's liability would not be clear. The potential for litigation is manifest. It is altogether possible that neither the intention of Congress nor that of the Secretary would be realized.

In addition to the liability imposed by the stipulations, the State of Alaska has also provided for liability irrespective of fault in the event of an oil spill. I ask unanimous consent that a copy of this Alaskan statute—Alaska Statutes sections 46.03.822 through 828—be printed in the RECORD.

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

(See exhibit 1).

Mr. STEVENS. Amendment 328, which was passed by the Senate on July 13, 1973, would also impose liability upon the right-of-way permittee—without regard to the permittee's negligence—for damages to any Alaska Native or Native Organization in connection with or resulting from use of the right-of-way. Consequently, by virtue of stipulations pre-

pared by the Secretary, Alaskan law, and amendment 328, liability without regard to fault is already imposed upon the grantee of the trans-Alaska right-of-way. Amendment 348 is not only unnecessary but would wreak havoc upon the carefully constructed matrix delineating the scope of liability for the permittee for the trans-Alaska right-of-way.

The trans-Alaska pipeline will be serving a public need.

It is assisting in the production of much needed natural resources, in a time of acute energy shortage. It will function as a common carrier serving not only its owners but all oil producers along the line and will transport not only the privately owned working interests, but also the State of Alaska's royalty interest. Nonetheless, the trans-Alaska pipeline is singled out by amendment 348 as warranting the imposition of absolute liability. This liability is not presently imposed nor has it been imposed on any other oil or gas pipeline in the country—nor would it be applied to a trans-Canada line. By the very terms of amendment 348 this liability is imposed on only one pipeline, the trans-Alaska pipeline. Not only is this unique to the pipeline industry but no other common carrier, whether pipeline, airline, or railway, has ever been required to insure the Federal Government for damages suffered by reason of an act of God or intervening act of a third party merely because the damage is somehow connected with the carrier's operations. The basis for this discrimination is unclear. To impose such liability, in addition to a commensurate liability to third parties, upon the trans-Alaska pipeline is unwarranted and in derogation of the public good.

In sum, amendment 348 singles out one pipeline, in the entire common carrier industry, for absolute liability; however, even aside from its patently discriminating nature, amendment 348 promises to add untold confusion to an area which has thus far been characterized by deliberate and effective draftsmanship. The amendment should not be permitted to pass.

EXHIBIT 1

ALASKA STATUTES—TITLE 46, WATER, AIR, AND ENVIRONMENTAL CONSERVATION

CHAPTER 03. ENVIRONMENTAL CONSERVATION

Article 4. Air pollution control

Sec. 46.03.210. Local air pollution control programs. (b) Municipalities other than those with a population in excess of 1,000 may establish and administer local air pollution programs if the proposed programs meet the requirements of (a)(1)—(4) of this section.

(am § 48 ch 71 SLA 1972)

Effect of amendment.—The 1972 amendment, in subsection (b), substituted "population in excess of 1,000" for "population of less than 1,000."

As the rest of the section was not affected by the amendment, it is not set out.

Legislative committee report.—For report on ch. 71, SLA 1972 (HCSSB 383 am H), see 1972 House Journal, p. 898.

Article 7. Prohibited acts and penalties

Section

822. Strict liability for the discharge of hazardous substances.
824. Damages.
826. Definitions
828. Other rights of action not affected.

Sec. 46.03.822. Strict liability for the discharge of hazardous substances. To the extent not otherwise preempted by federal law, a person owning or having control over a hazardous substance which enters in or upon the waters, surface or subsurface lands of the state is strictly liable, without regard to fault, for the damages to persons or property, public or private, caused by the entry. If an action is brought by the state to recover damages for oil pollution, liability is limited as specified in § 760(b) of this chapter. In an action to recover damages, the person is relieved from strict liability, without regard to fault, if he can prove—

(1) that the hazardous substance to which the damages relate entered in or upon the waters, surface or subsurface lands of the state solely as a result of

(A) an act of war,

(B) an intentional act or a negligent act of a third party, other than a party (or its employees) in privity of contract with, or employed by, the person,

(C) negligence on the part of the United States government or the State of Alaska, or

(D) an act of God; and

(2) in relation to (1) (B), (C) or (D) of this section, that he discovered the entry of the hazardous substance in or upon the waters, surface or subsurface lands of the state and began operations to contain and clean up the hazardous substance within a reasonable period of time. (§1 ch 122 SLA 1972)

Sec. 46.03.824. Damages. Damages include but are not limited to injury to or loss of persons or property, real or personal, loss of income, loss of the means of producing income, or the loss of an economic benefit. (§ 1 ch 122 SLA 1972)

Sec. 46.03.826. Definitions. In §§ 822–828 of this chapter

(1) "act of God" means an act of nature which is unforeseeable in kind or degree;

(2) "economic benefit" means a benefit measurable in economic terms, including but not limited to the gathering, catching, or killing of food or other items utilized in a subsistence economy and their replacement cost;

(3) "hazardous substance" means

(A) an element or compound which, when it enters in or upon the waters or surface or subsurface lands of the state, presents an imminent and substantial danger to the public health or welfare, including but not limited to fish, animals, vegetation, or any part of the natural habitat in which they are found; or

(B) oil;

(4) "oil" means a derivative of a liquid hydrocarbon and includes crude oil, lubricating oil, sludge, oil refuse or another petroleum-related product or by-product;

(5) "owning or having control over a hazardous substance" means producing, handling, storing, transporting or refining a hazardous substance for commercial purposes immediately before entry of the hazardous substance in or upon the waters, surface or subsurface lands of the state, and specifically includes bailees and carriers of a hazardous substance;

(6) "subsistence economy" means an economy which utilizes on a regular basis an item which is owned in common by the people of the state, or the United States, including but not limited to fish, game, fur bearing animals, birds, timber or any part of the natural habitat for noncommercial purposes;

(7) "waters, surface or subsurface lands of the state" means all waters, surface or subsurface lands within the territorial limits of the State of Alaska. (§ 1 ch 122 SLA 1972)

Mr. HATHAWAY. I withdraw the amendment, Mr. President.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. STEVENS. Mr. President, I call up an amendment which I have at the desk.

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 section: Sec. — If any provision of this Act or the applicability thereof is held invalid the remainder of this Act shall not be affected thereby.

Mr. STEVENS. Mr. President, we have but 2 minutes before the unanimous-consent agreement becomes effective. This amendment would provide a separability clause. I feel that in view of the number of amendments and issues involved, it is absolutely necessary to have a separability clause in this bill, and I hope the Senator from Washington will agree.

Mr. JACKSON. Mr. President, I concur in this proposed amendment. It is boilerplate language, it is sound, it is sensible, and it will help, I think, in the future construction by the courts of the language of the statute.

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

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

The PRESIDING OFFICER (Mr. McINTYRE). All time on the amendment has been yielded back.

The question is on agreeing to the amendment of the Senator from Alaska (Mr. STEVENS).

The amendment was agreed to.

Mr. STEVENS. Mr. President, I send another amendment to the desk. We will have to discuss it at a later time——

The PRESIDING OFFICER. Under the previous order, at no later than 10 a.m., the Senate will resume consideration of the amendment of the Senator from Alaska (Mr. GRAVEL) (No. 226), on which there is one and a half hours of debate to be equally divided and controlled by the Senator from Alaska (Mr. GRAVEL) and the Senator from Washington (Mr. JACKSON), with the vote to occur thereon at 11:30 a.m.

Mr. JACKSON. Mr. President, at 6:30 p.m. last night, the State Department delivered to me a letter containing a further revision of the response of the Government of Canada to questions concerning Canadian policy with respect to proposals for a trans-Canada line.

I have requested the State Department to furnish us with a full report early this morning on the background of the transmittal of this last-minute revision or last-minute transmittal.

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

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

DEPARTMENT OF STATE,
Washington, D.C., July 15, 1973.

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

DEAR MR. CHAIRMAN: On July 7 I sent you detailed written responses to questions posed by our Embassy in Ottawa to Canadian officials on a possible Canadian alternative to the proposed trans-Alaska oil pipeline route.

We have just today received from our Embassy in Ottawa a revision which the Canadian Government wishes to make in its ear-

lier answer to the question on pipeline ownership and control which appeared at the bottom of page 2 of the report attached to my letter of July 7.

Sincerely,

MARSHALL WRIGHT,
Assistant Secretary for Congressional Relations.

Enclosure: Question and revised answer.

QUESTION AND REVISED ANSWER

Q. What is the Canadian Government position likely to be with regard to ownership and control?

A. Speaking to this point in connection with a gas pipeline in the House of Commons on May 22, 1973, Minister Macdonald said—

"Mr. Speaker, I have indicated that the objective of the government would be to give an opportunity to Canadians to acquire 51% ownership in any such pipeline and the expectation that it would remain under Canadian control."

In connection with an oil pipeline which might take US oil to US markets using Canada as a "land bridge", it would not be its policy to require majority Canadian ownership. However, as Canadian oil becomes available it would be expected that the pipeline would be expanded to accept such oil.

In addition, all interprovincial and international pipelines are under National Energy Board control.

Mr. JACKSON. Mr. President, when the full explanation is received I will also make it a part of the RECORD.

It was unfortunate that this information was not supplied last week when we sent a letter up which turns out to contain incomplete information regarding Canada's position with reference to the trans-Canada line.

QUORUM CALL

Mr. JACKSON. Mr. President, I suggest the absence of a quorum.

Mr. STEVENS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Alaska will state it.

Mr. STEVENS. If time under the pending amendment is to be equally divided and controlled, would not any quorum calls also be subject to having the time charged equally while they are in progress?

The PRESIDING OFFICER. Yes, if unanimous consent is requested.

Mr. STEVENS. Mr. President, I make that unanimous-consent request that quorum calls be charged equally against both sides during consideration of the pending amendment.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Alaska? The Chair hears none, and it is so ordered; the clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MONDALE. 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. MONDALE. Mr. President, with the permission of the distinguished Senator from Washington, I should like to have 10 minutes.

I understand that the distinguished Senator has just commented on the role of the State Department in the pending debate. I should like to make some further comments along that line.

Mr. President, the actions of the State Department in recent weeks in handling relations with Canada over the question of a trans-Canadian oil pipeline have been alarming.

On June 1, Representative JOHN MELCHER, of Montana, chairman of the Public Lands Subcommittte of the House Interior and Insular Affairs Committee, requested Secretary of State Rogers to inquire of the Canadian Government on a number of points relating to a trans-Canadian oil pipeline. On June 22, the State Department released a letter which purported to state the views of the Canadian Government.

Among other things, this State Department letter stated that—

Negotiation by the United States of a pipeline agreement with Canada does not appear possible at this time and the Department of State and Interior are convinced that there is no Canadian alternative to the proposed Alaskan pipeline at this time.

In addition, the letter stated that—

The Canadian government has no strong current interest in the construction of a Mackenzie Valley oil pipeline.

Mr. President, this letter was obviously an attempt to influence the Senate's debate on the central question of whether the Canadian Government was interested in negotiations—meaningful negotiations—for a trans-Canadian pipeline as an alternative to the proposed trans-Alaskan pipeline.

Mr. President, last night I came into possession of a number of State Department documents which reveal the misrepresentations in which the Department has engaged.

I believe the word "misrepresentation" is a euphemism.

First is a document from the State Department to the American Embassy in Ottawa, dated June 8. It directed the Embassy to inquire as to a variety of questions on Canadian attitudes. However, it was done in a manner clearly designed to slant the Embassy's responses. Thus the telegram recited the support of key administration witnesses for the Alaska pipeline, and then noted that—

It is apparent that some Members of Congress remain unpersuaded by the Administration's case. *In this connection,* the Department urgently requires your current assessment.

In my opinion, the State Department clearly sought to have the American Embassy "persuade" those "unpersuaded" Members of Congress, and to this end urged the Embassy to consult with the Canadian officials it deemed appropriate and forward back its response.

On June 14, over a week before the State Department issued its letter, two documents were transmitted from the American Embassy in Ottawa to the State Department. These were the results of the consultations which the Embassy had undertaken. They indicated the following—and I shall submit all these documents for the RECORD:

Native claims would be no barrier to the construction of a pipeline according to Canadian officials.

The Government of Canada was prepared to consider applications as soon as pipeline companies are ready to file.

Cabinet, but not parliamentary, approval was required, and the entire approval process would take "from 12 to 24 months."

"Federal/Provincial jurisdictional considerations are not expected to delay pipeline decision," and "increasing belief in consuming Provinces such as Ontario that in the next decade they will need Arctic oil as well as gas increases support for the project."

The minority position of the Government would not be likely to impede progress, since the opposition conservatives would support the pipeline.

An "oil pipeline application would not appreciably delay consideration of a gas pipeline application."

Unless and until more oil is discovered in the Canadian North, oil pipeline throughput for indefinite time would be Alaskan oil.

All of these issues were central to the debate which was held earlier. I charge that the State Department deliberately, and for reasons of its preoccupation with support for its position in support of a trans-Alaskan pipeline, deliberately withheld this information from the Senate and misrepresented the position of the Canadian Government, based upon their own inside information sent to them by cablegram from our Embassy in Ottawa.

I submit that these documents consist of cablegrams flowing between our State Department and our Embassy in Ottawa, cablegrams which I think clearly demonstrate the very disturbing public posture of our State Department in the debate.

I said earlier in the debate that our State Department was acting like the front office of Exxon. I take that back: It was much worse.

This memo also revealed some of the negative aspects of a Canadian oil pipeline. But its content—received by the State Department on June 14—was far different than the negative tone of the Department's June 22 letter.

Also received on the 14th of June by the State Department was a document marked "limited official use." This document relayed that Canadian officials "in private conversations, repeatedly express disagreement with certain arguments in favor of Alyeska oil line advanced by U.S. officials" and then cited claims on pipeline capacity and national security as areas in which the Canadians felt the U.S. Government was not accurately representing their position.

Yet in spite of these official documents from our own Embassy received on June 14, the Department, in its letter of June 22, vastly overstated the negative elements on Canadian Government attitudes toward a Canadian oil pipeline.

In my opinion, it has seriously misrepresented the attitude of the Canadian Government to the American people.

This was not the end of the deception, however. On July 6, Canadian Energy Minister Donald Macdonald strongly implied on the floor of the Canadian Parliament that the State Department letter of June 22 had not fully revealed the posi-

tion of the Government of Canada. As a result of Canadian intentions to make known the official Canadian response to a series of questions subsequently asked by the State Department, and as a result of inquiries from my office and that of the Senator from Indiana (Mr. BAYH), the State Department on July 7 released a version of those questions and answers.

It now appears, however, that even this version was not correct. I am informed that the Canadian Government requested the State Department to change one response which the State Department had received, in order to clear up any misunderstanding that might result. The State Department apparently refused to do so, and as a result an important point has remained confused.

We have heard much in the course of this debate from trans-Alaska pipeline advocates about the impossibility of a trans-Canadian pipeline. A key argument has been their statements that the Canadian Government would require 51 percent Canadian ownership of a trans-Canadian oil pipeline. And, in the questions and answers which the State Department revealed on July 7, this appeared to be the case.

However, the version of this document released in Ottawa had things rather differently. Our State Department apparently knew this, and yet refused to change the version it released. Let me quote from the correct version of this document on the question of Canadian ownership. After quoting Energy Minister Macdonald on the subject of ownership of a gas pipeline, the document put forth the Canadian Government's position:

> In connection with an oil pipeline which might take U.S. oil to U.S. markets using Canada as a 'land bridge', it would not be its policy to require majority Canadian ownership. However, as Canadian oil becomes available it would be expected that the pipeline would be expanded to accept such oil.

In other words, the Canadians would not require majority Canadian ownership for an oil line, and they would expect such a line to carry only U.S. oil to U.S. markets until Canadian oil became available, at which time the pipeline could be expanded, without displacing a drop of North Slope Alaskan oil.

Late yesterday, the distinguished floor manager of this bill forwarded to me a copy of a letter which he had received from the State Department. In this letter, the Department informed him of this discrepancy in the documents, but stated that—

> We have just today received from our Embasy in Ottawa a revision which the Canadian government wishes to make.

Mr. President, I frankly do not believe the State Department when it states that it received this revision yesterday. My office has known of this revision since late last week, and I have been informed that Canadian reporters were given the corrected version on July 6.

Mr. President, the point of all this is quite clear. Our State Department has been involved in misrepresentation, attempting to mislead the Congress on the position of the Canadian Government. State Department documents have misled Members of Congress, and State Department lobbyists were on the Hill in force last week misleading Members of this body with incorrect views on the policy of the Canadian Government with regard to a pipeline.

This is the type of deception which results in the loss of faith in government by our people. It is incredible that this series of intentional attempts to mislead the Senate has taken place—as we sit in the shadow of Watergate.

Mr. President, the documents which I have just discussed clearly indicated that we have not adequately explored Canadian attitudes on an oil pipeline.

In light of that, to accept the Gravel amendment which, among other things, in my opinion, would destroy the National Environmental Policy Act, would be intolerable. For that reason I am very hopeful that the amendment will be rejected and I submit and ask unanimous consent that the State Department documents to which I have referred may be printed in the RECORD at this point.

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

STATUS OF CANADIAN POLICY ON POSSIBLE TRANS-CANADA PETROLEUM PIPELINE

1. As the Embassy is aware, the administration is seeking legislation which would permit early further progress in the construction of the proposed trans-Alaska oil pipeline. Opponents of the project, however, have argued that an oil pipeline up the Mackenzie Valley would be a preferable alternative.

2. Testifying in support of the Trans-Alaska pipeline, various administration spokesmen, including the Secretary of the Interior and the Under Secretary of State for Economic Affairs, have argued that the state of consideration by the Canadian Government of a possible Canadian oil pipeline is such that, even if approved in principle, construction could not begin for several years. While not ruling out an eventual Canadian pipeline as a supplement to a trans-Alaska pipeline, the administration's position is that urgent need for Prudhoe Bay petroleum requires us to proceed as soon as possible with the Alaskan project. When this project is completed, it will mean that our increasing reliance on insecure foreign sources will be lessened by 2,000,000 B/D, and hopefully it will lead to greater oil discoveries in Alaska.

3. It is apparent that some Members of Congress remain unpersuaded by the administration's case.

4. In this connection the department urgently requires your current assessment. Accordingly, the Embassy should, after consultation with those Canadian officials it deems appropriate, provide the department with its judgment on the following elements of the problem, citing where possible recent public statements by Canadian authorities.

(A) What is the current status of relevant Canadian environmental studies? What is the expected date of their completion?

(B) What is the status of consideration of Native claims? What is the expectation as to time required for their settlement?

(C) What is the Canadian Government's position likely to be with regard to ownership and control?

(D) When will the Canadian Government be ready to give active consideration to proposals from the private sector? What would the process of consideration entail (e.g., public hearings and a finding by the National Energy Board prior to consideration by the Government and Parliament) and how long a time would it likely require?

(E) Are there significant provincial/federal differences which are likely to delay an eventual Canadian decisions? To what extent would differences of view between eastern and western Canadians (suggested in news accounts of draft study reported Ottawa 1223) obstruct or delay decisions?

(F) To what extent does the fact of the Canadian Government's minority position in the House of Commons affect its consideration of a possible pipeline?

(G) What is the status of Canadian governmental consideration of a possible Mackenzie Valley gas pipeline?

(H) Would active Canadian consideration of a Mackenzie Valley oil pipeline delay consideration of the prospective application for a gas pipeline? Are there proponents in Canada of the gas pipeline who oppose encouragement of Mackenzie Valley oil pipeline on these grounds?

(I) Any other observations the Embassy deems relevant.

STATUS OF CANADIAN POLICY ON POSSIBLE TRANS-CANADA PETROLEUM PIPELINE

1. This response to Reftel questions, based on continuing discussions with GOC officials and public record, is preliminary, answers to some questions inherent in pipeline projects will depend on GOC review of overall energy situation. Studies on this subject, intended as basis for public discussion, are expected to be published end of this month. Answers are in sequence to questions raised para 4 Reftel.

2. Environmental studies. Environmental and sociological studies under GOC's $20 million program will be completed by fall. All will be published this year, or if not, data would be available for prospective pipeline applicants. Officials state GOC will be ready by end 1973 to examine applications for transportation projects along Mackenzie Valley whether these be gas pipeline, oil pipeline, highway, or railroad.

3. Native claims. GOC officials are confident native claims constitute no barrier to construction of pipeline. Negotiations with non-treaty Indians in Yukon, now getting underway, expected to take about two years, are limited to compensation and constitute no impediment to granting pipeline right-of-way. Indians along Mackenzie Valley, with rights under treaties 8 and 11, are entitled to land settlement but have yet to select land. Even if Indians should select land along right-of-way, treaties permit GOC to take land for projects in public interest upon provision of substitute acreage and compensation for any improvements. We understand Indians seeking challenge treaties but legal precedents indicate treaties will be upheld. Political question nevertheless remains since elements of Canadian public sympathetic to Indians favor pipeline moratorium until claims settled.

4. Pipeline ownership and control. In House of Commons May 22 Energy Mines and Resources Minister Macdonald restated basic GOC objective as "to give opportunity to Canadians to acquire 51 percent ownership." Minister Macdonald has also indicated he expects operational control of Canadian portion of pipeline to be in Canadian hands and for Canadians to supply major inputs in project, including design services. Arctic gas pipeline consortium already has indicated it views 51 percent Canadian equity as feasible. Pipeline would be under Canadian jurisdiction, just as Portland, Maine-Quebec, Lakehead, and Great Lakes Gas transmission lines serving Canada are under U.S. jurisdiction. Unless terms and conditions of operation and control of the pipelines

were satisfactory to the private parties concerned, they would not seem to be practical propositions.

5. Timing of consideration of applications. GOC is prepared consider application as soon as pipeline companies are ready to file. Gas line application expected this autumn. For oil pipeline group, 12 to 18 months of intensive work would be required to prepare applications based upon preliminary feasibility study by Mackenzie Valley Pipe Line Research Ltd.

(Ottawa A–78).

Official consideration would include hearings on right-of-way by Indian and Northern Affairs Department (IAND) and on other elements by National Energy Board (NEB) and, if findings favorable, final determination by cabinet. (Parliamentary approval not required.) Hearings by IAND and NEB could be combined, as favored by pipeliners, but this not yet decided. Hearings, decision, and cabinet approval expected take from 12 to 24 months.

6. Federal/Provisional jurisdiction. These considerations are not expected to delay pipeline decision. Increasing belief in consuming provinces such as Ontario that in next decade they will need Arctic oil as well as gas increase support for project. (Recent Gallup Poll on Mackenzie Valley gas pipeline showed 51 percent of those aware of project favoring it and 21 percent opposed. Support greatest in west. But nearly twice as many Ontarians favored as opposed project.)

7. Effect of Government's Minority Position. Liberal Government (109 seats) on most issues has support of New Democratic Party (31 seats), which recites economic, sociological and environmental grounds in questioning pipelines. Opposition Progressive-Conservatives (107 seats) likely support pipelines (unless issue seemed one on which they could precipitate election on terms they considered favorable). West coast oil pollution issue makes oil pipeline, because it would remove environmental problem to another part of country, more attractive in some political quarters than gas pipeline.

8. GOC consideration of gas pipeline. GOC on record as ready to consider Mackenzie Valley gas pipeline application when consortium is ready to file which consortium states will be this November.

9. Oil versus gas pipeline application. Officials state oil pipeline application would not appreciably delay consideration of gas pipeline application. Second application could be heard prior to decision on first, and resolution of issues related to Arctic environment and peoples in first decision could expedite second. Nevertheless, active proponents of Mackenzie gas pipeline indicate they would welcome final approval for Alyeska line in order to avoid unnecessary and costly delays for their own project. Competing priorities for oil and gas pipelines stem from economic and technical rather than bureaucratic grounds. Financing, including currency transfer problems, and availability of labor, specialized equipment and pipe virtually rule out beginning work on both projects at once, though one year overlap might offer some advantages. Work on gas pipeline is more advanced, for reasons that include relatively easier environmental requirements and large proven gas reserves in Canadian north. Unless and until more oil is discovered in Canadian north—results so far are extremely disappointing—oil pipeline throughput for indefinite time would be Alaskan oil (and, when gas production has begun, natural gas liquids from Canada). In present situation, interim supply of U.S. Puget Sound area with Canadian oil pending completion Mackenzie Valley oil pipeline likely diminish availabilities for other areas of U.S. now importing Canadian oil, and, as local oil industry executive has pointed out to us, supply of Alaskan oil to U.S. West Coast via Mackenzie Valley would be circuitous and expensive.

10. We hope have further information to report next week. Schmidt.

STATUS OF GOC POLICY ON POSSIBLE TRANS-CANADA PIPELINE

Reftel provides our preliminary assessment on subject. Following observations may further illuminate subject.

1. GOC officials, in private conversations, repeatedly express disagreement with certain arguments in favor of Alyeska oil line advanced by U.S. officials. (Arguments based on timing and balance of payments are generally accepted.) Two points most frequently cited by Canadians are U.S. arguments in terms of (a) claims on pipeline capacity and (b) national security. GOC officials from Minister Macdonald on down insist United States would have all the pipeline capacity it wished. They say arrangements for sharing of capacity would assure no displacement of U.S. throughput by Canadian throughput. GOC officials say they seek no fixed share of capacity of either gas or oil line; they obviously would not insist on half of capacity of 48'' oil pipeline since so far they have discovered very little oil in area adjacent to route. (They anticipate availability of about 100,000–150,000 barrels per day of natural gas liquids when Mackenzie gas starts flowing.) Officials say pipeline would be built initially to carry North Slope oil to United States. Subsequently, when Canadian oil discovered, GOC would expect it to have access to pipeline. They insist however this should raise no problems since it would take less time to expand pipeline capacity (to "loop" it) than it would take to bring Canadian fields into production.

2. In respect to security argument, and leaving aside importance Canadians assigned to long tradition of joint defense efforts, GOC officials find no merit in asserting that Canadian pipeline would be less secure for United States than all-U.S. route. They note that GOC has not expressed concern over fact U.S. holds "hostages" in form of pipelines which carry Canadian oil (Lakehead pipe line) and gas (Great Lakes gas transmission) through eastern United States to Canadian markets and which carry non-Canadian oil from Portland, Maine to Montreal market. (One reason security argument appears to raise concern here is fear that similar argument might be advanced by El Paso natural gas in favor of all-U.S. routing (by pipeline, liquefaction and tanker) for North Slope natural gas.) Schmidt.

Mr. MONDALE. Mr. President, in closing I wish to say that in my opinion one of the most remarkable aspects of the history of North America has been the friendship, the confidence, and the respect which the Canadian Government has shown to our Government, and which our Government has shown to the Canadian Government, and which has been reciprocated by the peoples of both countries. I consider it a privilege to represent a State which borders on Canada. I think it is a tragedy that our State Department for any purpose would deal this shabbily with a good friend.

Mr. JACKSON. Mr. President, I spoke earlier this morning on this matter. My good friend from Minnesota was not able to be present at that time.

I received through Mr. William Van Ness, General Counsel, a letter from the State Department at 6:30 last night. The moment it arrived I had him notify Senator MONDALE's staff.

I wish to make a very simple further statement. I deplore the action of the State Department and the way in which this matter was handled. I knew nothing of the information that they sent to the chairman of the committee and which I placed in the RECORD. I knew nothing, I should say, of the additional information they sent yesterday. What I am really disturbed about is that the Senator from Minnesota indicates that his staff or his people had information that the State Department had this information on July 6. Is that the date?

Mr. MONDALE. That is correct.

Mr. JACKSON. That being the case, I think that the State Department should give a full and complete statement of the facts regarding this matter. There is no reason why that information should not have been made available, as I see it.

I must say, on the other hand, that I do not think it would have changed the outcome of the case, but that does not lessen the need to be forthright, candid, and frank. I relied on that statement in my argument. I referred to one of the facts in the checklist as I recall that they would require 51-percent ownership. It turns out that is not a fact.

This is a poor way to improve relations between the State Department and the U.S. Senate. I find no justification for the way in which this has been handled. I shall insist that there be a full, adequate, and complete explanation. If anyone deliberately misled the Senate I think drastic action should be taken. I was misled. I relied on that statement. It is in my argument on the Mondale amendment. I do not think it would have changed the outcome. I do not know whether the Senator agrees with this. But what I am disturbed about is that it did relate to a material fact, and it aggravates our relations with Canada. This is not the time for that type of aggravation.

I have asked for a complete letter of explanation. We insisted that it be here early this morning. Some of us have to get up pretty early to prepare for these debates on the floor of the Senate when we meet at 9 a.m. I hope the State Department has enough energy down there to do the same thing once in a while. We insisted on that information last night and we still do not have it.

Mr. MONDALE. I am deeply grateful to the Senator for his cooperation. It is true and we are most grateful that as soon as the Senator from Washington received the letter from the State Department we were immediately notified. I am most grateful to the Senator for that and I am quite aware that the Senator's version of this difficulty is fully accurate. I am also aware it probably would not have changed the result of the vote. When one loses by 2 to 1, it is a pretty good sign that something else is needed.

Mr. JACKSON. May I say to my friend that I do not like to be used. I relied on that statement.

Mr. MONDALE. I believe in my Government, as does the Senator from Washington, but that kind of behavior is unpardonable. In addition, I hope we can inquire why the State Department would have in its possession the information I have referred to in my remarks and which is expressed to our State De-

partment from official cables from our Embassy in Ottawa, which say the following:

First, that native claims prove no barrier to the construction of the pipeline.

Second, that the Canadian Government was prepared to consider applications as soon as pipeline companies were ready to file them.

Third, cabinet, not parliamentary, approval was all that was required, and that the entire approval process could take place within 12 to 24 months.

Fourth, that Federal-provincial jurisdictional considerations were not expected to delay pipeline decisions. Indeed, there was increasing belief that consuming provinces would support the trans-Canadian pipeline.

Fifth, the minority position of the government would likely not impede progress, since the opposition Conservatives would support the pipeline.

Sixth, an oil pipeline application would not appreciably delay consideration of a gas pipeline application.

Next, unless and until more oil is discovered in the Canadian north, oil pipeline throughput for an indefinite time would be Alaskan oil.

On the basis of this record, which was most supportive in the consideration of a trans-Canadian pipeline, how the State Department could look at the cablegrams and say it is not likely that a Canadian pipeline would be approved, when they say that approval could be completed within 12 to 24 months, and yet tell the U.S. Senate that is not their position, is beyond me. I used the word "misrepresentation." I think that is a very pleasant euphemism. I think we have been had.

Mr. JACKSON. Mr. President, I ask unanimous consent that Miss Paulette Charney, of the committee staff, be granted the privileges of the floor during consideration of S. 1081.

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

AMENDMENT NO. 226, AS MODIFIED

Mr. JACKSON. Mr. President, I should now like to speak to the pending amendment, as modified.

There has been a great deal of discussion by the sponsors of this amendment to the effect that it will somehow facilitate construction of the pipeline by avoiding delays arising from litigation under the National Environmental Policy Act. This is an easy promise; a promise which the amendment is incapable of delivering, however. To the contrary, I believe the amendment invites delay by creating numerous new opportunities for litigation. The uncertainty this amendment will create should be known by all Members of this body before they vote upon it.

The amendment presents five problems:

First. It does not exempt the pipeline from NEPA;

Second. It creates at least three new grounds for litigation;

Third. It contains an open invitation for litigation on another separate ground;

Fourth. It appears to exempt the pipeline from all law—contract law, civil rights law, securities law, and all other Federal law; and

Fifth. It sets a dangerous precedent by attempting to exempt a project which all parties admit represents a potential threat to the environment from the requirements of environmental law.

Senators should be aware, in addition, that even if the amendment could accomplish the objectives sought by its sponsors it would not overcome all of the legal obstacles faced. For example, the amendment does not deal with one legal obstacle to pipeline construction that it is just as absolute as the litigation over NEPA. That obstacle is the litigation now underway between the oil companies and the State of Alaska which is now in State courts. This litigation involves important constitutional issues that ultimately may have to be decided by the U.S. Supreme Court.

THE AMENDMENT DOES NOT EFFECTIVELY EXEMPT THE PIPELINE FROM NEPA

First, the amendment does not exempt the grant of a right-of-way for the pipeline from the requirements of NEPA.

Certainly subsection 302(d) would not exempt the pipeline from further litigation concerning NEPA. This subsection purports to state a congressional finding of fact and law. Unanswered is the question of what would be the legal result of a congressional finding that the pipeline is in compliance with NEPA. It is one thing for Congress to make such a finding, and quite another thing for the courts to do so. It is my guess that the courts will still wish to make their own findings as to whether the environmental impact statement is adequate or the other requirements of NEPA have been met. If they do, at best the congressional finding will be weighed by the courts as a factor in favor of issuance of the pipeline permit; at worst, the finding will be ignored.

I believe that there would likely be more litigation and more delay over the question of what is the legal effect of such a congressional finding, than there would be if the litigation concerning the impact statement itself were simply allowed to run its course.

Mr. COOK. Mr. President, will the Senator yield at that point?

Mr. JACKSON. I would like to complete my statement, then I shall be happy to yield, if the Senator does not mind.

Subsection 303(a) purports to authorize and direct Federal governmental action "without further action under the National Environmental Policy Act." By now it should be clear that congressional authorization of a project does not remove it from the requirements of NEPA. There have been dozens of cases where the Congress has authorized and directed a secretary of a department to perform an act and the courts have uniformly held that the performance of the act—building a road, a dam, or whatever—is subject to the requirements of NEPA. Second, it should not take anyone very long to realize the additional language concerning further actions under NEPA in no way precludes litigation on the adequacy of actions already taken—that is, the existing environmental impact statement. Litigation on the adequacy of the impact statement could, in the best legal judgment of the act's author, proceed under this subsection as well as under subsection 303(d).

Finally, there are numerous other Federal decisions and actions not directly related to the construction, operation, and maintenance of the pipeline, but essential to it, which arguably could require impact statements. For example, in the case of the marine leg of the Alaska pipeline, additional licenses and permits by other Federal agencies, particularly the Corps of Engineers, could be challenged as requiring impact statements. Undoubtedly, an adequate statement for the pipeline permit would be found by the courts to be adequate for the other Federal actions, but the purpose which the authors have for this amendment is to insure that the adequacy of the impact statement is never determined. Adoption of this amendment, in my view, will simply invite opponents of the pipeline to shift their cause of action to new grounds. Again, the result could be more, rather than fewer delays due to litigation over NEPA.

THE AMENDMENT CREATES NEW GROUNDS FOR LITIGATION

The authors of the amendment could argue that even if subsections 302(d) and 303(a) fail to exempt the pipeline from NEPA, subsection 303(d) accomplishes the purpose. This subsection purports to prohibit judicial review of all Federal actions with respect to the construction of the pipeline. As already noted, there are a number of other potential causes of action relating to the marine leg which could, however, still be subject to suit. But I believe this subsection presents two of the three new grounds for suit against the pipeline.

As I have noted before, this amendment should be regarded by those who wish to sue against the pipeline as a very friendly amendment. It offers them three new grounds to frustrate the pipeline with litigation.

The first ground has already been mentioned—that is, what is the legal effect of the language of this amendment which purports to exempt NEPA. It will take at least 2 years to decide that; and, if the decision is, as I suspect it will be, that there is no exemption, then all we have done is to delay the process for determining compliance by two full years. The courts will then, and only then, proceed to the NEPA question which they otherwise could address immediately upon final passage of S. 1081.

The second and third grounds for possible litigation are found in subsections 303(d) and (b). Subsection (d) certainly presents some major constitutional questions involving separation of powers. Can Congress so deeply circumscribe judicial review? I read this section as barring review even on constitutional grounds. For example, suit is barred even if stipulations on permits or leases patently violated constitutional rights. It would appear as well to bar judicial review even on criminal charges. Permits issued illegally apparently would be allowed to stand. I, for one, do not wish

to grant such a license to unchecked governmental action. Certainly the courts would entertain suits concerning the constitutional validity of this section. But even if it were found constitutional to so limit the ambit of judicial review, I believe the courts would welcome the opportunity to draw parameters around such a vague grant of unbridled, unreviewable discretion to Federal officials—before that discretion can be exercised.

However, the vagueness and potential for the most unfortunate kind of mischief presented by subsection 303(d) is magnified several times over by subsection 303(a). No court could let stand a provision exempting the pipeline from the operation of all law but S. 1081 as this subsection attempts to do.

INVITATION TO LITIGATION ON ANTITRUST GROUNDS

Now, after this amendment attempts to exempt the pipeline from all law—environmental laws, civil rights, contract, and other laws—it quickly offers a suggestion to all potential litigants of an excellent ground for a suit and goes out of its way to preserve intact that litigation option. Section 305 states that, whatever else the amendment purports to do—and we have seen how much it does purport to do—it does not grant laws. Most knowledgable observers regard the antitrust laws as a fertile potential source for litigation involving the pipeline. Important as the antitrust laws are, it seems to me there are many other laws, from which the amendment attempts to free the pipeline, which are at least as important to all of us—environmental and civil rights laws, for example.

PRECEDENT OF SPECIFIC EXEMPTIONS FROM NEPA

Mr. President, I believe all Senators should be fully aware of the unfortunate precedent which would be set by passage of this amendment. It is all too easy to say that the line can be drawn here, but can it? If we exempt the pipeline today from NEPA, what will stop us from exempting other projects important to one or another of our colleagues in the future?

Unfortunately, the answer to that question is that once the precedent is made, future exemption from NEPA will come easier and only an environmental tragedy involving the precedent—the pipeline—will serve to protect NEPA from such exemptions. Certainly, no one wants to see a major pipeline fracture or tanker collision, but believe me, voter ire over our having played fast and loose with NEPA can sure stiffen our resolve not to provide NEPA exemptions again.

Does the sponsor of this amendment, who has often expressed concern over the hazards of nuclear power, want to exempt the breeder reactor program from NEPA and from judicial review?

The State of Alaska has vigorously opposed Federal offshore leasing for oil and gas in the Gulf of Alaska, because of its danger to fisheries and other environmental values. Would the Senators from that State like to have Gulf of Alaska drilling exempt from NEPA and judicial review under cover of the national energy crisis?

Another consequence of the amendment would be to sanctify and freeze the pipeline stipulations already promulgated, which are incorporated by reference into the amendment. This could prohibit the Secretary of the Interior from adding new stipulation; for example, to implement the provisions for the protection of Native rights adopted by this body last week. The Secretary would be precluded from amending those stipulations in any other way, in response either to new information or to changed circumstances.

Finally, construction of the trans-Alaska pipeline is presently blocked, not only by Federal proceedings but also by a legal dispute between the oil companies and the State of Alaska regarding the right-of-way across State land, State regulations of pipeline rates, the basis for calculating production taxes, and a requirement for local hire in pipeline construction.

That litigation is now before the Alaska courts, but it involves fundamental questions of Federal law, States rights under the Federal Constitution, and the interpretation of the equal protection clause of the Constitution. It will probably run the full course of Federal appeals.

If the supporters of this amendment seriously propose to override the legal obstacles to pipeline construction, they must be prepared to support an amendment, now or in the future, that explicitly bars the State's claim of concurrent regulatory jurisdiction over interstate pipelines, that grants Alyeska the power of eminent domain over State land, that prohibits imposition by the State of a tax-reference price for oil and gas, and that bars discrimination in hiring for pipeline construction or operation on the basis of State of residence.

Such an amendment, of course, involves fundamental issues of policy and constitutional law, and I would oppose it on the same grounds that I oppose the Gravel-Stevens amendment for a NEPA exemption. Whatever the merits of urgent action to get the Alaska pipeline built, and the merits are great, this overriding of States rights would not be a precedent to make lightly. Moreover, like the attempt to exempt the right-of-way from NEPA review, such an amendment would not necessarily be successful in speeding construction. It would spawn a new generation of lawsuits and would almost certainly sap the contestants' incentive to resolve the substantive questions while the constitutional issues were being litigated.

The arguments against trying to override NEPA are identical with the arguments against trying to override States rights:

They are both bad policy;

They are both bad precedents; and

They will fail to end litigation and delay and may well spawn more litigation and delay.

Last week the Senate passed an amendment declaring early resolution of the legal disputes over construction of the Alaska pipeline to be a matter of national urgency. I believe that the courts will heed that message. In doing so, they do not need a host of new legal ambiguities and new causes of action.

Mr. President, I should like to say a word on the Federal construction, ownership, and operation of the pipeline.

It is, of course, possible that litigation concerning the environmental impact of the pipeline, antitrust issues, or litigation between the State and the oil companies will not be resolved in time to initiate construction of the pipeline in the spring of 1974.

I have previously announced that if the oil companies and the administration are unwilling or unable, for whatever reasons, to resolve this impasse, I intend to introduce legislation designed to cut through all of the obstacles faced and to do it in a manner which is environmentally sound.

The urgency of our requirement for immediate access to secure and adequate sources of additional petroleum is evident. Positive and timely action is mandatory.

In my view, the only certain way to overcome all of the complex legal issues presented, in a manner that is environmentally sound, is by direct Federal intervention to construct, own, and operate the pipeline. If, in the months ahead, it appears that action on the pipeline will be further delayed beyond the spring of 1974 and Alaska oil will remain in the ground while American consumers run short, I shall propose legislation to authorize Federal construction of the pipeline.

I hope that this will not be necessary. There is, however, no absolute assurance that the legal and other difficulties involved in this matter will be terminated at an early date.

Mr. President, I yield first to the Senator from Kentucky.

The PRESIDING OFFICER (Mr. HASKELL). The Senator from Kentucky is recognized.

Mr. COOK. Mr. President, I would like to ask a number of questions of the manager of the bill purely and simply because it seems to me, at least, that in the period of time I have been here, we are kind of a rulemaking body. We set up the procedure and then the procedure has to be adopted and carried through.

It seems to me that in this instance we are substituting our judgment for the judgment of those who shall review and for those who shall require performance.

I wonder, for instance, may I say to the distinguished Senator from Washington—and it is unfair to say this—what is the legal opinion of an amendment that says, as we get down to the bottom of page 3:

> 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.

Then we provide on page 3, line 10:

> *Provided*, That the Secretary may approve amendments to said applications if he deems it appropriate.

I could submit this question to both the Senator from Washington and the Senator from Alaska. Does this mean that we are saying that we can, as of this date, use all the reports that have

been filed, with all of the six volumes that have been filed to, if it is necessary in the wisdom of the Secretary of the Interior, make any amendments to this environmental impact study and that he may do so regardless of what amendments or changes he might make, and it is still not subject to judicial review?

I merely pose that question because it seems to me that what we are doing is that we are saying if we establish the rules, that if one cannot get something within a reasonable time frame within the rules, let us just say that it can be done.

I am concerned about this. I am concerned about the fact that this not only asks that an immediate—and, by the way, I am also concerned about the constitutional question as to whether the Congress of the United States can say to a member of the executive branch, "You shall issue"——

The PRESIDING OFFICER (Mr. RANDOLPH). The time of the Senator from Washington has expired.

Mr. JACKSON. I yield the Senator whatever time I have on the bill.

The PRESIDING OFFICER. It is impossible to take time on the bill on account of the vote having been set at a fixed time.

Mr. JACKSON. Mr. President, who has time?

The PRESIDING OFFICER. The Senator from Alaska has 40 minutes.

Mr. GRAVEL. How much time does the Senator want?

Mr. JACKSON. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. JACKSON. I do have time on the bill, but as I understand the Chair's ruling, inasmuch as a time certain has been set for the amendment, I cannot draw on the time on the bill; is that correct?

The PRESIDING OFFICER. That would be correct, but only until the opposition has concluded its time. Then it would be in order. They would have the time.

Mr. JACKSON. Mr. President, I ask unanimous consent that the Senator from Kentucky may proceed for 2 minutes. That always covers everything.

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

The PRESIDING OFFICER. The Senate will be in order. There has to be a yielding out of someone's time with a fixed time for the vote at 11:30.

Mr. GRAVEL. Mr. President, I am happy to yield the Senator from Kentucky 2 minutes.

Mr. COOK. That is all I need, and I thank the Senator from Alaska.

Mr. JACKSON. We have avoided a constitutional crisis.

Mr. COOK. I say to the manager of the bill that I am sincerely concerned about the fact that Congress, which established the Environmental Protection Act, is now issuing an edict to the Secretary of the Interior that "he shall issue." I can only say it seems to me that we find ourselves in the position of the legislative branch usurping the authority of the executive branch, and I see very serious constitutional questions. In fact, I must confess I can see as many lawsuits as a result of this amendment as I can see if we go on record as approving the machinery by which this pipeline can be built, which this Senator is in favor of, but I also am concerned about the fact that all of a sudden we have an amendment that says regardless of the problems that exist, we say to the Secretary of the Interior that he shall not only issue the permits for the pipelines and rights-of-way, but issue permits to build a highway and three airports.

That gives this Senator grave concern, and I wish the respective Senators would speak to this issue during the remainder of the time for debate on this issue.

Mr. BUCKLEY. Mr. President, I fully appreciate the sense of urgency that so many feel with respect to the need for the earliest possible completion of the trans-Alaskan pipeline. At the same time, I do not believe that we should allow this to stampede us into legislating shortcuts in established procedures that we can only come to regret.

I speak specifically to the provision in the Gravel amendment that would substitute a congressional judgment for that of the courts as to the adequacy of the Department of the Interior's compliance with the requirements of the National Environmental Policy Act. That act represents a belated recognition on the part of the American people as to the necessity to take into consideration all the consequences—economic, social, security, environmental—attendant on major governmental actions. It is an act that imposes a true and thoughtful sense of preparation and responsibility on us. It is designed specifically to avert precipitous action that could have far-reaching results not anticipated by the decisionmakers.

I have protested in the past, and intend to continue protesting, any attempt to legislate exceptions in specific cases to the procedures required by NEPA. If we adopt the habit of sidestepping its requirements any time they prove inconvenient, then we will have destroyed the act's effectiveness in forcing us to make far-reaching decisions on a truly balanced judgment based on all the relevant factors. I feel, therefore, that it would be worse than short-sighted to adopt the Gravel amendment in the hope of saving a few months in initiating the actual construction of the Alaskan pipeline.

I would also like to suggest, Mr. President, that the Gravel amendment could also prove contraproductive. The lawyers representing groups dedicated to the protection of the environment have shown, if nothing else, an extraordinary legal sophistication and ingenuity. In my judgment and in the judgment of lawyers whom I have consulted, the adoption of the Gravel amendment would give rise to a whole series of new causes of action which could be exploited as delaying tactics. These have been detailed in the excellent analysis just made by the distinguished Senator from Washington (Mr. JACKSON).

Many are of the opinion, I know, that these new causes of action involving, as they would, questions of law, could be more readily disposed of than the questions still remaining to be decided in connection with current litigation. Thus the Gravel amendment might succeed in saving a few months; but I submit that this saving at the expense of the integrity of our basic environmental legislation would represent a very poor tradeoff.

Mr. President, in raising these objections to the Gravel amendment, I do not want to suggest that I consider the NEPA legislation to be in all respects perfect. As with all pioneering legislation, it was impossible at the outset to predict with precision how it would actually work once in operation or how the courts might interpret necessarily ambiguous provisions. If serious flaws in NEPA have come to light, then Congress can reexamine the legislation to see how it can be improved, how its essential aims and objectives can be advanced while correcting its flaws. This should be done, however, not by legislating exceptions in specific cases but through a careful review of the total impact of the procedures mandated by NEPA and, if found deficient, through appropriate amendments to the act itself.

I urge my colleagues to vote against the Gravel amendment.

Mr. JACKSON. Mr. President, I shall be very brief——

The PRESIDING OFFICER. Who yields time?

Mr. JACKSON. Will the Senator yield me 1 minute?

Mr. GRAVEL. I am happy to yield the Senator from Washington 1 minute.

Mr. JACKSON. Mr. President, I have the very highest regard for my colleagues from Alaska. No one is more anxious to get the oil down from Alaska as fast as possible. I have been working on this problem for several years. I have tried to find the best possible solution. But I must confess that what I see in the amendment is more litigation. I do not believe we can pass an amendment that bars the right of judicial review on these matters. This is elementary law to me.

Mr. President, I have come to the regretful conclusion that if we are stalled here, early next year I give my pledge that I am going to push legislation for the Federal Government to build this line. It does involve a national crisis; it is urgent, and I shall do everything in my power to move that oil. We just have an honest difference of opinion as to how to do it.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. JACKSON. One additional minute?

Mr. GRAVEL. One additional minute.

Mr. JACKSON. We have an honest difference of opinion as to how to do it, Mr. President. I am concerned, in the last analysis, about the precedent. Unless we are going to repeal the whole National Environmental Policy Act—and I do not see any evidence of that—we will be confronted with requests, for every project under the Sun, for waivers. our final fallback position here, in the interests of time and considering the I want to avoid that, and I must say that

urgency of the matter of getting that oil, must be the point that I made at the conclusion of my remarks, for the Federal Government to do what it did in World War II when it built Big Inch and Little Inch.

Mr. GRAVEL. Mr. President, I yield my senior colleague 20 minutes.

Mr. STEVENS. Mr. President, in the time available, I hope to answer the legal arguments concerning our amendment. My colleague will address himself to the policy aspects of it.

Legally, we look at the problem of trying to get the Alaska pipeline underway from the perspective that few projects in the history of man have been studied as acutely as this has before it was commenced. The administration has complied with NEPA, and our amendment takes the position that in view of that compliance, a minority of the extreme environmentalists of the country should not be able to delay the project. This project is as important to the future of this country as was the ABM, and I am sure the Senator from Washington will remember that in a very close 50–49 vote, I voted in favor of that project, and we in fact did not have an environmental analysis of that project. There was no NEPA analysis of the ABM.

We are looking now to the proposition that if the Members of this body are in favor of starting the trans-Alaska pipeline, we must ask ourselves what is necessary to achieve that goal. This amendment sets forth what is necessary to do that.

It does four things: It makes a congressional finding that the National Environmental Policy Act has been complied with. On the basis of that finding, it makes a congressional grant of a right-of-way for the construction of the trans-Alaska pipeline, the airport, and road that are necessary for construction. Having done that, it directs the Secretary of the Interior to issue the permits that are necessary to achieve that objective; and fourth, it says to the courts that the congressional finding of fact and the grant of a right-of-way, and the actions of the Secretary of the Interior in performing ministerial duties in furtherance of this act, are not reviewable by the courts.

Legally, all of this is necessary to comply with the past decisions of the Supreme Court, most notably the comments made by the Chief Justice in the Three Sisters Bridge case. On July 14, I placed in the RECORD a memorandum prepared for my office by the Congressional Research Service, which pointed out the number of times that Congress has in fact made findings of fact and then denied the right to the courts to review those findings.

In the Portal-to-Portal Pay Act, Congress specifically denied the right of the Supreme Court or any court to review its findings. It said, "No court of the United States or any State, territory, or possession of the United States or the District of Columbia shall have jurisdiction of any action or proceeding," et cetera, under the Portal-to-Portal Pay Act.

There have been literally hundreds of times when we have done this.

With regard to the comment made by my good friend from Washington concerning the amendment, this amendment is no different than if we had come to the Senate with a simple little amendment which said, "Notwithstanding any other provision of law, the Secretary of the Interior shall issue the permit for the right-of-way." If we had done that, it would not have disturbed anyone, because we do it every day. Every day someone on this floor stands up and offers an amendment which says, "Notwithstanding any other provision of law, we want the administration to do this."

The only trouble with that is that in order to comply with the past Supreme Court decisions, in a case like this, where we are making the findings of fact, and we are in fact trying to get Congress to substitute its judgment for the judgment of the court in that environmental case and make the decision that NEPA has been complied with, we are not trying to suspend NEPA; we are trying to make a finding of fact that the administration has complied with NEPA. We have it right here in the environmental impact statement—eight volumes in all—it is the total analsis of this project.

My friend from Nevada and I and the Appropriations Committee have asked, time and time again, have asked, "How much will this cost?" This analysis has cost approximately $12 million of taxpayers dollars to study the environmental aspects of this pipeline. This study does comply with NEPA. NEPA was never intended to require a totally complete, minute investigation of all alternatives; the concept required consideration of alternatives—and the impact statement in the Alaska pipeline application does discuss and consider alternatives.

The only thing holding up the pipeline today is the concept raised in the last part of the lawsuit, and that was whether the administration was compelled to go to the extreme of having total information available for the Canadian alternative, whatever that might be. There are three alternatives, not just one, as I pointed out, through Canada. The administration, in the lawsuit brought by the extreme environmental groups had been charged with failure to totally investigate the alternatives through Canada.

Let me say to the Senator from Washington that when we came before this body with a very difficult Alaska problem before, the Alaska Native Claims Act, that was something pending since the time the United States had acquired Alaska as a territory, a problem which had never been solved, and over 100 years had passed. We asked Congress to substitute its judgment for the judgment of the courts. There were potentially 179 to 200 claims which could be filed in the court, and we said that it would take years to do that, so we want you, Members of Congress, to make the judgment, make the judgment as to what is fair and tell the courts they cannot review it. We did that. The Alaska Native Land Claims Act specifically substituted the judgment of Congress for the judgment of the courts and specifically denied the right of the courts to review. It cut off, it extinguished the claims pending before several courts in this Nation. We are asking no more in this. We are asking Congress to substitute its judgment for the judgment of the court in a case brought by extreme environmental groups, a small minority of our population, who say they will use the courts by any means possible to delay the construction of the pipeline.

Finally, I should like to direct myself to the Senator from Washington's comments, that this would prolong litigation. That cannot be true. It cannot be true because the courts in the past have told Congress in effect: "If you want to deny judicial review of the directives of Congress, you may do so, if you do so properly."

I know of no one questioning the technique or the technical details of this amendment. Technically it is good. Technically it has been reviewed by people I consider to be some of the best lawyers in the Nation. They have made suggestions which we incorporated in the amendment to insure that the past decisions of the Supreme Court were met.

My friend says he worries about the change in that 303(b). I direct myself to the Senator from Kentucky and say that that particular section says the route of the pipeline system shall follow the route generally prescribed in the application pending before the Secretary of the Interior, provided the Secretary may approve amendments to that application which he deems desirable. That is in connection with the route. As we go into construction, and we find it is necessary to move the route a quarter of a mile or so in order to preserve a newly discovered antiquity in Alaska, something that should be preserved, should we not give him the right to vary the route? That is what the section says. It does not say that we can change the project or harm the environment. It says that we can change the route if necessary. I think that that is a legitimate discretion invested in the Secretary.

Time after time we have been asked to vote on amendments brought in here that had no relationship to the facts of the case. I am talking about this bill. We have had all kinds of amendments. The bill has become a Christmas tree in terms of the amendments offered, when really all we needed was a very narrow bill saying that the Secretary of the Interior has the right to issue a right-of-way permit wider than 25 feet on either side of the pipeline, and Congress believes that the Interior Department has complied with the NEPA and a decision telling them to get on with the job of constructing the pipeline.

Basically, that is what we need, but we have a very complex bill before us now. From the point of view of the courts, I should like to leave this last question with the Senate——

Mr. BIBLE. I have some questions to ask the Senator, whenever he is ready.

Mr. STEVENS. I would hope that the Senator from Washington would address himself to the situation from the point of

view of the courts. There is pending before the courts a case brought by the extreme environmental groups. There is an injunction against the Secretary to prevent action on the right-of-way for the pipeline, airports, and roads. If we pass this bill without these amendments, what can that court find in this bill that says to terminate that court action as quickly as possible because Congress feels that the NEPA Act has been complied with. In any event, I hope that my friend from Washington will agree to the amendment, I will offer to section 205, without regard to the Alaska pipeline amendment. This bill says that we are working on the basis of a two pipeline concept, the first being an Alaska route, and the second being the Canadian, if and when ready to go. This amendment brings the bill in line with the findings of the Committee on Interior and Insular Affairs in its report.

ANALYSIS OF AMENDMENT 226, AS MODIFIED

The purpose of this amendment is to allow the immediate construction of a trans-Alaska pipeline from Prudhoe Bay to Valdez, Alaska for the transportation of the vast reserves of Arctic Alaska crude oil to market. The availability of this resource at the earliest possible time is of critical national importance in view of the increasing crisis of energy supply facing the Nation over the next decade.

The trans-Alaska pipeline controversy has had a lengthy history. The issue has been considered, studied, debated, researched, and publicized in all three branches of our Government, and in the public forum, for nearly 5 years. The industry has devoted over 2,000 man-years of intensive research to insure the success of the project. The executive branch, under the leadership of the Department of the Interior, and including the active participation of an intergovernmental task force, devoted more than 175 man-years of research and analysis to produce the most comprehensive environmental statement ever prepared under the National Environmental Policy Act of 1969. This task force utilized the services of hundreds of leading professional Government career personnel in every applicable discipline with which this project is concerned.

The Congress has held innumerable hearings in various committees of both Houses covering every aspect of the proposal. Congressional activities have culminated in the recent extensive hearings before the Senate and House Interior Committees and in the present consideration and debate on the floor of the Senate.

The courts have also been involved. Challenges to the Secretary of Interior's authority to issue the necessary permits and to the sufficiency of the environmental impact statement have been the subject of a District Court trial, an en banc Court of Appeals review, and a petition for certiorari in the Supreme Court. As we all know, this extended litigation has had two results: First, that the Secretary lacks authority to grant a right-of-way for a modern pipeline because of the width limitations in the Mineral Leasing Act of 1920; and, second, that final adjudication of the so-called environmental issue has been deferred, probably for years. Simply stated, the Court of Appeals took a piecemeal approach to the overall problem, threw half of the problem to Congress for solution and put the other half on the back burner to be left simmering until the legal processes are warmed up again at a later date—cooking time unknown.

S. 1081 is the result of the Congress' quick responsible reaction to solve that half of the problem which the Court specifically referred to us—and it does solve that half of the problem.

But that is not enough. To be truly responsive to the Nation's crying need for energy we must not abdicate our responsibility to consider and solve the total problem if at all possible and appropriate. It is in that vein that we offer and urge the adoption of this amendment.

Certainly Congress should solve the other half of the problem—the half that the Court refused to face up to. Just as Congress has the power to determine the widths of rights-of-way across public lands, so have we have the authority to grant such rights-of-way.

Is such action appropriate in this case? It is not only appropriate, it is essential to avoid intolerable delay in making North Slope oil—comprising 25 percent of our proven domestic crude oil reserves—available to solve our Nation's crucial energy needs. It is appropriate and essential to decrease our balance of payments deficit up to $2.5 billion annually by reducing the amount of foreign oil we must otherwise purchase by one-third of our current imports.

It is appropriate and essential, if we are not to ignore the six-volume environmental impact statement, the reasoned and considered judgment of the Secretary of the Interior based upon years of research and analysis by the Federal task force; and, importantly, unless we are to ignore the opinion of all of the Federal judges who have considered the environmental issue. Those judges—the district court judge who tried the case and three judges of the U.S. court of appeals—all decided that the Secretary has fully complied with the requirements of the National Environmental Policy Act.

In these circumstances it is not only appropriate that Congress accept the responsibility for solving both halves of the problem, it is essential that Congress do so if the country is going to have a total solution within an acceptable time frame. We simply cannot afford the lengthy delay that would be entailed if we return a half-solved problem to the executive branch and the judicial branch for final resolution.

The Secretary has been unable and the courts have been unwilling to take the necessary action to get the North Slope oil and gas to the Nation. There is no possibility they can or will take the necessary actions for many months—or, even several years.

Only the Congress can resolve the matter totally, resolve the matter responsibly, and resolve the matter now.

While several departments and agencies are involved with one or more aspects of the proposed pipeline system, no one authority has overall jurisdiction. Fortunately, the executive branch has been dealing with the problem through an interagency task force which was formed shortly after the Prudhoe Bay discovery. It is this Federal task force which produced the monumental environmental impact statement on the pipeline. With this broadly based record, the Congress is now in a position to undertake the responsibilities of a single authority in order to insure that future administrative actions are coordinated and do not become bogged down in a proliferation of individual, duplicative procedures.

Of course, the courts do not have the jurisdiction to treat this matter in an overall manner. Courts will only decide narrow issues which are presented to them—and, as we have seen in this case, they do not always do that completely.

There is only one sure way to get on with the important job at hand, and this amendment provides the way. It provides that the Congress make a direct grant of the various rights-of-way, permits and other authorizations necessary for the construction of this vital transportation system. After finding that the Secretary of the Interior and the Federal Task Force have complied with the requirements of the National Environmental Policy Act, it grants the necessary rights of way, permits, and authorizations and directs the appropriate Federal officials to issue the necessary documents. This legislation itself requires the necessary Federal action. Congress has the evidence to make the determination that the proposal protects the environment. We have held extensive hearings on the subject and have had access to the environmental impact statement and all other bases for a final determination. We must avoid the delays that would result from further extensive litigation. The amendment therefore prevents additional delaying litigation.

I would next like to analyze the provisions of this amendment section by section.

SECTION 301

Section 301 is the title of the act.

SECTION 302

Section 302 expresses the congressional findings that, early delivery of North Slope oil to domestic markets is in the national interest and that the transportation of oil by pipeline from the North Slope to Valdez and, thence, by tanker to domestic markets will best serve the immediate national interest; furthermore, a trans-Canada pipeline should presently be studied but should not be regarded as a substitute for a trans-Alaska pipeline. Prior actions taken by the Secretary of the Interior respecting the trans-Alaska pipeline constitute compliance with the National Environmental Policy Act of 1969—thereafter NEPA.

SECTION 303

SECTION 303(A)

Section 303(a) includes a direct grant by Congress of all rights-of-way, leases, permits, and other authorizations of any kind, necessary for the construction and operation of the trans-Alaska pipeline

system. During the study prior to the drafting of the Final Environmental Impact Statement and during the drafting itself, the Departments of Interior, Defense—including the Corps of Engineers—Transportation, Commerce, Health, Education, and Welfare, Housing and Urban Development, as well as the Office of Science and Technology, the Council on Environmental Quality, and the Environmental Protection Agency all considered the phases of pipeline construction and operation falling within their jurisdiction and expertise. Moreover, all of these Departments and agencies participated in the drafting of the detailed Stipulations. Absent a direct grant of Congress there will be a needless duplication of considerations which, within the context of a comprehensive, interdisciplinary study, have already been made by the various agencies and Departments of the Federal Government.

For instance, the Rivers and Harbors Act of 1899 and the Chief of the Corps of Engineers authorize the construction of any structure within the high water mark of a navigable waterway. The procedures for obtaining such a permit are set forth in regulations of the Corps of Engineers published May 10, 1973, at page 12217, vol. 38, No. 90, of the Federal Register.

Prior to issuance of such a permit, an evaluation is required that a permit should be issued in the public interest. This includes considerations relating to conservation, economics, esthetics, historic values, fish and wildlife values, flood damage prevention, land use classifications, recreation, water supply, and water quality. As indicated previously, however, all of these factors have already been considered during the course of the 175 man-year study conducted at the behest of the Department of the Interior, in conjunction with the other Federal agencies.

Additionally, permits would have to be granted, or some other form of authorization obtained, respecting effluent outflow at the ballast treatment facility, land fill near the terminal site, sewage treatment facilities, and valve locations along the pipeline. These approvals will involve various agencies, such as the Department of Transportation, Environmental Protection Agency, and the Department of the Army. The Coast Guard imposes certain requirements for bridges crossing navigable waterways and requires that advance approval be obtained.

All of these procedural steps are designed to insure that proper consideration is given to various public interests. All of these factors have been considered in depth. A comprehensive grant will merely insure that another, less comprehensive, consideration is not given. Such a piecemeal consideration could also spawn needless litigation.

It is neither the purpose or effect of this subsection to alter the salutary operation of NEPA; rather, this subsection recognizes the comprehensive effort which has been made by the Department of the Interior and other Federal agencies to comply with the requirements of that act and the unavoidable, needless delay which will accompany duplicative administrative authorizations otherwise necessary for the trans-Alaska pipeline system.

A direct grant by the Congress would also obviate a challenge based upon NEPA to the trans-Alaska pipeline, the Congress not being subject to the requirements of that Act.

In *Calvert Cliff's Coordinating Committee* v. *A.E.C.*, 449 F.2d 1109 (1971) the D.C. Circuit considered the extent of the obligation imposed upon Federal agencies by section 102 of NEPA. The Court concluded that:

[O]nly when . . . specific [statutory] obligations conflict with NEPA do agencies have a right under § 104 and the "fullest extent possible" language to dilute their compliance with the full letter and spirit of the Act.

If the issuance of necessary authorizations and rights-of-way by the Department of the Interior and other Federal agencies and officers—even after a direct congressional grant— were to be regarded as "major Federal actions significantly affecting the quality of the human environment" the requirements of NEPA section 102 would have to be met, absent the "specific statutory obligations" referred to in Calvert Cliffs', supra. By directing the issuance of necessary authorizations and rights-of-way "without further action under the National Environmental Policy Act of 1969" subsection 303(a) creates a specific statutory obligation which insures that the purely ministerial acts to be performed by Federal officers and agencies under this subsection will not trigger section 102 of NEPA. In this instance, the major Federal action will have been taken by Congress.

There is ample precedent for a congressional grant of such a right-of-way. See R.S. 2447, 43 U.S.C. 931.

SECTION 303(B)

This subsection provides that the route for the trans-Alaska pipeline will follow generally that route described in applications presently pending before the Secretary of the Interior; however, the Secretary may approve appropriate amendments to these applications.

SECTION 303(C)

This subsection provides that at any time the Secretary performs a ministerial act required by subsection (a), by issuing a right-of-way, lease, permit, approval, or other authorization, he shall make such actions subject to the terms and conditions of the stipulations contained in volume 1 of the Final Environmental Impact Statement.

SECTION 303(D)

Section 303(a) will, by itself, preclude a successful judicial challenge to the trans-Alaska pipeline; however, prevailing on the merits after extended litigation might well be a pyrrhic victory. It is necessary in order to avoid continued delay, therefore, to prevent any judicial review of Federal agency action taken pursuant to this title. Accordingly, subsection 303(d) provides that no right-of-way, permit, authorization, or any other Federal agency action with respect to construction of the pipeline system, or highways, or airports, referred to in subsection (a), shall be subject to judicial review.

To avoid the inference that by specifically precluding one basis for judicial review, NEPA, Congress intended there to be judicial review available on other bases, the language precluding judicial review is phrased generally.

SECTION 304

Section 304 provides that a right-of-way or permit granted hereunder for a road or airport may provide for the construction of a public road or airport.

SECTION 305

Section 305 provides that the grant of a right-of-way or permit pursuant to this title grants no immunity from the operation of the Federal antitrust laws.

Mr. BIBLE. I should like to ask the Senator one or two questions. I am a little lost as to who is right, because you both cannot be right, obviously. The Senator from Washington argues that the amendment the Senator from Alaska presents does not exempt the pipeline from NEPA. The Senator from Alaska says it does. Am I correct on that?

Mr. STEVENS. No, I do not say that is exempted from NEPA. I say that this is a congressional finding asserting that NEPA has been complied with. In that sense, I assume, we are in agreement with the Senator from Washington. He is taking the same position concerning this amendment that he took with the amendment of the Senator from Minnesota, that being that it does not achieve, what it in fact, tries to do.

Mr. BIBLE. The Senator arrives at the same conclusion then because if we make a finding that NEPA has been compiled with, that resolves that problem, is that true?

Mr. STEVENS. It resolves the problem but it does not set a precedent that the Senator fears, which is that NEPA would be suspended by those who wish to proceed with the project without regard to NEPA. We feel that we have complied with NEPA. I would say to the Senator from Nevada, who was one of our stalwart supporters on the question of the Alaska Native Land Claims Act, that I view it this way: The Senator from Washington will be the chairman of the Senate side of the conference committee. The amendment before us is substantially the same as the Melcher amendment in the House which we have reasonable cause to believe will pass in that body. I say to my good friend from Washington that he does not want to bear the responsibility for the first act which in any way deals with NEPA by the Congress. I can appreciate his attitude but emphasize that we are not avoiding NEPA, I believe his fears in this area are genuine but I do not think he needs to worry.

Mr. BIBLE. Very well, but——

Mr. STEVENS. I am trying to help him. I am trying to have the Senate make that decision for him so that he will not have to make the decision, as chairman of the Senate side in the conference committee, whether to accept the Melcher amendment.

Mr. BIBLE. I appreciate that, and I am sure the manager of the bill appreciates it also. Let me ask the Senator my second question. The Senator from Washington says it will create three new grounds for litigation. The Senator from

Alaska says it does not create three new grounds for litigation.

Mr. STEVENS. I say, one new ground for litigation. That one new ground for litigation is the constitutionality of the finding of Congress and the granting of the right-of-way. I believe that is one ground, not two——

Mr. BIBLE. All right. Assuming one new ground, will that not cause an additional delay even under the Senator's amendment?

Mr. STEVENS. No. I have a subsequent amendment, if this passes, which would set up a three-judge court, and this matter would be terminated here if we adopt this amendment. I do not believe there is an interminable delay involved, and in any event, we could determine that by September. My friend from Washington is prepared for the Federal Government to put up $4 billion to construct the pipeline. It would take us a year to pass legislation of that type. I am sure you would agree that not many people here want to spend money to substitute Federal money for private money available for a project of this type, while I agree with him as to the tremendous urgency. If we get to that point, we will have to do something. I do not believe there is any more delay in the suggestion made by the Senator from Alaska than in the suggestion of the Senator from Washington, that we have a bill come before Congress to authorize the Federal Government to construct this pipeline.

Mr. BIBLE. I am trying to see, on the second ground——

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. BIBLE. I thank the Senator from Alaska.

The Senator said there are three grounds for litigation. I understand there is one ground that is a constitutional ground.

Mr. STEVENS. The constitutional grounds may involve separate parts that make the three but I believe it is still one constitutional challenge on three grounds. I am sure the three-judge court would not try the case on the merits. The amendment I have contains a 60-day statute of limitations. I feel we could have a decision by the end of this year.

Mr. BIBLE. The Senator is very optimistic. He is a lawyer, and I am a lawyer. Lawyers always find ways to get extensions that will cause delay in the court system.

Mr. STEVENS. We have already agreed to two amendments. We have already said that any litigation concerning the Alaskan pipeline must go to the head of the docket. Second, Congress has directed the judiciary to expedite any matter relating to the Alaskan pipeline. I think that on top of the priority basis, we could finish this litigation this year on the constitutional issues alone.

Mr. BIBLE. But under the Senator's theory, if his amendment is agreed to, and is held in conference and is signed by the President of the United States, the Senator says that the actual construction of the pipeline could be started early next year—1974?

Mr. STEVENS. I believe it would meet the plan for the start of construction in 1974.

Mr. BIBLE. I should like to have the Senator's observation on the alternate proposal made by the manager of the bill (Mr. JACKSON), for whom I have the highest regard, as we all do. He has spent more time, in my judgment, on the Alaskan pipeline than has anybody else in government—perhaps even more time than have the Senators from Alaska; I do not know. But he has certainly spent considerable time, and I consider him to be an authority in this field.

I think we are all in substantial agreement. But as to the alternate situation, if all else fails, he will be prepared in early 1974 to ask the Federal Government to build the pipeline. Would that be something that would be subject to court review?

Mr. STEVENS. It would be a major Federal action and would be subject to review, unless the suggestion by the Senator from Washington would make it not subject to review.

Mr. BIBLE. Would that prevent the Senator from Alaska from going into court?

Mr. STEVENS. No. If we get to the point where the Senator from Washington wants to have the Government build a pipeline, he will have to introduce a bill similar to the amendment we have before us right now, or it will be subject to court review.

There is no way to start a pipeline without stopping all the litigation of the environmental extremists. They are now in the courts trying to obstruct the development of this pipeline, because it means the transporting of oil from the North Slope, and they oppose the development of the North Slope. Of course, they are honest about their intentions.

Mr. BIBLE. That is not the question I am trying to get to at all. If all else fails, and the Senator from Washington introduces the proposed legislation he mentioned in his argument this morning, and Congress passes it and it is signed into law, would that be subject to judicial review?

Mr. STEVENS. Yes, unless we provide that it should not be. We could prevent additional review of a decision to build the pipeline by Federal action. But also, NEPA would have to be suspended to do that.

Mr. BIBLE. I understand that.

One last question. What is the difference in the timetable between the theory of the Senators from Alaska and the committee bill? What does the Senator from Alaska consider to be the difference in time with respect to construction? The Senator has said that if his amendment prevails, if the bill prevails in conference, and if it is signed by the President and becomes law, the Alaskan pipeline would be ready for the start of construction in the spring of 1974.

If the committee bill passes under the same circumstances, unchanged, and is signed by the President of the United States, when would it be possible to start construction?

Mr. STEVENS. Certainly not before the construction season of 1975; and in my opinion, it would be the construction season of 1976.

Mr. BIBLE. Summing up, the Senator would say 1 to 2 years, if the amendment offered by himself and his colleague from Alaska is adopted.

Mr. STEVENS. I would say that the court review of the pipeline concept, under the committee's bill, would take 1 to 2 years' additional time; yes.

Mr. BIBLE. I thank the Senator from Alaska.

Mr. GRAVEL. Mr. President, I yield 1 minute to the distinguished Senator from South Dakota.

Mr. McGOVERN. Mr. President, I have an amendment at the desk, No. 318, which would require each Federal agency and department to report to the Congress through the General Accounting Office certain information concerning,

The amount of petroleum products they have purchased or intend to purchase this year;

The amount of petroleum products they have consumed or intend to consume this year;

What they have used or intend to use petroleum products for;

What stockpiles of petroleum products they have on hand; and

What future deliveries of petroleum products they expect to receive this year.

Mr. President, the U.S. Government is the largest consumer of gas and oil in the world. And in the face of the current oil shortage, one would expect that the Government would make an effort to reduce petroleum consumption, a policy the President has endorsed.

However, the fact is that the Federal agencies are not making great strides in reducing nonessential consumption of gas and oil—as indicated by a GAO report in a reply to a letter from me.

In fact, they cannot even account for what they did with the gas and oil they purchased and consumed last year.

At my request, the General Accounting Office undertook to determine—

First, the amount of petroleum products the Government purchased and consumed in 1972, and

Second, what those petroleum products were used for.

I ask unanimous consent that a copy of my request to the Comptroller General be printed at this point in the RECORD.

Incredible as it may seem, the Government agencies were able to account to the GAO for only approximately 91 percent of the petroleum products they purchased during 1972. They say they purchased 346 million barrels—14.5 billion gallons; but they can account for only 295 million barrels. The GAO hopes to be able to get an accounting for perhaps 25 million more barrels in the next few weeks. But that would still leave 25 million barrels unaccounted for. And that is for last year.

And as to the disposition of these products, the bureaucrats were unable to break down the figures beyond the kinds of fuel purchased. In other words, they were able to say that they purchased approximately 13 million barrels of aviation fuel, 185 million barrels of jet fuel, and 21 million barrels of automobile gas;

but they were unable to say what they did with any of it.

In fact, they indicated that an accounting for use of petroleum products would be very difficult to accomplish.

I ask unanimous consent that my letter to the GAO and the GAO report be printed at this point in the RECORD.

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

JUNE 7, 1973.

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

DEAR MR. COMPTROLLER: I would appreciate receiving the assistance of the General Accounting Office in determining the amount of petroleum products each department or agency of the federal government purchases and consumes on a monthly basis and, to the extent possible, the amount of such products which are used for particular purposes. I would also appreciate receiving whatever information could be obtained on the amount of petroleum products used abroad which is financed by the United States but is not accounted for by the government (for example, petroleum products consumed by the Republic of Korea and the government of South Vietnam).

It seems to me that the federal government could help reduce the shortage of gasoline in the coming months by reducing its consumption in non-essential area. Indeed, the Department of Defense has said it intends to reduce its daily consumption of 80,000 barrels per day by approximately 20 per cent.

My office has made a number of inquiries about the information which I am seeking from you. The problem is that such statistics are not kept on a government-wide basis and in general are not categorized as to use. In other words, the way in which the government records this kind of data makes it impossible for Congress to learn what it needs in order to legislate with respect to this problem.

I would appreciate your having an appropriate member of your staff contact Richard de Saint Phalle, my legislative assistant, as soon as is convenient.

With every good wish, I am

Sincerely yours,

GEORGE MCGOVERN.

FISCAL YEAR 1972—CONSUMPTION (BARRELS)

	Aviation gas	Jet fuels	Automotive gas (all grades)	Distillates and Navy standard distillates	Residuals, Navy special fuel oil	Petroleum products (other)	Total
Worldwide consumption:							
Army	268,000	343,000	9,304,000	17,918,000	3,340,000	----------	31,173,000
Navy	1,940,000	31,008,000	1,411,000	21,858,000	40,771,000	----------	97,188,000
Air Force	7,543,000	146,702,000	2,065,000	4,832,000	1,337,000	35,000	162,514,000
Post Office			2,013,941				2,013,941
Interior[1]							
GSA			1,199,551				1,199,551
Agriculture	109,523	----------	919,047	253,189	35,296	----------	1,317,055
AID[2]							
Other							
Worldwide total	9,860,523	178,053,000	16,912,539	44,861,189	45,683,296	35,000	295,405,547
Total foreign	3,339,000	69,349,000	7,660,000	24,022,000	18,289,000	----------	122,659,000
Total United States and possessions	6,521,523	108,704,000	9,252,539	20,839,189	27,394,296	35,000	172,746,547
Worldwide total	9,860,523	178,053,000	16,912,539	44,861,189	45,683,296	35,000	295,405,547

[1] We have not been able to obtain this information to date, it is being compiled by the agency.
[2] Not possible to determine where or how petroleum products are consumed.
Source: General Services Administration "Monthly Operating Costs and Statistical Report" (period ending June 30, 1972) obtained from GSA "Vehicle Maintenance Cost Report in Dollars/National Summary" (fiscal year 1972) obtained from Post Office. Dept. of Agriculture Summary of Direct Procurement and Credit Card Purchases (fiscal year 1972) obtained from Post Office. AID "Program Assistance Commodity Expenditure Analysis/Worldwide Summary (period ending June 30, 1972) obtained from AID. DO-I & L (Q) 504 "Quarterly Petroleum Products Status and Program Report" (fiscal year 1972) obtained from DFSC.

PETROLEUM PRODUCTS, FISCAL YEAR 1972 PROCUREMENT

[Barrels]

	Aviation gas (all grades)	Jet fuels	Automotive gas (all grades)	Distillates and Navy standard distillates	Residuals Navy special fuel oil	Petroleum products (nonfuel)	Total
Worldwide procurements:							
Army	221,190	299,815	9,513,926	19,430,577	6,070,982	----------	35,538,490
Navy	2,628,167	30,231,296	2,230,965	25,993,075	42,049,957	----------	103,133,460
Air Force	10,647,458	154,209,354	2,534,982	5,976,666	1,896,510	----------	175,164,970
Post Office			2,040,734	525,710	155,909	16,098	2,738,451
Interior[1]	261	----------	201,621	541,852	58,762	----------	802,496
GSA direct procurement			1,199,551				1,199,551
Agriculture	109,523	----------	919,047	253,189	35,296	----------	1,317,055
AID	288,059	145,736	2,491,853	6,504,366	8,216,029	1,451,516	19,097,559
Other[2]	42,319	120,042	633,355	2,219,795	3,214,120	612,556	6,842,187
Worldwide total	13,936,977	185,006,243	21,766,034	61,347,230	61,697,565	2,080,170	345,834,219
Total foreign	5,169,524	65,974,088	10,605,919	25,797,745	34,045,408	2,064,072	143,656,956
Total United States and possessions	8,767,453	119,032,155	11,160,115	35,549,285	27,652,157	16,098	202,177,263
Worldwide total	13,936,977	185,006,243	21,766,034	61,347,230	61,697,565	2,080,170	345,834,219

[1] Does not include credit card purchases or direct purchases by the agency.
[2] Includes all other agencies for which OFSC procures.
Source: "Final Destination of Product Procured By OFSC—By Area and Country" (fiscal year 1972) obtained for OFSC. General Services Administration "Monthly Operating Costs and Statistical Report" (period ending June 30, 1972) obtained from GSA. AID "Program Assistance Commodity Expenditure Analysis/Worldwide Summary" (period ending June 30, 1972) obtained from AID. "Summary of Procurement Statistics," fiscal year 1972, Volume I obtained from OFSC. Department of Agriculture Summary of Direct Procurement and Credit Card Purchases (fiscal year 1972) obtained from Department of Agriculture. "Vehicle Maintenance Cost Report in Dollars/National Services" (fiscal year 1972) obtained from Post Office.

FINAL DESTINATION OF PETROLEUM PROCURED BY DFSC—FISCAL YEAR 1973

[In foreign countries]

	Barrels									
Area and country	Jet fuels	Aviation gas	Automobile gas	Residuals	Lubricants	Distillates	Dry cleaning solvents	Miscellaneous	Total barrels	Cost
Africa:										
Angola	----------	----------	----------	19,879	----------	19,239	----------	----------	94,118	357,405
Congo	11,905	1,905	----------	----------	48	----------	----------	----------	13,858	171,320
Guinea	100,000	----------	----------	----------	----------	----------	----------	----------	100,000	249,900
Kenya	4,286	2,143	----------	20,000	48	2,000	----------	----------	28,477	135,362
Liberia	11,905	----------	----------	----------	----------	----------	----------	----------	11,905	122,500
Malagasy Republic	----------	----------	----------	19,463	----------	1,997	----------	----------	21,460	76,958
Mauritius	21,400	----------	2,600	17,501	----------	16,286	----------	----------	57,787	218,825
Mozambique	----------	----------	----------	45,000	----------	2,000	----------	----------	47,000	146,310
Seychelles Islands	----------	----------	988	----------	----------	19,762	----------	----------	20,750	212,638
Senegal	1,190	1,190	----------	----------	2	5,357	----------	----------	7,739	48,597
South and southwest Africa	4,762	----------	217	----------	----------	2,262	----------	----------	7,241	67,201
Total, Africa Area	155,448	5,238	3,805	176,843	98	68,903	0	----------	410,335	1,807,316

Area and county	Barrels								Total barrels	Cost
	Jet fuels	Aviaton gas	Automobile gas	Residuals	Lubricants	Distillates	Dry cleaning solvents	Miscellaneous		
Canada and Northeast Area:										
Canada	11,178	3,543	9,158	47,144		167,580			238,603	1,239,020
Greenland			203			561,042			561,245	2,320,759
Iceland	357,143	95,238	26,929	120,000		293,690			893,000	4,710,638
Labrador	357,143		50,393			380,250			787,786	2,736,504
Newfoundland			9,538	46,267		95,257			151,062	761,419
Total, Canada and Northeast Area	725,464	98,781	96,221	213,411	0	1,497,819	0		2,631,696	11,768,340
Atlantic Islands Area:										
Azores	428,572	160,714	55,121			184,822			829,229	2,856,033
Bermuda	71,429		14,315			98,753			184,497	701,991
Canary Islands						8,373			8,373	37,750
Ascension Islands	74,000	3,000	3,100			47,400			127,500	818,112
Total, Atlantic Islands Area	574,001	163,714	72,536	0	0	339,348	0		1,149,599	4,413,937
Caribbean Area:										
Barbados	23,810	6,429	280		83	22,440			53,042	321,621
Bahamas	2,336	1,715	4,547	25,000	14	50,239			83,851	399,915
Colombia	2,381	1,190			7	357			3,935	26,471
Cuba	71,429	46,488	25,800			155,000			298,717	1,231,815
Jamaica		357			2	1,309			1,688	17,487
Leeward Islands			857			22,500			23,357	105,103
Aruba		1,667			12				1,679	17,832
Trinidad	9,524	7,143	625	6,600	71	3,394			27,357	137,079
Venezuela	1,190	714		8,452	7	4,881			15,244	65,651
Total, Caribbean Area	110,670	65,703	32,109	40,052	196	260,120	0		508,850	2,388,975
Latin America Area:										
Argentina	19,524	714			5				20,243	197,771
Brazil	34,762	17,976			169				52,907	567,604
Chile	14,286	4,762			48				19,096	239,793
Ecuador	3,810	2,857			17				6,684	84,654
El Salvador	1,190	714			4				1,908	32,567
Guatemala	1,190	1,190			12				2,392	37,203
Surinam	7,143	2,381			24				9,548	82,614
Nicaragua	2,857	1,904			7				4,768	57,921
Paraguay	3,452	1,905			19				5,376	87,829
Uruguay	2,381								2,381	18,590
Total, Latin America Area	90,595	34,403	0	0	305	0	0	0	125,303	1,406,552
Middle East Area:										
Bahrein					547				547	20,286
Eritrea-Ethiopia	36,144	2,143	4,387	17,250	7	95,982			155,913	1,047,635
Jordan	2,143								2,143	23,643
Lebanon	5,952	1,190			7				7,149	43,330
French Somaliland				20,000		2,000			22,000	61,378
Saudi Arabia	24,548	3,571		9,500	2	2,000			39,621	298,946
Total, Middle East Area	68,787	6,904	4,387	46,750	563	99,982	0		227,373	1,486,218
South and Southeast Asia Area:										
Hong Kong	3,571	7,143		16,750	71	2,500			30,035	132,745
India	11,905			32,000					43,905	195,710
Laos	25,980	335,734	99,090		14,591	55,582	370		531,347	6,378,050
West Pakistan	11,905	714		15,500	5	2,000			30,124	123,210
Singapore	50,952	2,738		314,381	12	32,000			400,083	1,479,019
Thailand	15,515,791	800,348	359,036	36,000	18,948	844,314	1,096		17,575,533	56,576,746
Vietnam	11,919,857	1,691,471	3,744,168	700,000	486,364	7,619,107	22,738		25,784,205	98,349,689
Total, South and Southeast Asia Area	27,539,961	2,838,148	4,202,294	1,114,631	520,491	8,155,503	24,204		44,395,233	163,234,564
European Area:										
Belgium	1,905	3,572		81,729	10	24,132			111,348	455,056
Denmark	1,905	476		32,191	2	9,997			44,571	189,619
Finland		714		2,500	2	1,000			4,216	28,776
France	503,690	356,785	520,000	2,500	7	331,052			1,714,034	6,608,114
Germany	3,830,187	13,810	959,404	865,251	195	2,604,887	15,773		8,289,507	32,092,844
Netherlands		5,357	202,071	279,987		9,087			496,502	1,530,425
Norway	13,738	3,929		95,273	26	25,980			138,946	608,119
Sweden		714		2,449	10	1,000			4,223	20,335
United Kingdom	2,640,476	51,702	337,181	439,039	24	437,834			3,906,256	16,441,513
Total, European Area	6,991,901	437,059	2,018,656	1,800,969	276	3,444,969	15,773		14,709,603	57,976,201
Mediterranean area:										
Crete	164,286	3,429	6,619		424	29,167			203,925	966,601
Gibraltar		952			5				957	10,754
Greece	107,143	26,191	10,436	35,000	1,616	110,183			290,569	1,475,731
Italy	1,573,517	91,883	264,050	3,866,979	3,315	307,316			6,107,060	24,682,216
Malta	279,762	3,095			36				282,893	1,115,960
Morocco	476	1,505	22,631	10,000		149,548			184,560	1,078,033
Portugal	1,190	1,190		1,013,000	7	4,000			1,019,387	2,669,406
Sicily	707,857	33,333		1,731,424		3,258			2,475,872	9,576,112
Spain	2,615,475	95,982	235,214	824,000	12	165,147			3,935,830	10,921,807
Turkey	896,328	23,890	45,297	175,000	5,807	286,101	1,276	454	1,439,155	6,439,863
Total, Mediterranean Area	6,346,034	281,850	548,247	7,655,403	11,224	1,055,020	1,276	454	15,935,508	59,292,182
Western Pacific Area:										
Australia	26,667	714	4,750		1,309	137,619			171,014	899,268
Antarctica Territory	58,690		4,048			50,429			113,167	377,041
Japan	6,922,619	159,071	757,150	2,973,230	6,544	2,270,283			13,088,899	33,452,327
Korea	1,477,476	60,037	77,284	559,000		704,695			2,895,489	8,922,446
New Zealand	67,381	4,167		107,293	95	13,572			192,505	1,031,208
Philippines	5,509,388	387,414	152,975	9,680,297	25,456	1,046,978			16,802,508	41,810,709
Ryukyus	6,153,811	89,869		530,000					7,073,680	16,920,309
Taiwan	772,888	55,655	83,650	931,500	357	148,339	1,659		1,994,048	6,453,483
Total, Western Pacific Area	21,288,920	756,927	1,099,811	14,781,320	33,761	4,371,915	1,659		42,334,313	109,866,792

FINAL DESTINATION OF PETROLEUM PROCURED BY DFSC—FISCAL YEAR 1973—Continued

Area and country	Barrels									
	Jet fuels	Aviation gas	Automobile gas	Residuals	Lubricants	Distillates	Dry cleaning solvents	Miscellaneous	Total barrels	Cost
Central Pacific Area:										
Fiji Islands	857	719			2				1,573	13,550
Wake Island	1,857,143	166,667			2,274				2,026,084	13,980,742
Midway	78,571	25,375							103,928	531,915
Total, Central Pacific Area	1,936,571	192,738	0	0	2,276	0	0		2,331,585	14,526,207
Africa	155,448	5,238	3,805	176,843	98	68,903	0	0	410,335	1,807,316
Canada and Northeast	725,464	98,781	96,221	213,411	0	1,497,819	0	0	2,631,696	11,768,340
Atlantic Islands	574,001	163,714	72,536	0	0	339,348	0	0	1,149,599	4,413,937
Caribbean	110,670	65,703	32,107	40,052	196	260,120	0	0	508,850	2,328,975
Latin America	90,595	34,403	0	0	305	0	0	0	125,303	1,406,552
Middle East	68,787	6,904	4,387	46,750	563	99,982	0	0	227,373	1,486,218
South and Southeast Asia	27,539,961	2,838,148	4,202,294	1,114,631	520,491	8,155,503	24,204	0	44,395,232	163,234,564
European	6,991,901	437,059	2,018,656	1,800,969	276	3,444,969	15,773	0	14,709,603	57,976,001
Mediterranean	6,346,034	281,850	584,247	7,655,403	11,224	1,055,020	1,276	454	15,935,500	59,292,182
Western Pacific	21,288,920	756,927	1,099,811	14,781,320	33,761	4,371,915	1,659	0	42,334,313	109,866,792
Central Pacific	1,936,571	192,738	0	0	2,276	0	0	0	2,131,585	14,526,207
Total	65,828,352	4,881,465	8,114,066	25,829,379	569,190	19,293,579	42,912	454	124,559,397	428,107,284
AID financed petroleum products:										
East Asia	12,185	172,905	232,122	1,181,479	26,150	1,138,722			2,763,953	
Vietnam	133,251	115,154	2,259,641	7,034,55	261,982	5,361,487			15,166,065	
Africa/Europe					189,471	4,157			193,628	
Near East-South Asia					973,939				973,939	
Latin America					(26)				(26)	
Total, AID financed petroleum products	145,736	88,059	2,491,853	8,216,029	1,451,516	6,504,366			19,097,559	
Total, DESC foreign procurements	65,828,352	4,881,465	8,114,066	25,829,379	569,190	19,293,579	42,912	454	124,559,397	
Total, AID financed products	145,736	288,059	2,491,853	8,216,029	1,451,516	6,504,366	0	0	19,097,559	
Total, foreign	65,974,088	5,169,524	10,605,919	39,045,408	2,020,706	25,797,945	42,912	454	143,656,956	

Mr. McGOVERN. Mr. President, I want to stress that this report in no sense reflects a formal GAO audit. The figures listed are no more than Agency and Department claims about their purchase and consumption of petroleum products. The GAO has not attempted to verify these claims.

But the important point about the report is that it demonstrates an appalling lack of knowledge on the part of the Government about what it is doing with scarce oil supplies.

No one knows how much gas is being wasted on limousines and nonessential training exercises. I think we should find out.

Once the Congress and the President are appraised of the information which my amendment would provide the White House, or if necessary, the Congress could require a moratorium on nonessential government consumption of gasoline. We could have a moratorium on limousines and war games and other similar uses for the duration of the oil shortage.

We could require that Government-owned gas and oil not essential to the functioning of Government be turned over to farmers for harvest and to consumers in areas where severe shortages develop.

Mr. President, I intend to introduce proposed legislation shortly which would require that relevant information concerning the Government's purchase and consumption of petroleum products be presented to the Congress along with the President's budget each January. In that way we can monitor this problem closely in the future.

But for this year and for the present oil shortage, we immediately need the information my amendment would provide. For government waste oil and gas is the greatest untapped reserve which easily and quickly can be transferred to the American farmer and consumer. I hope that Senators will agree that we should not leave this resource untapped.

Mr. President, I should like to call up my amendment for the propose of further discussion. It is No. 318.

The PRESIDING OFFICER. The Senator cannot call up his amendment until the pending amendment has been disposed of.

Mr. McGOVERN. All right. Under the circumstances, will the Senator yield me an additional minute?

Mr. GRAVEL. I yield.

Mr. McGOVERN I am glad to yield to the Senator from Washington.

Mr. JACKSON. Mr. President, I commend the Senator from South Dakota for his amendment No. 318. The amendment, as I understand it, would require the filing by Federal agencies of certain information concerning their consumption, stocks and requirements for petroleum products with the General Accounting Office.

The purpose of the amendment is to identify stocks of fuels which could be made available in times of shortage to other high priority uses such as agriculture or essential public services.

While I strongly support the purpose and the intent of the Senator from South Dakota's amendment, I believe the amendment should be considered in connection with a number of pending bills that deal with the energy information gathering and analysis functions of the Federal Government. The committee plans hearings on these measures in September and I would urge the Senator to introduce the amendment in bill form so that it may be considered in connection with the committee's consideration of the large information problem and bills on this matter by Senators HUMPHREY, NELSON, and others.

Meanwhile, if I may be of any assistance to the Senator from South Dakota in securing from the Federal agencies the kind of information he seeks I stand prepared to assist him in any manner he desires.

Mr. President, I think the Senator's amendment dramatizes the problem and the difficulty we have. If he will not call up his amendment I can assure him that we will consider it in connection with the other areas as to which we seek information. The Senator has addressed himself to that question.

Mr. McGOVERN. Mr. President, I think the course of action that the Senator from Washington has suggested is wise. Under those circumstances, I will not call up my amendment but will introduce it as separate proposed legislation.

Mr. GRAVEL. Mr. President, I yield 2 minutes to the Senator from Arizona.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. FANNIN. Mr. President, I am convinced that the Gravel-Stevens amendment could save at least another 2 years of court delay. Let us make clear why we need an Alaskan pipeline now. I have already mentioned the balance-of-payments issue. Another reason is that the security of our imported supply of oil becomes more doubtful every day. Saudi Arabia, for example, is the most pro-American Arab member of OPEC. But King Faisel recently said, "The United States cannot take us for granted any longer." Saudi officials have threatened to cut back production. This is one example of a growing trend. The fact is that the security of our imported supply of oil is becoming increasingly threatened.

Mr. President, I ask unanimous consent to have printed in the RECORD an article entitled "Saudis Ponder Whether To Produce The Oil U.S. Needs" pub-

lished in the Washington Post on July 11, 1973.

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

SAUDIS PONDER WHETHER TO PRODUCE THE OIL UNITED STATES NEEDS

(By Jim Hoagland)

DHAHRAN, SAUDI ARABIA.—The midnight sky glows in fierce red hues here at the edge of the world's largest oil field, where American companies are racing to escalate production needed to fill spiraling global energy demands.

The dancing, hissing natural gas flares that burn in the horizon ripple in the desert wind.

Across the Arabian Peninsula 1,000 miles away, Saudi Arabian merchants sweep into American banks in Jediah each morning with huge packs of 100 rial notes, each equal to $25. A tidal wave of money is rushing into the country as more oil pours out.

In his modest, green-tile-roofed summer palace in the mountain town of Taif, King Faisal receives visitors with an elegant politeness, standing as they enter and shaking hands with them.

Rapidly and perhaps somewhat reluctantly becoming one of the most powerful leaders in the Arab world, Faisal quickly shows that he is spending much of his time brooding about the twin flows of oil and money and their impact on the entire Middle East.

Suddenly, Saudi Arabia has shifted from being seen as the West's main hope for solving the energy crisis to being another unpredictable factor in the volatile world of oil and politics.

"The United States cannot take us for granted any longer," a Saudi leader, who was educated in the United States and describes himself as pro-American, said strongly. "Cooperation has to work both ways."

The four large American petroleum companies that jointly operate here are pushing ahead with a crash expansion program around Dhahran that could thrust Saudi Arabia beyond the United States and the Soviet Union as the world's largest petroleum producer in four years.

Increasingly, however, company officials wonder if they will be allowed to use the new facilities they are frenetically installing at the rate of $500 milion a year. Specific warnings by the Saudi petroleum and foreign ministers and a more general declaration to this correspondent by King Faisal last week have made it clear that Saudi Arabia is seriously considering blocking future oil production increases because of what is seen here as all-out American support for Israel.

A Saudi decision to freeze production at current levels could create chaos in an energy-hungry world, and competent Saudi officials predict that the psychological impact of such an announcement would drive already rising oil prices upward even more sharply overnight.

The open discussion of such a possibility by the Saudis already amounts to a major policy setback for the Nixon administration in the Middle East.

An unstated but priority aim of the administration has been to keep America's growing need for Arab oil and its support for Israel separated, or, as a member of the Washington foreign policy community put it recently, "on two separate tracks." The pronouncements of Saudi leaders are the first serious merging of the two tracks.

They also signify Saudi Arabia's new awareness of its growing power. Amassing foreign currency reserves at a rate of $100 million a month faster than it can spend them, this nation of about 5 million people is abandoning its traditional isolationism and is cautiously emerging as a major force in international, Arab world and Persian Gulf politics.

"All the Arabs know that it is in the hand of this government alone to 'get the West to behave' as they tell us again and again," a key Saudi policymaker said.

The other major factor in the new Saudi willingness to tie oil to politics is the growing realization here that this desert kingdom's still developing economy cannot absorb the enormous revenues that increased production and higher oil prices are bringing. Given its conservative investment policies and the present uncertainty of international monetary conditions, top Saudi officials feel that production above the 8 million barrels a day figure of May is wasteful for them.

The Saudis have passed this message to Washington through a number of channels. They have not made it clear exactly what they want in the way of a change in American Middle East policy.

But a series of conversations with Cabinet-level officials over the past week did indicate that the Saudis feel they need some public sign of American willingness to consider the Arab cause more seriously, especially in areas like voting in the United Nations Security Council.

"We are not asking for the destruction of Israel," said a Saudi minister. "We want a reasonable policy to bring a settlement."

Other Saudi leaders stress that their government has been "disappointed and embarrassed" by the Nixon administration's failure to move on the diplomatic front while stepping up new military aid to Israel, despite what Saudis insist were clear promises of a shift in the Middle East after President Nixon's reelection last year.

The underlying suggestion is that the Saudis went out on a limb by counseling restraint on other Arab countries, especially Egypt, on the basis of an expected American shift that has not materialized.

Previously undisclosed production statistics for this year underscore the West's increasing dependence on Saudi Arabia, which has oil reserves estimated by the Saudi government at 156 billion barrels, 22 per cent of the non-Communist world's total proved oil reserves.

In May, production by Aramco, the operating company for Exxon, Standard Oil of California, Texaco and Mobil, soared above 8 million barrels a day. If oil industry estimates of Soviet production are accurate, Saudi Arabia has quietly surpassed the Soviet Union as the world's second largest producer by a small margin.

Sand storms in the Persian Gulf hindered ship loading in June and production slipped back to 7.2 million barrels a day for the month, even with the oil port closed 49 per cent of the time. This was the original target figure for average production by Aramco in 1973. Since production usually rises more sharply in the second half of the year, it will easily be exceeded—if Saudi Arabia permits the increases. In the first week of July, Aramco says its production was running at 8.6 million barrels a day. U.S. production is less than 10 million barrels daily.

In six months, Saudi Arabia has increased its total crude oil production by 40 per cent. Aramco's estimated capital budgets of $500 million for 1974 and 1975 indicate that the company plans at least a 20 per cent increase in production in each of those years, meaning that, by the end of 1975, the company sees a worldwide market for Saudi production of 12 million barrels daily.

This month, 500,000 barrels of Saudi oil will be imported into North America. Industry sources predict that the United States will need to import five times that figure by 1975 to keep pace with growing energy demands.

At current production, Saudi Arabia will earn more than $4 billion in oil revenues this year, a 30 per cent increase from last year. At least $1 billion will be added to Saudi Arabia's present foreign exchange holdings of $3 billion.

The rush of new oil revenue into Saudi Arabia has stunned even Saudi financial managers, who until a few months ago were predicting that their sparsely populated country, which has few telephones and long-distance highways, and insufficient numbers of schools, would be able to spend enough of the revenue to make oil production increases worthwhile.

Faisal, who sees a long-term danger to the intensely conservative Saudi society from too much easy money, has resisted large-scale social welfare programs and bureaucracies such as those that have helped other gulf states soak up their oil money.

The national development budget has spurted from virtually zero four years ago to $3 billion in the last fiscal year. But only 62 per cent of the development funds could actually be spent last year.

"We don't have enough contractors to do what we can budget, and what we want to do," Hisham Nazir, president of the government's Planning Organization, said. "There aren't enough contractors in the world."

Nazir's organization is drawing up a new five year economic plan to begin in 1976. It will call for $40 billion to $50 billion total expenditures. The budget figures assume that Saudi oil production will increase only by 10 per cent annually in the future.

"Saudi Arabia must draw a firm policy on oil production," said, Nazir, one of five key officials named by Faisal to the newly formed Supreme Petroleum Council. "The policy will have to put an end to waste" brought about by overproduction, which adds to Saudi internal inflation and the piling up of devaluing dollars.

"We have to strike a balance between competing factors that include our development requirements, prolonging our national oil reserves over the longest period, the absorptive capacity of our economy, the accumulation of monetary reserves that decline in value while prices for oil rise, and world energy requirements."

A Saudi Cabinet minister explained: "We have found that the maximum revenue we can usefully absorb is brought in by production of 7 million barrels a day. Anything we produce over that harms our own interests, by keeping prices down and by disturbing our economic balance.

"We are prepared to go out of our way and produce more. But we have to have a reason."

The Petroleum Council which clearly mixes foreign and oil policy interest, will recommend Saudi Arabia's first national petroleum policy to Faisal. The debate over freezing production at current levels is expected to go on for some months, while the Saudis look for signs of a change in Washington.

Saudi officials stress that in their view they are not talking about "using oil as a weapon" as more militant Arab states have demanded. There are no suggestions here of a complete oil cutoff to Western countries similar to the one that was briefly tried in 1967.

But if Arab-Israeli fighting should resume, these same officials make clear, Saudi oil would be immediately cut off. "If there is a battle, we are in it," said one authoritative source. "People had better understand that now."

One suggestion that will reportedly surface in the Petroleum Council involves freezing production at this year's original target figure, 7.2 million barrels a day, for the rest of this year and 1974. This would have an especially sharp impact on the oil companies, who would see the return on their massive new investment delayed.

The Saudi Finance Minister, which faces difficult decisions on the accumulating revenue increases, is reliably reported to be pushing hard for a production freeze. So is the Foreign Ministry, which must bear the

brunt of Arab criticism of Saudi Arabia's traditionally close ties to the United States

Saudi Arabia's new activism in Arab affairs was underscored last week when the kingdom granted the Arab Socialist Baath government in Syria a $24 million development loan.

Top aides credit Faisal, 67, with having dissuaded Egypt's President Anwar Sadat from launching a military strike into the Israeli-occupied Sinai Peninsula in early June, and a top envoy was to be dispatched to Cairo this week to assure Sadat of continued Saudi financial support if Egypt stays out of the proposed merger that Libya's firebrand young leader, Col. Muammar Qaddafi, is pushing.

Saudi officials are diplomatically vague when asked what first step the United States could take to evidence a change toward the "evenhanded" policy Faisal called for last week.

"The puzzle is what is it that our American friends want," said Foreign Minister Omar Saqqaf. "Why is the help always for Israel? There are more than 2.5 million Palestinian people either in refuge (abroad) or under occupation. . . .

"If people think this question is going to be as it is now forever, they are wrong," he added. "We are friends with the United States. We want to be friends. But there is always a limit."

* * * incorrect to refer to Libya's posture in the negotiations as one of demanding nationalization. He said his nation wants the companies to remain in Libya as service contractors.

Mr. FANNIN. Mr. President, second, we are told that the amendment would result in litigation. No one can ever stop anyone from filing a lawsuit. The point is that should a lawsuit be filed the judge will have no doubts about what the Congress intended. The judge will know that a pipeline should be built and will, therefore, not tolerate protracted and dilitatory litigation. For these, and other reasons that the Senators from Alaska and others have mentioned the Gravel amendment should be supported.

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, 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. The others did not decide to the contrary but merely delayed consideration of the issue until amendment of the Mineral Leasing Act. 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 to 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. 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. GRAVEL. Mr. President, I yield to the Senator from Alaska.

Mr. STEVENS. Mr. President, I have an amendment at the desk, and I ask unanimous consent that I may call up the amendment at this time.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

The amendment is as follows:

On page 35, lines 10 and 11, insert the following new section:

SEC. 205. The Congress finds that the trans-Alaska pipeline from the standpoint of time, is the most feasible means to transport Alaska's North Slope crude oil to domestic markets because it could be on stream two to six years earlier than a comparable overland pipeline across Canada and that the trans-Canada route negotiations authorized by this title refer to a subsequent, but not alternative, project for the transportation of Alaska's potential crude oil reserves.

Mr. STEVENS. Mr. President, I have discussed this matter with the Senator from Washington. I believe he is prepared to accept the amendment to clarify the intent of the Senate as appears in the report.

Mr. JACKSON. Mr. President, I support the amendment of the Senator from Alaska (Mr. STEVENS). The amendment restates the major finding and conclusion of the committee which is set forth in italics at the bottom of page 21 of the committee report. This is a restatement of the language in the report. It complies with that requirement.

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

Mr. JACKSON. I yield.

Mr. PASTORE. Am I to understand this does not obviate the court acting?

Mr. JACKSON. I will read the amendment and the language of the report. The amendment states:

Section 205. The Congress finds that the trans-Alaska pipeline from the standpoint of time, is the most feasible means to transport Alaska's North Slope crude oil to domestic markets because it could be on stream two to six years earlier than a comparable overland pipeline across Canada and that the trans-Canada route negotiations authorized by this title refer to a subsequent, but not alternative, project for the transportation of Alaska's potential crude oil reserves.

I point out that in the committee report on page 21, near the bottom, it is stated:

The committee determined that the trans-Alaska pipeline is now clearly preferable, because it could be on stream 2 to 6 years earlier than a comparable overland pipeline across Canada.

We wanted to put it in the statute so there would be no ambiguity.

Mr. PASTORE. The Senator would consider this a serious modification of the Stevens amendment?

Mr. JACKSON. This has nothing to do with the Stevens-Gravel amendment, at all. This is a separate part of the bill. This is a separate part of the bill which simply takes the language out of the report substantively and places it in the statute where it should be.

Mr. STEVENS. I move the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. GRAVEL. Mr. President, I have only 5 minutes remaining. I think it is unreasonable that I grant additional time as a courtesy to anyone else. Since I have only 5 minutes remaining, I think the Senator from New York understands my dilemma.

The PRESIDING OFFICER. The Senator is recognized.

Mr. GRAVEL. Mr. President, much has been said about the fact that we would destroy NEPA. I address myself to two editorials, one published in the New York Times and one published in the Washington Post. They are both fine newspapers, but in this instance they are reacting in a knee-jerk fashion.

The environmentalists have long said they wanted the decision made by Congress. I hope it comes as no surprise that today the entire environmental com-

munity is behind Congress making a decision. So I am quite chagrined to see statements to the contrary, statements that say we should not make the decision.

I quote from a report and statement by Mr. George Alderson, legislative director, Friends of the Earth. He said:

We believe Congress should make the final decision in these matters.

Then, Representative LES ASPIN from the other body, on page 470 of part 2 of the report makes a similar statement.

On page 473 Mr. Joel M. Pickelner, on behalf of the National Wildlife Federation said that Congress should make the final decision with respect to NEPA.

Mr. President, with respect to whether or not we are going to be tied up in litigation for the next 2, 3, 5 years, it takes someone to sue. The people who have been fighting this matter in court are the people to whom we should address the question as to whether they will bring this matter to court.

The gentleman representing the Wilderness Society, the Environmental Defense League, and the Friends of the Earth have the matter tied up in court now.

Their counsel, Mr. Dienelt, states:

MR. DIENELT. That is correct. Someone could sue. It would be my advice to the clients and the advice to be shared by all the attorneys in the litigation now not to bring any further legal action at that point since there would be no basis for it.

If Congress passed a law, I would then contend there was no recourse in the courts and since Congress had passed the law there would be no further recourse to Congress and it would be my conclusion legally that there would be no basis for any further delay on environmental grounds, and it would be my legal judgment that they would have no ground on which they could possibly succeed. It would be my advice to the environmental groups that legally their best recourse upon finding that the study confirmed what we have been saying all along that the Canadian route was superior, to contact their Congressmen in every way they could because they would not get anything further out of the courts. So I would advise against it and I wouldn't participate.

Senator MCCLURE. I would suggest that you probably won't participate either by your choice or theirs.

Other statements by environmentalist groups with respect to this matter follow:

STATEMENT OF GEORGE ALDERSON, LEGISLATIVE DIRECTOR, FRIENDS OF THE EARTH

On the basis of Secretary Morton's statement, no one should have any illusions that these bills can be considered independently of the Alaska pipeline proposal. The right-of-way issues and the Alaska pipeline issues both deserve the careful consideration of the Congress. Friends of the Earth stands ready to assist this committee in obtaining the facts and the analyses that are thus far lacking both with respect to the Alaska pipeline and with respect to the right-of-way legislation.

We believe that the Congress should make the final decision in both of these matters.

STATEMENT OF HON. LES ASPIN, A U.S. REPRESENTATIVE IN CONGRESS FROM THE STATE OF WISCONSIN

Mr. Chairman, legislation affecting the right-of-way issue could have a direct impact on the pipeline question. Therefore, this Committee must carefully delineate between issues and offer proper assurances that a right-of-way change bill will not automatically affect the pipeline decision. Otherwise, it is possible that the pipeline issue will be decided de facto by the passage of a change in the right-of-way provisions. I am sure that this is not the intention of the Committee and I am confident that full consideration in the format of extensive hearings on the pipeline issue will be held and that Congress will make a final judgment about whether to build a trans-Alaskan or a trans-Canadian pipeline.

STATEMENT OF JOEL M. PICKELNER ON BEHALF OF THE NATIONAL WILDLIFE FEDERATION

It would be our recommendation that the Congress either recapture the authority it has delegated to the Secretary of the Interior and settle the pipeline issue itself after extensive hearings, to develop all factual information, including the Canadian alternative, or remove the width limitation on the proposed Trans-Alaska Pipeline in the Mineral Leasing Act in order that the Court then could decide the true merits of the case—on whether or not the Secretary, in fact, has complied with the National Environmental Policy Act (NEPA). Then, after separating out the Alaskan Pipeline issue we believe that the Congress should deal with rights-of-way across Federal lands, revising them as necessary after deliberation and public hearings to insure that proper environmental safeguards are instituted and rigidly enforced, and decisions are in the overall public interest.

DEFENDERS OF WILDLIFE,
Washington, D.C., March 21, 1973.

We ask that Congress and not the Secretary of the Interior or the Courts formulate the policies governing the use of public lands and the energy needs of the United States. Moreover, the Congress should reserve for itself the final decision on the important question of how the oil and natural gas of Alaska's North Slope can best serve the needs of the American people.

Sincerely,

MARY HAZELL HARRIS,
Executive Director and Editor.

That clearly states without further dispute what the case would be.

Mr. President, I ask unanimous consent to have printed in the RECORD a letter presented earlier by the Senator from Colorado stating that the amendment would end all further judicial action.

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

BERLIN, ROISMAN & KESSLER,
Washington, D.C., July 12, 1973.

Senator FLOYD K. HASKELL,
U.S. Senate,
Old Senate Office Building,
Washington, D.C.

DEAR SENATOR HASKELL: As I believe you know my firm represented the Canadian Wildlife Federation and the Hon. David Anderson in the Alaska pipeline litigation which has precipitated the present debate over S. 1081. We have also represented public interest organizations, in numerous other environmental suits, including *Calvert Cliffs'*, which have resolved disputed interpretations of the National Environmental Policy Act.

As the litigants in the Alaska pipeline case have testified before both the Senate and House Interior Committees they support the Mondale-Bayh amendment to S. 1081, which we know that you also support.

It has come to my attention that questions have been raised about the legal status, under NEPA, of the decision which Congress is to reach on the Canadian-versus-the-Alaskan route after completion of a National Academy of Science study and negotiations with Canada, if the Mondale-Bayh Amendment is passed. Such a Congressional decision, which is called for in Section 203 of the Amendment, would not of course even fall under the provisions of the National Environmental Policy Act. Section 102(2)(C) of that statute, requiring preparation of an environmental impact statement, applies only to "major Federal actions", i.e., the actions of a Federal agency, department, commission, etc. There is no question in my own mind that NEPA does not, and could not, apply to specific actions of the Congress itself, i.e., directing the Secretary of the Interior to grant rights-of-way for whichever route is chosen. For this reason, the Congressional decision does not fall under NEPA and is not subject to the procedural requirements of NEPA.

Of course, the Amendment does incorporate the basic principles of NEPA by requiring that the National Academy of Sciences study cover, among a number of other matters, the same subjects which would have to be discussed in a NEPA impact study. But again, that is a matter of Congress choosing to have such information included in the study, rather than being obligated to do so by the provisions of NEPA.

In short, NEPA, is as a legal question, irrelevant to the Congressional decision mandated by Section 208 of the Mondale-Bayh Amendment since NEPA applies *only* to actions of the executive branch of the Federal government and the Amendment contemplates a decision to be made by the Congress itself as an independent exercise of its legislative function under the Constitution.

Cordially yours,

GLADYS KESSLER.

Mr. GRAVEL. Mr. President, the Nation is hemorrhaging from a dollar crisis, because we have gone from sufficiency to dependency on oil from abroad. We can make our standard of living as high as we want, but we have to buy the energy to do so. This takes dollars. The only way to offset these dollars to any appreciable degree is to produce oil domestically, and the only place we have to supply this oil quantitatively is Alaska. In a decade we will save a billion dollars for the American people if we build the pipeline now. Today it costs the American public $6 million every day. Every day we delay it will cost that much. For the next 2 years it will cost the American people almost $4 billion. I do not think the American public will stand still for this. I have characterized this amendment time and time again as the Tonkin Gulf of the energy crisis. This is an energy crisis that is going to be with us maybe 15 or 20 years.

Those people who are persuaded by a small minority of well-organized extremists can vote that way, but the broad public opinion of this Nation, which turned around last year, indicates 60 percent of the American people are for the immediate construction of the pipeline and 19 or 20 percent are undecided.

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

Mr. GRAVEL. I yield.

Mr. PASTORE. The Senator from Rhode Island is not persuaded with respect to this matter. I am for the Alaska pipeline and I am going to vote for the pipeline, but I am afraid that——

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

Mr. ROBERT C. BYRD. Mr. President,

I ask unanimous consent that there may be 2 additional minutes.

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

Mr. PASTORE. I am afraid that with this amendment we are biting off more that we can chew. After all, the Senator is saying we ought to expedite production of domestic oil. I agree with that. That is what the bill is intended to do. When it was reported out of the committee, that is precisely what it was intended to do. But we are adding more and more. The Senator is by this step leading to a dangerous precedent. The Senator is saying, "Let us shut off the right to go to court." When we do that, that is proceeding on delicate ground. It will come back to haunt us. I was going to vote for the bill, but if this amendment is adopted, I will have to reconsider.

Mr. GRAVEL. We do not shut off any court action. Obviously Congress cannot do that. What is involved here, as a constitutional crisis, is whether this Nation can be brought to its knees by a small number of people through the use or device of law, or whether this Congress, as the representatives of the people, can make a judgment in the best interests of this country. I would be chagrined if Senators would back away from our ability to make a judgment in the best interests of the country.

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

The yeas and nays were ordered.

Mr. JACKSON. Mr. President, last Friday this body rejected an amendment proposed by the Senators from Minnesota and Indiana that would have postponed authorization of a trans-Alaska pipeline awaiting further negotiations with the Canadian Government about a trans-Canada pipeline. The Senate took this action in the conviction that the Canadian Government was not now prepared to go ahead with approval of such a pipeline.

This conviction was based in part upon communications from the State Department regarding earlier contacts with Canada. Yesterday, some information came to my attention which casts a cloud over the completeness and veracity of the information we have received from the State Department.

On July 7 I learned of a colloquy in the Canadian Parliament the previous day, in which Mr. MacDonald, the Minister of Energy, revealed that his Ministry had submitted a list of written replies to U.S. State Department questions regarding Canada's attitude toward a trans-Canada pipeline. Mr. MacDonald also stated that he hoped that the U.S. Government would make these answers available to Congress before it took any action on pending pipeline legislation.

When I was made aware of the existence of this colloquy and of the questions and answers I immediately asked the State Department for a copy of the questions and answers. I should emphasize that I was not informed of this exchange by the administration, and that the response to my request for it was confused and reluctant. On July 7 I received a list of questions and answers from the Department, accompanied by a letter from Marshall Wright, Assistant Secretary for Congressional Relations.

With unanimous consent I would like to insert these documents at this point in the RECORD.

The questions and answers were typed on plain paper, without letterhead or other distinguishing signs, and were not accompanied by letters of transmittal either from the Embassy in Ottawa or from the Canadian agencies which purportedly prepared the answers.

Since the questions and answers were released on the 7th, my staff has been hearing from various sources that the document that I received and placed in the CONGRESSIONAL RECORD was not complete. Last night, the State Department sent me what purports to be "a revision which the Canadian Government wishes to make in its earlier answer to the qeustion on pipeline ownership and control."

With unanimous consent, I would like to insert this revision and its covering letter into the RECORD at this point.

Although the question of ownership and control was by no means the chief obstacle in my mind to construction and operation of a trans-Canada pipeline, the new answer is, however, in direct contradiction to the repeated statements of Secretary Morton that the Canadian Government would require a 51-percent equity by Canadians in a trans-Canada oil pipeline. A review by my staff of earlier statements by Canadian officials on this issue shows no evidence that they have ever insisted upon 51-percent ownership of a pipeline carrying American oil or gas to American markets.

My own view of the relative merits of the two routes has not changed, because I have not regarded the issue of ownership and control as the central one; my concern has centered about the inevitable delay in designing, organizing, and getting authorization for a new, international pipeline at a time when a wholly domestic project is ready to go.

I am gravely concerned, however, that Congress may have been spoon fed only that information regarding State Department contacts with the Canadian Government and regarding Canadian views that accords with the administration's views.

I requested the State Department to furnish me with a history of its exchanges of communications with the Canadian Government on this matter, together with copies of the original versions of these communications, and a full explanation of any omissions or revisions in the versions made available to Congress.

The State Department delivered a few minutes ago a letter that contains a partial explanation of the discrepancy. I have not had an opportunity to study the letter in depth, but it still seems to leave some vital questions unanswered. I ask that this letter be made part of the RECORD at this point.

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

DEPARTMENT OF STATE,
Washington, D.C., July 17, 1973.

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

DEAR MR. CHAIRMAN: At the suggestion of the Committee staff, we have reviewed our records regarding the Department's response to the June 1 request of Congressman Melcher, Chairman of the Subcommittee on Public Lands of the House Committee on Interior and Insular Affairs, and your request of June 20 for further information regarding Canadian views on the matter of a pipeline to bring oil from Prudhoe Bay, Alaska, to the lower forty-eight States.

Following the receipt of Congressman Melcher's request and after preliminary inquiries by telephone to our Embassy in Ottawa, the Department prepared and cabled to the Embassy a series of questions to serve as a basis for more detailed conversations with appropriate Canadian officials in Ottawa.

On June 14 the Department received a preliminary written assessment from the Embassy in Ottawa prepared on the basis of discussions held up to that point.

On June 18 Congressman Melcher was informed that Canadian views on the questions he had raised in his June 1 letter were being actively solicited, and the Department requested the Embassy to expedite the completion of its consultations.

You will recall that on June 20 you also wrote to Secretary Rogers asking for the Department's views on recent Canadian attitudes on this subject.

On June 22 the Embassy in Ottawa advised the Department that Canadian officials were preparing a written response to the specific questions we had posed but that it had to be approved by senior Canadian officials before it could be released to the Embassy.

Because of the urgency of the matter the Department on June 22 submitted to you and to Congressman Melcher a report based on the preliminary assessment by the Embassy mentioned above.

On June 27, at the request of Congressman Melcher, more detailed information concerning the problem of native claims in Canada was solicited from Canadian authorities and sent to him.

Late on the afternoon of July 5 the Department received by mail from the Embassy the written Canadian responses to the specific questions we had posed. In a conversation with officials of the Canadian Embassay in Washington on July 6 the Department discovered that the response to one of the questions as given to our Embassy in Ottawa was different from the version the Canadian Government had supplied its own Embassy in Washington. We informed the Canadian Embassy here that we were forwarding to the Congress the version which had been handed our Embassy in Ottawa. We suggested that if it had subsequently been revised, the Canadian Government would wish promptly to call the changes to the attention of our Embassy in Ottawa.

On Saturday morning, July 7, we transmitted to your Committee and to Congressman Melcher the text of the Canadian answers as given in writing to our Embassy in Ottawa.

We also alerted our Embassy in Ottawa to the possibility that their Canadian contacts would be submitting to them a revision of the text and asked that if a revision were received it be promptly forwarded to the Department.

Having heard nothing further regarding a revision, the Department checked by telephone on July 16 with the Embassy in Ottawa. We learned that a revised response to one question had indeed been received and was enroute to the Department by mail. Because of the urgency of the matter we im-

mediately took down the text of the revised answer by telephone. This revised text was transmitted to you and Congressman Melcher on the same day.

Sincerely,

MARSHALL WRIGHT,
Assistant Secretary for Congressional Relations.

Mr. METCALF. Mr. President, I ask unanimous consent that the brief note addressed to Senators and three editorials be printed in the RECORD.

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

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

U.S. SENATE,
Washington, D.C., July 17, 1973.

DEAR COLLEAGUE: The attached editorials from three prominent national newspapers outline very clearly the issue before us today.

If NEPA is to have real meaning, it is imperative that we leave inviolate the principle of citizen lawsuits and judicial review. Congress can, of course, make exceptions to NEPA. But each exception can become a loophole and can cloud the mandate which the courts are expected to apply.

I respectfully request that you honor the mandate already expressed in the National Environmental Policy Act by an overwhelming vote in Congress.

Very truly yours,

LEE METCALF.

[From the New York Times, July 17, 1973]

NEPA IN DANGER

The National Environmental Policy Act of 1969—NEPA—is perhaps the most important single piece of modern environmental law now on the statute books. That law is under attack in the Senate today in the form of a proposal by Senator Gravel of Alaska, it is imperative that the law not be breached or undermined, and that the Gravel amendment be defeated.

NEPA requires that every Federal agency submit to the President and his Council on Environmental Quality a statement detailing what impact any proposed project would have on the environment. These so-called impact statements have proved to be an immensely important way of educating the public and the bureaucracy itself on how man-made changes can or are likely to affect the nations land, water, air, scenery, wilderness, animals and other natural resources. Since the statements are subject to review by the courts, they provide ordinary citizens with a powerful lever to make Federal agencies live up to their own professed standards.

Senator Gravel now wants to make an end-run around the law in order to speed construction of the Trans-Alaska Pipeline to carry oil from the Alaskan North Slope to West Coast ports.

One of the requirements of NEPA is that an agency consider seriously every alternative to make certain that it has chosen the course of action that does the least environmental damage. Many observers believe that an alternative pipeline route from the North Slope through Canada might do less harm to the fragile Arctic environment than the Alaskan route. Moreover, the Canadian route would bring the oil directly overland to the Middle West, while the Alaskan route would require transshipment of the oil in huge tankers to the West Coast. Since tanker accidents are seemingly inevitable, the transshipment would surely mean ruinous oil spills along the coast of British Columbia and in Puget Sound.

But has the Secretary of the Interior dispassionately weighed the environmental risks and advantages of the Alaskan and Canadian routes? The fierce commitment of Interior Secretary Morton and the rest of the Nixon Administration to the Alaskan route strongly suggests that he has not. Whether he has or not, the National Environmental Policy Act provides time-tested procedures to find out and guarantee judicial review as the final safeguard.

Senator Gravel's amendment would destroy that safeguard. So would similar language contained in a bill by Representative Melcher of Montana and under active consideration in a House Interior subcommittee. Both measures declare that the impact statement already issued by Secretary Morton in behalf of the pipeline cannot be reviewed by the courts.

The Gravel amendment even gives the Secretary of the Interior a free hand to permit any construction he sees fit for "the access, communication and transportation of personnel, material, equipment and supplies." That means that highways, airports and other facilities could be built without regard to environmental safeguards.

There is no justification whatsoever for such an outrageously sweeping grant of unchecked power. Although proponents talk glibly of the energy crisis, the truth is that Alaskan oil will by no stretch of the imagination solve that crisis. In fact, it will be at best of marginal importance and cannot in any event be available to the American consumer for some years. If the oil interests are successful in breaching NEPA in this intance, every other major interest pushing for a dam or a highway or a flood control project will soon be seeking a similar exemption from court review.

The nation has made major strides in the last decade in beginning to balance long-range environmental values against immediate economic values. The most important of those strides is the National Environmental Policy Act. Congress cannot in good conscience now take the giant step backward proposed by Senator Gravel and Representative Melcher at the behest of the oil interests. Rather, Congress has a responsibility to stand firm for the procedures of a foresighted and essential law.

[From the Washington Post, July 17, 1973]

A SHOWDOWN TODAY ON THE ALASKA PIPELINE

The attempt by Alaskan and Western political interests, allied with the oil companies, to nail down the Alaska pipeline route and to start building the pipeline now has unfortunately come down to an open assault on the National Environmental Protection Act. For under an amendment to the pipeline bill offered by Sen. Mike Gravel (D–Alaska), the Congress would in effect direct the Interior Department to approve the start of work on the Alaskan project without further regard to the Act's requirements having to do with environmental impact. The vote is scheduled for today.

Conservation groups already have brought suit claiming that Interior's impact statement of last year did not adequately consider the Canadian alternative to the Alaskan route. The Gravel amendment would cut the ground out from under this legal challenge, in the process taking from the courts their proper authority to enforce the National Environmental Protection Act. The result of such a congressional move would be to seriously weaken the Act. Just how sturdy it would prove to be during subsequent legislative attacks is a matter of grave doubt.

It was bad enough that, last Friday, the Senate swept aside an initiative that would have ensured ample study of both the Alaskan pipeline route and the Canadian alternative—from the diplomatic, economic and environmental standpoints—before either was chosen. If the sponsors of that initiative, Sens. Walter Mondale (D–Minn.) and Birch Bayh (D–Ind.) were Midwesterners with a regional interest in promoting the Canadian route in order to serve the energy needs of the Midwest, then they nonetheless were acting in a way consistent with good *national* policy. By contrast, backers of the Gravel amendment are serving a no less legitimate regional economic interest but they are doing so in a way that would weaken the environmental safeguards applying to the whole nation.

It is for this reason, we trust, that the Gravel amendment will be regarded by the Senate not as a regional economic issue but as a national environmental one. We are pleased to note that Interior Committee Chairman Henry Jackson (D–Wash.) opposes the amendment. He takes the enlightened view that the integrity of the Environmental Act should not be impaired. If the amendment is defeated, the Senate will proceed to vote on Mr. Jackson's own bill repealing the obsolete 25-foot right-of-way limitation on pipelines crossing federal lands. Along with the environmental question, this limitation has been a principal obstacle to the Alaskan pipeline.

The more the country gets into these hard collisions of environment and energy, the more we become convinced of the need to make haste slowly. The way to do this is to insist that in each instance the merits of the rival arguments are fairly presented. Economic realities will almost always guarantee that the case for energy will be strongly made. The National Environmental Protection Act is the main instrument available to ensure that the case for the environment will receive due consideration too. To blunt this instrument—as the Gravel amendment would do—would be to risk a measure of permanent environmental damage quite out of proportion to the economic advantages which might or might not accrue from rushing into the Alaskan pipeline.

[From the Christian Science Monitor, July 14, 1973]

ALASKA'S OIL

The soundness of the Alaska oil pipeline decision continues to be more important than the speed with which the decision is made.

True, the American program for tapping the North Slope reserves has been held up for four years. True, the United States is running oil-short. True, the state of Alaska could use the economic boost which development of its resources quite fairly would bring it, and funds for settlement of long-standing Indian claims are tied to exploitation of the oil.

But the delay to date has had its uses too. The original pipeline proposal was dangerously thin on environmental impact and engineering specifications. Reworking of the Alaskan route plans has been necessary.

In a broader sense, the pipeline has been a test case in the establishing of an environmental set of values for America. This set of values has vastly more significance than whether 2 million barrels of oil daily reach the American market from that particular field. Oil spills in coastal waters had shown shameful disregard for environmental precautions, it must be remembered. In other areas too—water pollution, the spoiling of scenic lands, air contamination, noise pollution—Americans were aroused to call a halt to unbridled economic expansion and say, in effect, there must be better rules for the economic game if our civilization is to be worth passing on to our children.

The Senate has been dealing with three vital Alaska oil decisions. One proposal would remove a right-of-way width restriction. A 1920 law sets a maximum of 50 feet for such projects, and it is under this law that the courts have been holding up the Alaska pipe-

line. Logically, rights of way must be wide enough for pipelines practically to be built.

A second proposal is the Mondale-Bayh amendment, which unfortunately has just been defeated. It advocated a procedure and time schedule for resolving the pipeline issue once and for all. The National Academy of Sciences would study again the Alaska route and the Canadian route through the Mackenzie River valley. The Secretary of State would be asked to breach the Canada route possibility with the Canadians. Within 90 days of getting in hand the State Department and National Academy reports, Congress would have to decide.

This proposal had merit. The basic issue is not really *whether* the Alaskan oil will be brought to market, but whether it will be moved in the right way. The Canadian alternative should not be brushed aside simply because it has not been as fully explored.

A third consideration before the Senate is whether an exemption should be claimed for the Alaska project from the procedures of the National Environmental Protection Act. Such an exemption would be wrong. NEPA was designed to ensure that major government decisions follow sound environmental guidelines. It would greatly weaken the act to see it abrogated in the most celebrated case of its short life.

There are also nonenvironmental reasons for not reacting in haste on the pipeline. If the country rushes to exploit at any environmental cost its oil reserves, there will be less reason to adopt less fuel-intensive lifestyles (mass transit, smaller cars) or to develop other energy sources. The fact that it has oil reserves strengthens American bargaining power with foreign oil sources.

The objection that Canadians would share in the benefits of a Canadian route is unworthy. Of course they would share. But Canada's economy is so interwoven with the American (and so much of it is owned by Americans) that what benefits one would benefit the other. Defense and defense interests are equally interwoven.

Alaskan oil is bound to reach the continental American market. It should and will. But it does not have to come by one particular route. It may eventually come by two or three different routes. It is not necessary to compromise environmental precautions to get it.

Given the alternate Canadian route a responsible review under the Mondale-Bayh amendment would have been in keeping with the prudence shown to date in the handling of this matter. We hope the House will insist on a similar measure.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Alaska (Mr. GRAVEL) No. 226, as modified. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from California (Mr. CRANSTON) is necessarily absent.

I further announce that the Senator from Washington (Mr. MAGNUSON) is absent on official business.

I also announce that the Senator from Mississippi (Mr. STENNIS) is absent because of illness.

I further announce that, if present and voting, the Senator from Washington (Mr. MAGNUSON) would vote "nay."

The yeas and nays resulted—yeas 49, nays 48, as follows:

[No. 295 Leg.]

YEAS—49

Allen	Bennett	Byrd, Harry F., Jr.
Baker	Bentsen	Byrd, Robert C.
Bartlett	Bible	Cannon
Beall	Brock	Cotton
Bellmon	Brooke	Curtis
Domenici	Helms	Schweiker
Dominick	Hollings	Scott, Pa.
Eastland	Hruska	Scott, Va.
Ervin	Huddleston	Sparkman
Fannin	Inouye	Stevens
Fong	Johnston	Taft
Goldwater	Long	Talmadge
Gravel	McClellan	Thurmond
Griffin	McGee	Tower
Hansen	Nunn	Weicker
Hartke	Randolph	Young
	Saxbe	

NAYS—48

Abourezk	Haskell	Moss
Aiken	Hatfield	Muskie
Bayh	Hathaway	Nelson
Biden	Hughes	Packwood
Buckley	Humphrey	Pastore
Burdick	Jackson	Pearson
Case	Javits	Pell
Chiles	Kennedy	Percy
Church	Mansfield	Proxmire
Clark	Mathias	Ribicoff
Cook	McClure	Roth
Dole	McGovern	Stafford
Eagleton	McIntyre	Stevenson
Fulbright	Metcalf	Symington
Gurney	Mondale	Tunney
Hart	Montoya	Williams

NOT VOTING—3

Cranston	Magnuson	Stennis

The VICE PRESIDENT. On this vote, the yeas are 49, the nays 48. The amendment is agreed to.

Mr. GRAVEL. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. ROBERT C. BYRD. Mr. President, may we have order in the galleries.

Mr. FANNIN. Mr. President, I move to lay that motion on the table.

The VICE PRESIDENT. The galleries will be in order.

The question is on agreeing to the motion to reconsider (putting the question). The noes appear to have it.

Mr. CASE. Mr. President, I ask for the yeas and nays on the motion.

The yeas and nays were ordered.

Mr. HUMPHREY. Mr. President, a parliamentary inquiry.

The VICE PRESIDENT. The Senator will state it.

Mr. HUMPHREY. Mr. President, are we voting on a motion to table or on the motion to reconsider?

The VICE PRESIDENT. The Senate is voting on the motion to consider.

Mr. HUMPHREY. On the rollcall vote?

Mr. LONG. Mr. President, are we voting on the motion to reconsider or on the motion to lay on the table?

The VICE PRESIDENT. The Senate is voting on the motion to reconsider.

Mr. LONG. Mr. President, I move to table the motion to reconsider.

The VICE PRESIDENT. The question is on agreeing to the motion to table the motion to reconsider.

Mr. CASE. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

The VICE PRESIDENT. The question is on agreeing to the motion to table the motion to reconsider. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Washington (Mr. MAGNUSON) is absent on official business.

I also announce that the Senator from Mississippi (Mr. STENNIS) is absent because of illness.

I further announce that, if present and voting, the Senator from Washington (Mr. MAGNUSON) would vote "nay."

The yeas and nays resulted—yeas 49, nays 49, as follows:

[No. 296 Leg.]

YEAS—49

Allen	Dominick	McClellan
Baker	Eastland	McGee
Bartlett	Ervin	Nunn
Beall	Fannin	Randolph
Bellmon	Fong	Saxbe
Bennett	Goldwater	Schweiker
Bentsen	Gravel	Scott, Pa.
Bible	Griffin	Scott, Va.
Brock	Hansen	Sparkman
Brooke	Hartke	Stevens
Byrd, Harry F., Jr.	Helms	Taft
Byrd, Robert C.	Hollings	Talmadge
Cannon	Hruska	Thurmond
Cotton	Huddleston	Tower
Curtis	Inouye	Weicker
Domenici	Johnston	Young
	Long	

NAYS—49

Abourezk	Haskell	Muskie
Aiken	Hatfield	Nelson
Bayh	Hathaway	Packwood
Biden	Hughes	Pastore
Buckley	Humphrey	Pearson
Burdick	Jackson	Pell
Case	Javits	Percy
Chiles	Kennedy	Proxmire
Church	Mansfield	Ribicoff
Clark	Mathias	Roth
Cook	McClure	Stafford
Cranston	McGovern	Stevenson
Dole	McIntyre	Symington
Eagleton	Metcalf	Tunney
Fulbright	Mondale	Williams
Gurney	Montoya	
Hart	Moss	

NOT VOTING—2

Magnuson	Stennis

The VICE PRESIDENT. On this question, the yeas are 49 and the nays are 49. The Vice President votes "Yea." The motion to lay on the table is agreed to.

The bill is open to further amendment.

Mr. STEVENS. Mr. President——

Mr. ROBERT C. BYRD. Mr. President, may we have order in the Senate, as well as in the galleries?

The VICE PRESIDENT. The Senate will be in order.

Mr. STEVENS. Mr. President, a parliamentary inquiry.

The VICE PRESIDENT. The Senator from Alaska will state it.

Mr. STEVENS. It is my understanding that the time has been set at noon today to vote in the bill. Is it in order at this time to call up an amendment that is now at the desk?

The VICE PRESIDENT. It is, and there would be no time for debate on it.

Mr. STEVENS. Would it be in order to suggest the absence of a quorum?

The VICE PRESIDENT. It would be in order.

AMENDMENT NO. 341

Mr. STEVENS. Mr. President, I call up my amendment No. 341 and ask that it be stated.

The VICE PRESIDENT. The amendment will be stated.

The assistant legislative clerk read as follows:

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

"SEC. . (a) No court of the United States shall have jurisdiction to consider any civil action, suit or proceeding, to which the United States or any of its agencies, or any officer or employee thereof (as such officer or employee), is a party, involving the constitutionality of this Act or any provision thereof, except a district court of three judges in the District of Alaska.

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

The VICE PRESIDENT. Will the Senate please be in order. The galleries will please be quiet.

The clerk will continue to state the amendment.

The assistant legislative clerk read as follows:

"(b) Notwithstanding the provisions of subsection (a) of this section, a three-judge district court in the district of Alaska shall have no jurisdiction to consider any such action, suit, or proceeding referred to in subsection (a), unless such action, suit, or proceeding is commenced within the sixty-calendar-day period following the date of the enactment of this Act.

"(c) Any party to any such action, suit, or proceeding referred to in subsection (a) considered by a three-judge district court in the district of Alaska in accordance with the provisions of this section may appeal directly to the Supreme Court any interlocutory or final judgment, decree, or order of such three-judge court holding this Act or any provision thereof unconstitutional."

The PRESIDING OFFICER (Mr. BIDEN). The Senate will please be in order.

Mr. HUMPHREY. Mr. President, no one can hear what the clerk is reading, and this is very important.

Mr. STEVENS. Mr. President, I ask unanimous consent that we may proceed for 5 minutes on the amendment, with the time to be equally divided between the Senator from Washington (Mr. JACKSON) and myself.

Mr. MONDALE. Mr. President, I object—I reserve the right to object, and I will object. This would fundamentally change the whole nature of handling these disputes. The amendment has not been heard. We have had no consideration of it. This morning we learned of the State Department's role on the Canadian pipeline. Now we are asked to go into this amendment right on the eve of voting on final passage of the bill. I object.

The PRESIDING OFFICER (Mr. JOHNSTON). Objection is heard.

Mr. STEVENS. Mr. President, the Senator from Minnesota has debated my amendment and I have had no time to do so.

Mr. JACKSON. Mr. President, I ask unanimous consent that debate may proceed for 2 minutes on this amendment.

Mr. MONDALE. Mr. President, I object. If we are going to vote on this amendment, I want to have a real debate on it, and not have one of these last-minute colloquys. I object.

The PRESIDING OFFICER. Objection is heard. Debate is not in order. Objection is heard.

The question is on agreeing to the amendment No. 341 of the Senator from Alaska (Mr. STEVENS).

Mr. STEVENS. Mr. President, I am pleased that the Senate has adopted amendment 226 as modified. This will permit the immediate building of the trans-Alaska pipeline.

One minor problem remains. This is the reason I have introduced amendment 341.

Amendment 341 will do three things:

First, it states that all challenges to the constitutionality of S. 1081, or any provisions thereof, must be brought within 60 days of the effective date of the bill.

Second, it provides that these challenges must be brought before a three judge Federal court in the district of Alaska.

Third, it provides that any appeal from any decision of that court may be direct to the U.S. Supreme Court.

It tracks, as much as possible, the provisions of 28 U.S.C., sections 2282, 2284, 1252, and 1253. These are the provisions concerning the original jurisdiction of three judge Federal courts and the appellate procedure from these courts direct to the U.S. Supreme Court.

At the time I drafted this amendment, I also requested the Congressional Research Service of the Library of Congress to research two specific questions:

First, whether these provisions are constitutional.

Second, whether there is any historic—legislative and judicial—precedent for such provisions.

In response, I received a memorandum from the American Law Division of the Library of Congress analyzing the amendment, primarily two major aspects—the restriction of venue to the district in which the Federal actions mandated by the act are to take place, and the 60-day limitation to the bringing of any constitutional challenge to the act.

The findings of the Library of Congress can be summarized as follows:

First, we see no constitutional prohibition on so limiting venue to challenge the constitutionality of the Act to the District of Alaska.

Second, we also see no constitutionality infirmity to imposition of a statute of limitations on the bringing of suits challenging the constitutionality of an Act of Congress. Thus support can be found for imposition of a 60-day limitation on the bringing of claims arising on the date of enactment of the law.

There is a strong Federal interest in the adoption of the amendment 341. This amendment will significantly expediate the litigation. It will require that it be brought in the jurisdiction in which the land concerned is located. This is Alaska. It will bring it before judges most familiar with the factual situation—the Federal district court for the district of Alaska.

It requires that it must be brought within 60 days of the date of enactment. The United States has a strong interest in securing a final judgment as quickly as possible. The need for Alaskan oil and the reasons for expeditious handling of this matter are set forth fully elsewhere in the legislation and in the committee report and the Senate debate. I will not again belabor them but incorporate them by reference here.

Similarly the need for expedited appeal procedures are supported by these same provisions of the act, report and debate. The sooner we secure a final judgment in the matter, the more quickly Alaskan oil can be brought to the energy-hungry lower 48.

I request unanimous consent to insert in the RECORD at this point a copy of the memorandum of the American Law Division of the Library of Congress commenting on amendment 341.

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

THE LIBRARY OF CONGRESS,
CONGRESSIONAL RESEARCH SERVICE,
Washington, D.C., July 16, 1973.

To Honorable Ted Stevens.
Attention Max Gruenberg.
From American Law Division.
Subject: Proposed Amendment to S. 1081, the Federal Lands Right-of-Way Act of 1973, Providing That All Challenges to the Constitutionality of the Act Must Be Brought in District Court of Alaska within 60 Days of the Date of Enactment.

This responds to your request for an analysis of the constitutionality of a proposed amendment to S. 1081 relating to expediting construction of the trans-Alaskan oil pipeline. It is our understanding that the amendment is to be proposed if the Senate adopts Amendment No. 226, printed at 119 *Cong. Rec.* 23326 (daily ed. July 11, 1973). That amendment directs the Secretary of Interior to issue without further compliance with the National Environmental Policy Act or other laws such rights-of-way and other permits as are necessary for construction, operation, and maintenance of the trans-Alaskan oil pipeline over an already determined route corridor. Included is a "congressional finding" that issuance of permits or other actions taken by the Secretary or other federal agencies pursuant to the Act shall not be subject to judicial review. The amendment as to which you request our opinion would further provide that all challenges to the constitutionality of the Act must be brought before a three-judge court in the District of Alaska within 60 days of the date of enactment of the Act. There are thus two main aspects to the amendment: the restriction of venue to the district in which the federal actions mandated by Act are to take place, and the 60-day limitation to the bringing of constitutional challenge to the Act.

We see no constitutional prohibition on so limiting venure to challenge the constitutionality of the Act to the District of Alaska. In *South Carolina* v. *Katzenbach*, 383 U.S. 301, 331–332 (1966), the Supreme Court upheld a section of the Voting Rights Act of 1065 limiting judicial review to one court. Despite South Carolina's argument to the contrary, Congress might appropriately limit litigation under this provision to a single court in the District of Columbia, pursuant to its constitutional power under Art. III, § 1, to "ordain and establish" inferior federal tribunals. See *Bowles* v. *Willingham*, 321 U.S. 503, 510–512; *Yakus* v. *United States*, 321 U.S. 414, 427–431; *Lockerty* v. *Phillips*, 319 U.S. 182. At the present time, contractual claims against the United States for more than $10,000 must be brought in the Court of Claims, and, until 1962, the District of Columbia was the sole venue of suits against federal officers officially residing in the Nation's Capital.[1] We have discovered no suggestion that Congress exceeded constitutional bounds in imposing these limitations on litigation against the Federal Government, and the Act is no less reasonable in this respect.

We also see no constitutional infirmity to imposition of a statute of limitations on the bringing of suits challenging the constitutionality of an Act of Congress. Thus support can be found for imposition of a 60-day limitation on the bringing of claims arising on the date of enactment of the law. In *Yakus* v. *United States*, 321 U.S. 414 (1944), the Supreme Court upheld review procedures established by the Emergency Price Control Act for determining the validity of price regulations. That procedure provided for administrative review as a prerequisite to court review, and administrative review could be had only by filing a protest within 60 days of the issuance of the challenged regulation. In *Yakus*, the Court rejected a contention

that the 60 day period was too short to allow persons affected by price orders a reasonable opportunity to be heard. "The sixty days' period allowed for protest of the Administrator's regulations cannot be said to be unreasonably short in view of the urgency and exigencies of wartime price regulation." 321 U.S. at 435. In a footnote the Court referred to other "instances in which comparable or shorter periods periods for resort to administrative relief as a prerequisite to proceeding in the courts have been held to be sufficient," and cited cases involving challenges to tax assessments and eminent domain proceedings.

GEORGE A. COSTELLO,
Legislative Attorney.

Mr. JACKSON. Mr. President, I have no objection to the amendment.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 341 of the Senator from Alaska (Mr. STEVENS). All those in favor say "aye."

Several Senators asked for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. 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. BUCKLEY (when his name was called). Present.

Mr. ROBERT C. BYRD. I announce that the Senator from Washington (Mr. MAGNUSON) is absent on official business.

I also announce that the Senator from Mississippi (Mr. STENNIS) is absent because of illness.

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

The result was announced—yeas 43, nays 54, as follows:

[No. 297 Leg.]

YEAS—43

Allen	Fong	McGee
Beall	Gravel	Moss
Bellmon	Griffin	Nunn
Bennett	Hansen	Randolph
Bentsen	Hartke	Schweiker
Bible	Hatfield	Scott, Pa.
Byrd, Harry F., Jr.	Helms	Scott, Va.
	Hollings	Sparkman
Byrd, Robert C.	Hruska	Stevens
Cannon	Huddleston	Taft
Cotton	Inouye	Talmadge
Curtis	Jackson	Thurmond
Eastland	Johnston	Tower
Ervin	Long	Young
Fannin	McClellan	

NAYS—54

Abourezk	Eagleton	Montoya
Aiken	Fulbright	Muskie
Baker	Goldwater	Nelson
Bartlett	Gurney	Packwood
Bayh	Hart	Pastore
Biden	Haskell	Pearson
Brock	Hathaway	Pell
Brooke	Hughes	Percy
Burdick	Humphrey	Proxmire
Case	Javits	Ribicoff
Chiles	Kennedy	Roth
Church	Mansfield	Saxbe
Clark	Mathias	Stafford
Cook	McClure	Stevenson
Cranston	McGovern	Symington
Dole	McIntyre	Tunney
Domenici	Metcalf	Weicker
Dominick	Mondale	Williams

ANSWERED "PRESENT"—1

Buckley

NOT VOTING—2

Magnuson Stennis

So Mr. STEVEN's amendment was rejected.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. DOLE. Mr. President, I send an amendment to the desk.

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 V—CRUDE OIL SUPPLIES FOR PRODUCTION OF AGRICULTURAL FUELS

SEC. 501. The first provision to section 36 of the Mineral Leasing Act on February 25, 1920, as amended (30 U.S.C. § 192), is further amended to read as follows: *"Provided,* That inasmuch as the public interest will be served by the sale of royalty oil to (1) small refineries serving agricultural areas and (2) refineries not having their own source of supply for crude oil, the Secretary of the Interior, when he determines that sufficient supplies of crude oil are not available in the open market to such refineries, is authorized and directed to grant preference to such refineries in the sale of oil under the provisions of this section and not for resale in kind, and in so doing may sell to such refineries at private sale at not less than the market price any royalty oil accruing or reserved to the United States under the provisions of this Act, except that to qualify as a small refinery serving an agricultural area a corporation or association must engage primarily in the oil and gas business, must employ not more than 3000 persons, must have a daily production of not more than 60,000 barrels of oil, and must sell at least 75 per centum of its production to persons, associations, or corporations engaged in agriculture or in related activities."

SEC. 502. Section 5(a)(1) of the Outer Continental Shelf Lands Act (43 U.S.C. § 1334(a)(1)) is amended by the addition of the following at the end thereof: "(i) In the sale of royalty oil and gas accruing or reserved to the United States the Secretary shall grant a preference to small refineries serving agricultural areas. To qualify as a small refinery serving an agricultural area a corporation or association must engage primarily in the oil and gas business, must employ not more than 3000 persons, must have a daily production of not more than 60,000 barrels of oil, and must sell at least 50 per centum of its production to persons, associations, or corporations engaged in agriculture or in related activities."

FUELS FOR FARMERS

Mr. DOLE. Mr. President, today I am offering an amendment to help provide farmers in the American Midwest with adequate and reliable fuel supplies.

Briefly, this amendment would expand the eligibility of independent refiners for purchase of Federal royalty oil, and it would establish priority for those independent refineries which serve agricultural customers.

Independent refineries in the Midwest are the lifeline of farmers and ranchers in that area. These refineries do not produce their own crude oil but purchase it in the open market and, because of their landlocked, central locations, they are far removed from easy access to imported crude oil. In the current crude oil shortage period these refineries have been seriously hampered in their efforts to secure additional crude to operate at the full capacity required to meet the rising needs of their farm customers. In fact, over the last two quarters of 1972 and the first quarter of 1973 one independent refinery was able to obtain only about two-thirds of the crude capable of being refined The resulting shortages of refined products have created confusion, uncertainty worry, and a real concern on the part of the farmer with his ability to achieve the increased production needed to meet expanded demands and hold down the pressures on rising consumer costs

Action is needed immediately to deal with this problem and to assure that these independent refiners serving agriculture are able to obtain enough crude oil for producing the fuels our farmers require.

As I indicated, the landlocked position of these refineries makes imported crude oil an impractical and economically unfeasible source of supply. Domestic crude oil production is already spoken for, so some other means must be found to meet their expanded requirements. I believe Federal royalty oil is the obvious and best source available.

This oil is received by the Federal Government as a royalty for wells producing on Federal lands and offshore fields. It constitutes a payment by oil companies to the public for the privilege of operating oil leases on public property. It is available to the Secretary of the Interior for sale according to his discretion in the public interest, particularly to refineries not having their own source of supply for crude oil.

My amendment would further direct the Secretary to give priority to independent refineries serving agriculture, This step is entirely consistent with the philosophy of selling Federal royalty oil in ways which serve the public interest. And I know of no higher public interest than seeking to assure American farmers that they will have the fuel they need to produce the food and fiber on which our country depends to maintain its standard of living and to compete in the international marketplace.

Mr. President, I have discussed this matter with the chairman of the committee. We plan to take it up at the earliest possible time in his committee. Therefore, I withdraw the amendment from consideration now.

The PRESIDING OFFICER. The amendment is withdrawn.

The bill is open to further amendment. If there be no further amendment to be proposed the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. JACKSON. Mr. President, I ask for the yeas and nays on final passage.

The yeas and nays were ordered.

PERSPECTIVES ON ENERGY

Mr. DOLE. Mr. President, concern has been frequently expressed in the Senate over energy in the United States. Of course, the production, utilization, and conservation of all forms of energy is a major interest today. I know in Kansas this year's shortages of agricultural fuels and fertilizers, along with limitations on retail gasoline sales, have brought public awareness of these issues to a new high.

But in looking at these questions I be-

lieve a full understanding of the issues and the formulation of wise policies to deal with them in the future must rest on a broad appreciation of the total resource picture of which energy is only a part. Rather than a gasoline problem, or a heating oil shortage or an electricity shortage, we are facing a broader range of shortages, shortages of resources—oil, ore, trees—virtually every raw material upon which our economy depends.

A recent article in Business Week magazine placed this fact in clear and rather disturbing perspective. Written by John Cobbs, it is entitled "The Economics of Resource Scarcity," and I ask unanimous consent that it be printed in the RECORD at this point.

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

THE ECONOMICS OF RESOURCE SCARCITY

(By John Cobbs)

There never was another iron ore deposit like the Mesabi range in Minnesota. Its low hills of soft iron oxide, only lightly covered with glacial clays and gravels, yielded an ore with an iron content of 51% and up. Since 1892, when it opened, 2.8-billion tons of ore have been dug out of the Mesabi, hauled 75 mi. to deep water, and floated down the Great Lakes to the hungry steel mills of the Midwest. For half a century, it was the foundation for the growing dominance of U.S. steelmakers in world markets.

But the shipping ore is gone now. Steelmakers must either grind up and "beneficiate" the hard, low-iron taconite that surrounds the area—or look elsewhere. They have done both. Since 1945, they have sunk $1.8-billion in beneficiation plants. And meanwhile, they have brought higher-quality ore from Venezuela, Canada, and the Bomi Hills of Liberia. It is not entirely coincidental that during this time, the U.S. steel industry has lost its spot as top dog in world markets. It has even lost a substantial part of its home market to competitors in Europe and Japan.

The experience of the steel industry is an example of a disturbing but largely unnoticed trend that is affecting all big industrial countries, subtly shifting cost relationships and changing trade patterns. The world is rapidly using up its raw materials. Copper, zinc, lumber, tin, and nickel are all getting scarcer. Perhaps more important, a worldwide fuel crisis is deevloping because the big energy users are increasingly dependent on imports. The U.S., for one, imported 28% of the petroleum it used last year, at a cost of $5-billion. According to some estimates, these figures could rise to 50% and $15-billion by 1975.

THE IMPACT OF SCARCITY

The consequences of this basic shift in output and use of world resources involve some peculiarly difficult problems for the U.S.

This country is used to relatively cheap raw materials. Historically, U.S. producers have been able to evade the penalties of a high-wage structure because they got their metals, fuels, and lumber at what amounted to bargain prices. U.S. manufacturing tends to be thrifty with labor and careless with materials.

In the days when U.S. mines and forests supplied not only domestic industry but the world, this approach made sense. But now the shipping ore has been dug out of the Mesabi; the Keweenaw peninsula of Michigan, where mines used to yield great boulders of virgin copper, is cleaned out; the softwood forests of the East and around the Great Lakes have been logged off. The U.S. no longer has a wide advantage over other manufacturing nations in acquiring materials and fuels. More and more, it must buy on world markets and pay world prices.

In the home market, this means a steady upward push on prices. It takes more capital and more labor to make steel from taconite than from the old Mesabi ores. One way or another, these extra costs must be recovered. If they are not offset by higher productivity, they inevitably force a price increase.

In other words, the depletion of natural resources gives the economy a chronic inflationary bias. And it also puts an unseen but effective cap on real wage and profit increases. Part of the continuing increase in productivity at the manufacturing level must go to offset the higher cost of materials. If labor and management insist on their customary shares of productivity gains, prices will rise, real wages will not increase, and everyone will be disappointed.

In international markets, U.S. producers must compete head to head with Europeans and Japanese competitors on the basis of labor costs and efficiency. They no longer can count on a cushion of cheap raw materials and fuel to give them a trading advantage.

TECHNIQUE FOR SURVIVAL

All this means that, in world markets, the brass ring will go to the industry that achieves the higest productivity combined with the lowest scrap rate and the smallest power consumption. Only it will not be a brass ring but a plastic one. Substitution of plentiful materials for scarce ones will be a basic survival technique in the years ahead.

Britain and Japan faced this situation long ago. They have mined out their limited resources and now function as processors, importing most of their materials and exporting finished goods. The Japanese do it well; the British have had continuing trouble reconciling the strict discipline that world markets impose on a processor with the demands of an aggressive, consumption-minded labor movement.

Meanwhile, all the great manufacturing nations of the world face the ticklish problem of dealing with the small, often unstable countries that now control some of the best remaining deposits of fuel and materials. The Middle East, for example, has become the world's prime source of oil, and the Organization of Petroleum Exporting Countries (OPEC) has skillfully ratcheted up the price to the point where it is distorting the cost structure of the customer nations. The Mideast oil nations are collecting far more than they can invest at home, and their so-called "Allah dollars" form an increasingly troublesome pool of funds sloshing around the financial markets of the world.

The eventual answer may be economic rather than diplomatic. Overpriced Mideast oil encourages the development of other sources of supply and penalizes waste. President Nixon's new energy program with its emphasis on domestic exploration and conservation reflects this approach. It is a step toward adapting the U.S. economy to life in a world of scarcity.

Mr. DOLE. Thus, the consequences this resource situation holds for America, domestically and in the international arena, reach far beyond questions relating to gasoline supplies or the types of fuel which are burned by electric utility plants. The real issues touch the entire structure of our economy and the habits of our society, and it is clear that major adjustments are going to be required in our institutional, industrial, and national ways of doing business.

IMMEDIATE PROBLEMS

With this point made, however, I believe it is important to give consideration to the immediate problems which confront us and to consider steps which can be taken toward solving them and laying the foundation for policies which will pay substantial benefits over the long term.

IMPORTANCE OF AGRICULTURE

Let me say at the outset that, coming from the State of Kansas with its great farms and ranches and knowing the great importance of agriculture to the entire Nation and all of its citizens, I view the needs, problems and requirements of agriculture in this country as very important. In fact, I believe we must recognize that the agricultural sector is probably the single most important element in our economic and social system.

NUTRITIONAL STANDARD OF LIVING

First, it provides the best nutrition, at the highest productivity and the lowest cost of any nation in the world. These contributions can probably be translated into a statistician's numbers, graphs, and charts. But, to the average American, they are simply reflected in the good diet and varied food and fibers conveniently available to him and his family. It is difficult to put a price tag on peace of mind; but, whatever that pricetage in America, agriculture's share of it is significant.

WORLD TRADE

A second consideration demonstrating agriculture's importance to this country is its place in world trade. It is no exaggeration to say that agricultural products are the most important and most promising exports our country has to offer. In fact soybeans are the most important single U.S. export. Anyone who has traveled across the length and breadth of this land cannot help but be impressed by the richness and vast expanse of its farms and ranches. Experience in other countries only deepens the impression that the quality and quantity of our agricultural richness is unequaled and in most cases not even challenged.

In the past this richness has been a problem as our capacity to produce has outstripped demand, and we have had to cope with surpluses and distorted markets. But as we look ahead and look around at other countries, it becomes clear that agriculture is probably the greatest asset—the most abundant resource—our country possesses. As the economies of other nations grow and become stronger with corresponding increases in their standards of living and populations, the demand for more and better nutrition will also grow. And, due to the limitations on most nations' abilities to produce bountiful foods efficiently, they will increasingly look outside their borders to provide nourishment for their citizens. Just think of Western Europe with more than 400 million people, Japan with more than 100 million, and Russia with more than 250 million. The rising demand for food in these countries is providing and will continue to provide major market possibilities for our agricultural products. And just as some countries possess unique assets in terms of low labor costs, or large petroleum reserves or great ore deposits which provide significant bargaining chips for their international dealings, we will have among

our most important trade advantages the products of our agriculture.

So considering these two factors, our domestic nutritional standard of living and the possession of a major trade advantage, it is difficult to underestimate agriculture's great importance to the United States.

But where does all of this fit into the discussion of the energy crisis? It fits very directly, because, like most important aspects of our modern economy, agriculture is dependent on energy to plant, harvest, and process its products.

UNIQUE REQUIREMENTS

To understand the importance of fuel supplies in agriculture, we must first understand farming and nature.

Unlike a regular business or industrial user of fuel and energy, the agricultural sector of our economy is uniquely tied to strict schedules set by climate, rainfall, sunlight, and temperature.

An industry may operate on a tight production schedule, but it is usually capable of altering its operations—in response to economic, political or other outside circumstances—even by cutting back for short periods—without suffering major consequences. Most sectors of our society or economy can be said to be operating on somewhat flexible timetables. Of course, great inconvenience, some increased costs and considerable confusion may be produced by the adjustments required to meet such circumstances, but most industries, businesses, and operations can successfully survive.

But agricultural operations—planting, plowing, fertilizing, harvesting—must be carried out according to nature's timetable, not man's. They cannot be put off to suit a farmer's convenience or to compensate for outside circumstances. There is no flexibility or room for corrective action.

Crops depend on soil and climate, but they also depend on fuel, and a fuel shortage can be as devastating and ruinous as any drought, hail storm or freeze. The only difference is that fuel is a factor which is under man's control.

And this is the danger of the present fuel situation. For example, the summer wheat harvest has been underway for several weeks from Texas, through Oklahoma and into Kansas and on north across the Wheat Belt. Custom harvesters must have fuel to transport their equipment to the fields when the grain is ready. The tractors must roll and operations must begin on time if the crop is to be harvested to maximum efficiency. If fuel shortages keep the tractors and combines from running, there will be no crops. Farmers cannot wait a week or 2 weeks to receive their fuel. They must have it when they need it, or it is of no use to them. A delay of even a few days could spell complete disaster.

The wheat harvest is only one example. In the fall new demand for fuel will be created for harvesting corn and milo, for drying these crops and for additional plowing. Around the country different crops and different seasons will bring other fuel demands, but whether we talk of strawberries in California, wheat in Kansas, or oranges in Florida, the requirement for timely supplies of the right fuel at the right place applies to all of agriculture.

And just as crop losses or reduced production caused by natural conditions have significant effects on food supplies, prices, and products available for export, losses or reductions brought about by energy deficiencies or shortages will be felt by the farmer, the consumer, and our balance of payments.

So when we talk about energy in America, I believe we should be acutely aware that it deeply affects agriculture, and thereby in extremely important ways it affects our way of life and our overall economy.

NATIONAL ENERGY POLICY NEEDED

In all its dimensions energy is truly a national matter, not a regional matter or one affecting only a few economic interests, so the policy to deal with it must also be a national policy. We in Congress and concerned individuals and organizations throughout the Nation have, for some time, been discussing the need for a comprehensive national energy policy to replace the piecemeal, haphazard, and ineffective collection of agencies and approaches which exist today.

The energy message which the President sent to the Congress in April and his followup message of June 29 represent worthwhile first steps toward achieving such a policy. He has clearly discussed the existing situation and the trends which we must consider for the future. He has announced a number of initiatives to deal with current problems and has suggested steps to deal with longer term matters. Particularly important, I feel, are his steps to consolidate and coordinate the formulation and administration of a national energy policy. The appointment of Colorado's Gov. John Love, as the Director of a new White House Energy Office and the proposed formulation of a Federal Department of Energy and Natural Resources are two of the most important and promising of the President's initiatives.

The Congress, too, has been active, and a number of hearings have been held in recent years to consider the great variety of the issues which are involved and the legislation has been proposed.

VITAL ISSUE

Mr. President, I do not wish to go into a detailed discussion of all the different problems and the many proposed solutions at this time; however, I would like to mention one aspect of the energy question which I believe is of critical importance and which requires immediate attention. It deals with the ability of this Nation to supply its own energy needs and thus avoid becoming dangerously dependent on foreign supplies and creating an almost unbearable burden on our balance of payments.

Contrary to some misconceptions, the conventional energy sources within the borders and territorial waters of this country are capable of supplying our energy needs until more exotic sources are available. Coal reserves could do the job alone for more than 200 years, but there are also great quantities of oil, shale oil, and natural gas. The problem, however, is meeting the technological, environmental and economic obstacles to harnessing them. A great number of proposals have been put forward to meet these obstacles. Some are short-term solutions, and others would be effective over a period of many years. But one is of particular importance today, because it can be effected by Congress quickly and can produce results in a fairly short period of time.

CONSTRUCTION OF ALASKAN PIPELINE

I am speaking of the proposal which would enable construction of the pipeline to bring newly-discovered Alaskan oil supplies—nearly 10 billion barrels—into the coterminous or so called "lower 48" States. This proposal has been the subject of much study, extended litigation, and an intense public debate for many years. It is now before Congress again in the form of this bill to authorize the necessary right-of-way through Alaska. I have followed with considerable interest the various arguments, pleas and statistics which have been presented on both sides of the issue. Economic, environmental, regional and a host of other points have been raised.

Second, do I correctly understand that the prime consideration underlying the committee's support for immediate construction of the trans-Alaska pipeline route rather than the Canadian route was the evidence showing that the Alaskan pipeline can be completed and put into operation at a significantly earlier date than the one through Canada?

Third, coming from a Midwestern State, I am concerned that the choice we make at this point does not work against the interest this part of the country has in obtaining adequate petroleum supplies. Therefore, do I correctly understand the committee's report as indicating the evidence shows that the delays which could be expected to be inherent in a Canadian route would more than offset any potential regional advantages it might offer over the Alaskan route?

So in effect the evidence shows: First, that the entire Nation needs the Alaskan oil at the earliest possible date; second, that the trans-Alaska pipeline is the fastest means of bringing this oil to market, and third, that even if a trans-Canada pipeline were to be approved over the Alaska route at this point its possible advantages in terms of economic benefits to the Midwest and other areas east of the Rocky Mountains would be, to quote the report, "more or less wiped out" due to the greater time it would take to complete?

Mr. JACKSON. The answer to each of the questions propounded by the Senator from Kansas is "yes."

Mr. DOLE. I thank the chairman for his response to these questions, for they support the conclusions which I have reached over the relative merits of the Alaskan and Canadian pipeline proposals.

In the last analysis, I feel the controlling points are: First, the need to have these crude oil supplies available to the United States at the earliest possible date; and second, the need to have the construction of this pipeline and the delivery of the products transported

through it fully under the control of our country and fully devoted to our needs. On these grounds I feel the Alaskan route is an acceptable and responsible choice.

Mr. HANSEN. Mr. President, we have been debating and amending this bill for more than a week now including last Saturday, The record is replete with the arguments pro and con the Alaska pipeline.

And so now we come down literally to the line—do we build it or do we not?

Some of us here have been debating and speaking about the energy crisis we now face for several years and even before oil was discovered on the Alaska North Slope more than 5 years ago. Other than attempting to summarize the situation as I see it and emphasize the urgency of acting positively here today, I would not try to improve on the most excellent history and analysis of the energy situation in the United States and worldwide as explained so thoroughly by the two able Senators from Alaska during the debate on this bill.

In fact, the white paper furnished to all Senators by the distinguished junior Senator from Alaska (Mr. GRAVEL) and titled "Dollars and Energy: Domestic and International Crises" reminds me of a current beer commercial on TV "when you say Budweiser, you said it all."

I could not agree more with most everything he said and only ask the opportunity now to re-emphasize a few of his excellently taken points.

The main one, I believe, is that we have in Alaska and the Continental United States including our offshore resources under the outer Continental Shelf enough known and probably energy resources to assure this Nation adequate energy for the foreseeable future and then some.

As my friend from the Nation's largest State points out, over half of the world's known coal reserves are in the United States and we have the potential resource of 810 billion barrels of recoverable oil, shale oil, and over 2,000 trillion cubic feet of natural gas. But these resources will be developed only by an industry adequately encouraged with the incentives essential for the huge capital investment and risks involved in such an undertaking.

As the knowledgeable Senator from Alaska points out in his well-researched and documented white paper on "Dollars and Energy," there are accusations that the curent dilemma is a contrivance of major oil and gas suppliers. But, he adds, this notion that we can place the blame for our energy ills and punish the culprits is an exercise in futility. An honest assessment of the energy crisis is imperative now so that we may avert a national paralysis that would result from continued shortfalls.

I could not agree more with my friend from Alaska that prices of energy will inevitably increase due not only to extended inflation but to additional decreases in the value of the dollar and likely increases in the price of crude oil from the Middle East.

Knowledgeable sources predict that by 1980 oil from the Eastern Hemisphere may be costing $7.50 per barrel compared to the present average cost of $3.70.

Unless we act quickly and decisively and do everything right, the United States could be importing 60 percent of its oil from these sources by 1980.

The Senator from Alaska has realistically assessed the price versus supply dilemma by warning that we should not fall prey to hasty short-sighted reactions in an effort to thwart these horrendous hikes in the cost of energy.

The natural gas shortage is the best example I can think of and if we wish to perpetuate that shortage and the oil shortage, the surest way is by continued price control. The consumer will be protected even though he may have to leave his car at home in the garage and use his furnace only on the coldest days.

Personally, I believe that the average consumer is a lot smarter than some of us give him credit for when he knows the facts.

It is certainly understandable that he will have some suspicions when he hears from apparently reputable sources, that is his Congressman or Senator, that this is a contrived shortage and most likely a conspiracy among the major oil companies to raise prices.

Why, then, has domestic production of oil and gas failed to keep pace with growing demands? The decline in our domestic oil and gas exploration and development has resulted from poor economics, not poor geology. From the scientific side, I need only cite the conclusion of the late Dr. William Pecora, Under Secretary of the Interior and an internationally honored Earth scientist. In a speech to the Conference Board in New York, in April 1972, Dr. Pecora warned that steps "must be taken to assure the consumer that adequate domestic oil and gas reserves will be available." Dr. Pecora said in that speech that the potential oil and gas resources remaining to be found and developed "would meet our 1971 needs for these two fuels almost 100 times over." With respect to future development of these domestic resources, Dr. Pecora said, in part:

> If new oil and gas reserves are to be found and developed, federal areas with high potential for discovery must be made available to the producing industry. . . .
>
> If the consumer ultimately is to have adequate domestic sources available, the search for domestic oil and gas must again become an attractive investment to the producing industry.

Addressing this body a few weeks back, the distinguished junior Senator from Tennessee (Mr. BROCK) put the matter in perfect perspective when he asked why all of this domestic oil and gas is still in the ground waiting to be found.

Why? Simply because it is no longer very profitable to drill an exploratory well.

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

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

The Wall Street Journal, a publication that may be suspect of being pro-industry, also had a few editorial remarks, which follows, about fuel shortages and the efforts of Congress and the administration to cure them:

> Unhappily, some kind of mandatory allocation system seems to be in the cards, if only to get the major oil companies off an uncomfortable legal hook. As it is under the voluntary plan, the majors are being threatened with breach-of-contract suits by their contract jobbers and distributors for parceling out a portion of their supplies to the independents. The independents who don't have contracts with the majors and who are not getting what they feel is their due are threatening anti-trust actions. There thus seems to be some sentiment in the industry to let the government take the blame for who gets what and who doesn't.
>
> We would guess that the Nixon administration, which is conducting a review of the voluntary program this week, will find a reason to beat Congress to the blow. At best, it could issue mandatory rules that reaffirm the voluntary practices the major oil companies have been following.
>
> At least this would avoid the administrative and bureaucratic turmoil that would follow if Congress wrote the rules. The Senate bill contains so many exemptions and exceptions that it nearly puts everyone in the highest priority position to get fuel.
>
> All of this is so much twaddle. The avilable supply of gasoline cannot be efficiently allocated as long as the government sits on the price the 23 major oil companies charge their jobbers and distributors. Nor does this practice exactly encourage oil exploration. Supply will meet demand only through the inexorable workings of the price mechanism, and all the quick fixing so popular on Capitol Hill only deludes the public into thinking salvation is at hand. We're really sorry there's no better answer than the market mechanism. We often wish there was.

For its efforts, the petroleum industry has had scant praise. Thanks to the work of the industry itself and the distinguished floor leader of this bill (Mr. JACKSON) several amendments aimed at divestiture and dismantlement of the oil industry were withdrawn. It is to the credit of the sponsors of those amendments that they deferred to separate hearings on their proposals.

It is my hope that by the time those hearings are held, the appropriate committees of the Senate have also held hearings on the President's energy reorganization proposals including a new Department of Energy and Natural Resources, a new R. & D. agency and hearings on deregulation of the wellhead price of natural gas and oil exploration incentive bills. I believe it is time we gave the industry a little encouragement rather the continued harassment it has had so much of.

The industry itself is, I believe, showing signs of coming alive and fighting

back. Unfortunately, it does not seem to have gotten its message across to the public and the Congress.

While the start of the Alaska pipeline drags on and on, a group of American companies made a bid to build a proposed Suez-Mediterranean oil pipeline in Egypt. If approved, the pipeline would carry 80 million tons of Persian crude oil a year from the Gulf of Suez to the Mediterranean much more economically and rapidly than tankers that have been forced to travel around the southern tip of Africa since the closure of the Suez Canal in 1967.

It is probably a safe bet that oil from that pipeline will be delivered to Europe and the United States before Alaskan oil helps lessen our dependence on Middle East oil; that is unless the Wilderness Society has a chapter in Cairo.

Hopefully, this bill will enable the United States to take the first big step in reversing our suicidal charge to the precipice of utter and unnecessary dependency on imported oil and gas.

More than 2 years ago, the most able and distinguished Senator from West Virginia (Mr. RANDOLPH) said in support of Senate Resolution 45, the Senate study on national fuels and energy policy:

> This nation and the world community of nations are embarked on a gigantic gamble that we can maintain energy supply reliability compatible with demand. Maintenance of this reliability is dependent on adequate sources of crude oil, natural gas, and coal. But these alone will not be enough. There must be other immense sources of energy, possibly the breeder reactor or fuel cell, to augment the fossil fuels. And there must be more use made of the fossil fuels, such as gasification of coal for on-site power production and for production of pipeline gas to augment the dwindling supply of natural gas. There must, of course, be more exploration for and discovery of both domestic petroleum and natural gas—and they should be encouraged, not impeded. We are too reliant on foreign sources of oil.

That in a nutshell is the message a few of us have been trying to get across to the Congress and the administration for several years.

Mr. DOMINICK. Mr. President, in the course of the debate on this bill many thoughts have been uttered by many of the distinguished Members of this body. Facts have been raised, arguments submitted, and pleas made both pro and con on various aspects of this bill. The word "environment" has played a singularly large role in our discussions, and I say once again for the record that it is my strong belief that the way in which one votes on the pipeline does not determine necessarily if one is an "environmentalist." There exists now a need for balancing all considerations in reaching decisions that will achieve the most benefit for all of us. The environmental work which has gone into the development of this line has been outlined on this floor many times in the past few months.

At the present time the proposed Alaskan pipeline has met all regulatory requirements, the route has been surveyed, and an environmental impact statement has been prepared. Also of prime concern is the fact that financing has been arranged for the Alaskan line.

In a Canadian line, however, there still must be settled Native claims, surveys must be done, environmental litigation must probably be faced, and, last, but certainly not least, financing must be arranged. It would appear that a Canadian line will face many of the same engineering difficulties as well as cover four times as much distance.

Mr. President, the Alaskan route is an enterprise largely financed by American interests. Canadian line enthusiasts clearly are faced with strong indicators that up to 51 percent of such a line would be owned by Canadians and controlled by Canada. Now I am of the opinion that in our present energy posture we need to control as much of our own production as possible to keep us from becoming too dependent on any foreign supplier for our needs. Again I shall reiterate that I do not reject a Canadian line, but I feel we must get moving on the Alaskan line while a Canadian line is being studied.

For my colleagues who do not yet appreciate the gravity of our problems, I invite them to review the critical supply situation in Denver. This past weekend it was estimated that 98 percent of the stations in the city were closed. Motorists had to seek assistance from governmental officials for directions to an open gas station. Under such circumstance our need is clearly immediate.

Lastly, I believe that of all the "authorities" to speak out on the line, Alaskans can speak with an informed voice. Therefore, I request that the accompanying letter and resolutions be printed at this point in my remarks for the RECORD and would again urge my colleagues to get moving on this line.

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

SOCIETY FOR THE PRUDENT USE AND ENVIRONMENTAL PROTECTION OF OUR NATURAL RESOURCES,
Fairbanks, Alaska, July 10, 1973.

Senator PETER H. DOMINICK,
Washington, D.C.

DEAR SENATOR DOMINICK: 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.

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.

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.

RESOLUTION

Whereas the Society for the Prudent Use and Environmental Protection of our Natural 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.

Mr. MOSS. Mr. President, there are some here and around the country who scoff at the energy crisis. To hold this view when gasoline is difficult to find this summer and we face a winter with a concomitant short supply of No. 2 fuel oil for heating purposes is to hide from reality. But to attempt to assess blame and apply recriminations before we solve the immediate problem is like kicking the dog when you are mad at your wife. We here can argue for weeks as to the cause of the energy crisis. Such action at this place in time is a futility. I do not here attempt to gloss over the faults of industry, the Congress, the administration or the environmentalists—all of whom must share responsibility for the present state of affairs.

The facts are that we have grossly underestimated our growing needs for oil and overestimated the potential and present capability of other sources of energy. We have placed stringent controls where the subsequent consequences have "dominoed," resulting in escalated supply and demand problems.

In every facet of our energy situation we are in trouble, whether we are talking about reserves, capitalization, imports or national defense. In December of 1972, the National Petroleum Council projected our total energy demand to increase 4.2 percent per year.

Demand for light finished products east of the Rockies rose at an exceptionally high rate in 1972. Motor gasoline was up 5.6 percent; kerosene and kerosene-type jet fuel, 2.8 percent; distillate oils, 10.2 percent; and total of all light finished products, 6.7 percent. This compares with 1971 increases in demand for motor gasoline of 4.5 percent; kerosene and kerosene-type jet fuel, 1.7 percent; distillates, 3.9 percent; and total light finished products, 4.1 percent.

At the present time demand above domestic capabilities is being met by im-

ports. Imports will continue to increase to the year 1985, under present supply and demand trends.

And that brings us to another problem—the international implications of the energy situation.

For many years this country proceeded on the basis that imports threatened national security and the administration of the import program by the Department of the Interior was bottomed on that premise. This program attempted to limit foreign oil to a small and fixed proportion of domestic production—12.2 percent east of the Rockies.

Imports by 1970 had risen to about 22 percent of total oil supply and current projections are that by 1980 imports will account for as much as one-half of U.S. consumption of oil and one-fourth of total energy supplies.

The energy problem must be reviewed as a whole—shortages in one fuel result in an unprecedented demand on others and shortages in one corner of the globe puts pressures and repercussions all the way across the international scene.

Two years ago the Cabinet Task Force concluded that imports from the Eastern Hemisphere should be held to 10 percent of our total imports and that this figure would not be reached in the near future. Now it is generally estimated that we are already importing more than 10 percent of our requirements from the Eastern Hemisphere.

In addition to the precariousness of our own situation, we find ourselves in competition with our neighbors who also are experiencing increased economic growth rates and resultant energy needs. All of the non-Communist world's industrial powers are shopping in the same marketplace—the Middle East.

The oil-producing countries, working together through OPEC, have us over 500,000,000 barrels—of oil.

We not only suffer from a tremendous increase in balance-of-payments costs, but U.S. companies face demands from OPEC for increased foreign participation in, and part ownership of, the American companies' operations.

According to a Washington Post news story of July 11, 1973, 500,000 barrels of Saudi Arabia oil will be imported into North America in the month of July. Industry sources predict that the United States will need to import five times that figure by 1975 to keep pace with growing energy demands.

The Post story points out that:

> At current production, Saudi Arabia will earn more than $4 billion in oil revenues this year, a 30 percent increase from last year. At least $1 billion will be added to Saudi Arabia's present foreign exchange holdings on $3 billion.
>
> The rush of new oil revenue into Saudi Arabia has stunned even Saudi financial managers, who until a few months ago were predicting that their sparsely populated country, which has few telephones and long-distance highways, and insufficient numbers of schools, would be able to spend enough of the revenue to make oil production increases worthwhile.

At this rate it is obvious the Saudis do not need our money and they could simply leave the oil in the ground or slow down production if they so desired. The leverage in world finance and diplomacy of this foreign oil power is awesome to contemplate. The implications of the energy problem for our foreign relations is painfully obvious.

There are other factors including the need for refineries, storage space and the concomitant need for risk and investment capital which complicate the energy picture.

All of which brings me to the problem at hand. Given time we can develop our vast coal resources, oil shale deposits and bring solar energy to our aid. The crunch is now. That is why I will vote for passage of S. 1081.

I cannot get overly upset about observing the ritual of the mating season for Alaskan caribou when in the city of Denver last weekend it was almost impossible to find gas. How long do you suppose the people of the country will tolerate an empty gas tank while we debate the merit of a pipeline bill to bring 2 million barrels of oil a day over a right-of-way traversing lands of the United States? We can no longer equivocate on this issue.

I would prefer to have had a simple bill amending section 28 of the Mineral Leasing Act to allow appropriate widths for construction of the Alaskan pipeline. We have before us S. 1081, which revises and updates all of the right-of-way laws now in effect for our public lands. So be it. S. 1081 is the best vehicle now available for action. The Interior Committee under the leadership of the able junior Senator from Washington has done an admirable job. Appropriate safeguards are written into this bill, including an appropriate awareness of the Canadian situation in all of its ramifications.

Amendments to apportion equitably the oil from the North Slope among the various regions of this country have already been adopted.

Let us get on with it. I urge passage of S. 1081.

Mr. MUSKIE. Mr. President, our vote today on the Alaskan pipeline is not a choice between adequate energy supplies and protection of the environment. Instead, it constitutes a choice of the mechanism by which our Nation will make environmental decisions.

Regardless of what action the Senate takes today, Alaskan oil will not be available to American consumers until the end of this decade. Our action today will have no impact on the current energy crisis. But it will decide whether the oil and gas we use in the next decade will be produced and transported with the least possible environmental damage.

All Americans hope for an ideal future when our rivers and streams are all clear and free; when the air over all our cities is healthful and pure; when we can be secure in the knowledge that the natural beauty of our land is preserved for our enrichment, for our children's wonderment, and for the well-being of future generations.

But we also recognize that preservation of the environment is merely one value to be weighed against our other needs—our safety, our security, and our economic well-being. When these values conflict, we must balance them—to minimize damage to the environment while promoting economic development. And the mechanism established by Congress for making this balancing judgment is the National Environment Policy Act, which requires that the environmental impact of Government decisions be thoroughly examined.

The question the Senate votes on today is simply whether or not such an examination should be approved as adequate by our courts. As amended this morning, the Pipeline bill would short-circuit this decisionmaking process, and deprive us of the assurance that Alaskan oil will not be provided at unacceptable environmental costs.

Environmental considerations should never blind us to economic needs—but their importance requires that they be given some weight in the balance.

The Pipeline bill would preclude such a rational balancing process—and thus I must oppose it.

Mr. BAKER. Mr. President, in considering S. 1081 and, more specifically, the transporting of the vital Alaska North Slope oil reserves to the "lower 48" States, the Senate is confronted not only with a choice between two or more alternative pipeline routes, but also with temporal considerations of the utmost magnitude. I possess serious reservations concerning the desirability of having Congress approve the adequacy of an environmental impact statement prepared pursuant to section 102 (2) (C) of the National Environmental Policy Act. I am prepared, however, this one time to vote for congressional approval of the trans-Alaska pipeline impact statement, thereby allowing the initiation of the already much delayed construction of the TAPS pipeline.

I wish to make clear that I do not favor and will not support a repeal, either in letter or in spirit, of section 102 of NEPA. Moreover, I will resist further attempts to have Congress participate in ad hoc rulings on the sufficiency of a section 102 statement. But this is an instance where time is too important, where delay prolongs and exacerbates America's dependency upon tenuous foreign sources of petroleum, and where each day of doing without Alaskan oil results in an approximate $6 million increment in our balance-of-payments deficit.

In short, legislative determinations can and must be made in times of crisis, in times where reliance upon administrative and judicial processes would unduly delay the development of vitally needed domestic sources of energy.

I sympathize with the sentiments of my colleagues who rue the lack of an in-depth analysis of the proposed Canadian pipeline route. On the other hand, I fully agree with the report of the Committee on Interior and Insular Affairs finding the trans-Alaska route preferable because a comparison of the respective intensity of preparation indicates that TAPS could become operative 2 to 6 years earlier than the proposed Canadian route. A personal visit to and inspection of the trans-Alaska route during April of 1971, left me convinced that the many environmental concerns have been successfully met. Thus, satisfied that the environmental problems are being solved, and in light of the uncertainty

as to the receptiveness of the Canadian Government toward the Mackenzie Valley route, the strong possibility that Canada would require domestic ownership of a Canadian pipeline as well as partial capacity preemption for Canadian oil, and in light of the economic desirability of having the funds expended for pipeline construction accrue to American workers and companies, I believe that Congress should eliminate any additional and possibly disastrous delay in initiating construction of the trans-Alaska pipeline by making a legislative determination that the TAPS impact statement meets the letter and spirit of NEPA.

I view construction of the trans-Alaska pipeline as merely the first step in a comprehensive program for developing the North Slope fields. Although there is continuing debate concerning the existence of sufficient reserves to justify the construction of a second oil pipeline, a strong possibility exists that a second, and probably Canadian, oil pipeline will be constructed. In addition, it seems clear that a trans-Canada pipeline for the transportation of natural gas must be completed as soon as possible. I strongly urge the oil companies and the Department of the Interior to expedite the requisite investigation and planning and then to file comprehensive and sufficient impact statements for any additional pipelines required for I do not want to be confronted again with a situation such as we have now before the Senate.

In this one instance, however, where Congress possesses sufficient information and insight, and where the choice seems clear, I believe that it is our duty to clear the way for the trans-Alaska pipeline and thereby insure that America will be able to develop its vital petroleum resources in an expeditious fashion.

Mr. DOMENICI. Mr. President, after following closely the debate in this Chamber on S. 1081 and after considerable private study of the matter of that bill, I have concluded that I must support it.

I would like, by this statement, to explain the reasoning on which I base that stand.

Fundamentally, I believe that the time has come for our Nation to act in a realistic manner on certain important facts which concern this issue.

The oil under the North Slope of Alaska is the largest discovery of its kind ever made in America. Its presence was established 5 years ago, but it has not yet begun to flow, despite the fact that it is our best concrete hope for increasng domestic oil production, which we badly need.

In the 5 years while the courts and we have deliberated, two things of great economic import to our country have occurred: we have moved closer to a genuine crisis caused by a shortage of energy, and our balance-of-payments problem with other nations has failed to stabilize to our advantage.

In light of the first of those problems, it is hard for me to see how we can any longer fail to utilize the 10 to 15 billion barrels of oil Alaska could produce—almost half the proven reserves in the continental United States, as much oil as we know to be present under Louisiana, Kansas, Oklahoma and half of Texas. When we are using our oil at the rate of 16.6-million barrels a day, as we did during 1972, how can we neglect to use this source of supply which can produce 2-million barrels a day?

But I believe it is the effect of the outflow of American dollars into the world marketplace at the rate at which we are presently experiencing it which disturbs me even more. We must buy outside of the United States every barrel of the oil which we do not presently transport from Alaska, and every barrel we purchase adds to our balance-of-payments problem, which I believe weakens the very fiber of our Nation's economy. By 1980, for example, we expect to be forced to import 4-billion barrels of oil per year and it may cost us $16 billion or more. If we do not have access to this Alaskan oil, every dollar of that cost will go to other nations.

While I do not maintain that Alaska's oil will replace every dollar's worth of such purchases, I believe that, if it replaces as much as 10 percent of our needs for outside resources, we must, out of hardheaded economics, act to see that this oil begins to flow.

I am also moved to my conclusion by a recognition that this single largest construction project ever undertaken by private industry will have sound economic benefits for Alaska and for American shipbuilders. For Alaska, it will provide 26,000 construction jobs, plus the maintenance crews which will be required on a permanent basis to keep the oil flowing. As is equally clear, the royalty income which will accrue to the State will be of great benefit to it in the economic expansion which it needs. Because the Jones Act requires that all such oil must move in American bottoms, 73,000 man-years of American tanker construction will be required to build 33 new tankers as well as 770 man-years maintaining the flow of the oil.

It is my basic belief that the flexibility which America once had in solving its domestic and international crises has begun to wither away. As a consequence, our leadership must be now more willing to act quickly and resolutely in regard to our many problems, such as the energy crisis and our international economic relations. I can think of no more dramatic example of that need than the one we face here today.

I am conscious of the problems this pipeline could cause to the environment. In fact, I compliment those serious environmentalists who have helped us to recognize those problems because I believe they will cause us to have the safest pipeline which has ever been built. For instance, I am moved to remark that the pipeline will be more proof against earthquakes than many of the buildings we occupy, perhaps much safer than this one. I also believe that the danger to the tundra and permafrost can be minimized by sufficiently strong stipulations from the Secretary of the Interior.

I further believe that the spirit which created the National Environmental Protection Act has been satisfied in the $35 million and 100 man-years spent on studies of the environmental impact of the proposed line. It is clear that the environment will be disturbed by such construction; it always is. But our aim must be to minimize that disturbance and make such scarring of the environment a temporary one. I am now satisfied that the most stringent liability requirements ever set will protect the pipeline from spills and minimize disturbance to wildlife, fish, and vegetation.

I can see little good being achieved by further judicial review of these matters, since, as Interior Secretary Morton has observed:

> Open-ended delays make for open-ended difficulties.

I do not consider the provisions of the Mineral Leasing Act of 1920 so sacrosanct that they cannot be changed to comply with the needs of 1973. If more advanced construction techniques have made them obsolete, it is the duty of this body to change them by granting the rights-of-way which are necessary today and directing the Secretary, in this instance, to issue the permit to carry out our grant.

The body has already decided that the development of a Canadian pipeline does not offer a real alternative. I agree with that decision, though I would hope that in time such a Canadian route might become a secondary carrier of this oil.

When I boil down my position, it comes down to this: great quantities of oil are available to us in Alaska; we need that oil for our own uses and for the fact of our economy, which would otherwise dictate that the oil be purchased outside the United States; we can construct a pipeline which will move the oil and supply our needs in as safe a manner as the state of technology presently makes possible.

In the light of these things, I believe it is incumbent upon us here to take the action which needs to be taken to begin providing that oil to our country.

Mr. President, I ask unanimous consent that an editorial taken from the Sunday Star on July 15, 1973, titled "Energy—A Crisis That Won't Wait" be printed in the RECORD at this point.

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

[From the Sunday Star and the Washington Daily News, July 15, 1973]

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 produc-

tion 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 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 the primary way President Nixon has chosen.

But the President has become a great deal more concerned over the 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.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass? On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. BUCKLEY (when his name was called). Present.

Mr. ROBERT C. BYRD. I announce that the Senator from Washington (Mr. MAGNUSON) is absent on official business.

I also announce that the Senator from Mississippi (Mr. STENNIS) is absent because of illness.

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

The result was announced—yeas 77, nays 20, as follows:

[No. 298 Leg.]

YEAS—77

Aiken	Cranston	Hruska
Allen	Curtis	Huddleston
Baker	Dole	Humphrey
Bartlett	Domenici	Inouye
Beall	Dominick	Jackson
Bellmon	Eastland	Javits
Bennett	Ervin	Johnston
Bentsen	Fannin	Long
Bible	Fong	Mansfield
Brock	Goldwater	Mathias
Burdick	Gravel	McClellan
Byrd, Harry F., Jr.	Griffin	McClure
	Gurney	McGee
Byrd, Robert C.	Hansen	McIntyre
Cannon	Hartke	Metcalf
Chiles	Haskell	Montoya
Church	Hatfield	Moss
Cook	Helms	Nunn
Cotton	Hollings	Pastore
Pearson	Scott, Pa.	Talmadge
Pell	Scott, Va.	Thurmond
Percy	Sparkman	Tower
Randolph	Stafford	Tunney
Roth	Stevens	Weicker
Saxbe	Symington	Williams
Schweiker	Taft	Young

NAYS—20

Abourezk	Fulbright	Muskie
Bayh	Hart	Nelson
Biden	Hathaway	Packwood
Brooke	Hughes	Proxmire
Case	Kennedy	Ribicoff
Clark	McGovern	Stevenson
Eagleton	Mondale	

ANSWERED "PRESENT"—1

Buckley

NOT VOTING—2

Magnuson Stennis

So the bill (S. 1081) was passed, as follows:

S. 1081

An act 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

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 "Federal Lands Right-of-way Act of 1973".

DEFINITIONS

SEC. 2. As used in this Act:

(a) "Right-of-way" means an easement, lease, permit, or license to occupy, use, or traverse Federal lands granted for the purposes listed in this Act.

(b) "Federal lands" means all lands owned by the United States except (1) in the National Park System, (2) lands in the National Wildlife Refuge System, (3) lands on the Outer Continental Shelf, (4) lands in the National Wilderness Preservation System, and (5) lands held by the United States in trust for any Indian or Indian tribe, and lands held or owned by any Indian or Indian tribe under a limitation or restriction on alienation requiring the consent of the United States.

(c) "Holder" means any State or local governmental entity or agency, individual, partnership, corporation, association, or other business entity receiving a right-of-way under this Act.

(d) "Secretary" means the Secretary of the Interior.

(e) "Agency head" means the head of any Federal department or agency other than the Secretary of the Interior having jurisdiction over Federal lands.

TITLE I—RIGHTS-OF-WAY ON FEDERAL LANDS

AUTHORIZATION TO GRANT RIGHTS-OF-WAY ON FEDERAL LANDS

SEC. 101. (a) Except as provided in subsection (b) of this section, the Secretary is authorized to grant, issue, or renew rights-of-way over, upon, or through the Federal lands for—

(1) Pipelines and other systems for the transportation of oil or natural gas and storage and terminal facilities in connection therewith;

(2) Reservoirs, canals, ditches, flumes, laterals, pipes, pipelines, tunnels, and other facilities and systems for the impoundment, storage, transportation, or distribution of water;

(3) Pipelines and other systems for the transportation or distribution of liquids and gases, other than oil, water, and natural gas, and for storage and terminal facilities in connection therewith;

(4) Pipelines, slurry and emulsion systems, and conveyor belts for transportation and distribution of solid materials, and facilities

for the storage of such materials in connection therewith;

(5) Systems for generation, transmission, and distribution of electric energy, except insofar as the Federal Power Commission has jurisdiction under the Act of June 10, 1920, as amended (16 U.S.C. 796, 797);

(6) Systems for transmission or reception of radio, television, telegraph, and other electronic signals, and other means of communication;

(7) Roads, trails, highways, railroads, canals, tramways, airways, livestock driveways, or other means of transportation; and

(8) Such other necessary transportation or other systems which are in the public interest and which require rights-of-way over, upon, or through the Federal lands.

(b)(1) Where the surface of all of the Federal lands involved in a proposed right-of-way is under the jurisdiction of one Federal agency or department, the agency head is authorized to grant, issue, or renew the rights-of-way for the purposes set forth in section 101(a) over, upon, or through the Federal lands involved.

(2) Where the surface of the Federal lands involved is administered by two or more Federal agencies or departments, the Secretary is authorized, after consultation with the agencies or departments involved, to grant, issue, or renew rights-of-way over, upon, or through the Federal lands involved. The Secretary may enter into interagency agreements with all other Federal agencies or departments having jurisdiction over Federal lands for the purpose of avoiding duplication, assigning responsibility, expediting review of rights-of-way applications, issuing joint regulations, and assuring a decision based upon a comprehensive review of all factors involved in any right-of-way application. Each agency head shall administer and enforce the provisions of this Act, appropriate regulations, and the terms and conditions of rights-of-way insofar as they involve Federal lands under the agency head's jurisdiction.

(c)(1) Pipelines and other systems authorized under subsection (a)(1) of this section shall be constructed, operated, and maintained as common carriers. The owners or operators thereof shall accept, convey, transport, or purchase, without discrimination, oil or natural gas produced from Federal lands in the vicinity of the pipeline in such proportionate amounts as the Secretary may, after a full hearing with due notice thereof to the interested parties and a proper finding of facts, determine to be reasonable. The common carrier provisions of this section shall not apply to any natural gas pipeline operated by any person subject to regulation under the Natural Gas Act or by any public utility subject to regulation by a State or municipal regulatory agency having jurisdiction to regulate the rates and charges for the sale of natural gas to consumers within the State or municipality, however, where natural gas not subject to State regulatory or conservation laws governing its purchase by pipelines is offered for sale, each such pipeline shall purchase, without discrimination, any such natural gas produced in the vicinity of the pipeline.

(2) The Secretary shall at all times be authorized whenever he has reason to believe that any such owner or operator subject to section 101(c)(1) is not operating any oil or gas pipeline in complete accord with its obligations as a common carrier hereunder, to prosecute an appropriate proceeding before the Interstate Commerce Commission or Federal Power Commission or any appropriate State agency or the United States district court for the district in which the pipeline or any part thereof is located, to enforce such obligation or to impose any penalty provided therefor or the Secretary may, by proceeding as provided in section 106 of this Act, suspend or terminate the said grant of right-of-way for noncompliance with the provisions of this section.

(3) The Secretary or agency head shall require prior to granting, issuing, or renewing a right-of-way, that the applicant submit and disclose any or all plans, contracts, agreements, or other information or material he deems necessary to a determination, in accordance with the provisions of this Act, as to whether a right-of-way shall be granted, issued, or renewed and the terms and conditions which should be included in the right-of-way. In the case of oil and natural gas pipelines required information may include, but is not limited to: (A) conditions for, and agreement among owners or operators regarding the addition of pumping facilities, looping, or otherwise increasing the pipeline or terminal's throughput capacity in response to actual or anticipated increases in demand; (B) conditions for adding or abandoning intake or offtake points or facilities; and (C) minimum shipment or purchase tenders.

(4) If the applicant is a partnership, corporation, association, or other business entity, the Secretary or agency head prior to granting a right-of-way pursuant to this Act shall require the applicant to disclose the identity of the participants in the entity. Such disclosure shall include where applicable (1) the name and address of each partner, (2) the name and address of each shareholder owning 3 per centum or more of the shares, together with the number and percentage of any class of voting shares of the entity which such shareholder is authorized to vote, and (3) the name and address of each affiliate of the entity together with, in the case of an affiliate controlled by the entity, the number of shares and the percentage of any class of voting stock of that affiliate owned, directly or indirectly, by that entity, and, in the case of an affiliate which controls that entity, the number of shares and the percentage of any class of voting stock of that entity owned, directly or indirectly, by the affiliate.

(d) Nothing in this Act shall be deemed to limit in any way the authority of the Secretary or agency head to make grants, issue leases, licenses, or permits, or enter into contracts under other provisions of law, for purposes ancillary or complementary to the construction, operation, maintenance, or termination of any facility authorized under this Act.

REVIEW BY ATTORNEY GENERAL

SEC. 102. (a)(1) The Secretary or agency head shall not grant, issue, or renew a right-of-way, not exempted under subsection (d) of this section, until the Secretary or agency head has given the Attorney General a reasonable opportunity of not more than ninety days to comment as to whether the particular facilities, project, or activity involved with the right-of-way would tend to create or maintain a situation inconsistent with the antitrust laws. Whenever the granting, issuance, or renewal of such a right-of-way is contemplated by the Secretary or agency head he shall publish notice of the application in the Federal Register and shall transmit promptly to the Attorney General notice of the application, the probable terms or conditions thereof, and the purposes for which the right-of-way has been requested.

(2) Communications from the Attorney General to the Secretary or agency head pursuant to this subsection shall be advisory only, and the failure of the Secretary or agency head to implement any recommendation of the Attorney General hereunder shall not create a cause of legal action challenging the grant, issuance, or renewal of a right-of-way. Nor shall the advice, opinions, or recommendations hereunder operate in any manner or at any time as a defense to any legal action under the antitrust laws.

(b) Under request made by the Attorney General, the Secretary or agency head shall furnish or cause to be furnished to the Attorney General such information as the Secretary or agency head may possess, have access to, or have knowledge of, and which the Attorney General determines to be appropriate or necessary to enable him to give the advice required by this section. The Attorney General shall have full authority to obtain for any such applicant for such right-of-way all information he deems necessary by civil investigative demand under the Antitrust Civil Process Act (15 U.S.C. 1312 et seq.).

(c) The advice of the Attorney General shall be reviewed by the Secretary or agency head and made available for public inspection.

(d) The Secretary and appropriate agency heads, with the approval of the Attorney General, may exempt from any of the requirements of this subsection classes or types of grants or renewals which they determine would not have any substantive impact under the antitrust laws as specified in subsection (a) of this section.

(e) If the Attorney General determines that operations under the right-of-way may violate the antitrust laws of the United States, he may institute legal action thereunder to enjoin such violation.

(f) Nothing contained in this Act shall impair, amend, broaden, or modify any of the antitrust laws or limit or prevent the application of any such laws to any person under the provisions of this Act.

(g) As used in this section, the term "antitrust laws" includes the Act of July 2, 1890 (ch. 647, 26 Stat. 209), as amended; the Act of October 15, 1914 (ch. 323, 38 Stat. 730), as amended; the Federal Trade Commission Act (38 Stat. 717), as amended; and sections 73 and 74 of the Act of August 27, 1894 (28 Stat. 570), as amended.

RIGHT-OF-WAY CORRIDORS

SEC. 103. (a) In order to minimize adverse environmental impacts and to prevent the proliferation of separate rights-of-way across Federal lands, the Secretary shall, in consultation with other Federal and State agencies review the need for a national system of transportation and utility corridors across Federal lands and submit a report of his findings and recommendations to the Congress and the President by July 1, 1975. Following such review, the Secretary shall by July 1, 1976, to the extent practical and appropriate, designate such corridors and require that rights-of-way be confined to them. In designating such corridors and in determining whether to require that rights-of-way be confined to them, the Secretary shall take into consideration National and State land use policies, environmental quality, economic efficiency, national security, safety, and good engineering and technological practices. The Secretary shall issue regulations containing the criteria and procedures he will use in designating such corridors. Any existing transportation and utility corridors may be designated as part of the national system without further review.

(b) Except for rights-of-way for which the Secretary or agency head has granted exclusive use in the past, or where exclusive use is determined by the Secretary or agency head, on the basis of the criteria in section 103(a) to be necessary, the Secretary or agency head shall wherever practicable require applicants for rights-of-way under this Act to utilize rights-of-way in common. The Secretary shall, by regulation, establish standards for requiring and granting rights-of-way in common which may include requirements for compensation to an existing holder for any modification of his facilities required by the common use: Provided, That this section does not prohibit the Secretary or agency head from granting, issuing, or renewing rights-of-way prior to the promulgation of regulations.

GENERAL PROVISIONS

SEC. 104. (a) The Secretary or agency head shall specify the boundaries of each right-of-way as precisely as is practicable. Each right-of-way shall be limited to the ground

which the Secretary or agency head determines: (1) will be occupied by facilities which constitute the project for which the right-of-way is given, (2) to be necessary for the operation or maintenance of the project, and (3) to be necessary to protect the environment or public safety. The Secretary or agency head may authorize the temporary use of such additional lands as he determines to be reasonably necessary for the construction, operation, maintenance, or termination of the project or a portion thereof, or for access thereto.

(b) The Secretary or agency head shall determine the duration of each right-of-way or other authorization to be granted, issued, or renewed pursuant to this Act. In determining the duration the Secretary shall, among other things, take into consideration the cost of the facility and its useful life.

(c) Rights-of-way granted, issued, or renewed pursuant to this Act shall be given under such regulations or stipulations, in accord with the provision of this Act or any other law, and subject to such terms and conditions as the Secretary or agency head may prescribe regarding extent, duration, survey, location, construction, maintenance, and termination.

(d) The Secretary or agency head, prior to granting a right-of-way pursuant to this Act for a new project which may have a significant impact on the environment, shall require the applicant to submit a plan of construction, operation, and rehabilitation for such right-of-way which shall comply with stipulations or with regulations issued by the Secretary or agency head. The Secretary or agency head shall issue regulations or impose stipulations which shall include, but shall not be limited to: (1) requirements to insure that activities in connection with the right-of-way will not violate applicable air and water quality standards nor applicable transmission, powerplant, and related facility siting standards established by or pursuant to law; (2) requirements designed to control or prevent (A) damage to the environment (including damage to fish and wildlife habitat), (B) damage to public or private property, and (C) hazards to public health and safety; and (3) requirements to protect the interests of individuals living in the general area traversed by the right-of-way who rely on the fish, wildlife, and biotic resources of the area for subsistence purposes which, in the case of any right-of-way to transport Alaska North Slope oil or gas, shall include liability on the part of the permittee to any Alaska Native or Native organization for damages in connection with or resulting from use of such right-of-way, without regard to whether such damages were due to negligence on the part of the permittee. Such regulations shall be regularly revised. Such regulations shall be applicable to every right-of-way granted pursuant to this Act, and may be applicable to existing rights-of-way or rights-of-way to be renewed pursuant to this Act.

(e) Mineral and vegetative materials, including timber, within or without a right-of-way, may be used or disposed of in connection with construction or other purposes only if authorization to remove or use such materials has been obtained pursuant to applicable laws

(f) No right-of-way shall be issued for less than the fair market value thereof as determined by the Secretary or agency head. The Secretary or agency head may, by regulation or prior to promulgation of such regulations, as a condition of a right-of-way, require an applicant or holder of right-of-way to reimburse the United States for all reasonable administrative and other costs incurred in processing an application and in inspection and monitoring of construction, operation, and termination of the facility: *Provided, however*, That rights-of-way may be granted, issued or renewed to State or local governments or agencies or instrumentalities thereof, or to nonprofit associations or nonprofit corporations which are not themselves controlled or owned by profitmaking corporations or business enterprises, for such lesser charge as the Secretary or agency head finds equitable and in the public interest.

(g) The Secretary or agency head shall promulgate regulations specifying the extent to which holders of rights-of-way under this Act shall be liable to the United States for damage or injury incurred by the United States in connection with the right-of-way. The regulations shall also specify the extent to which such holders shall indemnify or hold harmless the United States for liabilities, damages, or claims arising in connection with the right-of-way.

(h) Where he deems it appropriate, the Secretary or agency head may require a holder of a right-of-way 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 or by any rule or regulation of the Secretary.

(i) The Secretary or agency head shall grant, issue, or renew a right-of-way under this Act only when he is satisfied that the applicant has the technical and financial capability to construct the project for which the right-of-way is requested, and in accord with the requirements of this Act.

TERMS AND CONDITIONS

SEC. 105. Each right-of-way shall contain such terms and conditions as the Secretary or agency head deems necessary to (a) carry out the purposes of this Act and rules and regulations hereunder; (b) protect the environment; (c) protect Federal property and monetary interests; (d) manage efficiently Federal lands which are subject to the right-of-way or adjacent thereto and protect the other lawful users of the public lands adjacent to or traversed by said right-of-way; (e) protect lives and property; (f) protect the interests of individuals living in the general area traversed by the right-of-way who rely on the fish, wildlife, and biotic resources of the area for subsistence purpose; and (g) protect the public interest in the Federal lands.

SUSPENSION OR TERMINATION OF RIGHT-OF-WAY

SEC. 106. Abandonment of the right-of-way or noncompliance with any provision of this Act, condition of the right-of-way, or applicable rule or regulation of the Secretary, or agency head may be grounds for suspension or termination of the right-of-way if, after due notice to the holder of the right-of-way and an appropriate administrative proceeding pursuant to title 5, United States Code, section 554, the Secretary or agency head determines that any such ground exists and that suspension or termination is justified. No administrative proceeding shall be required where the right-of-way by its terms provides that it terminates on the occurrence of a fixed or agreed upon condition, event, or time. If the Secretary or agency head determines that an immediate temporary suspension of activities within a right-of-way for violation of its terms and conditions is necessary to protect public health or safety or the environment, he may abate such activities prior to an administrative proceeding. Prior to commencing any proceeding to suspend or terminate a right-of-way the Secretary or agency head shall give written notice to the holder of the ground or grounds for such action and shall give the holder a reasonable time to resume use of the right-of-way or to comply with the Act, condition, rule, or regulation, as the case may be. Deliberate failure of the holder of the right-of-way to use the right-of-way for the purpose for which it was granted, issued, or renewed, for any continuous two-year period, shall constitute a rebuttable presumption of abandonment of the right-of-way: *Provided, however*, That where the failure of the holder to use the right-of-way for the purpose for which it was granted, issued, or renewed for any continuous two-year period is due to circumstances not within the holder's control the Secretary or agency head is not required to commence proceedings to suspend or terminate the right-of-way.

RIGHTS-OF-WAY FOR FEDERAL AGENCIES

SEC. 107. (a) The Secretary or agency head may reserve for the use of any department or agency of the United States a right-of-way over, upon, or through Federal lands, subject to such terms and conditions as he may impose. The provisions of this Act shall be applicable to such rights-of-way.

(b) Where a right-of-way has been provided for the use of any department or agency of the United States, the Secretary or agency head shall take no action to terminate, or otherwise limit, that use without the consent of the head of that other department or agency.

CONVEYANCE OF LANDS

SEC. 108. If under applicable law the Secretary or agency head decides to transfer out of Federal ownership by patent, deed, or otherwise, any Federal lands covered in whole or in part by a right-of-way, the lands may be conveyed subject to the right-of-way; however, if the Secretary or agency head (where all the Federal lands involved are under the jurisdiction of one Federal agency or department) determines that retention of Federal control over the right-of-way is necessary to assure that the purposes of this Act will be carried out, the terms and conditions of the right-of-way complied with, or the Federal lands protected, he shall (1) reserve to the United States that portion of the lands which lies within the boundaries of the right-of-way, or (2) convey the lands, including that portion within the boundaries of the right-of-way, subject to the right-of-way and reserving to the United States the right to enforce all or any of the terms and conditions of the right-of-way, including the right to renew it or extend it upon its termination and to collect rents.

EXISTING RIGHTS-OF-WAY

SEC. 109. Nothing in this Act shall have the effect of terminating any rights-of-way or rights-of-use heretofore issued, granted, or permitted by any Federal agency, and such rights-of-way or rights-of-use are hereby confirmed in accordance with their terms. However, with the consent of the holder thereof, the Secretary or agency head may cancel such a right-of-way and in its stead issue a right-of-way pursuant to the provisions of this Act.

STATE STANDARDS

SEC. 110. The Secretary or agency head shall respect State standards for right-of-way construction, operation, and maintenance if those standards are more stringent than Federal standards and if the Federal lands are adjacent to State lands.

PUBLIC PARTICIPATION

SEC. 111. The Secretary or agency head by regulation shall establish procedures, including public hearings where appropriate, to give Federal, State, and local government agencies and the public adequate notice and an opportunity to comment upon (1) the designation of transportation and utility corridors, and (2) right-of-way applications filed after the date of enactment of this Act.

RULES AND REGULATIONS

SEC. 112. The Secretary is authorized to promulgate such rules and regulations as he deems necessary to carry out the purposes of this Act: *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.

EFFECT ON OTHER LAWS

SEC. 113. (a) Nothing in this Act shall be construed to amend, repeal, modify, or change in any way the requirements of section 102(2)(C) or any other provision of the National Environmental Policy Act of 1969 (Public Law 91-190, 83 Stat. 852).

(b) After the date of enactment of this Act, no right-of-way for the purposes listed in the Act shall be granted, issued, or renewed over, upon, or through Federal lands except under and subject to the provisions, limitations, and conditions of this Act: *Provided*, That any application for a right-of-way filed under any other law prior to the date of enactment of this Act may, at the applicant's option, be considered as an application under this Act or the Act under which the application was filed. The Secretary or agency head may require the applicant to submit any additional information he deems necessary to comply with the requirements of this Act.

(c) Nothing in this Act shall be construed to preclude the use of Federal lands for highway purposes pursuant to sections 107 and 317 of title 23, United States Code.

LIMITATIONS ON EXPORT OF NORTH SLOPE CRUDE

SEC. 114. (a) Any crude oil produced from the geographical area in which the President is authorized to establish special national defense withdrawals by section 10(b) 339) shall be subject to all of the limitations and licensing requirements of the Export Administration Act of 1969 (Act of December 30, 1969; 83 Stat. 841) and, in addition, before any crude oil subject to this section may be exported under the limitations and licensing requirements of the Export Administration Act of 1969 the President must make and publish an express finding that such exports will not diminish the total quantity or quality of petroleum available to the United States, and are in the national interest and are in accord with the provisions of the Export Administration Act of 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 this time period 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.

(b) Any violation of this section shall be subject to the penalty and enforcement provisions of sections 6 and 7 of the Export Administration Act of 1969.

SEC. 115. Section 4417a of the Revised Statutes of the United States (46 U.S.C. 391a), as amended by the Ports and Waterways Safety Act of 1972 (86 Stat. 424, Public Law 92-340), is hereby amended as follows:

"(C) Rules and regulations published pursuant to subsection (7)(A) shall be effective not earlier than January 1, 1974, with respect to foreign vessels and United States-flag vessels operating in the foreign trade, unless the Secretary shall earlier establish rules and regulations consonant with international treaty, convention, or agreement, which generally address the regulation of similar topics for the protection of the marine environment. In absence of the promulgation of such rules and regulations consonant with international treaty, convention, or agreement, the Secretary shall establish an effective date not later than January 1, 1976, with respect to foreign vessels and United States-flag vessels operating in the foreign trade, for rules and regulations previously published pursuant to this subsection (7) which he then deems appropriate. Rules and regulations published pursuant to subsection (7)(A) shall be effective not later than June 30, 1974, with respect to United States-flag vessels engaged in the coastwise trade.".

SEC. 116. The Secretary of the Department in which the Coast Guard is operating is hereby directed to establish a vessel traffic control system for Prince William Sound and Valdez, Alaska, pursuant to authority contained in title I of the Ports and Waterways Safety Act of 1972 (86 Stat. 424, Public Law 92-340).

TITLE II—PIPELINES FOR ALASKA NORTH SLOPE OIL AND GAS

SEC. 200. (a) The Congress hereby finds—

(1) that the Nation faces a serious energy crisis, created in part by declining domestic production of crude oil and natural gas;

(2) 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;

(3) that the rapidly growing volume of oil imports poses an increasingly serious threat to the national economy, to the value of the dollar, and to national security;

(4) that the exceptionally low sulfur quality of the crude oil already proved on the North Slope of Alaska can be an important asset in protecting and enhancing the Nation's environment;

(5) that the delivery of North Slope crude oil and natural gas already discovered, and the effort to discover and develop additional reserves, have been postponed by administrative delay, political controversy, and protracted litigation; and

(6) that said postponement has had, and will if prolonged, continue to have an adverse effect upon the national economy, the value of the dollar and national security.

(b) The Congress therefore declares that the following are matters of great national urgency:

(1) the early delivery of North Slope crude oil and natural gas to markets in the United States;

(2) an early resolution of administrative, political, and legal obstacles to completion and operation of an environmentally sound transportation system for delivery of North Slope crude oil and natural gas; and

(3) the most rapid action and disposition, consistent with law, by the United States courts of any litigation regarding or affecting authorization of construction and operation of pipelines for North Slope crude oil and natural gas.

SEC. 201. (a) The Congress hereby finds—

(1) That facilitating the early delivery of the oil and gas available on Alaska's North Slope to domestic markets is in the national interest.

(2) That full development and delivery of Alaska's proved and potential oil and gas may best be attained by utilizing both maritime and overland transportation systems.

(3) That while a specific proposal for the transportation of Alaska's North Slope crude oil over a route that does not traverse any foreign country is at an advanced stage, and proposals for transportation of North Slope natural gas are currently being prepared, it is nevertheless in the long term national interest to initiate early negotiations with the Canadian Government to determine the feasibility of transporting North Slope crude oil on an overland route across Canadian territory.

(4) That the purpose of the Alaska Native Claims Settlement Act was to provide for a speedy and just settlement of the claims of Alaska Natives and Native groups and delay in the construction of a pipeline for the delivery of North Slope oil will prevent timely realization of the revenue sharing benefits of the Native claims settlement.

(b) The Congress declares that it is the purpose of this title to authorize and request the President to initiate negotiations with the appropriate officials of the Government of Canada for the purposes set forth in sections 202 through 204.

SEC. 202. The President of the United States is authorized and requested, utilizing the services of the Secretary and the Secretary of State, to enter into negotiations with the appropriate officials of the Government of Canada to ascertain—

(a) the willingness of the Government of Canada to permit the construction of pipelines or other transportation systems across Canadian territory for the transport of natural gas and oil from Alaska's North Slope to markets in the United States, including the use of tankers by way of the Northwest Passage;

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

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

(d) the quantity of such oil and natural gas from the North Slope of Alaska for which the Government of Canada would guarantee transit.

SEC. 203. (a) If the President, on the basis of the negotiations authorized and requested in section 202, determines—

"(1) that the Canadian Government is willing to entertain an application or applications leading to development of a transportation system for the movement of Alaska crude oil to markets in the United States; and

(2) that no technically competent and financially responsible private entity or entities have made and are actively pursuing such an application with the Canadian Government;

the President is authorized and requested to direct the appropriate Federal departments and agencies to initiate and undertake, or to collaborate with appropriate Canadian governmental agencies and responsible private entities in such studies, negotiations, engineering design, and consultations as are necessary to the preparation of an application to the Canadian Government and to enter into specific negotiations concerning the authorization of construction, certification, and regulation of such a transportation system.

SEC. 204. The Secretary shall, within one year of the effective date of this Act, report to the Committees on Interior and Insular Affairs of the House and Senate regarding the actions taken and progress achieved under this title, together with his recommendations for further action.

SEC. 205. The Congress finds that the trans-Alaska pipeline from the standpoint of time, is the most feasible means to transport Alaska's North Slope crude oil to domestic markets because it could be on stream two to six years earlier than a comparable overland pipeline across Canada and that the trans-Canada route negotiations authorized by this title refer to a subsequent, but not alternative, project for the transportation of Alaska's potential crude oil reserves.

SEC. 206. This title shall not be construed to reflect a determination of the Congress regarding the relative merits of alternative

transportation systems for North Slope crude oil or regarding the merits or legality of a grant by the Secretary of a right-of-way to construct a crude oil pipeline within Alaska from the vicinity of Prudhoe Bay to Valdez, nor to prohibit such a grant, nor to require that the Secretary in the execution of any of his statutory duties await the results of the negotiations with the Canadian Government provided for in this title before making such a grant.

SEC. 207. (a) The Congress realizes that the delay in construction of a pipeline to transport North Slope crude oil will delay payment into the Alaska Native Fund of revenues resulting from the revenue sharing scheme provided by section 9 of the Alaska Native Claims Settlement Act (Act of December 18, 1971, 85 Stat. 688), and the Congress therefore authorizes a sum of $7,500,000 to be paid from the United States Treasury into the Alaska Native Fund every six months of each fiscal year beginning with the fiscal year ending June 30, 1975, as advance payments against the revenues to be received under section 9 of the Alaska Native Claims Settlement Act, until such time as the delivery of North Slope crude oil to a pipeline is commenced: *Provided*, That if such delivery has not commenced by December 31, 1976, such payments shall not be deemed advance payments under this section for purposes of section 9 of the Alaska Native Claims Settlement Act, as amended.

(b) Section 9 of the Alaska Native Claims Settlement Act is amended by striking the language in subsection (g) thereof and substituting the following language: "The payments required by this section shall continue only until a sum of $500,000,000 has been paid into the Alaska Native Fund less the total of advance payments paid into the Alaska Native Fund pursuant to section 207 (a) of the Federal Lands Right-of-Way Act of 1973. Thereafter, payments which would otherwise go into the Alaska Native Fund will be made to the United States Treasury as reimbursement for the advance payments authorized by section 207(a) of the Federal Lands Right-of-Way Act of 1973. The provisions of this section shall no longer apply, and the reservation required in patents under this section shall be of no further force and effect, after a total sum of $500,000,000 has been paid to the Alaska Native Fund and to the United States Treasury pursuant to this subsection.".

SEC. 208. Such funds are hereby authorized to be appropriated as are necessary to implement the provisions of this title.

TITLE III—SUBPENA AND INJUNCTIVE RELIEF

FINDINGS

SEC. 301. (a) The Congress hereby finds that the investigative and law enforcement responsibilities of the Federal Trade Commission have been restricted and hampered because of inadequate legal authority to enforce subpenas and to seek preliminary injunctive relief to avoid unfair competitive practices.

(b) The Congress further finds that as a direct result of this inadequate legal authority significant delays have occurred in a major investigation into the legality of the structure, conduct, and activities of the petroleum industry, as well as in other major investigations designed to protect the public interest.

PURPOSE

SEC. 302. It is the purpose of this Act to grant the Federal Trade Commission the requisite authority to insure prompt enforcement of the laws the Commission administers by granting statutory authority to directly enforce subpenas issued by the Commission and to seek preliminary injunctive relief to avoid unfair competitive practices.

SEC. 303. Section 5(1) of the Federal Trade Commission Act (15 U.S.C. 45(1)) is amended by striking subsection (1) and inserting in lieu thereof the following new paragraph:

"(1) Any person, partnership, or corporation who violates an order of the Commission after it has become final, and while such order is in effect, shall forfeit and pay to the United States a civil penalty of not more than $10,000 for each violation, which shall accrue to the United States and may be recovered in a civil action brought by the Attorney General of the United States or by the Commission in its own name by any of its attorneys designated by it for such purpose. Each separate violation of such an order shall be a separate offense, except that in the case of a violation through continuing failure to obey or neglect to obey a final order of the Commission, each day of continuance of such failure or neglect shall be deemed a separate offense. In such actions, the United States district courts are empowered to grant mandatory injunctions and such other and further equitable relief as they deem appropriate in the enforcement of such final orders of the Commission."

SEC. 304. Section 5 of the Federal Trade Commission Act (15 U.S.C. 45) is amended by adding at the end thereof the following new subsection:

"(m) Whenever in any civil proceeding involving this Act the Commission is authorized or required to appear in a court of the United States, or to be represented therein by the Attorney General of the United States, the Commission may elect to appear in its own name by any of its attorneys designated by it for such purpose."

SEC. 305. Section 6 of the Federal Trade Commission Act (15 U.S.C. 46) is amended by adding at the end thereof the following proviso: *"Provided*, That the exception of 'banks and common carriers subject to the Act to regulate commerce' from the Commission's powers defined in clauses (a) and (b) of this section, shall not be construed to limit the Commission's authority to gather and compile information, to investigate, or to require reports or answers from any such corporation to the extent that such action is necessary to the investigation of any corporation, group of corporations, or industry which is not engaged or is engaged only incidentally in banking or in business as a common carrier subject to the Act to regulate commerce."

SEC. 306. Section 13 of the Federal Trade Commission Act (15 U.S.C. 53) is amended by redesignating "(b)" as "(c)" and inserting the following new subsection:

"(b) Whenever the Commission has reason to believe—

"(1) that any person, partnership, or corporation is violating, or is about to violate, any provision of law enforced by the Federal Trade Commission, and

"(2) that the enjoining thereof pending the issuance of a complaint by the Commission and until such complaint is dismissed by the Commission or set aside by the court on review, or until the order of the Commission made thereon has become final, would be in the interest of the public—

the Commission by any of its attorneys designated by it for such purpose may bring suit in a district court of the United States to enjoin any such act or practice. Upon a proper showing that such action would be in the public interest, and after notice to the defendant, a temporary restraining order or a preliminary injunction may be granted without bond: *Provided, however*, That if a complaint is not filed within such period as may be specified by the court after issuance of the temporary restraining order or preliminary injunction, the order or injunction may be dissolved by the court and be of no further force and effect: *Provided further*, That in proper cases the Commission may seek, and, after proper proof, the court may issue a permanent injunction. Any such suit shall be brought in the district in which such person, partnership, or corporation resides or transacts business."

SEC. 307. Section 16 of the Federal Trade Commission Act (15 U.S.C. 56) is amended to read as follows:

"SEC. 16. Whenever the Federal Trade Commission has reason to believe that any person, partnership, or corporation is liable to a penalty under section 14 or under subsection (1) of section 5 of this Act, it shall—

"(a) certify the facts to the Attorney General, whose duty it shall be to cause appropriate proceedings to be brought for the enforcement of the provisions of such section or subsection; or

"(b) itself cause such appropriate proceedings to be brought."

SEC. 308. (a) 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,".

(b) Chapter 25 of title 44, United States Code, is amended by adding after section 3511 the following new section:

"§ 3512. Information for independent regulatory agencies.

"(a) 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 perons required to furnish the 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.

"(b) 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 efforts by independent regulatory agencies, and

"(2) minimizing the compliance burden on business enterprises and other persons.

"(c) 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 forty-five days.

"(d) 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 statutory responsibilities and whether to collect such information. If no advice is received from the Comptroller General within forty-five days, the independent regulatory agency may immediately proceed to obtain such information.

"(e) Section 3508(a) of this chapter dealing with unlawful disclosure of information shall apply to the use of information by independent regulatory agencies.

"(f) The Comptroller General may promulgate rules and regulations necessary to carry out this chapter."

TITLE IV—EQUITABLE ALLOCATION OF CRUDE OIL AND PETROLEUM PRODUCTS BETWEEN REGIONS OF THE COUNTRY AND THE SEVERAL STATES

SEC. 401. (a) The President is authorized and directed to monitor the availability of crude oil and petroleum products to satisfy the fuel requirement of all regions of the country and of all of the several States. If the President determines that any region or any State is experiencing a shortage of crude oil or petroleum products while at the same time other regions or States are enjoying a surplus, the President is authorized and directed to take any action necessary to insure an equitable allocation of available crude oil and petroleum products among all regions and all of the several States.

(b) In implementing subsection (a) the President shall consider all current and prospective sources of crude oil and petroleum products supply, including but not limited to production from Alaska, the Outer Continental Shelf, the contiguous States, synthetic fuels, opportunities for fuel substitution and conservaton, as well as imports of crude oil or petroleum product from foreign sources.

(c) Whenever the President determines pursuant to subsection (a) that an imbalance in the availability of crude oil or petroleum products exists between regions of the country or between any of the States, he is authorized to take any action necessary to insure an equitable allocation of available crude oil and petroleum products. Such action may include, but is not limited to, direct mandatory allocations of available crude oil and petroleum product supplies; adding additional capacity to existing pipelines; requiring that the flow of existing pipelines be reversed; and directing tankers on the high seas to specified ports of entry.

(d) The President shall furnish the Congress with a report every three months on the availability of sufficient fuel supplies to meet the requirements of all regions and all States. This report shall also contain a summary of any actions that the President has taken under this section, recommendations for any legislation which may be needed to achieve the purposes of this section, and a statement of actions taken by the executive branch to increase the supply of and to reduce the demand for crude oil and petroleum products. This statement on supply and demand shall include actions taken and projected plans concerning energy research and development, adequacy of refinery capacity and transportation systems, the development of synthetic fuel plants, leasing on the Federal lands including the Outer Continental Shelf, the establishment of strategic reserves, and agreements with other nations on the security and expansion of fuel supply.

(e) The President is authorized to promulgate such rules and regulations as he deems necessary to carry out the purposes of this section.

(f) The President may delegate all or any portion of the authority granted under this Act to the head of any Federal agency he deems appropriate.

(g) There are hereby authorized to be appropriated such sums as are necessary to carry out the purposes of this section.

TITLE V—AUTHORIZATION FOR TRANS-ALASKAN PIPELINE

SHORT TITLE

SEC. 501. This title may be cited as the "Trans-Alaskan Pipeline Authorization Act".

CONGRESSIONAL FINDINGS

SEC. 502. 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 Slope 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. 503. (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. 504. 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. 505. 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.

TITLE VI—MISCELLANEOUS

CONFIRMATION OF THE DIRECTOR OF THE ENERGY POLICY OFFICE

SEC. 601. That, effective on the day after the date of enactment of this Act, the Director of the Energy Policy Office in the Executive Office of the President, shall be appointed by the President, by and with the advice and consent of the Senate, and any individual nominated for such position may act unless such nomination shall be disapproved by the Senate.

CONFIRMATION OF THE HEAD OF THE MINING ENFORCEMENT AND SAFETY ADMINISTRATION

SEC. 602. That the head of the Mining Enforcement and Safety Administration established purusuant to Order Numbered 2953 of the Secretary of the Interior issued in accordance with the authority provided by section 2 of Reorganization Plan Numbered 3 of 1950 (64 Stat. 1262), shall be appointed by the President of the United States, by and with the advice and consent of the Senate.

EXEMPTION OF FIRST SALE OF CRUDE OIL AND NATURAL GAS OF CERTAIN LEASES FROM PRICE RESTRAINTS AND ALLOCATION PROGRAMS

SEC. 603. (a) The first sale of crude oil and natural gas liquids produced from any lease whose average daily production of such substances does not exceed ten barrels per well shall not be subject to price restraints established pursuant to the Economic Stabilization Act of 1970, as amended, or to any allocation program for fuels or petroleum established pursuant to that Act or to any Federal law for the allocation of fuels or petroleum.

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

SEPARABILITY

SEC. 604. If any provision of this Act or the applicability thereof is held invalid the remainder of this Act shall not be affected thereby.

Mr. GRAVEL. Mr. President, I move to reconsider the vote by which the bill passed.

Mr. MANSFIELD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AUTHORITY FOR SECRETARY OF SENATE TO MAKE CLERICAL CORRECTIONS IN THE ENGROSSMENT OF S. 1081

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make clerical and other corrections in the engrossment of S. 1081, and that the bill be printed as passed.

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

Mr. FANNIN. Mr. President, I wish to congratulate the distinguished floor manager and chairman of the committee on his leadership in the handling of this very important legislation. He is to be commended for his insight into our national energy crisis and his efforts to provide some relief from that crisis in the form of this legislation.

Also to be praised for his long and diligent efforts is my good friend from Wyoming who has worked hard in committee and on the floor on his legislation.

The two distinguished Senators from Alaska deserve much praise and credit for their tireless work on this legislation. I remember well how my friend Senator STEVENS attended virtually every executive session in which the committee was considering this bill and how helpful and constructive his comments were to the committee. He has also been on the floor for nearly every minute of debate where he presented his arguments so forcefully and persuasively and was so responsive to the questions of his fellow Senators.

Mr. President, I would like to applaud my colleagues who voted for this important and vitally necessary legislation. It is my hope that the trans-Alaska pipeline may soon become a reality.

MESSAGES FROM THE PRESIDENT

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

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer (Mr. HASKELL) 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.)

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Berry, one of its reading clerks, announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

H.R. 3733. An act to authorize the American Battle Monuments Commission to assume control of overseas war memorials erected by private persons and non-Federal and foreign agencies and to demolish such war memorials in certain instances;

H.R. 8528. An act to provide for increasing the amount of interest paid on the permanent fund of the United States Soldiers' and Airmen's Home; and

H. R. 9172. An act to provide for emergency allotment lease and transfer of tobacco allotments or quotas for 1973 in certain disaster areas in Georgia and South Carolina.

ENROLLED BILLS SIGNED

The message also announced that the Speaker had affixed his signature to the following enrolled bills:

H.R. 2323. An act to continue until the close of June 30, 1974, the suspension of duties on certain forms of copper;

H.R. 2324. An act to continue until the close of June 30, 1975, the existing suspension of duties for metal scrap; and

H.R. 6394. An act to suspend the duty on caprolactam monomer in water solution until the close of December 31, 1973.

The ACTING PRESIDENT pro tempore (Mr. METCALF) subsequently signed the enrolled bills.

HOUSE BILLS REFERRED

The following bills were severally read twice by their titles and referred, as indicated:

H.R. 3733. Ant act to authorize the American Battle Monuments Commission to assume control of overseas war memorials erected by private persons and non-Federal and foreign agencies and to demolish such war memorials in certain instances. Referred to the Committee on Interior and Insular Affairs.

H.R. 8528. An act to provide for increasing the amount of interest paid on the permanent fund of the United States Soldiers' and Airmen's Home. Referred to the Committee on Armed Services.

H.R. 9172. An act to provide for emergency allotment lease and transfer of tobacco allotments or quotas for 1973 in certain disaster areas in Georgia and South Carolina. Referred to the Committee on Agriculture and Forestry.

MANDATORY ALLOCATIONS NOW OR HOME HEATING OIL SHORTAGES LATER

Mr. McINTYRE. Mr. President, the French aristocracy of the 18th century has been recorded in history as a group who remembered everything but learned nothing. This depiction apparently describes the attitude that the present administration is taking with regarc to our energy and fuel oil problems.

It is particularly distressing to me to have to stand on the floor of the Senate and make the dire prediction that unless immediate action is taken that this country will experience a heating oil shortage this winter of frightening magnitude. This prediction is based on fact. I have no crystal ball, fortune telling cards, or other supernatural device—I simply have the same facts that the officials in charge of our national energy policy have.

This is not the first time that I have made such an unpleasant prediction. I can assure you, Mr. President, that doing so, in my opinion, is only a sad commentary on this administration's failure to open its eyes and recognize what is happening.

I, for one, would have thought that after last winter's experience that the mistakes made by the White House would not be repeated. It is becoming increasingly more obvious that our Federal oil policy officials either forgot what happened last winter or like the French aristocrats remember but learned nothing.

To refresh the recollection of those who have forgotten, large sections of this country, particularly east of the Rocky Mountains, experienced severe supply problems with regard to home heating oil this past January and February.

In view of the obvious fact that these shortages would continue unless decisive action at the Federal level was taken, I offered an amendment to the extension of the Economic Stabilization Act which was accepted by the Senate Banking Committee and was contained in the legislation signed by the President. The amendment I refer to was sponsored by Scnator EAGLETON and myself and provided the President with the authority to allocate petroleum products.

In April of this year, shortages of gasoline developed throughout the United States and a number of Members of Congress at that time urged the President to exercise the authority granted to him in the Economic Stabilization Act and establish an allocation procedure for petroleum products. This advice, however, was not heeded, and it was not until May 10, while testifying before hearings held by the full Banking Committee and the Chairman of the President's Oil Policy Committee, Secretary Simon, finally announced the establishment of a voluntary—and I repeat—voluntary—allocation procedure for petroleum products.

While this action was certainly necessary and while we all hoped that a voluntary procedure would be sufficient, it soon became apparent that unless the allocation program was made mandatory that various segments of the oil industry would refuse to comply.

Because of the obvious failure of this voluntary program, the Senate on June 5 passed and sent to the House mandatory petroleum product allocation legislation.

Because of the urgency of the situation I wrote on June 22 to the Chairman of the President's Oil Policy Committee urging him to immediately implement a mandatory allocation procedure under the authority contained in the Economic Stabilization Act.

On June 28, Secretary Simon responded to my letter and I quote:

> We, too, feel that the program is not working as effectively as it should and are now drafting a mandatory program to take its place.

Needless to say, the Secretary's letter was well received by both myself and other Members of Congress who for some time had urged that the voluntary system be replaced by a mandatory one.

The day after I received Secretary Simon's letter, however, President Nixon appointed Governor John A. Love as the Director of the newly created Energy Policy Office, and Governor Love's first public statement after being appointed to that position was that he was personally opposed to the mandatory allocation of petroleum products. I find it difficult to comprehend the line of reasoning that would justify such a position in view of the established facts.

The danger in such reasoning, I fear, is based upon the supply situation with regard to only one petroleum product, mainly, gasoline. It is becoming increasingly more apparent by the day, however, that, while this country may well be spared a gasoline shortage this summer, heating oil shortages varying in magnitude in different sections of the country will develop during the winter of 1973–74.

Of extreme concern to me is the fact that the refining segment of the petroleum industry is meeting the demand for gasoline this summer at the expense of home heating oil supplies that will be so critically needed this winter. In a letter that I wrote to Governor Love today, I emphasized that unless a decision is made within the next few days to replace the present voluntary allocation proce-

dure with a mandatory one that the chances of having sufficient home heating oil stocks to meet this winter's demand will be impossible.

A gasoline shortage as it relates to the average consumer is a question of possible inconvenience resulting from the limited use of personal automobiles. Home heating oil shortages, however, from a consumer's standpoint bring into play such factors above and beyond convenience, such as, health and safety.

Under the present voluntary allocation program, the Federal Government has the power to urge—and I repeat urge—the petroleum industry to follow a certain procedure but cannot require action. If the refining segment of the petroleum industry does not shift its present emphasis from gasoline production to home heating oil production during the next few weeks, then severe heating oil shortages will develop this winter. I base this statement on the following evidence.

In June of this year, Shell Oil Co. prepared an excellent report entitled "The National Energy Problem—the Short-Term Supply Prospect." In this report, Shell Oil Co. stated that:

> It is easy to see that there is a real danger of fuel shortages next winter if for any reason output falters or consumption rises more than expected.

The report goes on to state that demand for distillate oil east of the Rocky Mountains increased at the phenomenal rate of 10.2 percent in 1972 as compared to a 3.9-percent increase in demand for 1971. Distillate stock figures prepared by the American Petroleum Institute for the week ending June 29 show that on that date in 1971 total U.S. stocks for distillate fuel oil were 149.4 million barrels; on the same date in 1972, 129.3 million barrels; and for the week ending June 29, 1973, 139 million barrels. With regard to petroleum district I, the entire east coast of the United States, stocks of distillate fuel oil on June 29, 1971, were 67.6 million barrels; for the same period in 1972, 50.7 million barrels; and on June 29, 1973, 52.2 million barrels.

It is obvious from these figures that unless immediate action is taken to increase home heating oil production that shortages of this essential product will develop this winter. As of June 29 of this year total U.S. stocks of distillate fuel oil were 10.4 million barrels less than at the same time in 1971 and during the last 24 months demand for this product has increased substantially.

In a recent statement issued by the president of Northeast Petroleum Industries, Inc., of Boston, Mass., Mr. John Kanab, stated that the Northeast part of the United States faces a fuel oil catastrophe this winter unless refined products are allocated on a mandatory basis.

A recently released survey made by the Independent Fuel Terminal Operators Association which serves 25 percent of the consumers along the east coast and 40 percent in New England shows that of a total distillate fuel oil storage capacity of 14 million barrels that this association's members had on hand as of June 1, 1973 less than 1.1 million barrels of this product as compared to 3.1 million at the same time in 1971 and 1972.

I feel that unless corrective action is taken immediately a heating oil shortage of crippling magnitude will develop this winter. Only through the establishment of mandatory allocation procedures will the government be able to handle a situation of this proportion. The crucial problem is that each day of delay only makes my dire prediction that much more of a reality.

It will be impossible in October or November to take the actions necessary to avert serious shortages. Those actions must begin immediately and they must be of a mandatory rather than a voluntary nature. If the refining segment of the petroleum industry is not required before the first of August of this year to shift from maximum gasoline production to maximum distillate production the shortages that were experienced particularly in the upper and far Midwest last winter will be greatly magnified during the upcoming winter.

Mr. President, in closing, I request unanimous consent that the correspondence I refer to in my statement be included in the RECORD along with articles appearing in the July 16, 1973 issue of Oilgram entitled "Fuel Shortage Problems Worsening, Interior Says" and the Oil Daily entitled "Northeast Fuel Crisis Seen if Mandatory Controls Are Nixed."

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

U.S. SENATE,
Washington, D.C., June 22, 1973.

HON. WILLIAM E. SIMON,
Deputy Secretary of the Treasury, Department of the Treasury, Washington, D.C.

DEAR BILL: I am extremely concerned about information I have recently received regarding several possible changes that are being contemplated at the present time by the Oil Policy Committee in connection with the petroleum allocation program.

During the first few weeks after your announcement of the voluntary allocation program, there were hopeful signs that the program would be successful. At first a number of refiners indicated to both of us their willingness to cooperate, and your quick actions in issuing regulations and establishing an administrative structure was, in my opinion, a clear indication of the willingness of the Administration to assure that the voluntary program would be workable.

The initial promises of cooperation given by a number of refiners, however, have not been followed up by cooperative action. A large number of independent marketers, both branded and unbranded, still are receiving a lack of commitment by their suppliers to live up to the spirit of the program. While there have been a number of signs of a spirit of cooperation by several major companies, this has been overshadowed by a continuing effort by several companies to thwart, delay, and diminish the effectiveness of the program you announced on May 10, 1973.

Numerous independent marketers are still continuing to go out of business solely because of a lack of supply of gasoline and other petroleum products. In the way of an example of this, I have recently received information indicating that stocks of No. 2 fuel oil currently held by independent marketers in New England represent 50% of what they had on hand during the same period in 1971.

The Office of Oil and Gas in the Department of the Interior has also shown little disposition to enforce the regulations issued by your office, and a shortage of staff and funds has apparently contributed to their inability to handle the present situation. As I understand it, there are presently pending before the Office of Oil and Gas in the neighborhood of 2,000 complaints concerning gasoline supply and that this number is continually increasing.

A further complicating factor is the position taken by several major companies in refusing to comply fully with the voluntary program.

I have been informed that these facts have convinced you that a mandatory oil allocation program must be established in the next few weeks, and I commend and support that decision. I am deeply concerned, however, with reports I have received that the Oil Policy Committee is giving serious consideration to changing the basic structure of the program in a manner in which I am convinced will have a very serious detrimental impact both to the marketing segment of the industry and the consumer.

I understand that you are considering implementing a mandatory allocation program that will, among other things, change the present base period from October 1, 1971 through September 30, 1972 to calendar year 1972, and also redefine the eligibility requirements under the program so that only those marketers purchasing from their supplier on or after April 1, 1973 would be covered under the allocation base period.

I am convinced that if you make these two changes the program will be disastrous. Any mandatory program, if it is to be successful, must be a logical extension of the voluntary allocation system. If the new program is a radical departure from the current one, it will be used by the major suppliers as another excuse to postpone compliance.

I can promise you right now that if you change the allocation base period and redefine by setting a cut-off date who will be eligible for allocations that the same companies who are urging this action now will be the ones to use these changes as an excuse for the destruction of thousands of independent marketers. It is apparent that a number of refiners are attempting to delay and postpone the effective implementation of any workable allocation system. If basic changes in the present program are made, it will only result in more uncertainty and less compliance and more delay.

I am sure that you have been told by a number of representatives of major integrated companies that the present base period for allocations is either unreasonable or difficult to comply with. However, there is great justification in the base period you originally chose in that it was the last period in which so-called normal marketing practices were in evidence. In fact, there was sufficient justification for the base period originally chosen by the Oil Policy Committee to convince the Senate to adopt that same period in S. 1570. One of the major changes in that legislation was a shift of the base period to conform to the voluntary program. This was consciously done so as to avoid any confusion, delay, or non-compliance based on the excuse that a change in the allocation base period required a time period for the industry to readjust.

I also understand that you have recently stated that you are considering the possibility of even eliminating any base period. Such a step in my opinion would be totally unworkable in that it would create chaos in the market-place, destroy confidence in the program, and result in serious competitive injury. A base period is essential to the workability of the allocation program, and it is also essential that after six weeks of operation that the original base period not be changed.

I appreciate and understand your expressed

desire to adopt an allocation system which minimizes the Federal government's role. I am firmly convinced, however, that any allocation system not having a base period will be an administrative nightmare that will prove totally unworkable.

Or just as serious concern is the question of establishing a cut-off date relieving refiners from the obligation to supply marketers even though they were purchasing during the base period. As I understand it, serious consideration is now being given by the Oil Policy Committee of establishing an eligibility requirement wherein only those marketers purchasing product as of April 1, 1973 would receive product as entitled under the base period. Action such as this is incomprehensible.

The destruction to competition as a result of such action is immeasurable. What you are doing in attempting such an approach is such a clear and blatant favoritism to the refining segment of the industry that I find it difficult to even believe that such a course of action is even being seriously contemplated.

The major producers in this country had every reason to realize as early as 1970 that serious supply problems would develop. In August of 1971, the Department of the Interior issued a study on refining capacity in this country clearly documenting the fact that we were developing an enormous deficiency.

In September of 1971, I held hearings on the question of refining capacity, the adequacy of supplies of heating oil, and on the Mandatory Oil Import Quota System. That hearing record documents the fact that there are a number of knowledgeable oil experts in this country and one Senator, having no detailed background on the oil industry, who realized that product shortages would develop in the near future.

In April of last year, I wrote to the Director of the Office of Emergency Preparedness indicating then that fuel oil shortages would develop during the 1972–1973 heating season. And, in fact, it is becoming increasingly more apparent now that the heating oil shortages we *will* experience during the 1973–1974 heating season will be substantially more severe than last. The point is the refining segment of the industry had knowledge of the impending shortages several years ago and, in anticipation of these shortages, began canceling large numbers of petroleum product contracts as early as last fall.

The designation of the April 1, 1973 date is no mere coincidence. I am sure that any cursory investigation will show that many large heating oil contracts in this country expired on March 31 of this year. Also, during this period, a number of major suppliers were withdrawing from several marketing territories and retrenching in others.

If you adopt a cut-off date such as April 1, 1973, this single act will encourage more concentration in this country's domestic petroleum industry than all other Federal policies combined. Our lack of Federal antitrust enforcement with regard to the petroleum industry is a national disgrace. The Oil Import Quota System has now been proven to be a failure almost from the beginning, and, if the Federal government now establishes an allocation program with a safety valve provision such as an April 1, 1973 cutoff date, our present petroleum marketing system will be totally unrecognizable within the next few years.

I cannot emphasize too strongly my feelings with regard to this contemplated action.

In closing, I can only add a personal word of commendation to you for your past actions as Chairman of the President's Oil Policy Committee, and I am sure that when you examine the impact of changing an already established allocation base period and the possibility of a cut-off date that you will agree that these two actions are neither justifiable nor in the public interest.

Sincerely,

THOMAS J. MCINTYRE, U.S.S.,
Chairman, Subcommittee on Financial Institutions.

THE DEPUTY SECRETARY OF THE TREASURY,
Washington, D.C. June 28, 1973.

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

DEAR SENATOR: Thank you for your letter of June 22, 1973. I will be out of town for several days and wanted to respond to your letter as soon as possible. For this reason, I am having this letter hand delivered to you.

I recognize your concern about the operation of the voluntary allocation program. We, too, feel that the program is not working as effectively as it should and are now drafting a mandatory program to take its place. This mandatory program will draw upon our experiences with the voluntary program, as well as the Hearings that were held two weeks ago. Surprisingly, many of the major oil companies have favored a mandatory program, while some independents prefer to keep the program voluntary.

One reason why some refiners have not been able to comply with the voluntary program for the allocation of products is the shortage of low sulfur crude oil. This appears to be a critical bottleneck. Many of the smaller, independent refiners have been unable to obtain low sulfur crude oil, which they must have if they are to operate. A mandatory allocation program will help. However, it will not increase total output, and may actually reduce output. The Nation is faced with a serious shortage of low sulfur crude oil and until we do something about relaxing air quality standards, or slowing the implementation of these standards, this shortage will continue.

The Office of Oil and Gas has very literally been deluged with complaints. It is impossible to start up overnight a major undertaking like the allocation program. It will take time to create the administrative apparatus required by an allocation program, whether it is voluntary or mandatory.

Let me turn to our current plans for modifying the program. Please bear in mind that what I say is subject to change.

It is clear that one of the basic problems with which we are faced concerns the appropriate base period. A base period relatively distant in the past will assure an adequate level of crude oil and product to the independent segment of the industry. However, at the same time, it causes extraordinary administrative difficulties. There are many instances where, for example, retail outlets which sold the product of one major oil company are now selling the products of another. To require producers to go back to a distant period to re-establish out-of-date supply relationships could create administrative chaos. This is one reason why several major oil companies have refused to adhere to the voluntary allocation program.

In our current thinking, we have tried to resolve this problem by defining two base periods. First, the base period which shall determine the amount of product supplied to marketers and wholesale customers not affiliated with the major oil companies would be the Calendar Year 1972, and not the last quarter of 1971 and the first three quarters of 1972 specified in the voluntary program. We have made this change for several reasons. Most oil companies, whether majors or independents, have used the calendar year for bookkeeping purposes. Moreover, most companies have chosen to use the calendar year rather than the slightly different period specified in the voluntary program.

Use of the calendar year would involve minimal change from what actually has taken place. It would also involve minimal delay in implementing the mandatory program. There will, however, be a major difference in the way the allocation programs of the major oil companies will operate. Instead of curtailing the 1972 allocations of major company outlets by, let us say, 10 percent and the 1972 allocations of the independent outlets by 80 to 100 percent, the major companies will now be required to curtail evenly across the board. I cannot stress too strongly, however, that use of the 1972 base period rather than the 1971–1972 base period specified in the voluntary program is an essential improvement in the program. It enables the program to better reflect industry practices.

The 1972 base period will determine the level of allocation for independent marketers and other consumers not associated with the major oil companies. We are also considering another base period that would determine which suppliers would be responsible for distributing products to marketers. The date which we have chosen tentatively is March 1973, not April or the period following April which you mention in your letter. In fact, at no time have we considered a post March period precisely for the reason you mention—after April 1, a number of long standing contractual relationships were suspended.

Companies which supplied a particular marketer in March 1973 will be required to continue to supply that marketer for the duration of the allocation program and at levels equivalent to 1972 purchases. It is important to choose as late a date as possible for determining supplier-consumer relationships in order to avoid widespread disruption in the industry.

In addition, we are expanding our list of priorities to include those marketers, distributors, jobbers, and other non-affiliated purchasers who, for some reason, are inadequately supplied under the allocation program. If it turns out that a particular marketer had no supplier in March 1973, he will be able to apply to the Office of Oil and Gas for a priority allocation.

This, in a nutshell, is the program we are considering at present. I hope that this description removes some confusion about the proposed program.

Let me address myself to another matter. Allocation will not solve our nation's energy problems over the long run. In allocating crude oil and product, we have a situation not unlike the passengers on a sinking ship fighting for top position on the mast head. Unless we increase production, we shall all sink sooner or later. This is why it is so important that the Administration and Congress work together to solve the long-run difficulties, particularly the shortfall in production of oil and gas, with which our nation is faced.

As you know, during the past two months there have been a number of announcements by major and independent oil companies of plans to build new refineries or to expand existing refineries. Unfortunately, several recent developments may jeopardize some of these plans. One of these developments is proposed legislation that would require divestiture by integrated oil companies of their marketing operations. This legislation is particularly likely to cause difficulties in New England where a number of independent marketers now plan to build refineries, in effect becoming integrated oil companies. We have received an expression of deep concern from one of these marketers that this legislation would, in effect, prevent him from entering the refinery business. I would hope that the Congress would consider carefully

the adverse impact that such legislation would have on needed expansion of the industry.

In closing, let me restate my firm conviction that the independent segment of the industry must be preserved and that an allocation program must be established, whether voluntary or mandatory, that assures that this segment of the industry obtains the crude oil and products that it needs. Let me also restate my firm conviction that allocation alone is not the answer. We must expand our output of crude oil and products, as well as all other energy sources, if we are to supply the energy needs of the country, and we should not act in ways that may redistribute oil in the short-run, but which will worsen the oil shortages that now confront the nation.

Sincerely,

WILLIAM E. SIMON.

[From Oilgram, July 16, 1973]

FUEL SHORTAGE PROBLEMS WORSENING, INTERIOR SAYS

WASHINGTON July 15.—Latest assessments of nationwide fuel supply situation by Interior Dept.'s Office of Oil & Gas indicate that fuel shortages are continuing to worsen in most geographic and user categories, but that growth rate of shortages seems to be slowing.

Oil & Gas office also reports there is strong possibility of serious shortages developing this winter in supplies of heating oil and diesel and aviation fuels.

Voluntary petroleum allocation program national office has 2,063 active cases of customer complaints on file, broken down as 1,221 gasoline, 583 diesel, 121 heating oil, 100 propane, 9 crude, 11 natural gas and 18 miscellaneous.

Profile of complaints according to users, OOG says, shows 990 are independent retailers, 545 agricultural, 239 transportation, 168 governmental and 121 industrial.

States currently most affected by shortages are Colorado, Illinois, Iowa, Kansas, Missouri, Nebraska, New York, New Jersey, North Carolina, Pennsylvania and Texas, office says.

OOG summaries of regional supply situations are as follows:

Northeast—Independent operators continue to be "seriously affected" by gasoline shortage. Most complaints in area are based on refusals of suppliers to renew contracts. Prices of 50¢/gal for gasoline are reported in some areas.

Southeast—General shortages are reported for No. 2 fuel oil and propane. Natural gas curtailments are widespread, placing pressure on fuel oil supplies.

Midwest—This is worst area of country with respect to fuel shortages. OOG regional office reports "great number" of calls daily from farmers unable to obtain gasoline and diesel fuel. Many municipalities have been unable to fill winter heating fuel contracts.

South Central—General easing of shortages are reported, with exceptions in Texas and New Mexico, Oklahoma wheat farmers are still running short, however.

West Coast—Harvesting and planting operations are experiencing supply problems, and large number of complaints are being received against intermediate independent suppliers who are reportedly refusing to share tightened supplies.

OOG analysts report three major problems currently contributing to increase in number of fuel supply incidents and creating general consensus that voluntary program is not working (see 7/6 Platt's OILGRAM News).

First, officials complain that regional voluntary program offices are understaffed and are unable to handle volume of complaints, thus placing greater pressure on national office.

Second, OOG says, massive publicity campaigns by both government and oil industry have failed to encourage conservation of gasoline. Consumption is at all-time high.

Third, analysis of complaints, officials say, indicates there is confusion among consumers and suppliers concerning amount of fuel to be allocated under base period in voluntary program guidelines.

There is also, officials say, general uncertainty over future of voluntary program itself.

Regarding base period confusion, OOG says that "in many cases, fuel allotments based on this period are insufficient for increased business requirements and do not allow for instances of unusually low purchases during the base period.

"In addition, many petroleum product customers believe that one of the effects of VPAP has been a sharp reduction in contract bidding and the opportunity for business expansion and growth as many suppliers are refusing to bid on or renew contracts."

While OOG attempts to grapple with summer fuel problems, heating oil appears to be developing into full-scale problem for upcoming winter.

Many electric utilities have been unable to get suppliers to bid on contracts for winter requirements, and manufacturing plants previously gas-fueled are having trouble finding alternate fuel sources, OOG reports.

In addition, office says, availability of jet and diesel fuel for winter "is of great concern to the (transportation) industry."

[From the Oil Daily, July 16, 1973]

NORTHEAST FUEL CRISIS SEEN IF MANDATORY RULES ARE NIXED

(By Jim Drummond)

HOUSTON.—The Northeast U.S. faces a fuel oil catastrophe this winter unless refined products are allocted on a mandatory basis the president of Northeast Petroleum Industries, Inc., Boston, warned at weekend.

John Kaneb released survey findings that some 18,000,000 barrels of storage owned by members of the Independent Fuel Terminal Operators Association contained only 1.3 million barrels of fuel oil July 1 compared with 3,700,000 a year ago.

He accused major suppliers of withholding domestic production from traditional customers and squirreling it away in their own systems.

Kaneb, also vice president of the association, based in Washington, D.C., said it's already too late to hand all the East Coast fuel oil business to the big branders, even if that were somebody's plan.

"Association companies normally handle about 25 percent of the Northeast's fuel oil distribution," he said. "So a sudden change to the majors would require a massive switch in customer affiliations and facilities like tanks and trucks. And what would happen to the personnel involved?

It's not just a bookkeeping or statistical problem. Kaneb emphasized: "The welfare of real people is at stake."

If failure to allocate fuel oils equitably should create a massive shortage, as would appear likely, he said, the government will have to act on an emergency basis and the action will be much more drastic than any contemplated now.

"The problem is approaching with the speed of an express train," he added.

Kaneb said it was his impression nearly everyone favors mandatory controls excepting one or two government officials. He said two or more suppliers might have some reservations, though—"fears they might have to return to some of the marketing areas they had abandoned."

FAIR LABOR STANDARDS AMENDMENTS OF 1973

The PRESIDING OFFICER (Mr. JOHNSTON). Under the previous order, the Senate will proceed to the consideration of S. 1861 which the clerk will report by title.

The assistant legislative clerk read as follows:

A bill (S. 1861) to amend the Fair Labor Standards Act of 1938, as amended, to extend its protection to additional employees, to raise the minimum wage to $2.20 an hour, and for other purposes.

The Senate proceeded to consider the bill which had been reported from the Committee on Labor and Public Welfare with amendments on page 2, line 1, after the word "United", strike out "States and" and insert "States"; in line 2, after the word "a", strike out "State," and insert "State and any agency or instrumentality thereof or interstate governmental agency,"; in line 11, after the word "a", strike out "babysitter), and in" and insert "babysitter) except that such term shall not, for the purposes of section 3(u) include any individual employed by an employer engaged in agriculture if such individual is the parent, spouse, child, or other member of the employer's immediate family. In"; in line 16, after the word "States", insert "the term 'employee' "; in line 19, after the word "agencies", strike out "(other than the General Accounting Office)"; in line 23, after the word "Commission", strike out "(4) in those units of the government of the District of Columbia having positions in the competitive service, (5)" and insert "(4)"; on page 3, at the beginning of line 3, strike out "(6)" and insert "(5)"; in the same line, after the word "of", strike out "Congress, and in the case of any individual employed by any State or a political subdivision of any State means any employee holding a position comparable to one of the positions enumerated for individuals employed by the United States, except that such terms shall not, for the purposes of section 3(u) include any individual employed by an employer engaged in agriculture if such individual is the parent spouse, child, or other member of the employer's immediate family," and insert "Congress. In the case of any individual employed by a State, or the political subdivision of any State, or an interstate governmental agency the term 'employee' shall include any employee of that State, political subdivision, or agency but the term shall not include any individual elected to public office in any State or political subdivision of any State by the qualified voters thereof or any person chosen by such officer to be on such officers' personal staff, or an appointee on the policymaking level or an immediate adviser with respect to the exercise of the constitutional or legal powers of the office. The exemption set forth in the preceding sentence shall not include employees subject to the civil service laws of a State government or political subdivision or applicable to an interstate governmental agency"; on page 4, line

15, after the word "apply", insert "with respect to any tipped employee"; in line 16, after "(1)", insert "such employee has been informed by"; at the beginning of line 17, strike out "has informed each of his tipped employees"; in line 18, after the word "by", strike out "any"; in the same line, after the word "such", strike out "employees" and insert "employee"; in line 19, after the word "by", strike out "such tipped employees" and insert "the employee, except that nothing herein shall prohibit the pooling of tips among employees who customarily and regularly receive tips"; on page 5, line 10, after the word "amended", strike out "(A)"; in line 11, after the word "enterprise", strike out "the parenthetical clause" and insert "and preceding subparagraph (1) the following:"; in line 15, after the word "any", strike out "State)", (B) by striking the word "employees" the first two times it appears in such sentence, and inserting in lieu thereof the words "any employee" and insert "State), which has employees engaged in commerce or in the production of goods for commerce, or employees handling, selling, or otherwise working on goods or materials that have been moved in or produced for commerce by any person, and which—"; in line 24, after the word "regular", strike out "employee" and insert "employees"; on page 6, after line 3, insert:

(g) Section 4 of such Act is amended by adding at the end thereof the following new subsection:

"(f) The Secretary is authorized to enter into an agreement with the Librarian of Congress with respect to any individual employed in the Library of Congress, to provide for the carrying out of his functions under this Act with respect to such individuals. Notwithstanding any other provision of this Act, or any other law, the Civil Service Commission is responsible for administering the provisions of this Act with respect to any individual employed by the United States (other than an individual employed in the United States Postal Service and Postal Rate Commission). Nothing in this subsection shall be construed to affect the right of an employee to bring an action for unpaid minimum wages, or unpaid overtime compensation, and liquidated damages under section 16(b) of this Act.".

At the beginning of line 20, strike out "(g)" and insert "(h)"; on page 8, line 7, after the word "words", strike out "or" and insert "title IX of the Education Amendments of 1972, or"; on page 21, line 7, after the word "exceed", strike out "eight." and insert "eight; or"; after line 7, insert:

"(21) any employee who is employed with his spouse by a nonprofit education institution to serve as the parents of children—

"(A) who are orphans or one of whose natural parents is deceased, and

"(B) who are enrolled in such institution and reside in residential facilities of the institution, while such children are in residence at such institution, if such employee and his spouse reside in such facilities, receive, without cost, board and lodging from such institution, and are together compensated, on a cash basis, at an annual rate of not less than $10,000."

On page 22, at the beginning of line 21, insert "Title IX of the Education Amendments of 1972,"; at the top of page 23, insert a new section, as follows:

PENALTIES

SEC. 8. (a) The second sentence of section 16(b) of the Fair Labor Standards Act of 1938, as amended, is amended to read as follows: "Action to recover such liability may be maintained against any employer (including a State or a political subdivision of a State) in any Federal or State court of competent jurisdiction by any one or more employees for and in behalf of himself or themselves and other employees similarly situated.".

At the beginning of line 10, strike out "Sec. 8." and insert "(b)"; in the same line, after the word "first", strike out "two" and insert "three"; in line 11, after the word "of", strike out "the Fair Labor Standards Act of 1938, as amended" and insert "such"; in line 15, after the word "under", strike out "section" and insert "sections"; on page 24, at the beginning of line 1, strike out "damages." and insert "damages. The right provided by subsection (b) to bring an action by or on behalf of any employee and of any employee to become a party plaintiff to any such action shall terminate upon the filing of a complaint by the Secretary of Labor in an action under this subsection in which a recovery is sought of unpaid wages or unpaid overtime compensation under sections 6 and 7 or other damages provided by this subsection owing to such employee by an employer liable under the provision of subsection (b), unless such action is dismissed without prejudice on motion of the Secretary;" on page 24, line 21, after the word "considered", strike out "The amount of such penalty, when finally determined may be deducted from any sums owing by the United States to the person charged" and insert "The amount of such penalty when finally determined, may be—"; at the top of page 25, insert:

(1) deducted from any sums owing by the United States to the person charged; or

(2) recovered in a civil action brought by the Secretary in any court of competent jurisdiction, in which litigation the Secretary shall be represented by the Solicitor of Labor; or

(3) ordered by the court, in an action brought under section 15(a)(4), to be paid to the Secretary.

Any administrative determination by the Secretary of the amount of such penalty shall be final, unless within fifteen days after receipt of notice thereof by certified mail the person charged with the violation takes exception to the determination that the violations for which the penalty is imposed occurred, in which event final determination of the penalty shall be made in an administrative proceeding after opportunity for hearing in accordance with section 554 of title 5, United States Code, and regulations to be promulgated by the Secretary. Sums collected as penalties pursuant to this section shall be applied toward reimbursement of the costs of determining the violations and assessing and collecting such penalties, in accordance with the provisions of section 2 of an Act entitled "An Act to authorize the Department of Labor to make special statistical studies upon payment of the cost thereof, and for other purposes" (48 Stat. 582).

On page 27, line 8, after the word "State", where it appears the second time, insert a comma and "any interstate agency,"; after line 16, insert:

(3) Section 11(f) of such Act is amended to read as follows:

"(f) The term 'employee' means an individual employed by any employer except that the term 'employee' shall not include any person elected to public office in any State or political subdivision of any State by the qualified voters thereof, or any person chosen by such officer to be on such officer's personal staff, or an appointee on the policy making level or an immediate advisor with respect to the exercise of the constitutional or legal powers of the office. The exemption set forth in the preceding sentence shall not include employees subject to the civil service laws of a State government, governmental agency, or political subdivision.".

(4) Section 16 of such Act is amended by striking the figure "$3,000,000", and inserting in lieu thereof "$5,000,000".

On page 28, line 23, after the word "agencies," strike out "(other than the General Accounting Office)"; on page 29, line 3, after the word "in", insert "those units in"; on page 30, line 2, strike out "age." and insert "age; and"; after line 2, insert:

"(3) provide for the acceptance and processing of complaints of discrimination in Federal employment on account of age.

At the beginning of line 8, insert "of the Civil Service Commission"; on page 31, after line 13, insert a new section, as follows:

CERTAIN CIVIL ACTIONS PRESERVED

SEC. 13. (a) Section 6 of the Portal-to-Portal Pay Act of 1947 is amended by striking out the period at the end of such section and by inserting in lieu thereof a semicolon and by adding at the end thereof the following:

"(d) with respect to any cause of action brought under section 16(b) of the Fair Labor Standards Act of 1938, as amended, against a State or a political subdivision of a State in a district court of the United States on or before April 18, 1973, the running of the statutory periods of limitation shall be deemed suspended during the period beginning with the commencement of any such action and ending one hundred and eighty days after the effective date of the Fair Labor Standards Amendments of 1973, except that such suspension shall not be applicable if in such action judgment has been entered for the defendant on grounds other than State immunity from Federal jurisdiction.".

(b) Section 11 of such Act is amended by deleting "(b)" after "section 16".

On page 32, after line 8, insert a new section, as follows:

ECONOMIC EFFECTS STUDIES

SEC. 14. (a) The Secretary shall conduct studies—

(1) on the economic effects of the changes in minimum wage and overtime coverage made by this Act, and

(2) on the justification or lack thereof for each of the special exemptions set forth in section 13(a) and 13(b) of the Fair Labor Standards Act of 1938, as amended by this Act.

The Secretary shall submit a report of his findings and recommendations to the Congress with respect to the studies under clause (1) of the preceding sentence, not later than January 1, 1975, and with respect to the studies under clause (2) of that sentence, not later than January 1, 1976.

(b) There are authorized to be appropriated for the purpose of conducting the studies required by this section such sums

as are necessary for the period beginning on the date of enactment of this Act and ending January 1, 1976.

And, on page 33, at the beginning of line 4, change the section number from "13" to "15"; so as to make the bill read:

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

DEFINITION AND APPLICABILITY TO PUERTO RICO AND THE VIRGIN ISLANDS

SEC. 2. (a) Section 3(d) of the Fair Labor Standards Act of 1938, as amended, is amended to read as follows:

"(d) 'Employer' includes any person acting directly or indirectly in the interest of an employer in relation to an employee, including the United States, any State or political subdivision of a State and any agency or instrumentality thereof or interstate governmental agency, but shall not include any labor organization (other than when acting as an employer), or anyone acting in the capacity of officer or agent of such labor organization."

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

"(e) 'Employee' means any individual employed by an employer, including any individual employed in domestic service (other than a babysitter) except that such term shall not, for the purposes of section 3(u) include any individual employed by an employer engaged in agriculture if such individual is the parent, spouse, child, or other member of the employer's immediate family. In the case of any individual employed by the United States the term 'employee' means any individual employed (1) as a civilian in the military departments as defined in section 102 of title 5, United States Code, (2) in executive agencies as defined in section 105 of title 5, United States Code (including employees who are paid from nonappropriated funds), (3) in the United States Postal Service and the Postal Rate Commission, (4) in those units of the legislative and judicial branches of the Federal Government having positions in the competitive service, and (5) in the Library of Congress. In the case of any individual employed by a State, or the political subdivision of any State, or an interstate governmental agency the term 'employee' shall include any employee of that State, political subdivision, or agency but the term shall not include any individual elected to public office in any State or political subdivision of any State by the qualified voters thereof or any person chosen by such officer to be on such officers' personal staff, or an appointee on the policy-making level or an immediate advisor with respect to the exercise of the constitutional or legal powers of the office. The exemption set forth in the preceding sentence shall not include employees subject to the civil service laws of a State government or political subdivision or applicable to an interstate governmental agency."

(c) Section 3(h) of such Act is amended to read as follows:

"(h) 'Industry' means a trade, business, industry, or other activity, or branch or group thereof, in which individuals are gainfully employed.".

(d) The last sentence of section 3(m) is amended to read as follows: "In determining the wage of a tipped employee, the amount paid such employee by his employer shall be deemed to be increased on account of tips by an amount determined by the employer, but not by an amount in excess of 50 per centum of the applicable minimum wage rate, except that the amount of the increase on account of tips determined by the employer may not exceed the value of tips actually received by the employee. The previous sentence shall not apply with respect to any tipped employee unless (1) such employee has been informed by the employer of the provisions of this section, and (2) all tips received by such employee have been retained by the employee, except that nothing shall prohibit the pooling of tips among employees who customarily and regularly receive tips."

(e)(1) The first sentence of section 3(r) of such Act is amended by inserting after the word "whether", the words "public or private or conducted for profit or not for profit, or whether".

(2) The second sentence of such subsection is amended to read as follows: "For purposes of this subsection, the activities performed by any person or persons in connection with the activities of the Government of the United States or of any State or political subdivision of any State shall be deemed to be activities performed for a business purpose.".

(f)(1) The first sentence of section 3(s) of such Act is amended by inserting after the words "means an enterprise", and preceding subparagraph (1) the following: "(whether public or private or operated for profit or not for profit and including activities of the Government of the United States or of any State or political subdivision of any State), which has employees engaged in commerce or in the production of goods for commerce, or employees handling, selling, or otherwise working on goods or materials that have been moved in or produced for commerce by any person, and which—"

(2) The last sentence of section 3(s) of such Act is amended to read as follows: "Any establishment which has as its only regular employees the owner thereof or the parent, spouse, child, or other member of the immediate family of such owner shall not be considered to be an enterprise engaged in commerce or in the production of goods for commerce or a part of such an enterprise.".

(g) Section 4 of such Act is amended by adding at the end thereof the following new subsection:

"(f) The Secretary is authorized to enter into an agreement with the Librarian of Congress with respect to any individual employed in the Library of Congress, to provide for the carrying out of his functions under this Act with respect to such individuals. Notwithstanding any other provision of this Act, or any other law, the Civil Service Commission is responsible for administering the provisions of this Act with respect to any individual employed by the United States (other than an individual employed in the United States Postal Service and Postal Rate Commission). Nothing in this subsection shall be construed to affect the right of an employee to bring an action for unpaid minimum wages, or unpaid overtime compensation, and liquidated damages under section 16(b) of this Act.".

(h) Section 5 of such Act is amended by adding at the end the following new subsections:

"(e) The provisions of this section and section 8 shall not apply with respect to the minimum wage rate of any employee in Puerto Rico or the Virgin Islands employed (1) by an establishment which is a hotel, motel, or restaurant, (2) by any other retail or service establishment if such employee is employed primarily in connection with the preparation or offering of food or beverages for human consumption, either on the premises, or by such services as catering, banquet, box lunch, or curb or counter service, to the public, to employees, or to members or guests of members of clubs, or (3) by any employer which is a State or a political subdivision of any State. The minimum wage rate of such an employee shall be determined in accordance with sections 6 (a) or (b), 13, and 14 of this Act.

"(f) The provisions of this section and section 8 shall not operate to permit a wage order rate lower than that which would result under the provisions of section 6(c).".

MINIMUM WAGES

SEC. 3. (a) Section 6(a)(1) of the Fair Labor Standards Act of 1938, as amended, is amended to read as follows:

"(1)(A) not less than $2.00 an hour during the first year from the effective date of the Fair Labor Standards Amendments of 1973, and

"(B) not less than $2.20 an hour thereafter."

(b) Section 6(a)(5) of such Act is amended to read as follows:

"(5) if such employee is employed in agriculture, not less than $1.60 an hour during the first year from the effective date of the Fair Labor Standards Amendments of 1973, not less than $1.80 an hour during the second year from such date, not less than $2.00 an hour during the third year from such date, and not less than $2.20 an hour thereafter."

(c) Section 6(b) of such Act is amended—

(1) by inserting after the words "Fair Labor Standards Amendments of 1966,", the words "title IX of the Education Amendments of 1972, or the Fair Labor Standards Amendments of 1973,";

(2) by striking out paragraphs (1) through (5) thereof and inserting in lieu thereof the following:

"(1) not less than $1.80 an hour during the first year from the effective date of the Fair Labor Standards Amendments of 1973;

"(2) not less than $2.00 an hour during the second year from such date; and

"(3) not less than $2.20 an hour thereafter.".

(d) Section 6(c) is amended by striking out paragraphs (2), (3), and (4) and inserting in lieu thereof the following:

"(2) In the case of any such employee who is covered by such a wage order to whom the rate or rates prescribed by subsection (a) or (b) would otherwise apply the following rates shall apply:

"(A) During the first year from the effective date of the Fair Labor Standards Amendments of 1973, for any employee whose highest rate is less than $0.80 an hour, such rate shall not be less than $1.00 an hour.

"(B) During the first year from the effective date of the Fair Labor Standards Amendments of 1973, for any employee whose highest rate is $0.80 an hour or more, such rate shall be the highest rate or rates in effect on or before such date under any wage order covering such employee, increased by $0.20.

"(C) During the second year from the effective date of the Fair Labor Standards Amendments of 1973, and in each year thereafter, the highest rate or rates (including any increase prescribed by this paragraph) in effect on or before such date, under any wage order covering such employee, increased by $0.20 in each year.

"(D) Whenever the rates prescribed by subparagraph (C) would otherwise equal or exceed the rates prescribed in section 6 (a), the provisions of such section shall apply thereafter.

"(3)(A) In the case of any such employee to whom this subsection was made applicable by the Fair Labor Standards Amendments of 1973, the Secretary shall, as soon as practicable after the date of enactment of such amendments, appoint a special industry committee in accordance with section 5. Such industry committee shall recommend a minimum wage rate of $1.60, unless there is substantial documentary evidence, including pertinent unabridged profit and loss statements and balance sheets for a representative period of years, in the record which establishes that the industry, or a predominant portion thereof, is unable to pay that wage. In no event shall any industry committee recommend a minimum wage

rate less than the rate prescribed in paragraph (2)(A) of this subsection. Any rate recommended by the special industry committee within sixty days after the effective date of the Fair Labor Standards Amendments of 1973 shall be effective with respect to such employee upon the effective date of the wage order issued pursuant to such recommendation, but not before sixty days after the effective date of the Fair Labor Standards Amendments of 1973.

"(B) Upon the issuance of the wage order required by subparagraph (A) of this paragraph, the provisions of paragraph (2) shall apply.

"(4) In the case of any employee employed in agriculture who is covered by a wage order issued by the Secretary pursuant to the recommendations of a special industry committee appointed pursuant to section 5 and whose hourly wage is increased above the wage rate prescribed by such wage order by a subsidy (or income supplement) paid, in whole or in part, by the government of Puerto Rico, the following rates shall apply:

"(A) The rate or rates applicable under the most recent such wage order issued by the Secretary increased by (i) the amount by which such employee's hourly wage is increased above such rate or rates by the subsidy (or other income supplement), and (ii) $0.20.

"(B) Beginning one year after the effective date of the Fair Labor Standards Amendments of 1973, the provisions of subparagraph 2(C) and 2(D) of this subsection shall apply.".

(e) Section 6(e) is amended to read as follows:

"(e) Notwithstanding the provisions of section 13 of this Act (except subsections (a)(1) and (f) thereof), every employer providing any contract services under a contract with the United States or any subcontract thereunder shall pay to each of his employees whose rates of pay is not governed by the Service Contract Act of 1965 (41 U.S.C. 351–357), as amended, or to whom subsection (a) of this section is not applicable, wages at rates not less than the rates provided for in subsection (b) of this section.".

(f) Section 6 of such Act is amended by adding at the end thereof the following new subsection:

"(f) Every employer who in any workweek employs any employee in domestic service in a household shall pay such employee wages at a rate not less than the wage rate in effect under subsection (b) of this section, unless such employees compensation for such service would not, as determined by the Secretary, constitute 'wages' under section 209 of the Social Security Act.".

MAXIMUM HOURS

SEC. 4. (a) Section 7 of the Fair Labor Standards Act of 1938, as amended, is amended by striking out subsections (a), (c), and (d) and inserting in lieu thereof the following new subsection (a):

"(a) No employer shall employ any of his employees who in any workweek is engaged in commerce or in the production of goods for commerce, or is employed in an enterprise engaged in commerce or in the production of goods for commerce, for a workweek longer than forty hours unless such employee receives compensation for his employment in excess of the hours above specified at a rate not less than one and one-half times the regular rate at which he is employed.".

(b)(1) Subsections (e), (f), (g), (h), (i), and (j) of section 7 of such Act, are redesignated as subsections (c), (d), (e), (f), (g), and (h), respectively.

(2) Subsection (e) (as redesignated by paragraph (1)) of section 7 of such Act is amended by striking out "(e)" in the text of such subsection (e) and inserting in lieu thereof "(c)".

(3) Subsection (f) (as redesignated by paragraph (1)) of section 7 of such Act is amended by striking out "(e)" in the text of such subsection (f) and inserting in lieu thereof "(c)".

(c) Section 7 of such Act is amended by adding at the end thereof the following new subsections:

"(i) No State or political subdivision of a State shall be deemed to have violated subsection (a) with regard to any employee engaged in fire protection or law enforcement activities (including security personnel in correctional institutions) if, pursuant to an agreement or understanding arrived at between the employer and the employee before performance of the work, a work period of twenty-eight consecutive days is accepted in lieu of the workweek of seven consecutive days for purposes of overtime computation and if the employee receives compensation at a rate not less than one and one-half times the regular rate at which he is employed for his employment in excess of—

"(1) one hundred and ninety-two hours in each such twenty-eight day period during the first year from the effective date of the Fair Labor Standards Amendments of 1973;

"(2) one hundred and eighty-four hours in each such twenty-eight day period during the second year from such date;

"(3) one hundred and seventy-six hours in each such twenty-eight day period during the third year from such date;

"(4) one hundred and sixty-eight hours in each such twenty-eight day period during the fourth year from such date; and

"(5) one hundred and sixty hours in each such twenty-eight day period thereafter.

"(j) In the case of an employee of an employer engaged in the business of operating a street, suburban or interurban electric railway, or local trolley or motorbus carrier (regardless of whether or not such railway or carrier is public or private or operated for profit or not for profit) in determining the hours of employment of such an employee to which the rate prescribed by subsection (a) applies there shall be excluded the hours such employee was employed in charter activities by such employer if (1) the employee's employment in such activities was pursuant to an agreement or understanding with his employer arrived at before engaging in such employment, and (2) if employment in such activities is not part of such employee's regular employment.

PROOF OF AGE REQUIREMENT

SEC. 5. Section 12 of the Fair Labor Standards Act of 1938, as amended, is amended by adding at the end thereof the following new subsection:

"(d) In order to carry out the objectives of this section, the Secretary may by regulation require employers to obtain from any employee proof of age."

EXEMPTIONS

SEC. 6. (a)(1) Section 13(a)(1) of such Act is amended by striking out everything after the words "Administrative Procedure Act" and before "; or".

(2) Section 13(a)(2) of such Act is amended to read as follows:

"(2) any employee employed by any retail or service establishment (except an establishment or employee engaged in laundering, cleaning, or repairing clothing or fabrics or an establishment engaged in the operation of a hospital, institution, or school described in section 3(s)(4)), if more than 50 per centum of such establishment's annual dollar volume of sales of goods or services is made within the State in which the establishment is located, and such establishment is not in an enterprise described in section 3(s). A retail or service establishment means an establishment 75 per centum of whose annual dollar volume of sales of goods or services (or of both) is not for resale and is recognized as retail sales or services in the particular industry; or".

(3) Sections 13(a)(4), and 13(a)(11) of such Act, relating to employees employed by retail and service establishments, are hereby repealed.

(4) Section 13(a)(6) of such Act, relating to employees employed in agriculture, is amended (A) by striking out clause (C) thereof, (B) by striking out in clause (D) thereof "(other than an employee described in clause (C) of this subsection)", and (C) by redesignating clauses (D) and (E) thereof as clauses (C) and (D), respectively.

(5) Section 13(a)(9) of such Act, relating to employees employed by motion picture theater establishments, is hereby repealed.

(6) Section 13(a)(13) of such Act, relating to employees of logging and sawmill operations, is hereby repealed.

(7) Section 13(a)(14) of such Act, relating to agricultural employees, engaged in the harvesting and processing of shade-grown tobacco, is hereby repealed.

(8) Sections 13(a)(5), 13(a)(6), 13(a)(7), 13(a)(8), 13(a)(10), and 13(a)(12) are redesignated as sections 13(a)(4), 13(a)(5), 13(a)(6), 13(a)(7), 13(a)(8), and 13(a)(9), respectively.

(9) Section 13(a)(9) (as redesignated by the preceding paragraph) is amended by striking out the semicolon and the word "or" and inserting in lieu thereof a period.

(b)(1) Section 13(b)(2) of such Act, relating to railroad and pipeline employees, is amended by inserting the words "engaged in the operation of a common carrier by rail and" following the word "employer".

(2) Section 13(b)(4) of such Act, relating to fish and seafood processing employees, is hereby repealed.

(3)(A) Effective sixty days after the date of enactment of the Fair Labor Standards Amendments of 1973, section 13(b)(7) of such Act, relating to employees of street, suburban or interurban electric railways, or local trolley or motorbus carriers, is amended by striking out ", if the rates and services of such railway or carrier are subject to regulation by a State or local agency" and inserting in lieu thereof the following: "(regardless of whether or not such railway or carrier is public or private or operated for profit or not for profit), and if such employee receives compensation for employment in excess of forty-eight hours in any workweek at a rate not less than one and one-half times the regular rate at which he is employed".

(B) Effective one year after such date, such paragraph is amended by striking out "forty-eight hours" and inserting in lieu thereof "forty-four hours".

(C) Effective two years after such date, such paragraph is repealed.

(4) Section 13(b)(8) of such Act, relating to employees employed by hotels, motels, restaurants, or nursing homes, is amended to read as follows:

"(8)(A) any employee who is employed by an establishment which is a hotel, motel, or restaurant and receives compensation at a rate not less than one and one-half times the regular rate at which he is employed for his employment in excess of (i) forty-eight hours in any workweek during the first year from the effective date of the Fair Labor Standards Amendments of 1973, and (ii) forty-six hours in any workweek thereafter; or (B) any employee who is employed by an establishment which is an institution (other than a hospital) primarily engaged in the care of the sick, the aged, or the mentally ill or defective who reside on the premises, and receives compensation at a rate not less than one and one-half times the regular rate at which he is employed for his employment in excess of (i) forty-eight hours in any workweek during the first year from the effective date of the Fair Labor Standards Amendments of 1973, (ii) forty-six hours in any workweek during the second year from the effective date of the Fair Labor Standards

Amendments of 1973, and (ii) forty-four hours in any workweek thereafter; or".

(5) Section 13(b)(10) of such Act, relating to employees employed as salesmen, partsmen, or mechanics by automobile, trailer, truck, farm implement, or aircraft dealers, is amended to read as follows:

"(10) any salesman, partsman, or mechanic primarily engaged in selling or servicing farm implements or any salesman primarily engaged in selling automobiles, trailers, or trucks if employed by a nonmanufacturing establishment primarily engaged in the business of selling such vehicles to ultimate purchasers; or".

(6) Section 13(b)(15) of such Act is amended to read as follows:

"(15) any employee engaged in the processing of maple sap into sugar (other than refined sugar) or syrup; or".

(7)(A) Effective sixty days after the date of enactment of the Fair Labor Standards Amendments of 1973, section 13(b)(18) of such Act, relating to employees of catering establishments, is amended by inserting immediately before the semicolon the following: "and receives compensation for employment in excess of forty-eight hours in any workweek at a rate not less than one and one-half times the regular rate at which he is employed".

(B) Effective one year after such date such paragraph is amended by striking out "forty-eight hours" and inserting in lieu thereof "forty-four hours".

(C) Effective two years after such date such paragraph is repealed.

(8)(A) Effective one year after the effective date of the Fair Labor Standards Amendments of 1973, section 13(b)(19) of such Act, relating to employees of bowling establishments, is amended by striking out "forty-eight hours" and inserting in lieu thereof "forty-four hours."

(B) Effective one year after such date such paragraph is repealed.

(9) Sections 13(b)(5), 13(b)(6), 13(b)(7), 13(b)(8), 13(b)(9), 13(b)(10), 13(b)(11), 13(b)(12), 13(b)(13), 13(b)(14), 13(b)(15), 13(b)(16), 13(b)(17), 13(b)(18), and 13(b)(19), are redesignated as sections 13(b)(4), 13(b)(5), 13(b)(6), 13(b)(7), 13(b)(8), 13(b)(9), 13(b)(10), 13(b)(11), 13(b)(12), 13(b)(13), 13(b)(14), 13(b)(15), 13(b)(16), 13(b)(17), and 13(b)(18), respectively.

(10) Section 13(b)(18) (as redesignated by the preceding paragraph) is amended by striking out the period and inserting in lieu thereof a semicolon and the word "or".

(11) Section 13(b) of such Act is amended by adding at the end thereof the following new paragraphs:

"(19) any employee who in any workweek is employed in domestic service in a household; or

"(20) any employee employed in planting or tending trees, cruising, surveying, or felling timber, or in preparing or transporting logs or other forestry products to the mill, processing plant, railroad, or other transportation terminal, if the number of employees employed by his employer in such forestry or lumbering operations does not exceed eight; or

"(21) any employee who is employed with his spouse by a nonprofit education institution to serve as the parents of children—

"(A) who are orphans or one of whose natural parents is deceased, and

"(B) who are enrolled in such institution and reside in residential facilities of the institution, while such children are in residence at such institution, if such employee and his spouse reside in such facilities, receive, without cost, board and lodging from such institution, and are together compensated, on a cash basis, at an annual rate of not less than $10,000."

(c) Section 13(c)(1) of such Act is amended to read as follows:

"(c)(1) Except as provided in paragraph (2) the provisions of section 12 relating to child labor shall not apply to any employee employed in agriculture outside of school hours for the school district where such employee is living while he is so employed, if such employee—

"(A) is employed by his parent, or by a person standing in the place of his parent, on a farm owned or operated by such parent or person, or

"(B) is fourteen years of age or older, or

"(C) is twelve years of age or older, and (i) such employment is with the written consent of his parent or person standing in place of his parent, or (ii) his parent or person standing in place of his parent is employed on the same farm."

LEARNERS, APPRENTICES, STUDENTS, AND HANDICAPPED WORKERS

SEC. 7. Section 14(b) of the Fair Labor Standards Act of 1938, as amended, is amended (1) by inserting following the word "establishments" each time it appears, the words "or educational institutions" and by inserting following the word "establishment" each time it appears, the words "or educational institution", (2) by inserting following the words "Fair Labor Standards Amendments of 1966", the words Title IX of the Education Amendments of 1972, "and the Fair Labor Standards Amendments of 1973", and (3) by inserting, following the words "prior to such", the word "applicable".

PENALTIES

SEC. 8. (a) The second sentence of section 16(b) of the Fair Labor Standards Act of 1938, as amended, is amended to read as follows: "Action to recover such liability may be maintained against any employer (including a State or a political subdivision of a State) in any Federal or State court of competent jurisdiction by any one or more employees for and in behalf of himself or themselves and other employees similarly situated.".

(b) The first three sentences of section 16(c) of such Act are amended to read as follows: "The Secretary is authorized to supervise the payment of the unpaid minimum wages or the unpaid overtime compensation owing to any employee or employees under sections 6 or 7 of this Act, and the agreement of any employees to accept such payment shall upon payment in full constitute a waiver by such employee of any right he may have under subsection (b) of this section to such unpaid minimum wages or unpaid overtime compensation and an additional equal amount as liquidated damages. The Secretary may bring an action in any court of competent jurisdiction to recover the amount of the unpaid minimum wages or overtime compensation and an equal amount as liquidated damages. The right provided by subsection (b) to bring an action by or on behalf of any employee and of any employee to become a party plaintiff to any such action shall terminate upon the filing of a complaint by the Secretary of Labor in an action under this subsection in which a recovery is sought of unpaid wages or unpaid overtime compensation under sections 6 and 7 or other damages provided by this subsection owing to such employee by an employer liable under the provision of subsection (b), unless such action is dismissed without prejudice on motion of the Secretary."

CIVIL PENALTY FOR CERTAIN CHILD LABOR VIOLATIONS

SEC. 9. Section 16 of the Fair Labor Standards Act of 1938, as amended, is amended by adding at the end thereof the following new subsection:

"(e) Any person who violates the provisions of section 12, relating to child labor, or any regulation issued under that section, shall be subject to a civil penalty of not to exceed $1,000 for each such violation. In determining the amount of such penalty, the appropriateness of such penalty to the size of the business of the person charged and the gravity of the violation shall be considered. The amount of such penalty when finally determined, may be—

(1) deducted from any sums owing by the United States to the person charged; or

(2) recovered in a civil action brought by the Secretary in any court of competent jurisdiction, in which litigation the Secretary shall be represented by the Solicitor of Labor; or

(3) ordered by the court, in an action brought under section 15(a)(4), to be paid to the Secretary.

Any administrative determination by the Secretary of the amount of such penalty shall be final, unless within fifteen days after receipt of notice thereof by certified mail the person charged with the violation takes exception to the determination that the violations for which the penalty is imposed occurred, in which event final determination of the penalty shall be made in an administrative proceeding after opportunity for hearing in accordance with section 554 of title 5, United States Code, and regulations to be promulgated by the Secretary. Sums collected as penalties pursuant to this section shall be applied toward reimbursement of the costs of determining the violations and assessing and collecting such penalties, in accordance with the provisions of section 2 of an Act entitled "An Act to authorize the Department of Labor to make special statistical studies upon payment of the cost thereof, and for other purposes" (48 Stat. 582).

RELATION TO OTHER LAWS

SEC. 10. Section 18(b) of the Fair Labor Standards Act of 1938, as amended, is amended (1) by striking out "6(a)(1)" and inserting in lieu thereof "6(a)", and (2) by striking out "7(a)(1)" and inserting in lieu thereof "7(a)".

CONFORMING AMENDMENTS TO OTHER LAWS

SEC. 11. (a) Section 12(a)(2) of the Emergency Employment Act of 1971 (42 U.S.C. 4871) is amended by striking out "section 6(a)(1)" and inserting in lieu thereof "section 6".

(b) Section 9 of the Act entitled "An Act to provide conditions for the purchase of supplies and the making of contracts by the United States, and for other purposes", approved June 30, 1936 (41 U.S.C. 43), is amended by inserting immediately before the period at the end thereof the following: "or to certain transportation employees of private carriers of property by motor vehicle, as that term is defined in section 203(a)(17) and limited under section 203(c) of part II of the Interstate Commerce Act, where such employees are subject to regulation as to qualifications and hours of service pursuant to section 6(e)(6)(C) and 6(f)(2)(A) of the Department of Transportation Act of 1966".

NONDISCRIMINATION ON ACCOUNT OF AGE IN GOVERNMENT EMPLOYMENT

SEC. 12. (a)(1) The second sentence of section 11(b) of the Age Discrimination in Employment Act of 1967 is amended to read as follows: "The term also means (1) any agent of such a person, and (2) a State or political subdivision of a State and any agency or instrumentality of a State or a political subdivision of a State, *and any interstate agency*, but such term does not include the United States, or a corporation wholly owned by the Government of the United States.".

(2) Section 11(c) of such Act is amended by striking out ", or an agency of a State or political subdivision of a State, except that such term shall include the United

States Employment Service and the system of State and local employment services receiving Federal assistance".

(3) Section 11(f) of such Act is amended to read as follows:

"(f) The term 'employee' means an individual employed by any employer except that the term 'employee' shall not include any person elected to public office in any State or political subdivision of any State by the qualified voters thereof, or any person chosen by such officer to be on such officer's personal staff, or an appointee on the policy making level or an immediate advisor with respect to the exercise of the constitutional or legal powers of the office. The exemption set forth in the preceding sentence shall not include employees subject to the civil service laws of a State government, governmental agency, or political subdivision.".

(4) Section 16 of such Act is amended by striking the figure of "$3,000,000", and inserting in lieu thereof "$5,000,000".

(b) (1) The Age Discrimination in Employment Act of 1967 is amended by redesignating sections 15 and 16, and all references thereto, as section 16 and section 17, respectively.

(2) The Age Discrimination in Employment Act of 1967 is further amended by adding immediately after section 14 the following new section:

"NONDISCRIMINATION ON ACCOUNT OF AGE IN FEDERAL GOVERNMENT EMPLOYMENT

"SEC. 15. (a) All personnel actions affecting employees or applicants for employment (except with regard to aliens employed outside the limits of the United States) in military departments as defined in section 102 of title 5, United States Code, in executive agencies as defined in section 105 of title 5, United States Code (including employees and applicants for employment who are paid from nonappropriated funds), in the United States Postal Service and the Postal Rate Commission, in those units in the government of the District of Columbia having positions in the competitive service, and in those units of the legislative and judicial branches of the Federal Government having positions in the competitive service, and in the Library of Congress shall be made free from any discrimination based on age.

"(b) Except as otherwise provided in this subsection, the Civil Service Commission is authorized to enforce the provisions of subsection (a) through appropriate remedies, including reinstatement or hiring of employees with or without backpay, as will effectuate the policies of this section. The Civil Service Commission shall issue such rules, regulations, orders and instructions as it deems necessary and appropriate to carry out its responsibilities under this section. The Civil Service Commission shall—

"(1) be responsible for the review and evaluation of the operation of all agency programs designed to carry out the policy of this section, periodically obtaining and publishing (on at least a semiannual basis) progress reports from each such department, agency or unit; and

"(2) consult with and solicit the recommendations of interested individuals, groups, and organizations relating to nondiscrimination in employment on account of age; and

"(3) provide for the acceptance and processing of complaints of discrimination in Federal employment on account of age.

The head of each such department, agency, or unit shall comply with such rules, regulations, orders, and instructions of the Civil Service Commission which shall include a provision that an employee or applicant for employment shall be notified of any final action taken on any complaint of discrimination filed by him thereunder. Reasonable exemptions to the provisions of this section may be established by the Commission but only when the Commission has established a maximum age requirement on the basis of a determination that age is a bona fide occupational qualification necessary to the performance of the duties of the position. With respect to employment in the Library of Congress, authorities granted in this subsection to the Civil Service Commission shall be exercised by the Librarian of Congress.

"(c) Any persons aggrieved may bring a civil action in any Federal district court of competent jurisdiction for such legal or equitable relief as will effectuate the purposes of this Act.

"(d) When the individual has not filed a complaint concerning age discrimination with the Commission, no civil action may be commenced by any individual under this section until the individual has given the Commission not less than thirty days' notice of an intent to file such action. Such notice shall be filed within one hundred and eighty days after the alleged unlawful practice occurred. Upon receiving a notice of intent to sue, the Commission shall promptly notify all persons named therein as prospective defendants in the action and take any appropriate action to assure the elimination of any unlawful practice.

"(e) Nothing contained in this section shall relieve any Government agency or official of the responsibility to assure nondiscrimination on account of age in employment as required under any provision of Federal law.".

CERTAIN CIVIL ACTIONS PRESERVED

SEC. 13. (a) Section 6 of the Portal-to-Portal Pay Act of 1947 is amended by striking out the period at the end of such section and by inserting in lieu thereof a semicolon and by adding at the end thereof the following:

"(d) with respect to any cause of action brought under section 16(b) of the Fair Labor Standards Act of 1938, as amended, against a State or a political subdivision of a State in a district court of the United States on or before April 18, 1973, the running of the statutory periods of limitation shall be deemed suspended during the period beginning with the commencement of any such action and ending one hundred and eighty days after the elective date of the Fair Labor Standards Amendments of 1973, except that such suspension shall not be applicable if in such action judgment has been entered for the defendant on grounds other than State immunity from Federal jurisdiction.".

(b) Section 11 of such Act is amended by deleting "(b)" after "section 16".

ECONOMIC EFFECTS STUDIES

SEC. 14. (a) The Secretary shall conduct studies—

(1) on the economic effects of the changes in minimum wage and overtime coverage made by this Act, and

(2) on the justification or lack thereof for each of the special exemptions set forth in section 13(a) and 13(b) of the Fair Labor Standards Act of 1938, as amended by this Act.

The Secretary shall submit a report of his findings and recommendations to the Congress with respect to the studies under clause (1) of the preceding sentence, not later than January 1, 1975, and with respect to the studies under clause (2) of that sentence, not later than January 1, 1976.

(b) There are authorized to be appropriated for the purpose of conducting the studies required by this section such sums as are necessary for the period beginning on the date of enactment of this Act and ending January 1, 1976.

EFFECTIVE DATE

SEC. 15. This Act shall become effective upon the expiration of sixty days after the date of its enactment.

Mr. WILLIAMS. Mr. President, I ask unanimous consent that during the consideration of the bill (S. 1861) the following staff members be permitted the privilege of the floor: Gene Mittelman, Gerry Feder, Donald Eilsburg, Jeff Dorantz, Peter Terza, and Roger King.

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

Mr. DOMINICK. Mr. President, I ask unanimous consent that Chuck Woodruff, of the staff of the Committee on Labor and Public Welfare, be granted the privilege of the floor during debate and during the voting

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

Mr. HATFIELD. Mr. President, I ask unanimous consent that during the consideration of S. 1861, Mr. John Roberts of my staff be accorded the privilege of the floor.

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

SUSPENSION OF DUTY ON MANGANESE ORE

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the pending business be temporarily laid aside and that the Senate proceed to the consideration of calendar No. 298, H.R. 6676.

The PRESIDING OFFICER. The clerk will report the bill.

The assistant legislative clerk read as follows:

A bill (H.R. 6676) to continue until July 1, 1976, the existing suspension on manganese ore.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Montana? The Chair hears none, and it is so ordered.

The Senate proceeded to consider the bill which had been reported from the Committee on Finance with an amendment on page 1, at the beginning of line 5, strike out "Tariff Act of 1930 or any other provision of law, be liqui-" and insert "the appendix to the Tariff Schedules of the United States".

The PRESIDING OFFICER. The question is on agreeing to the committee amendment.

The committee amendment was agreed to.

Mr. AIKEN. Mr. President, I send to the desk an amendment to the bill and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

On page 1, after line 11, add the following new section:

SEC. 2. (a) Item 903.90 of the Appendix to the Tariff Schedules of the United States (19 U.S.C. 1202) is amended by striking out "September 5, 1972" and inserting in lieu thereof "September 5, 1975".

(b) (1) The amendment made by subsection (a) shall apply with respect to articles entered, or withdrawn from warehouse, for consumption on or after the date of the enactment of this Act.

(2) Upon request therefor filed with the customs officer concerned on or before the sixtieth day after the date of the enactment of this Act, the entry or withdrawal of any article—

(A) which was made after September 5, 1972, and before the date of the enactment of this Act, and

(B) with respect to which there would have been no duty if the amendment made by the first section of this amendment applied to such entry or withdrawal, shall, notwithstanding the provisions of section 514 of the Tariff Act of 1930 or any other provision of law, be liquidated or reliquidated as though such entry or withdrawal had been made on the date of the enactment of this Act.

Mr. AIKEN. Mr. President, this amendment has been approved twice by the Senate in one form or another without objection. It has been approved once by the House and by all agencies of the Government concerned with it. I am also advised that there is no objection on the part of the Finance Committee.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Vermont.

The amendment was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendments and third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill (H.R. 6676) was read the third time and passed.

The title was amended, so as to read: "An act to continue until July 1, 1976, the existing suspension of duty on manganese ore, and for other purposes."

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the distinguished Senator from Nebraska be recognized for not to exceed 15 minutes.

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

IN DEFENSE OF THE PRESIDENT

Mr. CURTIS. Mr. President, there can be little doubt about the overall effects of the Watergate investigation on our country. The facts are it is hurting everybody.

Many people believe that the Watergate investigation is damaging to our economy. It would be difficult to prove otherwise. Certainly it is not doing it any good.

The focusing of so much attention on Watergate very definitely takes the attention of the country away from many other public questions that need attention. We need to get on with the business of the Congress and deal with those economic problems and problems relating to our defense and world affairs. We should put first things first.

There are too many people who are using Watergate as a means to "Get President Nixon." They will fail in this because, in my opinion, history will exonerate him. They are, however, doing great damage.

What individual is responsible for bringing an end to the U.S. involvement in the war in Vietnam?

What individual is responsible for the return of our combat troops from Vietnam?

What individual is responsible for the return of our prisoners of war and for pursuing every means in reference to our men missing in action?

What individual has bought a new day in world affairs and has the United States and the U.S.S.R. talking to each other?

What individual acted so expertly in his successful opening-up of contact with mainland China?

Everyone knows that that individual is the President of the United States—Mr. Nixon. President Nixon is the unquestioned leader of the free world. He has that diplomatic ability to deal with Russia and China without buying the Communist line. It is he who has been a force for peace in the Middle East.

Mr. President, if this Senate permits one of its committees to destroy this man, or even to hamper him and lessen his effectiveness, the American people and the world at large will be the losers.

Mr. President, in my opinion any eighth grader should know that Congress has already gathered all the information that it needs for the purpose of legislating in reference to any election reform proposal that Congress might wish to undertake.

Mr. President, thoughtful Americans everywhere are expressing the hope that the Watergate investigation be dropped. I would like to share a few letters that I received yesterday on this subject.

A man from St. Charles, Mo writes me as follows:

I want to commend you, and the other Senators involved, for your support of President Nixon. . . . The hearings, at present, only confirm the impression that this is an attempt to lynch Mr. Nixon, by liberal politicians for political gain and by liberal newsmen because they couldn't defeat him last fall and are now out to get him by any means. It may be noteworthy that the account of your *support* of Mr. Nixon was comparatively short and on the back page of the newspaper.

I am by no means a political pundit, but I talk to a lot of people of all kinds, and I think the liberal politicians and newsmen are misreading, or misrepresenting, the mood of the majority of the people. It is claimed the country is in an uproar over Watergate. It isn't, at least not here. Most people are bored and disgusted with it, fed up to the back teeth. . . . When mentioned, the response is usually an expression of disgust, and an irritated wish that Congress would get on to something worthwhile. The few who are interested, and highly concerned, are mostly old Nixon-haters who grab onto Watergate as proof they were right all the time.

The best thing would be to drop it, and the sooner the better. After all, the only thing that can be pinned on President Nixon so far is that it looks like he used poor judgment in the selection and supervision of his staff.

A lady in Charlottesville, Va., sent me a postal card, on which she said:

Thank you for your support of President Nixon. We have so much to appreciate in what he has done for our country in the way of bringing home the prisoners of war, winding down the war, opening up relations with China, cooling the rioting at home, and providing us with 4 fine new Supreme Court Justices. One wonders what is the matter with those who want to "get" him. . . . Please continue your work for him and our great America.

A business leader from Omaha, Nebr., wrote me on July 13 as follows:

Congratulations on getting ten Members to call on the President. The President deserves a great deal of credit for all the things he has accomplished in his first term. There is no doubt in my mind that he is innocent of doing anything wrong.

A lady from Bellevue, Nebr., in her letter of July 12 said:

Dear Senator Curtis, First: Orchids to you for your vote of confidence. Call on our president.

An educator in my State of Nebraska wrote me on July 13 as follows:

I think one of nicest things that has happened recently in Washington was the instance that you and a few other conservative Senators took time off and visited with the President. If ever anyone needed "friends" Richard Nixon needs them now.

A Presbyterian pastor wrote me on July 13 as follows:

I'm just writing to let you know that someone sent me the clipping from the New York Times of June 21, in which the speech you made on the Senate floor was reprinted under the title, "A Courageous Leader." I was greatly impressed both with your article and also with your sentiments, that I am in complete agreement with. I just want you to know I agree with you and am grateful to God that you're there, standing up for these things and saying it as well as you did. God bless you.

An individual in Phillipsburg, Kans., wrote to me:

Having read in the Omaha-World-Herald of your efforts in direct support of our President in these trying times, I decided to furnish you a copy of my letter to ——— (a member of the committee).

In this Phillipsburg, Kans., man's letter to a member of the committee, he said:

I am a retired person. . . . However I have had time to sit, watch and listen to much of the "Watergate" hearings as exposed on both public and private television, up to this date.

Our President, apparently, has been rather busy trying to de-escalate the war and inflation which grew under previous Administrations and your committee is doing very little to aid him. I do not condone the activities which you purport to investigate, but if you continue the "Comedy of Errors" please do so behind closed doors and let the rest of our official representatives in the Senate and House get on with productive efforts on behalf of our economy and our nation's proper position in world affairs.

It would perhaps be wise if some counterpart of your committee would spend a similar amount of time and effort on informing the public of the beneficial accomplishments of President Nixon rather than presenting this useless and detrimental smear of the best form of government yet devised by mankind. The general business news this week tends to indicate that our economy may recover in spite of "Watergate" and your investigation.

A husband and wife in Fremont, Nebr., sent me a telegram on July 14, as follows:

Congratulations. The U.S. as did Rome burns while Senator Sam fiddles. No good can come out of further hearings. Let's spend our time on U.S. finances.

I received a letter from Blakely, Pa., bearing date of July 13, which said:

I feel so grateful to you for the support that you have given to our wonderful President. May I take this opportunity to thank you on behalf of my family and friends.

I have always been . . . a great admirer of President Nixon since he was a Congressman. . . . I am very proud of him and the leadership that he has given this great country. In fact, sir, I sincerely believe he is the greatest President that this country has ever had, and particularly in my life time (52 years).

I, and many others, have resented the fact that the Republican Congressional Members have done little to counter-attack the press and Democrat Congressional Members.

The point I am attempting to make is I have been greatly distressed by the farce going on in Washington at this time. I resent the Republicans more than the Democrats.

A Philadelphia man stated what apparently is on the minds of many people in his letter to me in which he said:

Let's get Washington back to work. It's time to get the Watergate investigation out of the Senate chambers, out of the television show-business atmosphere, and into the grand jury chambers of the courts. . . .

Meanwhile, let's get the government back to work. Let's let the President go on about the business of running the executive branch. Let's let the Senators go back to being legislators. Let's leave the judging to the judiciary, and the indicting, if there be any, to the citizens empowered to do it, by our legal system.

A businessman in Glendale, Calif., had this to say:

The Watergate affair is getting pretty tiresome reading. True, it is a giant tempest in a giant teapot, but there are many more important problems facing our country. How about some really serious consideration of how we can halt inflation before we are completely destroyed in a giant depression?

A housewife in St. Louis, Mo., wrote me on July 12, as follows:

It is with a great deal of relief and gratitude that I see you have come forward with defense of President Nixon. . . . I have written to Senator Ervin, asking why he is doing this, and why he is playing into the hands of the sympathizers of those who would tear our nation apart, and I have also told him that many of us see in this whole debacle a deliberate plan to "get Nixon," just as you have suggested.

Mr. President, in the mail that brought me the letters from which I have quoted there was also one letter critical of my position and only one that was critical of President Nixon. That individual very properly asked in substance if I had satisfied myself as to the noninvolvement of President Nixon in the Watergate affair. I replied that I had very definitely done so. In my mind and heart I do not believe for 1 minute that President Richard Nixon had anything to do with Watergate and that the facts were withheld from him for far too many months thereafter. I hope present hearings can be forthwith terminated and that we can get on about the Nation's business and that our President can without harassment or hindrance go on providing the leadership for our country in world and domestic matters, and continue to provide the leadership for the peace-loving people of the world.

QUORUM CALL

Mr. CURTIS. Mr. President, I suggest the absence of a quorum and yield the floor.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

FAIR LABOR STANDARDS AMENDMENTS OF 1973

The Senate resumed the consideration of the bill (S. 1861) to amend the Fair Labor Standards Act of 1938, as amended, to extend its protection to additional employees, to raise the minimum wage to $2.20 an hour, and for other purposes.

Mr. WILLIAMS. Mr. President, I ask unanimous consent that the committee amendments be considered and agreed to en bloc and that they be considered original text for purpose of further amendment.

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

Mr. WILLIAMS. Mr. President, 1 year ago today, the Senate began debate on a bill which would have raised the minimum wage to $2 an hour on the effective date for most covered workers.

The Senate passed that bill and, if it had become law, the minimum wage worker who works full-time, year-round, would now be receiving almost $4,600 a year, somewhat above the poverty line.

Instead, the bill did not become law, and the minimum wage is still $1.60 an hour and, after working full-time for a whole year, the minimum wage worker's annual earnings are still $1,100 below the poverty line.

The bill which the Senate begins to consider today is very similar to the 1972 bill.

The committee did not provide for additional increases in the minimum wage over last year even though galloping inflation and a 1-year delay fully justified such increases.

Instead, the committee decided to stay with last year's rate schedule in the hope that enactment would be expedited if the annual wage bill increase of covered workers required by the bill was only one-fifth of 1 percent on the effective date as compared with one-eighth of 1 percent last year.

In terms of dollars, this year's bill increases the wage bill for the first year following the effective date by $1.8 billion, while last year's bill would have increased the wage bill by $2.8 billion.

The committee bill has a $2 rate on the effective date.

Last year's substitute bill also provided for a $2 rate in 1973.

The question really is how long do we continue to delay this increase for the lower-paid workers?

By the 1-year delay, these workers have lost more than $2.8 billion in wage increases.

This means that employers have already saved this amount due to the delay.

Despite the enormous upheavals in our economy, and despite the erosion of the dollar which causes a strain on all of our budgets, we are proposing what was then, and most assuredly is now, a very modest bill.

For the most part, this legislation does not affect those workers to whom organization and skills have brought a fair share of the fruits of our society.

Rather, its primary design is to benefit that segment of our working population that is unorganized, unskilled, and toiling in poverty.

This bill will incorporate into the Fair Labor Standards Act a breadth of coverage and a minimum wage level which will bring the act closer than at any time in its 35-year history to meeting its basic, stated objective—the elimination of "labor conditions detrimental to the maintenance of the minimum standard of living necessary for the health, efficiency and general well-being of workers."

The bill seeks to achieve this purpose by extending the law beyond the 47 million currently covered employees to 7 million additional workers employed in retail and service industries, Federal, State and local government activities, on farms and as domestics in private homes; and, by increasing the minimum wage in steps to $2.20 an hour.

The Fair Labor Standards Act represents one of our fundamental efforts to direct economic forces into socially desirable channels.

It was designed to protect workers from poverty by fixing a floor below which wages could not fall, to discourage excessively long hours of work through requiring premium payments for overtime work, and to outlaw oppressive child labor in industry.

The desirability of this effort was emphasized by President Roosevelt, in his Second Inaugural Address:

I see one-third of a nation ill-housed, ill-clad, ill-nourished * * * The test of our progress is not whether we add more to the abundance of those who have much; it is whether we provide enough for those who have too little.

We have made substantial progress in President Roosevelt's 1937 Inaugural Address, but today 24.5 million Americans—12 percent of our population—are still living in poverty by official Government standards.

The present minimum wage of $1.60 yields to a full-time working head of a family of four a gross weekly wage of $64 or $3,200 per year, over $1,000 less than the poverty level and leaves the working-poor family, eligible for welfare.

The wage of $1.60 an hour—$1.30 for farmworkers—was set by the Congress in 1966.

At that time, it was heralded as a wage rate which would move the working poor above the poverty threshold.

However, economic developments in the last several years have drastically curtailed the purchasing power of the minimum wage.

Between 1966, when Congress amended the FLSA to increase the Federal minimum wage from $1.25 to $1.60 an hour, and May 1973, the consumer price index rose 35.3 percent. Between February 1, 1968, the date the $1.60 rate actually be-

came effective for most workers, and May 1973, the consumer price index rose 28.9 percent.

Thus, a substantial increase in the minimum wage is necessary merely to restore the purchasing power of low-wage workers to the levels established by Congress in 1966.

A minimum rate of $2.16 an hour is required merely to compensate for increases in the Consumer Price Index between 1966 and May 1973.

Average hourly earnings have increased by 50 percent since 1966.

The number of people living in poverty increased between 1969 and 1972.

There were almost 300,000 more persons living in poverty in 1972 than in 1969.

Witnesses before the committee differed as to how much of an increase in the minimum wage should be legislated, and how fast that increase should be implemented, but the testimony overwhelmingly pointed up the need for an increase now.

The Secretary of Labor, for example, testified in favor of a minimum wage increase, citing a general rising trend in wages, and particularly rising prices.

Pointing to the rapidly rising cost of living, Secretary Brennan said:

> Workers in the low-wage sectors of our economy have been the hardest hit. Generally, they do not have the skills or bargaining position necessary to increase their wage as the cost of living goes up . . . .

The present bill is an attempt to insure that millions of low-wage workers throughout the Nation—workers whom this act is specifically designed to protect—will regain the ground they have lost because of the inflation which we have experienced in recent years.

Congress has previously recognized in the Economic Stabilization Act Amendments of 1971 and 1973 that these low-wage workers should not be subject to the wage controls currently applicable to other workers, by exempting from controls increases in the minimum wage and defining substandard earnings to mean earnings less than those resulting from a wage or salary rate which yields $3.50 per hour or less.

I do not believe that a successful anti-inflation program depends upon keeping the income of millions of American workers below officially established poverty levels.

I support the committee's view that by raising the minimum wage rate, extending minimum wage protection to millions of low-wage workers who do not currently enjoy such protection, and eliminating overtime exemptions where they have been shown to be unnecessary, the economy will be benefited through the injection of additional consumer spending and the creation of a substantial number of additional jobs.

Establishment of a minimum wage rate at a level which will at least assure the worker an income at or above the poverty level is essential to the reduction of the welfare rolls and overall reform of the welfare system in the United States.

The 29 percent increase in the Consumer Price Index since the last minimum wage increase in 1968 clearly shows the burden which inflation imposes on the minimum wage worker—the worker who typically does not get a raise unless the Congress mandates a raise through FLSA adjustments.

If additional support for a minimum wage increase appears necessary, one needs only to convert into an hourly wage rate the "lower" budget for a family of four.

According to the Bureau of Labor Statistics, this budget by April 1973, costs $7,715 a year, or about $3.70 to $3.85 an hour.

In light of these figures, the recommended rates of $2 and $2.20 appear most conservative.

Opponents of minimum wage legislation raise the specter of across-the-board wage increases following on the heels of an increase in the minimum wage.

It is time that this specter be laid to rest.

Experts who have studied the issue of wages know that most employers pay all of their employees well above the minimum wage.

For these employers, an increase in the minimum wage has no effect on labor cost.

Actually, employers in this group benefit when the minimum is raised to a meaningful level because they recognize that unfair employers will no longer be able to realize a competitive advantage by paying substandard wages.

The second group of employers are those who pay a very small proportion of their employees the minimum wage, but who pay most of their employees well in excess of the minimum.

These employers raise the rates of those paid the minimum wage when the law changes.

They do not raise the wages of most other workers because their wages are considerably above the minimum rate and there is no question of wage competition between the lowest wage, relatively unskilled worker and the average or semiskilled worker, or the high wage skilled worker.

For these establishments, a raise in the minimum wage means a narrowing in the spread of wages between the lowest and highest wages with some movement in the wage interval just above the lowest, but no immediate general upward movement.

The last group of establishments are those marginal employers who pay most of their employees at or close to the minimum wage.

Studies have shown that these employers continue to pay workers the new minimum when the law is changed, and wage increases above those required by law are not granted.

Labor Department studies on effects of minimum wage increases have looked repeatedly into the matter of indirect or ripple effects and have documented the fact that when the minimum is raised, the wage spread is narrowed and there is no general upward movement of wages.

Our testimony has been complete on this, Mr. President, not only in the consideration of the bill this year but also the same testimony in support of the bill last year.

The available statistical evidence simply does not support the thesis that increases in the minimum wage rate have significant indirect effect on workers earning rates above the minimum.

Rather, the evidence is that indirect effects are insignificant, and that when amended, the law accomplishes what it means to accomplish—to raise the wages of workers paid less than the minimum to the minimum.

That there is no discernible increase in unemployment is equally established.

The Bureau of Labor Statistics of the Department of Labor studies show that nonagricultural employment increased after each change in the law and that unemployment actually decreased after all but one of the changes, and in that case, it remained unchanged.

We recognize that a higher minimum wage may mean increased employer costs, but it also means increased purchasing power in the hands of the poor, and a greater demand for goods and services.

For the worker, it means less hardship and greater dignity.

For the Government, it means lower welfare costs.

The economic effects studies of the Labor Department also completely discredit the thesis that minimum wage increases have any discernible effect on inflation.

Previous increases in the minimum wage rate of greater percentage than provided in the present bill have been absorbed easily by the economy, and there is no reason to assume that a different result would obtain under this bill.

Indeed, an economist for the chamber of commerce, testifying before our committe in 1971, took the position that the increases in this bill would not be inflationary.

In fact, the direct payroll costs of the committee bill will be only 0.5 percent of the annual wage bill for covered workers in the first year, 0.4 percent in the second year, 0.3 percent in the third year, and 0.1 percent in the fourth year.

In short, this bill is not inflationary.

Before the 60-day price freeze was imposed a significant number of economists believed that skyrocketing inflation coupled with economic growth would lead us directly into a recession unless drastic action was taken.

The freeze has not reduced the number of economists who question whether inflation can be controlled or whether a recession is unavoidable, nor has it narrowed the range of diverse opinions on the state of the economy.

We do know that economists are in basic agreement on certain economic facts.

Productivity has been rising rapidly—4.6 percent last year—and the increases are reflected in soaring profits and widening profit margins rather than in wages.

Prices have been skyrocketing, but wages appear to have been held in check.

The First National City Bank of New York reports that after-tax profits in the first quarter of 1973 were up 24 percent over 1972, and 1972 was up 15½ percent over 1971, and 1971 was up 14 percent over 1970.

A comparison of the magnitude of these increases with the controlled increases in average hourly earnings of

nonsupervisory workers in private nonfarm employment indicates the inequities which continue to characterize our economic policies.

Between April 1972 and April 1973, the hourly earnings index increased 5.4 percent on top of increases of 6.8 percent between April 1971 and April 1972, and 7.3 percent between April 1970 and April 1971.

The minimum wage worker who is still at $1.60 an hour has not shared even in these modest, controlled wage increases.

He is still waiting for the Congress to act.

He cannot help but be disillusioned by the legislative process when he realizes that prices for such items as hamburgers, fish, eggs, chuck roast, and potatoes have increased from 25 to 40 percent since 1971 when he first expected a $2 minimum wage.

I would like to discuss briefly the major provisions of the bill, and I ask unanimous consent to include at this point in the RECORD a comparison of the committee bill, the bill that passed the House, and the principal substitute Amendment No. 330.

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

PROPOSED FAIR LABOR STANDARDS AMENDMENTS OF 1973, 93D CONGRESS

[Comparison of principal provisions of S. 1861 as reported, with present law, Amdt No. 330 in Nature of a Substitute (Messrs. Dominick, Taft, and Beall) and H.R. 7935 as passed by the House]

Present law	S. 1861 (Messrs. Williams-Javits) as reported	Amdt. No. 330 in Nature of a Substitute (Messrs. Dominick, Taft, and Beall)	H.R. 7935 (Dent) (as passed by the House)
I. MINIMUM HOURLY WAGE FOR MAINLAND EMPLOYEES			
Nonagricultural workers:			
(1) Covered prior to 1966 amendments, $1.60.	$2 during 1st year; and $2.20 thereafter (also includes Federal employees covered by 1966 amendments).	$1.80 during 1st year; $2 during 2d year; $2.10 during 3d year; $2.20 during 4th year; $2.30 thereafter.	$2 until June 30, 1974; $2.20 thereafter.
(2) Covered by the 1966 amendments, $1.60.	$1.80 during 1st year; $2 during 2d year; $2.20 thereafter (also includes employees covered by the 1973 amendments).	Same as for those covered prior to 1966 amendments. (Also includes employees covered by the 1973 amendments).	$1.80 until June 30, 1974; $2 thereafter until June 30, 1975; $2.20 thereafter. (Also includes employees covered by the 1973 amendments).
Agricultural workers: $1.30	$1.60 during 1st year; $1.80 during 2d year; $2 during 3d year; $2.20 thereafter.	$1.50 during 1st year; $1.70 during 2d year; $1.90 during 3d year; $2.00 thereafter.	$1.60 until June 30, 1974; $1.80 thereafter until June 30, 1975; $2 thereafter until June 30, 1976; $2.20 thereafter.
II. OVERTIME PAY REQUIREMENTS			
1½ times the regular rate for hours over 40 in any work week.	No change from present law.	No change from present law.	No change from present law.
III. MINIMUM HOURLY WAGE FOR EMPLOYEES IN PUERTO RICO AND VIRGIN ISLANDS			
Determined by special industry committees, but not over $1.60.	Employees making less than $0.80 per hour under most recent wage order, raised to $1 during the 1st year from the effective date. Thereafter, their pay is increased by $0.20 per hour each year until parity with the mainland is achieved. Employees over $0.80 per hour are raised $0.20 per hour on the effective date of the 1973 amendments and $0.20 each year thereafter until parity with the mainland is achieved. Employees newly covered by the 1973 amendments will have minimums set (but not below $1 per hour) by newly appointed special industry committees. Upon the setting of such minimums, the raises for previously covered employees go into effect. Each year, special industry committees may increase the $0.20 per hour raise, but they may not lower it. Certain motel, hotel, restaurant, food service, and government employees are brought up to mainland minimums on the effective date of these amendments. Subsidized agricultural employees will have their increases applied to their wage rates as increased by the subsidy.	Provides for three increases, each of 12½ percent of the rate or rates applicable under the most recent wage order prior to these amendments, the first to become effective 60 days after enactment or 1 year from effective date of the most recent applicable wage order—whichever is later; the second to become effective 1 year later; the third 1 year after that. These increases may be superseded by rates prescribed in wage orders issued pursuant to review-committee recommendations to prevent substantial curtailment of employment in the industry. Amendment No. 330 does not change the present law's special industry committee system for Puerto Rico and the Virgin Islands.	For hotel, motel, restaurant, food service, conglomerate, Federal employees of the govt. of Virgin Islands, minimum wages are the same as those for counterpart mainland employees. For other employees presently covered by a wage order, percentage increases, as follows: For nonagricultural employees covered by 1966 amendments, 25 percent increase during 1st year and 12.5 percent increase during 2d year. For nonagricultural employees covered by 1966 amendments, 3 12.5 percent increases effective in each of the first 3 years. For agricultural employees, 3 15.4 percent increases effective in each of the first 3 years (subsidized agricultural employees will have their increases applied to their wage rates as increased by the subsidy). Such increases may be reviewed by industry committees. Special industry committees to recommend minimum rates for employees covered by 1973 amendments. Requires all industry committees to recommend minimum rates applicable to counterpart mainland employees, except where substantial documentary evidence demonstrates inability to pay. Notwithstanding any other provisional, no minimum rate shall be less than 60 percent of the minimum applicable to counterpart mainland employees.
IV. EXTENSION OF COVERAGE			
(a) Government employees: Limited coverage of some government employees (Federal wage board workers, government employees in State and local government operated schools, nursing institutions, and hospitals). Federal hospitals are not covered.	Coverage for all Federal, State and local government employees, except persons serving in the armed services and certain persons not in the competitive service. Elected officials of State and local agencies and their immediate (non-Naval Service) staff are exempt. With regard to overtime, a special provision for a mutually agreed to 28-day work period is made for averaging overtime hours for State and local law enforcement (including security personnel in correctional institutions) and fire protection employees. Scales down the non-overtime work period during the 28-day work cycle from 192 hours to 160 hours over 4 years. U.S. Civil Service Commission will enforce provisions relating to Federal employees. Individuals or the Secretary of Labor will have right of action to recover back wages against State and local agencies. (Civil actions brought on or before April 18, 1973 are preserved.)	Same as S. 1861, except such newly covered employees are exempted from overtime provisions.	Coverage added for Federal, State and local government employees not subject to the present law, except that the following are exempt from overtime provisions: Newly covered Federal employees, and State and local employees engaged in fire protection of law enforcement activities.
(b) Domestic employees: No coverage.	Coverage for minimum wage only included for domestic service employees, except babysitters.	No change from present law.	Coverage under minimum wage and overtime provisions for domestic service employees except for employees residing in employer's household.

PROPOSED FAIR LABOR STANDARDS AMENDMENTS OF 1973, 93D CONGRESS—Continued

[Comparison of principal provisions of S. 1861 as reported, with present law, Amdt No. 330 in Nature of a Substitute (Messrs. Dominick, Taft, and Beall) and H.R. 7935 as passed by the House]

Present law	S. 1861 (Messrs. Williams-Javits) as reported	Amdt. No. 330 in Nature of a Substitute (Messrs. Dominick, Taft, and Beall)	H.R. 7935 (Dent) (as passed by the House)
(c) Retail and service employees: No coverage if annual gross sales volume is below $250,000 (except for specifically listed establishments in "Enterprise" definition; laundering, cleaning, or repairing clothes or fabrics).	Coverage of retail and service establishment employees working in all stores in a large chain. Gross sales volume test remains at present $250,000 level.	do	No change from present law.
(d) Agricultural workers: No coverage unless the employer used more than 500 man-days of agricultural labor during peak quarter in the past calendar year. Local seasonal hand harvest laborers not counted for purposes of man-day test and are excluded from minimum wage. Parents, spouse, child or other member of employer's immediate family are not covered employees in agriculture.	Minimum wage coverage expanded to include local seasonal hand harvest laborers. These are also included for purposes of calculating the number of man-days of labor used by a farm during the peak quarter. 500 man-day test retained for purposes of determining which farms are covered. Exemption for parents, spouse, child or other member of employer's immediate family not changed from present law.	do	Do.
V. EXEMPTIONS			
(a) Minimum wage and overtime exemptions: Specified employment exempt from minimum wage and overime requirements, includes an establishment which has as its only regular employees the owner or parent, spouse, child or other member of the owner's immediate family.	Minimum wage and overtime exemption repealed for: Motion picture theater employees; shade grown tobacco employees engaged in processing such tobacco; certain telegraph agency employees; certain employees of retail-manufacturing establishments. Minimum wage exemption only repealed for: Logging and sawmill employees. Requires Secy of Labor to conduct an economic effects study of this Act and another to justify overtime exemptions under sections 13(a) and 13(b). Economic effects study to be submitted to Congress by Jan. 1, 1975; overtime report to be submitted by Jan. 1, 1976.	No change from present law. Requires Secretary of Labor to study minimum wage and overtime exemptions under section 13 of present law and submit to Congress within 3 years his recommendations as to whether each exemption should be continued, removed, or modified.	Minimum wage and overtime exemptions repealed for employees of conglomerates with over $10 million in annual salaries. Minimum wage and overtime exemption extended to resident house parents (husband and wife) or individual resident house parent of orphans residing in nonprofit educational institutions, if couple earns at least $10,000 per year, or an individual house parent at least $5,000 per year from such employment. Up to 30 percent of annual compensation may be an allowance for board and lodging.
(b) Overtime exemptions only: Specified employment exempt from overtime requirements only.	Overtime exemption repealed for: Agricultural processing, seafood processing, oil pipeline, cotton ginning, and sugarcane or sugar beet processing employees; partsmen and mechanics in auto, truck, and trailer dealerships, and all employees in aircraft dealerships. Other overtime exemptions modified as follows: Local transit employees—48 hours 1st year; 44 hours 2d year; 40 hours thereafter. Provides for an exemption for voluntary work performed by employees of a local transit company in nonregular charter activities which are covered by prior agreements. Hotel, motel, and restaurant employees: 48 hours 1st year; 46 hours thereafter. Nursing home employees: 48 hours 1st year (as in present law); 46 hours 2d year; 44 hours thereafter. Catering and food service employees: 48 hours 1st year; 44 hours 2d year; 40 hours thereafter. Bowling employees: 48 hours retained for 1st year; 44 hours 2d year; 40 hours thereafter. Creates new overtime exemptions for: Domestic service employees, and husband and wife teams employed by a nonprofit educational institution to serve as house parents of orphan children and are compensated on a cash basis at an annual rate of not less than $10,000.	No change from present law	Agricultural processing exemption retained. Adds an overtime exemption for newly covered Federal employees and newly covered State and local government employees engaged in fire protection or law enforcement activities Adds an overtime exemption for boat salesmen and mechanics employed in boat dealerships comparable to present overtime exemption for employees in auto, trailer, truck, farm implement, or aircraft dealerships. Repeals overtime exemption for local transit employees for work over 48 hours per week during 1st year; 44 hours per week during 2d year; 42 hours thereafter. Hours voluntarily employed in charter activities, if not part of employee's regular employment, excluded in determining hours for overtime purposes. Repeals overtime exemption for maids and custodial employees of hotels and motels. Repeals present overtime exemption for nursing home employees and provides these employees with overtime exemption identical to present exemption for hospital employees, that is, an overtime exemption for work up to 8 hours in a workday and 80 hours in a 2-week period. Treats laundry and drycleaning establishments as service establishments with respect to present law's provisions concerning outside salesmen and commission employees.
VI. MISCELLANEOUS PROVISIONS			
(a) Tips: Value of tips may be incuded in determining wages to meet the minimum rate up to 50 percent of the minimum rate.	Tip credit to meet the minimum rate retained at 50 percent of the minimum rate. The employer must inform each of his tipped employees of the provisions of the law regarding tipping. All tips received must be retained by such tipped employee, except that pooling of tips by employees who customarily and regularly receive tips is not prohibited.	Same as S. 1861	No change from present law.
(b) Child labor: 16 years for most covered employment including agricultural workers during school hours or in occupations in hazardous agricultural work. No minimum age for children in nonhazardous agricultural work outside of school hours. 18 years for hazardous nonagricultural work.	Under 12, may not work in agriculture except on farms owned or operated by their parents. Between 12 and 14, may work on a farm only with consent of their parents. Between 12 and 16, may work in agriculture only during hours when school district where employee living while employed is not in session. Provides for a civil penalty of up to $1,000 for any violation of child labor provisions of the	Under 12, may not work in agriculture except on farms owned or operated by their parents. Between 12 and 14, may work on a farm only with consent of their parents. Between 12 and 16, may work in agriculture only during hours when school district where employee living is not in session. Provides a child labor exemption for anyone engaged in delivering shopping news and advertising materials published byweekly and	Do.

Present law	S. 1861 (Messrs. Williams-Javits) as reported	Amdt. No. 330 in Nature of a Substitute (Messrs. Dominick, Taft, and Beall)	H.R. 7935 (Dent) (as passed by the House)
14 years for specified employment outside school hours in nonmanufacturing and nonmining work for limited hours under specified work conditions. Provides child labor exemption for newsboys delivering daily newspapers.	Fair Labor Standards Act. Authorizes the Secretary of Labor to issue regulations requiring employers to obtain proof of age from any employee.	semi-weekly newspapers. Does not create new minimum wage on overtime exemption. Authorizes the Secretary of Labor to issue proof of age from any employee. Provides for a civil penalty of up to $1,000 for any violation of child labor provisions of the Fair Labor Standards Act.	
(c) Youth employment: Provides for wage rates no less than 85 percent of the statutory minimums for: (a) Full-time students working part-time in retail or service establishments and agriculture. (b) Student-learners in vocational training programs. (c) Student workers receiving instructions in educational institutions and employed part-time in shops owned by the institutions. Student certificates are issued by the Secretary of Labor.	Retains present provisions of the Fair Labor Standards Act. Expands student certificate program to include students employed part-time by educational institutions and those employed full-time during school vacations by such institutions.	Provides for employment of youths under 18 (for not more than 180 days) and of full-time students (employed full- or part-time at the educational institution they attend, or part-time (not more than 20 hours per week) at any job) at wage rates not less than 85 percent of the applicable minimum wage or $1.60 an hour ($1.30 an hour in agriculture), whichever is higher. Requires the Secretary of Labor to issue regulations insuring that the special minimum rates for youth will not create a substantial probability of reducing the full-time employment opportunities of adult workers. Removes present law's requirement in sections 14(b) and (c) that employers receive U.S. Labor Department certification in order to employ youths at special minimum rates.	Provides for employment of fulltime students (except in hazardous occupations excludes agricultural processing) at wage rates not less than 85 percent of applicable minimum or $1.60 an hour ($1.30 an hour in agriculture), whichever is higher, pursuant to special certificates issued by the Secretary of Labor for not more than 20 hours in any workweek except during vacation periods. Requires Secretary of Labor to monitor issuance of certificates for student employment at special minimums, to prevent the reduction of full-time employment opportunities of adult workers. This requirement not applicable where student is employed by an educational institution in which he is enrolled.
(d) Liquidated damages: Makes employers in violation of the Fair Labor Standards Act liable to affected employees in an amount equal to unpaid minimum wages plus an additional equal amount in liquidated damages unless the suit involves issues not finally settled by the courts. The Secretary of Labor may bring suit for back pay upon written request of the employee.	Allows the Secretary of Labor to bring suit to recover unpaid minimum wages or overtime compensation and an equal amount of liquidated damages without requiring written request of the employee and even though the suit might involve issues not finally settled by the Courts. Allows private actions by employees of State and local governments.	Allows the Secretary of Labor to bring suit to recover unpaid minimum wages or overtime compensation and an equal amount of liquidated damages without requiring written request of the employee and even though the suit might involve issues not finally settled by the courts.	No change from present law.
(e) Canal Zone workers: Covered under the Fair Labor Standards Act.	Increases the minimum wage rate for Canal Zone workers to $1.80 per hour in the 1st year; $2.00 during second year; $2.20 thereafter.	Retains the present minimum wage rate of $1.60 per hour for Canal Zone workers.	Retains the present minimum wage of $1.60 an hour for Canal Zone workers.
(f) Age discrimination in Government Employment: No coverage	Extends coverage of the Age Discrimination in Employment Act of 1967 to Federal, State and local government employees. Gives U.S. Civil Service Commission enforcement power over discrimination in Federal employment.	Extends coverage of the Age Discrimination in Employment Act of 1967 to Federal, State and local government employees. Gives the Federal Civil Service Commission enforcement power over discrimination in Federal employment.	No change from present law.
VII. EFFECTIVE DATE			
60 days after date of enactment	60 days after date of enactment		1st day of 2d full month after date of enactment or Aug. 1, 1973, whichever occurs first.

Mr. WILLIAMS. Mr. President, the bill provides for a statutory minimum wage of $2.20 an hour for all covered workers, but establishes different time schedules for achieving this standard for various categories of employment.

Fundamental to our deliberations was the notion of parity—that all workers should be treated alike for purposes of minimum wage.

However, we were mindful of the historical development of the Fair Labor Standards Act and the need to mitigate the initial impact of expanded coverage.

Therefore, the bill provides for staged increases in the minimum wage depending upon when specific workers were first brought under the act.

All mainland nonfarm workers covered prior to 1966 will attain a $2.20 minimum wage 1 year from the effective date.

An additional step is provided for nonfarm workers newly covered under the 1966 and 1973 amendments.

They will reach parity with other workers at the $2.20 rate 2 years from the effective date.

Farmworkers will achieve parity at the $2.20 rate 3 years after the effective date.

In addition, special provision is made for achieving minimum wage parity for workers in Puerto Rico and the Virgin Islands.

If the conditions that poverty breeds in this country are to be changed, poverty wages must be eliminated.

These conditions will not change unless the FLSA minimum wage is increased, because minimum wage workers rarely have the bargaining position or the skills necessary to increase their wages as the cost of living increases.

In essence, Congress must act in the interest of the Nation's working poor.

Workers who toil at the minimum wage level are poor people by the standards of our society.

They are working full time, but they are still poor.

In the 1969 report on the minimum wage, Secretary of Labor Wirtz stated that:

"Poverty" is erroneously identified in loose thinking with "unemployment" * * * In commenting on criticisms of anti-poverty efforts, he stated that a first step in moving people out of poverty is to insure that when a person does work, he gets enough for it to support himself and his family.

In this statement going back to 1969, Secretary of Labor Willard Wirtz, in one of his departing messages—I was almost tempted, Mr. President, to say in the good old days of Secretary of Labor Willard Wirtz—said those words which ring today with the same clarity and depth of humanity and reason as they did back then. That is one of the most significant parts of this opening presentation, the commentary on the words of former Secretary of Labor Willard Wirtz.

A gross weekly income of $64, which is all that the current minimum wage provides to a full-time worker, hardly meets that criterion.

Last year, the Senate rejected an amendment to reduce the proposed wage rates by a vote of 52–42.

The provisions of the committee bill are consistent with the wage provisions of last year's Senate approved bill.

The bill reflects an awareness that to raise the minimum wage without expanding the coverage of the act would serve to deny even the minimum benefits of the act to large groups of workers who have been denied the protection of the act for more than 30 years.

The committee reviewed present coverage as well as the gaps therein, and determined that a strong need exists for covering domestics, additional workers in retail and service industries and in government.

The committee also determined that local seasonal hand harvest laborers should be covered and included for purposes of the 500 man-day test, which covers large farms.

The retention of the 500 man-day test provides that workers on small farms will not be covered.

The committee carefully examined the economic implications of extending cov-

erage and was persuaded that wages should go up for workers on the lowest rung of the wage ladder and that the economy could easily absorb these raises.

I ask unanimous consent to have printed in the RECORD a chart showing the expansion of coverage.

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

NUMBER OF NONSUPERVISORY EMPLOYEES

[In thousands]

Industry	Expanded coverage	Present coverage	New coverage under S. 1861
All industries	53, 773–53, 848	46, 950	6, 823–6, 898
Private sector	45, 290–45, 365	53, 497	1, 793–1, 868
Retail trade	7, 205	6, 611	594
Services (except domestic)	6, 589	6, 465	124
Domestic service	955		955
All other	30, 541–30, 616	30, 421	120–195
Public sector	8, 483	3, 453	5, 030
Federal Government	2, 333	636	1, 697
State and local government	6, 150	2, 817	3, 333

Note: Estimates reflect employment in September 1972, except for agriculture (May 1972) and for education (October 1972). Data exclude 2,069,000 outside salesmen.

Mr. WILLIAMS. Mr. President, the committee bill extends the act to employees of individual retail and service establishments—except "Mom and Pop" stores—which are part of enterprises with gross annual sales of more than $250,000.

Under current law, individual establishments which have annual sales less than $250,000 are exempt even if they are part of a chain which has annual sales far in excess of $250,000.

The bill also repeals the exemption for retail and service establishments that also do manufacturing or processing at the establishment and treats those employees like all other manufacturing workers.

The bill would not directly affect franchised or independently owned small—less than $250,000 annual sales—retail and service firms, nor would it extend coverage to the so-called Mom and Pop stores although the annual gross volume would be included for the purpose of the enterprise test if such a store was part of a chain.

The bill would bring under the minimum wage provisions of the act all employees in private household domestic service earning "wages"—$50 per quarter—for purpose of the Social Security Act, except babysitters, but retains an overtime exemption for such domestic service employees.

The reasons for extending the minimum wage protection of the act to domestics are so compelling and generally recognized as to make it hardly necessary to cite them.

The status of household work is far down in the scale of acceptable employment.

It is not only low-wage work, but it is highly irregular, has few, if any, nonwage benefits, is largely unprotected by unions or by any Federal or State labor standards.

S. 1861 extends FLSA coverage to almost 5 million nonsupervisory employees in the public sector not now covered by the act. This is a second major new coverage. I have mentioned domestic; this public sector employment is new coverage also.

In 1966, some 3.3 million nonsupervisory government employees, primarily employees in State and local hospitals, schools, and other institutions, were covered.

With enactment of the amendments contained in S. 1861, virtually all nonsupervisory Government employees will be covered.

Coverage of Federal employees is extended by the bill to most employees including wage board employees, nonappropriated fund employees, and employees in the Canal Zone.

The committee bill charges the Civil Service Commission with responsibility for administration of the act so far as Federal employees—other than employees of the Postal Service, the Postal Rate Commission or the Library of Congress—are concerned.

There are a number of reasons to cover employees of State and local governments.

The committee intends that government apply to itself the same standard it applies to private employers.

This principle was manifested last year when the Senate overwhelmingly voted to apply Federal equal employment opportunity standards to public sector employers.

Equity demands that a worker should not be asked to work for subminimum wages in order to subsidize his employer, whether that employer is engaged in private business or in government business.

Mr. President, we had extensive debate on this part of the bill the last time it was before the Senate. There was compelling testimony at that time for the wisdom of this extended coverage. That wisdom of extended coverage has not changed between the last time we had this bill and this year.

We made an effort to minimize any adverse effects of overtime requirements by providing for a phase-in of hours for those public employees who are most frequently required to work more than 40 hours per week, the public safety and firefighting employees.

The bill includes a special overtime standard for law enforcement and fire protection employees, including security personnel in correctional institutions.

S. 1861 adds to the minimum wage provisions of the Fair Labor Standards Act, coverage for all adult local, seasonal hand harvest laborers.

This group consists of part-year agricultural employees—averaging a 5-week work year—who commute to the farm from their respective local communities.

The immediate effect will be to bring basic minimum wage protection to between 75,000 to 150,000 new farmworkers.

Initially, more than 1 out of 4 will benefit by the $1.60 minimum rate.

S. 1861 provides parity for covered farmworkers.

Under this proposal, the Fair Labor Standards Act would be amended to achieve a $2.20 minimum wage for all covered workers, including those employed in agriculture.

To facilitate adjustments to this new concept of wage equality, a period of staged increments has been introduced.

The schedule would be as follows: $1.60 during the first year after the effective date, $1.80 during the second year, $2.00 during the third year, and $2.20 thereafter.

S. 1861 amends the Fair Labor Standards Act by prohibiting the employment in agriculture of all children under the age of 12, except those working on farms owned or operated by their parents.

Children ages 12 through 15 will be permitted to work but only during hours when school is not in session, provided that all 12- and 13-year-olds must either receive written parental consent or work only on farms where their parents are employed.

Thirty-five years ago Congress reacted to a national outcry by banning industrial child labor.

However, since 1938, the Nation has permitted in the fields what it has prohibited in the factories—oppressive and scandalous child labor.

This bill eliminates the shameful double standard. The fresh-air sweatshop should become a thing of the past.

The bill provides for the gradual achievement of minimum wage parity for workers in Puerto Rico and the Virgin Islands with workers on the mainland.

The minimum wage for certain hotel, motel, restaurant and food-service employees, as well as government workers, will be the same as the minimum wage for counterpart mainland employees on the effective date.

The minimum wage for employees who are covered by industry committee wage order rates of less than $.80 an hour is raised to $1 on the effective date and then is increased by $.20 an hour each year until parity with the mainland is reached.

S. 1861 repeals or modifies a number of the exemptions presently incorporated in the Fair Labor Standards Act, including some of the complete minimum wage and overtime exemptions as well as some which apply only to the overtime standard.

The Fair Labor Standards Act is a complex piece of social legislation.

In large part the complexity of the law is an outgrowth of compromises entered into over a 30-year period in order to achieve, to the fullest extent possible, the basic purpose of the act.

Careful review led us to conclude that a number of the exemptions presently incorporated into the act should now be eliminated.

Mr. President, all workers are entitled to a meaningful minimum wage and to premium pay for overtime work.

We approached the matter of special exemptions by applying a simple rule.

Unless the proponents of an exemption made the case for continuing the exemp-

tion in its present form, it was modified or removed.

However, the bill provides for two special studies by the Secretary of Labor.

The first study is of the economic effects of the extensions of minimum wage and overtime coverage made by this bill, and the second study is of the justification, or lack thereof, for all the minimum wage and overtime exemptions remaining under sections 13(a) and 13(b) of the Fair Labor Standards Act.

I ask unanimous consent to have printed in the RECORD, excerpts from the committee report explaining the treatment of exemptions in the bill.

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

Motion picture theaters

S. 1861 repeals the minimum wage and overtime exemption currently applicable to all employees of motion picture theaters. Approximately 68,000 workers are currently denied the protection of the FLSA because of this blanket exemption.

A 1966 study of motion picture theaters by the Department of Labor disclosed the prevalence of extremely low wages in the industry. While motion picture projectionists were paid well above the minimum wage, most employees were paid substandard wages. Concession attendants, cashiers, ushers, and janitors were paid well below the minimum wage.

In 1961, when motion picture theaters received a special minimum wage and overtime exemption, the poor economic condition of the industry was cited by industry representatives as a major reason for the exclusion. This argument was repeated in 1966 when the Congress was considering amendments to the FLSA which would have eliminated this exemption. Industry representatives argued against removing the exemption on the basis that increased labor costs could not be passed on to consumers in the form of higher admission prices by motion picture theaters because of the depressed state of the industry.

However, the validity of this argument is now open to serious challenge. Price data published by the Bureau of Labor Statistics of the Department of Labor indicate that indoor movie admission costs have increased by 39 percent between 1967 and the beginning of 1972. Admission costs in drive-in movies have increased even more—43 percent since 1967. These increases are far in excess of price increases for products of covered industries and for almost all services covered by the Act.

The Congress has long recognized the need for minimum wage and overtime protection for employees in motion picture theaters. Conditions in the industry and the present price structure indicate that removal of this exemption would bring substantial benefits to low-wage workers and could be easily absorbed by the industry. Furthermore, the usual hours of business in this industry, particularly in nonmetropolitan areas, suggest that it can adapt to the overtime standard with relative ease.

Small logging crews

The Committee bill removes the minimum wage exemption currently available to forestry and lumbering operations, with 8 or fewer employees but retains an overtime exemption for such lumbering operations.

Prior to the 1966 amendments, the exemption applied to employers with 12 or fewer employees. In enacting the 1966 amendments the Congress reduced the 12-man test to an 8-man test and the House Committee report commented on the change as follows:

"The decision on eight employees was made after careful consideration and investigation of conflicting facts. The Committee believes the eight-man criterion to be a sound basis for exemption at the present time, but intends to further investigate these logging operations."

According to the Department of Labor, about 45,000 employees are currently exempt under this provision. Many of these workers are paid very low wages and are, in effect, being asked to subsidize their employers.

The Committee found no adverse effect when minimum wage and overtime protection was extended to employers with 8–12 workers. However, employees of such loggers did benefit significantly from the protection of the FLSA. The Committee is persuaded that all logging employees should enjoy the minimum wage protection of the Act, and this can be accomplished with ease at this time. The Committee was not satisfied that a case had been made for a continued minimum wage exemption. The Committee considered removing the complete minimum wage and overtime exemption but elected to retain the overtime exemption at this time. This continues the gradual approach to full coverage which has been applied to this industry.

The Committee considered the recordkeeping problems raised by the industry but concluded that current Department of Labor regulations on this point offered sufficient flexibility to meet the legitimate needs of this industry. The Committee noted in this regard that small loggers have been able to keep tax records and complex piece-rate records for some time.

Shade-grown tobacco

S. 1861 would remove the special minimum wage and overtime exemption available to employers engaged in the processing of shade-grown tobacco prior to the stemming process for use as cigar wrapper tobacco.

Prior to the *Mitchell* v. *Budd*, 350 U.S. 473 (1956) decision, it had been held that the processing of shade-grown tobacco was a continuation of the agricultural process and hence came within the scope of the term "agriculture." However, the U.S. Supreme Court ruled that workers engaged in processing leaf tobacco for cigar wrappers after delivery of the tobacco to bulking plants were not engaged in agriculture and were not exempt as agricultural employees, regardless of whether (1) the plants were operated exclusively for the processing of the tobacco grown by the operators, or (2) the employees who worked on the farms where the tobacco was grown also worked in the plants processing the tobacco. The Supreme Court decision laid particular emphasis on the fact that the processing operations substantially change the natural state of the leaf tobacco and that the farmers who grow the tobacco do not ordinarily perform the processing. Typically, this work is done in bulking plants.

The 1961 amendments to the FLSA provided a special exemption for processing shade-grown tobacco, thus negating the decision of the Supreme Court.

The Committee bill removes the special exemption because it has created a situation in which a tobacco processing employee who would otherwise enjoy the protection of the FLSA, loses such protection solely because he had previously worked in the fields where the tobacco was grown; co-workers who had not worked in the field enjoy "fair labor standards." In this regard, it should be noted that the Committee retained the overtime exemption for agricultural field-workers. Thus field work perfomed in connection with the shade-grown tobacco industry will continue to operate with an overtime exemption and the student certification program under section 14 of the Act will still be applicable to such field work.

Agricultural processing industries

S. 1861 repeals the existing partial overtime exemptions for seasonal employers generally (Section 7c), and seasonal or seasonally-peaked employers specifically engaged in agricultural processing of perishable raw commodities (Section 7d). Based on 1971 Department of Labor statistics, some 26,000 establishments with 694,000 employees utilize these exemptions.

At present under Section 7(c), employers who are determined by the Secretary of Labor to be in industries seasonal in nature are free from FLSA overtime jurisdiction for a 14-week period during which employees may work up to 10 hours a day or fifty hours a week without being subject to a time and one-half wage rate.

Under the existing 7(d) exemption, employers designated by the Secretary of Labor to have either seasonal or seasonally-peaked agricultural processing operations involving perishable raw commodities are entitled to a 14 week period free of FLSA overtime restrictions if their employees do not exceed 10 hours a day or 48 hours a week during that time period.

Both Sections 7(c) and 1(d) which have identical reciprocity clauses entitles any employer who qualified under the definition of both sections to receive an aggregate exemption of two ten-week periods (one under 7(c) and one under 7(d)) outside of the FLSA overtime standard. Several industries have been determined as qualifying for the dual exemption.

The origins of these two sections date to the beginning of the FLSA in 1938. The predecessor of the current Section 7(c) was the former Section 7(b)(3) whose exemption provided for up to 12 hours a day or 56 hours a week before the FLSA overtime standard became effective. The present Section 7(d) is successor to the former section [7(c)], which had permitted among other things, year-round overtime exemptions for several categories of employers, engaged in agricultural processing. In addition, employers qualifying under both former sections could claim up to an aggregate of 28 weeks of exemptions.

However, in 1966, after 28 years of favored treatment, Congress determined that the agricultural processing industry no longer warranted the original Act's broadbrush treatment. Thus, as a result of the 1966 FLSA amendments Congress narrowed the exemptions to their present state.

The complete elimination of the agricultural processing overtime exemption was anticipated in the 1966 FLSA Amendments. The Conference Report stated in part:

"It was the declared intention of the Conferees to give notice that the days of overtime exemptions for employees in the agricultural processing industry are rapidly drawing to a close because advances in technology are making the continuation of such exemptions unjustifiable."

A detailed two-volume Department of Labor survey, entitled "Agricultural Handling and Processing Industries—Overtime Exemptions Under the Fair Labor Standards Act, 1970", found with reference to Sections 7(c) and 7(d):

"(1) Existing exemptions are not fully utilized.

"(2) Many processing establishments are now paying premium rates for hours over 40 a week.

"(3) Currently, some industries which qualify for 20 weeks of exemption are less seasonal than others which qualify for 14 weeks.

"(4) A 40 hour basic straight time standard would eliminate inequities which currently exist between employers who now pay premium overtime rates either because they elect to do so voluntarily or because they are covered by a collective bargaining agreement and employers who avail themselves of the overtime exemption.

"(5) Additional jobs could be created by second and third shift operations in those

industries where large shipments of raw materials are received in relatively short periods.

"(6) Technological advances in recent years have lengthened the storage life of perishable products.

"(7) Grower-processor contracts permit the processor to specify the time for planting, harvesting, and delivery, and thus make possible better work-scheduling."

Based on the above finding, former Secretary of Labor (and present Secretary of the Treasury) George Shultz in his "Report to the Ninety-First Congress on Minimum Wage and Maximum Hours under FLSA" (January 1970), concluded:

"The study of overtime exemptions available to the agricultural handling and processing industries indicates the need for reappraising the favored position which has long been given these industries through exemption from the 40 hour maximum work week standard. It is my recommendation that the exemptions currently available under Section 7c, 7d, . . . be phased out."

And most currently, these same thoughts were echoed by the current Secretary of Labor, Peter Brennan, at hearings before the Labor Subcommitee on June 7, 1973, Mr. Brennan stated:

"We believe that the Fair Labor Standards Act can be modified as to its present partial overtime exemption for seasonal industries and industries engaged in processing fresh fruits and vegetables.

"At one time the fresh food processing industry was in a very unusual position. Since it is entirely dependent on the timing and abundance of agricultural produce for its perishable "raw materials", it was necessary to operate almost continuously during harvest season. A great deal of overtime work was required in order to process the fresh food coming in from the farms before it spoiled.

"Advancements in technology, however, have now made it possible for initial processing to be accomplished rapidly and overtime requirements have been reduced. We believe that the present law can now be changed and would be glad to work out language with the Committee that would not adversely affect the employment situation nor add undue pressures to food prices, which are a matter of special concern in the present economic picture."

Thus, the record is clear. Since the 1966 Amendments reduced the overtime exemption for agricultural processing there has been a sharp decline in the amount of overtime worked by employees in the affected industries.

Claims of adverse effects on the industry have been greatly exaggerated. There is every reason to believe that the industry can make the necessary adjustment when these special exemptions are removed.

Railroad and pipelines

The Fair Labor Standards Act currently exempts from the overtime provisions of the Act any employee of an employer subject to the provisions of Part I of the Interstate Commerce Act.

Part I of the Interstate Commerce Act pertains to railroad employment and employees of oil pipeline transportation companies.

The Committee bill would retain the overtime exemption for railroad employees but would remove the overtime exemption for employees of oil pipelines.

The Committee, in reviewing the historical basis for this exemption, found that there was no testimony with respect to oil pipeline transportation companies.

This industry was apparently exempted because it is covered along with railroads under part I of the Interstate Commerce Act and a case had been made for exempting railroad employees.

The Committee has concluded that there is no basis for continuing to provide an overtime exemption for employees of oil pipelines. Employees of gas pipelines are now covered by the overtime provisions of the FLSA. The action of the Committee eliminates a longtime competitive inequity between oil pipelines and gas pipelines.

Seafood processing

S. 1861 repeals the overtime exemption currently available in Section 13(b)(4) for "any employee employed in the processing, marketing, freezing, curing, storing, packing for shipment, or distributing of any kind of fish, shellfish, other aquatic forms of animal or vegetable life, or any product thereof."

The Fair Labor Standards Act as originally enacted provided an exemption under Section 13(a)(5) for:

"Any employee employed in the catching, taking, harvesting, cultivating, or farming of any kind of fish, shellfish, crustacea, sponges, seaweeds, or other aquatic forms of animal and vegetable life, including the going to and returning from work and including employment in the loading, unloading, or packing of such products for shipment or in propagating, processing, marketing, freezing, canning, curing, storing, or distributing the above products or byproducts thereof."

The 1949 amendments retained the complete exemption for fishing and processing, except canning. The minimum wage exemption for canning was eliminated, but the overtime exemption was retained under a new Section 13(b)(4).

The 1961 amendments removed the minimum wage exemption for employees employed in "onshore" operations, such as processing, marketing, distributing and other fish-handling activities. The overtime exemption for "onshore" operations was retained by adding such operations to the exemption already provided for the canning of seafood under Section 13(b)(4).

Removal of the overtime exemption for seafood canning and processing is part of the Committee's effort to achieve parity under the law for all workers to the maximum extent possible at this time. Just as in the case of agricultural processing, no case has been made for continuing the exemption.

Local transit

Currently, the overtime provisions of the Fair Labor Standards Act do not apply with respect to any driver, operator, or conductor employed by an employer engaged in the business of operating a street, suburban, or interurban electric railway, or local trolley or motorbus carrier, if the rates and services of such railway and carrier are subject to regulation by a State or local agency.

The Committee bill would eliminate this overtime exemption in three steps, except with respect to time spent in "charter activities" under specified conditions. The hours of employment will not include hours spent in charter activities if—(1) the employee's employment in such activities was pursuant to an agreement or understanding with his employer arrived at before engaging in such employment, and (2) if employment in such activities is not part of such employee's regular employment. These conditions are set so as to emphasize that the Committee intends that hours spent in "charter activities" as a part of the regular workday or workweek are to be included in the definition of "hours worked" under the Act.

The Committee has been persuaded that the transit industry has been adjusting to a shorter workweek for some time now. Collective bargaining agreements typically call for overtime after 40 hours a week—and in many cases after 8 hours a day. A large segment of the industry is now covered by such contracts. In addition, an overtime standard was applied to nonoperating employees of the industry by the 1966 amendments. The Committee bill requires that employees be paid time-and-one-half their regular rate of pay for all hours over 48 per week, beginning with the effective date; after 44 hours, 1 year later; and after 40 hours at the end of the second year and thereafter. This gradual approach ensures ease of adjustment.

It is noted that by virtue of the Committee's action on coverage of State and local government employment, together with its action on overtime pay in the local transit industry, operating employees of publicly and privately owned transit companies will be treated identically.

A question was raised concerning the applicability of the overtime provisions of the Act in the case of certain collective bargaining agreements involving local transit in the New York area which provide for straight-time pay for certain off-duty hours. The Committee notes that section 7(e)(2) of the FLSA provides that "payments made for periods when no work is performed due to . . . failure of the employer to provide sufficient work . . . are not made as compensation for hours of employment." The Committee also notes that the Department of Labor's regulations concerning "Hours Worked" contain the following provision (29 C.F.R. 785.16(a)):

"OFF DUTY

"(a) *General.* Periods during which an employee is completely relieved from duty and which are long enough to enable him to use the time effectively for his own purposes are not hours worked. He is not completely relieved from duty and cannot use the time effectively for his own purposes unless he is definitely told in advance that he may leave the job and that he will not have to commence work until a definitely specified hour has arrived. Whether the time is long enough to enable him to use the time effectively for his own purposes depends upon all of the facts and circumstances of the case."

Last year, by vote of 68–24 the Senate rejected an amendment to retain the overtime exemptions for local transit.

Hotels, motels, and restaurants

S. 1861 eliminates the complete overtime exemption for employees employed by hotels, motels and restaurants and substitutes a limited overtime exemption. S. 1861 requires the payment of time and one-half the regular rate of pay for all hours over 48 in a week on the effective date, and for hours after 46 in a week at the end of the first year and thereafter.

In setting an overtime standard for employees of hotels, motels and restaurants the Committee recognized that the length of workweeks have been declining in these activities. It is interesting to note that when minimum wage coverage was extended to these workers by the 1966 amendments, the Department of Labor reported to the Congress that there was a reduction in the prevalence of long workweeks in these industries, even though an overtime exemption was retained.

Tip allowance

S. 1861 modifies section 3(m) of the Fair Labor Standards Act by requiring employer explanation to employees of the tip credit provisions, and by requiring that all tips received be paid out to tipped employees.

Currently, the law provides that an employer may determine the amount of tips received by a "tipped employee" and may credit that amount against the applicable minimum wage, but amounts so credited may not exceed 50 percent of the minimum rate. Thus, a tip credit of up to $.80 an hour may currently be deducted from the minimum wage of a tipped employee. (A tipped employee is defined as an employee who customarily and regularly receives more than $20 a month in tips.)

The Committee re-examined the role of tips as wages and the concept of allowing tips to be counted as part of the minimum wage. The Committee reviewed the study of tips presented to the Congress by the Department

of Labor in 1971 as well as provisions of State minimum wage laws which permit the counting of tips toward a minimum wage.

The Committee was impressed by the extent to which customer tips contributed to the earnings of some hotel and restaurant employees in March 1970 (the date of the Labor Department survey). After reviewing the estimates in this report, the Committee was persuaded that the tip allowance should not be reduced at this time, but that the tipped employee should have stronger protection to ensure the fair operation of this provision. The Committee bill, in this respect, is consistent with the will of the Senate as expressed in an 89–1 vote last year.

Labor Department Regulations define a tip as follows (Part 531—Wage Payments under the Fair Labor Standards Act of 1938):

"A tip is a sum presented by a customer as a gift or gratuity in recognition of some service performed for him. It is to be distinguished from payment of a charge, if any, made for the service. Whether a tip is to be given, and its amount, are matters determined solely by the customer, and generally he has the right to determine who shall be the recipient of the gratuity."

Under these circumstances there is a serious legal question as to whether the employer should benefit from tips to the extent that he pays his employees less than the basic minimum wage because the employees are able to supplement their wages by special services which bring them tips.

Setting aside for the present the ethical question involved in crediting tips toward the minimum wage, the Committee is concerned by reports that inflation has been deflating tips. The Wall Street Journal (June 19, 1973) carried the following headline "Inflation Deflates Tips as Higher Prices Pinch Customers' Generosity". The story quotes, among others, a Harvey House waitress in Cleveland who "laments a 25% drop in the size of her tips since 1971" and a grocery deliverer who finds his tips have fallen off "quite a bit" in the past four months of surging prices.

In view of these reports the Committee intends that the Department of Labor should take every precaution to insure that the employee does in fact receive tips amounting to 50 percent of the applicable minimum wage before crediting that amount against the minimum wage.

The bill amends Section 3(m) by deleting the following language pertaining to the computation of tip credits: "except that in the case of an employee who (either himself or acting through his representative) shows to the satisfaction of the Secretary that the actual amount of the tips received by him was less than the amount determined by the employer as the amount by which the wage paid him was deemed to be increased under this sentence." The deletion of this language is to make clear the original intent of Congress to place on the employer the burden of proving the amount of tips received by tipped employees and the amount of tip credit, if any, which he is entitled to claim as to his tipped employees. See *Bingham* v. *Airport Limousine Service*, 314 F. Supp. 565 (W. D. Ark. 1970) in which the court refused to "speculate" as to sums the employees might have received in tips when the employer failed to present "any objective information" on the subject.

The tip credit provision of S. 1861 is designed to insure employer responsibility for proper computation of the tip allowance and to make clear that the employer is responsible for informing the tipped employee of how his wage is calculated. Thus, the bill specifically requires that the employer must explain the tip provision of the Act to the employee and that all tips received by such employee must be retained by the employee as his property. This latter provision is added to make clear the original Congressional intent that an employer could not use the tips of a "tipped employee" to satisfy more than 50 percent of the Act's applicable minimum wage. H. Rept. 871, 89th Cong., 1st Sess., pp. 9–10, 17–18, 31; 111 Cong. Rec. 21829, 21830; 112 Cong. Rec. 11362–11365, 20478, 22649. See *Melton* v. *Round Table Restaurants, Inc.*, 20 WH Cases 532, 67 CCH Lab. Cas. 32,630 (N.D. Ga.).

The tip provision applies on an individual employee basis, and the employer may thus claim the tip credit for some employees even though he does not meet the requirements of this section with respect to other employees. Nor is the requirement that the tipped employee retain his own tips intended to discourage the practice of pooling, splitting or sharing tips with employees who customarily and regularly receive tips—*e.g.*, waiters, bellhops, waitresses, countermen, busboys, service bartenders, etc. On the other hand, the employer will lose the benefit of this exception if tipped employees are required to share their tips with employees who do not customarily and regularly receive tips—*e.g.*, janitors, dishwashers, chefs, laundry room attendants, etc. In establishments where the employee performs a variety of different jobs, the employee's status as one who "customarily and regularly receives tips" will be determined on the basis of the employee's activities over the entire workweek.

Nursing homes

The Fair Labor Standards Act currently provides a partial overtime exemption for employees of nursing homes. The Act provides an overtime exemption for any employee of a nursing home who receives compensation for employment at time and one-half his regular rate of pay for all hours in excess of 48 in a week.

The Committee bill would reduce the straight time workweek to 46 hours one year after the effective date and to 44 hours a year later. This gradual reduction in the basic workweek should present no problem to the industry.

According to a 1969 report of the Department of Labor there had been a marked decline in average hours per week of nonsupervisory employees of nursing homes between April 1965 and October 1967. The report indicates that the application of a 48-hour workweek standard to nursing homes on February 1, 1967 had very little effect as only a small proportion of the workers worked over 48 hours a week even before the Act was extended to the industry. In April 1968, less than 15 percent of all nursing home employees worked over 44 hours in a week.

Salesmen, partsmen, and mechanics

S. 1861 repeals the overtime exemption currently available under section 13(b)(10) for partsmen and mechanics in nonmanufacturing establishments primarily engaged in selling or servicing automobiles, trailers or trucks, but retains the overtime exemption for salesmen in these establishments.

S. 1861 also repeals the overtime exemption for salesmen, partsmen and mechanics in nonmanufacturing establishments primarily engaged in selling or servicing aircraft.

S. 1861 retains the overtime exemption in Sec. 13(b)(10) for salesmen, partsmen, and mechanics in nonmanufacturing establishments primarily engaged in selling or servicing farm implements.

The Committee was persuaded that the application of an overtime standard to partsmen and mechanics in auto, truck and trailer dealerships, and to the presently exempt employees in aircraft dealerships would be likely to generate additional jobs, and to promote the training of workers to fill the job. If the industry continues to expand service hours, as recent trends indicate, the overtime penalty should provide considerable stimulus to the creation of new jobs at a time when our economy is experiencing high unemployment rates and the training necessary for meaningful employment in this industry is or should be readily available.

Cotton ginning and sugar processing

S. 1861 repeals the year-round overtime exemption for cotton ginning and sugar processing employees in Section 13(b)(15) of the Fair Labor Standards Act, but retains the exemption for employees engaged in processing maple sap into maple syrup or sugar.

The 1970 Report of the Department of Labor on the Agricultural Handling and Processing Industries includes the recommendation of the Secretary of Labor that "consideration should be given to the phasing out of the overtime exemptions currently available to the agricultural handling and processing industries under Section 7(c) and 7(d) of the Fair Labor Standards Act . . . Although focusing primarily on Sections 7(c) and 7(d) of the Act, the survey data also indicate that there is no sound basis for the continuation of the year-round exemptions available under Sections 13(b) . . . (15) of the Act . . ."

Few industries are as highly subsidized and so greatly protected as the sugar industry. The Federal Government makes direct payments for sugar production totalling nearly $100 million a year. It sets and enforces production quotas in the U.S. and specifically restricts foreign imports of sugar for an additional benefit of about $400 million annually to the industry.

The industry is also protected by various Federal laws against crop damage resulting from natural causes.

Many of these employees work in shifts of 12 hours a day for six or seven days a week during the sugar processing season (October 15 to January 15). The law does not require that they be paid overtime premium pay although their counterparts in non-subsidized industries are paid time and one-half their regular rates of pay for all hours over 40 in a week.

Section 13(b)(15) of the Act also provides a year-round unlimited exemption from the maximum hours provisions for cotton ginning. Under section 13(b)(15) an employer is eligible for this exemption when: (1) employees are actually engaged in the ginning of cotton; (2) the cotton must be ginned "for market"; and (3) the place of employment is located in a county where cotton is grown in commercial quantities.

In addition, there is a limited overtime exemption under section 7(c) during the period or periods when cotton is being received for ginning. When applicable, the exemption under section 7(c) may be claimed for all employees, including office workers, exclusively engaged in the operations specified in the industry determination. A survey, conducted in 1967 by the U.S. Department of Agriculture, disclosed 3,753 cotton gins that employed 49,500 nonsupervisory employees during the peak work-week.

It is not uncommon in the cotton ginning industry to have employees working in excess of an 80 hour work-week during the peak season. Sixty-hour work-weeks exist with regular frequency. The exemption under 13(b)(15) enables employers to work their employees often nearly double the normal work-week, without having to pay premium wages. Repeal of this exemption would give cotton ginning employees overtime pay parity with the mainstream of the American labor force.

In the past the industry has made little use of multiple shift operations with only one in four using more than one shift in 1970. Since the majority of the work force consists of "moonlighting" field workers, potential employees are in plentiful supply during the peak season. By using multi-shifts, cotton ginners could reduce the number of overtime hours, while at the same time

alleviating the chronic farm unemployment problem (7.5% versus the national average 4.9% in 1970).

Catering and food service employees

S. 1861 phases out the complete overtime exemption for employees of retail and service establishments who are employed primarily in connection with the preparation or offering of food or beverages either on the premises or by such services as catering, banquet, box lunch, or curb or counter service, to the public, to employees, or to members or guests of members of clubs.

S. 1861 requires that catering and food service employees be paid time and one half their regular rate of pay for hours over 48 per week on the effective date, for hours over 44 after 1 year, and for hours over 40 after the second year.

The elimination of the special exemption for food service employees in retail service establishments eliminates a disparity in work standards for employees of the same establishment. For example, food service employees in covered retail establishments are now exempt from the overtime provisions of the Act while retail clerks, in the same establishments, are covered by both the minimum wage and overtime standard. This has been a major source of friction.

It is expected that the gradual phasing out of the overtime exemption will eliminate excessively long hours in food service and catering activities and thus generate additional jobs. Also treatment of food service employees in this manner permits a similar phasing out of the overtime exemptions for bowling establishments, an exemption predicated in large part upon the food service aspects of such establishments.

Bowling establishments

The Fair Labor Standards Act currently exempts from the overtime provisions of the Act any employee of a bowling establishment if such employee receives compensation for hours in excess of 48 in a workweek at time and one-half the employee's regular rate of pay.

The Committee bill would reduce the straight-time workweek to 44 hours one year after the effective date and to 40 hours one year later.

The Committee notes that bowling fees have advanced by 18 percent since 1967. At the same time, pinsetting machine technology has improved and automatic pinsetters have replaced hand pinsetters throughout the industry. Overtime coverage is easily compatible with the operative characteristics of the industry. The use of automatic pinsetters has eliminated problems which had previously resulted from daily hourly fluctuations in patronage.

House Parents for Orphans

S. 1861 provides a new overtime exemption for any employee who is employed with his spouse by a private nonprofit educational institution to serve as the parents of children—

A. Who are orphans or one of whose natural parents is deceased, and

B. Who are enrolled in such institution and reside in residential facilities of the institution, while such children are in residence at such institution, if such employee and his spouse reside in such facilities, receive without cost, board and lodging from such institution, and are together compensated, on a cash basis at an annual rate of not less than $10,000.

The Committee, in proposing this amendment, is primarily interested in insuring that couples who serve as house parents for orphans in educational institutions are assured sufficient flexibility in work standards to protect the interest of the orphans during the periods when such orphans reside in such institutions.

The Milton Hershey School in Hershey, Pennsylvania is one such institution. The Hershey school is a residential vocational school for orphan boys. The students live in 103 separate cottages of 10 to 15 boys each. The Committee has been informed that a married couple lives in each cottage, serving as house parents. The Committee felt that imposition of overtime coverage in this very special employment situation would result in an especially difficult financial and record-keeping situation for such institutions.

The Committee considered, but did not approve, a minimum wage as well as an overtime exemption for such employees. Thus these house parents will continue to be subject to the minimum wage provisions of the Act. An employee and his spouse who serve as house parents of orphans in a nonprofit educational institution, who are paid not less than $10,000 a year in cash wages, and who receive without cost, board and lodging from such institutions would likely be paid in compliance with the minimum wage requirements of the Act.

The Committee recognizes that the Labor Department has issued special rules for calculating "hours worked" for employees residing on employer's premises, including such house parents who have duties which could occur at any time.

It is the Committee's understanding that as to hours worked by such resident employees, the Labor Department's regulations permit a reasonable agreement between the parties which takes into consideration all the pertinent facts surrounding such employment.

Mr. WILLIAMS. Mr. President, the recent history of the Fair Labor Standards Act demonstrates a congressional awareness of the special problems confronting students who need and want to work while attending school on a full-time basis. From 1938 to 1961, there was no special provision in the Fair Labor Standards Act relating to the employment of full-time students at subminimum rates.

There were, and there continues to be, special provisions for employing learners, apprentices, student learners and student workers at subminimum rates.

Section 7 of S. 1861 expands the full-time student certificate program currently applicable to retail and service industries and to agriculture to apply to educational institutions. The bill retains the certification procedure, as it now exists, to insure that students will not be used to displace other workers.

The committee rejected a proposal that the Fair Labor Standards Act be amended by loosening the special student certification program and adding a blanket submission wage for young people below the age of 18 and for full-time students up to the age of 21.

A similar proposal was rejected by the Senate last year by a vote of 54 to 36.

The committee's rejection of this special subminimum rate was based on the conviction that this would violate the basic objective of the act and that such a standard would contribute to, rather than ease, the critical problem of unemployment because it would encourage the displacement of older workers.

We were convinced that a subminimum wage for youth would violate the basic concept of the act which represents an economic charter for the lowest paid workers in the United States.

To achieve its objective, the minimum wage must be an irreducible minimum below which wages for workers will not be allowed to fall.

S. 1861 amends the Age Discrimination in Employment Act of 1967—Public Law 90-202—to include within the scope of coverage, Federal, State, and local government employees.

This amendment is similar to proposals introduced by Senator BENTSEN (S. 635), and Senator CHURCH (S. 1810).

The administration has also proposed such an extension of coverage for State and local government employees.

The amendment is a logical extension of the committee's decision to extend the Fair Labor Standards Act coverage to Federal, State, and local government employees.

The Senate agreed to this extension by a vote of 86 to 0 last year.

Section 8 of the committee bill amends section 16(c) to authorize the Secretary of Labor not only to bring suit to recover unpaid minimum wages or overtime compensation, a right which he currently has, but also to sue for an equal amount of liquidated damages without requiring a written request from an employee.

The addition of liquidated damages is a necessary penalty to assure compliance with the Fair Labor Standards Act.

Currently, all that is required of the employer is that he pay the wages that should have been paid in the first place, without any penalty for violating the act.

This is not a deterrent to future violations.

This section would also allow the Secretary of Labor to bring suit even though the suit might involve issues of law that have not been finally settled by the courts.

At the present time, many of the protections that are written into the act are not being extended to workers because of the current restrictions on the Secretary in bringing suits in areas that have not been finally settled in courts of law.

The act places the primary responsibility for the enforcement of the act on the Secretary of Labor; he should have the right to bring suits directly in order to resolve issues of law.

The committee also acted on an amendment to section 16(b) of the act to make clear the right of individuals employed by State and local governments and political subdivisions to bring private actions to enforce their rights and recover back wages under this act.

This amendment is necessitated by the decision of the U.S. Supreme Court in Employees' versus Department of Public Health and Welfare, Missouri (April) 1973), which held that Congress in extending coverage under the 1966 amendments to school and hospital employees in State and local governments did not explicitly provide the individual a right of action in the Federal courts although the Secretary of Labor was authorized to bring such suits.

In addition, the committee included an amendment to the Portal-to-Portal Act of 1947 which would preserve existing actions brought by private individuals which would otherwise be barred by the statute of limitation as a result of the April decision.

Both of these amendments were included at the request and recommendation of more than one part of the ad-

ministration, including the Secretary of Labor.

I would add that our committee has been concerned for some time that the Employment Standards Administration of the Department of Labor which now has responsibility for administering the Fair Labor Standards Act appears to be considering reordering its priorities in such a way as to downgrade enforcement of this act. The Department must maintain a vigorous enforcement program under this act.

Coverage should be interpreted broadly, and every effort should be made to insure that those employees who have been the victims of violations of this act are made whole.

Improving the Fair Labor Standards Act is a significant achievement only if it is followed by a vigorous enforcement effort designed to bring covered employers into compliance with the new standards as quickly as possible.

Mr. President, I wish to point out to my colleagues specific language in the committee report on enforcement of the Fair Labor Standards Act with regard to employment of handicapped individuals.

Discussions which I and other members of the committee have had with individuals concerned with equal protection of handicapped individuals have raised certain questions regarding the probability of inadequate enforcement of the Fair Labor Standards Act with respect to the payment of a minimum wage to handicapped individuals in employ in sheltered workshops, and to those who are patients in hospitals and institutions for the mentally retarded and mentally ill.

The practices described to me have been distressingly characterized as "institutional peonage."

The questions raised therefore, require an in-depth examination by the committee, and I am thus directing the committee staff to begin discussions with the Labor Department and other interested organizations so that the committee may resolve these questions in the near future.

In conclusion, Mr. President, S. 1861 is an attempt to address problems of our low-wage workers through the dignity of the work ethic upon which Americans have traditionally placed a high value. This bill embodies that tradition.

Passage will represent a congressional determination that all who are willing and able to work should be governed by certain minimum standards, the very least of which ought to be a living wage.

S. 1861 was reported by a 13-to-3 vote, receiving bipartisan support.

It is a chance for America to redeem a measure of its vision.

I commend it to the Senate in the fervent hope that we can restore a measure of dignity to the working poor of this Nation.

UNANIMOUS-CONSENT AGREEMENT

Mr. ROBERT C. BYRD. Mr. President, I am authorized by the distinguished majority leader to make the following unanimous-consent requests: They have been cleared with the distinguished Republican leader, the distinguished manager of the bill (Mr. WILLIAMS), the distinguished Senator from New York (Mr. JAVITS), the distinguished Senator from Ohio (Mr. TAFT), the distinguished Senator from Colorado (Mr. DOMINICK), the distinguished Senator from Arizona (Mr. FANNIN), and other Senators on both sides of the aisle.

I ask unanimous consent that time for debate on S. 1861 be limited to 6 hours, to be equally divided between the distinguished manager of the bill (Mr. WILLIAMS) and the distinguished minority leader or his designee; that time on the Tower-Fannin amendment in the nature of a substitute be limited to 2 hours, beginning at 3 p.m. today, with a vote to occur on the substitute at 5 p.m. today; that upon the disposition of the substitute by Senators TOWER and FANNIN, the distinguished Senator from Colorado (Mr. DOMINICK) be recognized to call up a substitute cosponsored by Mr. TAFT; that time on the substitute by Senators DOMINICK and TAFT be limited to 3 hours; but that one hour of the time on the Dominick-Taft substitute be utilized this afternoon and that at the hour of 10:30 a.m. tomorrow, the Senate resume consideration of the Dominick-Taft substitute, with the 2 hours of remaining time to be equally divided and controlled and the vote to occur on the Dominick-Taft substitute at 12:30 p.m. tomorrow; provided further, that a vote occur on final passage of S. 1861 no later than 5 p.m. on Thursday; provided further, that there be a limitation on any amendment in the first degree of 1 hour, and that time on amendments in the second degree, amendments to amendments, and debatable motions and appeals be limited each to 30 minutes; and that the agreement be in the usual form—with the exception of two amendments which may be offered by Senator TAFT and one amendment by the distinguished Senator from South Dakota (Mr. MCGOVERN) which would be excepted from the usual form provision.

Mr. President, I further ask unanimous consent that the time prior to the hour of 3 p.m. today be equally divided between both sides, but that it not be included in the 6 hours of general debate.

Mr. JAVITS. Mr. President, reserving the right to object, and I shall not object, but I want elucidated certain points which have to be elucidated. One, on amendments, the time, I gather, will be divided between the manager of the bill (Mr. WILLIAMS) and the proponent of the amendment?

Mr. ROBERT C. BYRD. Yes, in accordance with usual form.

Mr. JAVITS. Second, on nongermane amendments which may occur, may it be understood that amendments to those amendments may be germane to the nongermane amendments though not germane to the bill?

Mr. ROBERT C. BYRD. Yes.

Mr. JAVITS. Further, Mr. President, do I understand correctly from the Senator from New Jersey (Mr. WILLIAMS) that he will yield an adequate amount of time, by arrangement with me, to those on this side who may favor the bill in its present form, or generally so?

Mr. WILLIAMS. Mr. President, I certainly will. We have been in this similar position on other occasions and we have worked it out, so that, in fact, we are jointly controlling the time.

Mr. JAVITS. I was seeking to protect anyone who may wish to speak to the bill.

Finally, do I correctly understand that the pending bill succeeding the minimum wage bill will be the war powers bill, and that at least opening statements on the war powers bill may be looked forward to on Thursday, after the final vote on the minimum wage?

Mr. ROBERT C. BYRD. In response to that question, may I say to the able Senator that if the Senate agrees to the pending request, I shall then ask unanimous consent, on behalf of the distinguished majority leader, that upon disposition of the minimum wage bill, the Senate proceed to the consideration of S. 440, with the understanding, in the meantime, that while the minimum wage bill is pending, if we should hit a period when no amendments were being offered, or Senators were not disposed to speak on the minimum wage bill, we could perhaps shift the war powers bill in for a period of time for discussion.

Mr. President, I further ask unanimous consent that rule XII be waived.

The PRESIDING OFFICER (Mr. MCCLURE). Is there objection to the request of the Senator from West Virginia? The Chair hears none, and it is so ordered.

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

Ordered, That, during the consideration of S. 1861, a bill to amend the Fair Labor Standards Act of 1938, debate on any amendment (except the Dominick-Taft substitute amendment, on which there will be 3 hours) shall be limited to 1 hour, to be equally divided and controlled by the mover of any such amendment and the manager of the bill, and that debate on any amendment to an amendment, debatable motion or appeal shall be limited to 30 minutes, to be equally divided and controlled by the mover of any such motion or appeal 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 (except two amendments to be offered by the Senator from Ohio (Mr. Taft) and one amendment to be offered by the Senator from South Dakota (Mr. McGovern), and germane amendments thereto) that are 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 6 hours, to be equally divided and controlled, respectively, by the Senator from New Jersey (Mr. Williams) and the minority leader, or his designee: *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.

Ordered further, That on Wednesday, July 18, 1973, the Senate will resume consideration of the Dominick-Taft substitute amendment at 10:30 a.m., with the vote thereon to occur at 12:30 p.m.

Ordered further, That the vote on final passage of the bill will occur no later than 5:00 p.m. on Thursday, July 19, 1973.

Mr. ROBERT C. BYRD. Mr. President, I thank all Senators for their courtesy and cooperation.

Mr. President, I ask unanimous consent that upon disposition of the minimum wage bill, S. 1861, the Senate proceed to the consideration of S. 440, a bill to make rules governing the use of the Armed Forces of the United States in the absence of a declaration of war by Congress.

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

Who yields time?

CONTROL OF TIME

Mr. DOMINICK. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Colorado will state it.

Mr. DOMINICK. Who is in control of the time?

The PRESIDING OFFICER. The Senator from New Jersey (Mr. WILLIAMS) is in control of the time for the proponents, and the Senator from Pennsylvania or his designee is in control of the time in opposition.

Mr. DOMINICK. The Senator from Pennsylvania, I believe, has designated us who are in opposition to the bill to be in control. Is that not correct? How much time have we on the bill?

The PRESIDING OFFICER. There are 414 minutes to be equally divided.

Mr. DOMINICK. I am not going to use my whole 207 minutes.

The PRESIDING OFFICER. The Chair has not received a designation from the Senator from Pennsylvania.

Mr. DOMINICK. With the consent of the manager of the bill, I think that, for the time being, I will have control.

Mr. TAFT. Mr. President, we have assurances that the Senator from Colorado does control the time on the part of the minority leader.

Mr. DOMINICK. I thank the Senator from Ohio. Under those circumstances, I yield myself 10 minutes, and I now yield half a minute to the Senator from Virginia.

Mr. SCOTT of Virginia. Mr. President, I appreciate the Senator's yielding. I shall take only a few seconds.

Mr. President, I send to the desk an amendment and ask that it be printed. The amendment, for the information of the Senate, provides, as does the Buckley amendment, the same provisions as for persons 18 years of age and under.

The PRESIDING OFFICER. The amendment will be received and printed, and will lie on the table.

Mr. SCOTT of Virginia. The amendment provides that older Americans—those over 65—will receive 85 percent of the minimum wage. I think that older people sometimes feel neglected and not useful, and are unable to compete with persons who are younger than they are. I will offer the amendment and will explain it in detail at the proper time tomorrow.

Mr. DOMINICK. I thank the Senator from Virginia. I look forward to hearing his argument with great interest.

I have listened to at least part of the presentation made by the manager of the bill as it was reported from committee, and I listened to it with considerable interest. I am opposed to S. 1861 as it has been reported and I so indicated by my vote in committee.

It seems to me at this time that it is worthwhile to summarize my reasons for opposing the bill. I shall not take long, and I shall probably use the remainder of the 10 minutes I have yielded myself.

Mr. President, I agree that an increase in minimum wage rates at this time can be justified on the ground that inflation has eroded the levels established in 1966, when the Fair Labor Standards Act was last amended. But in establishing new rates, I think we should recognize that excessive increases would have substantial inflationary and unemployment effects, and that the very people we are trying to help would suffer the most. The same is true with regard to extensions of coverage.

The importance of carefully weighing these potential adverse effects cannot be overemphasized at a time when we are struggling to control inflation and to reduce unemployment. Despite extraordinary measures to control it, inflation continues at an alarming pace. I do not think any Member of Congress wants to share responsibility for legislation which would undercut the economic stabilization program by contributing to inflationary pressures.

Secretary of Labor Brennan's testimony before the Labor Subcommittee this year recognized that the inflationary and unemployment impact of excessive minimum wage increases could adversely affect the low-wage employees minimum wage legislation it is intended to protect.

This is not a partisan issue. During hearings of the Joint Economic Committee last year, Henry Wallich, a member of the Council of Economic Advisers during the Eisenhower administration, said:

> I would think this is the last moment at which one would stress a measure raising the minimum wage.

Arthur Okun, CEA Chairman under President Johnson, flatly stated:

> I think this would be a good year *not* to take up the minimum wage.

The 1969 annual report of President Johnson's Council of Economic Advisers warned about the unemployment effects of excessive minimum wage increases:

> Although increases in the minimum wage are likely to be reflected in higher prices, society should be willing to pay the cost if this is the best way to help low-wage workers. Yet excessively rapid and general increases in the minimum can hurt these workers by curtailing their employment opportunities.
>
> Since 1956, the federal minimum has gone up about in line with average hourly compensation, while coverage has progressively expanded to cover low-wage industries. In considering the future rate of increase for minimum wages, careful scrutiny should be made of the possibility of adverse employment effects. The benefits of higher minimums should be weighed against alternative ways of helping low-wage workers.

The Secretary of Labor's 1972 report to the Congress pursuant to section 4(d) of the Fair Labor Standards Act recognized the need to carefully consider the inflationary impact of minimum wage increases. Cautioning against the excessive increases proposed in S. 1861—the same bill which has been reported by the committee this year—the report stated:

> The need for congruence of policies as the Congress considers major revisions of the minimum wage, while the Nation for the first time imposes wage and price controls during peace, requires special attention to both wage and price consequences. With broadened coverage, the inflationary potential of a rapid increase in the minimum is much greater than it was prior to 1960. So long as it is necessary to maintain wage controls, there is an added dimension to the concern for the price consequences of a too rapid rise in the minimum. It would be incongruous to enact a 25 percent increase in the minimum in the first year, as in S. 1861, whatever the possible price effects, while at the same time attempting to hold wage increases to a 5.5 percent guideline for workers immediately above the new minimum.

In short, Mr. President, current economic conditions demand that restraint be exercised in making changes in the minimum wage law.

EXCESSIVE WAGE INCREASES

I am convinced that S. 1861, as reported, does not exercise proper restraint, and if enacted would damage the economy. It provides for excessive wage increases and extensions of coverage which would exert strong inflationary and unemployment pressures on the economy. The impact of large increases in labor costs would fall heaviest on small businessmen and farmers. The unemployment effects would be felt most by marginal workers holding jobs which would be eliminated first by employers looking for ways to absorb increased labor costs. Consumers would be forced to pay higher prices for virtually all products.

Under the committee bill, the minimum wage for workers covered by the Fair Labor Standards Act prior to 1966 would go from $1.60 an hour to $2.60 days after enactment, and $2.20 a year later. This amounts to a 25 percent increase within 60 days and a 37.5 percent increase within 14 months. Workers first covered by the committee bill would receive the same increase within a little over 2 years. The minimum rate for farm employees would go from $1.30 to $2.20 within a little over 3 years—a 69.2 percent increase.

These wage increases, combined with the extended coverage to 7 million additional employees would result in an increase of $4.5 billion in the Nation's annual wage bill. This estimate includes only the direct cost of raising wages to the higher minimum rates. It does not include increased overtime costs resulting from the higher minimum rates. Nor does it include the "ripple effect" costs of raising wages which are above the minimum rates in order to maintain existing wage differentials after the higher rates go into effect.

Such precipitous increases in wage costs over such a short time will be difficult for many employers—particularly small businesses—to absorb. The 1966 amendments extended minimum wage and overtime coverage to 649,000 smaller firms. The minimum rate for employees of these firms went from $1 an hour in 1966 to $1.60 on February 1, 1971—a 60

percent increase. The committee bill would further raise the minimum rate for these employees to $2.20 in a little over 2 years—an increase of 37.5 percent, affecting about 3.5 million employees at a cost of $2.7 billion. The total increase since 1966 for these small firms would amount to 120 percent.

The retail and service industries, which encompass most small businesses, would be particularly acutely affected, since they are highly labor intensive. Labor costs average more than 60 percent of operating costs in the retail industry. These industries hire a large proportion of the labor force's unskilled and marginal workers. About 50 percent of employees of retail firms earn less than $2 an hour; 65 percent earn less than $2.20. About 40 percent of employees of service firms earn less than $2; 51.7 percent earn less than $2.20. Since profit margins are too low in these industries—retail firms average 2 percent—to absorb the radical wage increases mandated by the committee bill, employers would be forced to raise prices, reduce employment, or a combination of both. Many marginal jobs could be expected to be eliminated. Some may have no alternative but to go out of business. There were 10,321 small business failures in 1971, 4,428—or 43 percent—of them were retail firms. Moreover, under economic stabilization guidelines, retail firms cannot raise prices to pass through increased operating costs—including labor costs.

The farm economy would also be seriously affected. A 69.2-percent increase in minimum wage rates over 3 years could only accelerate the already too rapid decline of farm employment in this country. At a time when per capita farm income is 25 percent lower than nonfarm income, and virtually everyone is lamenting the fact that small independent farms are being supplanted with big corporate farms, I do not think it would make sense to require them to absorb an additional $174 million in annual wage costs.

The wage increases recommended in the committee bill would seriously threaten the success of the economic stabilization program. The combined effect of the direct costs of raising minimum rates and the indirect "ripple effect" costs would exert enormous inflationary pressures on the entire economy, making the 5.5-percent wage guideline and the 2.5-percent price guideline difficult, if not impossible, to enforce.

These guidelines are based on long-term productivity growth rates of about 3 percent annually. It is worth noting that while the average annual increase in output per man-hour for the postwar period 1947–65 was 3.5 percent, it dropped to 2 percent for the 5-year period 1966–70, the slowest growth in productivity for any 5-year period since the war. Certainly, no one can argue that the wage increases in the committee bill are related to productivity, or that they would in any way enhance productivity.

Wage increases, which are not related to increases in productivity, are, of course, reflected in higher prices, and ultimately in trade deficits due to the inability of American-produced goods to compete in the world market. The excessive increases recommended in the committee bill, with resultant "ripple effect" increases in wages above minimum levels, would worsen our trade situation. I do not think it is mere coincidences that our recent trade and related monetary problems followed substantial minimum wage increases and extensions of coverage in 1966. While average hourly earnings have increased 34 percent since 1966, overall productivity has increased only 10 percent. The consumer price index has risen almost 34 percent over the same period.

The unemployment effects of S. 1861 as reported would be equally serious. Marginal workers who have the greatest disadvantages in competing for jobs—the unskilled, teenagers, the handicapped, and the elderly—would be the most severely affected.

To the extent that employers could not absorb the enormous wage costs mandated by the committee bill through increased prices and reduced profits, they would be forced to eliminate jobs. Jobs held by low-skilled, inexperienced, and less productive workers would be the first to go. Ironically, these low-wage earners are the very ones minimum wage legislation is intended to help.

Admittedly, due to the complexity of our economy and the lack of adequate data, it is difficult to accurately measure the impact of minimum wage adjustments on unemployment. But there are several highly regarded studies demonstrating that minimum wage increases result in corresponding increases in unemployment rates for marginal workers. One of the most thorough is by Economists John M. Peterson and Charles T. Stewart, Jr., in their study, "Employment Effects of Minimum Wage Rates," published by the American Enterprise Institute for Public Policy Research, they conclude:

> Both theory and fact suggest that minimum wage rates produce gains for some groups of workers at the expense of those that are the least favorably situated in terms of marketable skills or location.
>
> Within low-wage industries, higher-wage plants gain at the expense of the lowest-wage plants. Small firms tend to experience serious profit losses and a greater share of plant closures than large firms. Teenagers, non-whites, and women (who suffer greater unemployment rates than workers in general) tend to lose their jobs, to be crowded into less remunerative noncovered industries, and to experience more adverse changes in employment than other workers. Depressed rural areas, and the South especially, tend to be blocked from opportunities for employment growth that might relieve their distress. Given these findings, the unqualified claim that statutory minimums aid the poor must be denied. The evidence provides more basis for the claim that while they help some workers they harm those who are least well off.

There is a shortage of jobs for low-skilled workers now. The number of low-skilled workers has increased more rapidly over the last 10 years than the number of low-skilled jobs. During the 10-year period 1959–69, low-skill jobs increased at less than 10 percent of the rate at which other jobs increased in the manufacturing, retail and service industries. Excessive minimum wage increases would further retard the growth of these low-skill jobs, with the result, again, of hurting the people minimum wage legislation is supposed to help.

In short, Mr. President, I think the predictable inflationary and unemployment effects make it clear that enactment of the excessive wage increases proposed in S. 1861 would be irresponsible. Last year Donald Rumsfeld, then Director of the Cost of Living Council, said:

> All who are serious about wanting to reduce inflation and achieve true peacetime prosperity, must carefully assess the potential impact on unemployment and inflation of the minimum wage legislation now pending in the U.S. Senate. Any proposal which fails to take into account the upward pressure on prices, generated by an abruptly higher minimum wage, poses a threat to the national effort to stabilize costs and prices.
>
> While the direct impact on the total wage bill and on prices of so large an increase in the minimum wage is great, its indirect effects will likely be even more substantial. Adjustment of the Pay Board standards might be necessary to maintain customary wage differentials for workers with higher skill levels, which would result in a significant escalation in labor costs. Those most in need of jobs for the income and work experience they provide will find it more difficult to compete for jobs when employers are prohibited from hiring them at wage levels commensurate with their skills.
>
> Such a large and abrupt change in the minimum wage will lead to additional wage increases for some, which will be paid for by the low-income wage earner in the form of lost employment opportunities, and by the American consumer in the form of higher prices. At a time when the nation is embarked on an effort to reduce inflation, reduce unemployment, and expand job opportunities, the Senate should weigh carefully any proposal which requires large increases in wages and costs.

Those comments are equally applicable this year. The same minimum wage bill is before us, and we are still faced with the need for economic controls.

EXTENSIONS OF COVERAGE

The sweeping extensions of coverage to new categories of employees, combined with complete or partial elimination of many exemptions, would magnify the serious inflationary and unemployment effects of the minimum wage increases recommended in S. 1861. It would extend minimum wage and overtime coverage to about 7 million employees. The minimum rates for these employees would be $1.80 60 days after enactment, $2 a year later, and $2.20 thereafter. Coverage would be extended to three major groups: Employees of small businesses and farms; Federal, State, and local government employees; and domestic workers.

SMALL BUSINESSES AND FARMS

The committee bill would repeal a variety of minimum wage and overtime exemptions established by previous Congresses with the specific intent of protecting small businesses and small farms from the adverse economic effects of minimum wage increases. Minimum wage coverage would thus be extended to roughly 1 million employees of well over 100,000 small businesses and farms. Overtime coverage would be extended to 1.8 million employees in the private sector,

many of whom are employed by small businesses.

Although the bill does not propose to reduce the $250,000 enterprise dollar volume test as it did last year, it would repeal the "Establishment" exemption for small retail and service stores which gross less than $250,000 annually, but which are part of an "enterprise" which does exceed that figure. This would extend minimum wage and overtime coverage to 662,000 employees in small retail and service stores. In this connection, it should be noted that inflation since 1961, when this exemption was established, has already operated to extend coverage down to firms which would have grossed only $171,500 at that time.

This change would affect only very small chain stores; none of the large, well-known chains would be affected, because each of their stores does annual business exceeding the $250,000 cut-off for the exemption. These small chain stores are located in small, rural communities primarily in the South and West. Elimination of this exemption will increase the existing pressures on such small chains to consolidate and shift location to larger urban areas. This will reduce job opportunities in, and damage the economies of many small rural communities. Given the current plight of rural America, I think the point that it would be a mistake for Congress to do what the committee bill proposes requires no further elaboration.

By repealing section 13(a)(4) of the act, the committee bill would extend coverage to employees in small retail stores which "make or process" the goods they sell. Under the existing law, employees of small retail firms which are not part of an enterprise grossing more than $250,000 annually are exempt even though their work may be directly related to interstate commerce. Under the committee bill, small retail stores which "make or process" any of the goods they sell would be ineligible for the exemption. The impact of this would be felt primarily by small bakeries, candy shops, ice cream parlors, drug stores, optometrist establishments, lumber yards, and other small businesses which are not part of a chain, and which happen to "make or process" the goods they sell. The impact of this change is potentially as broad as the Labor Department's definition of "making or processing." No one knows how much "processing" of goods would be necessary to disqualify a small store for the exemption. Arguably, anything more than moving merchandise from loading dock to store shelf could constitute "processing."

This exemption was adopted by Congress in order to make it clear that small stores which are essentially retail in nature, would not be disqualified for the $250,000 small store exemption merely because they "make or process" some of the goods they sell. The committee did not state any substantive reason why this exemption is no longer justified.

I do not think this change can be justified on the merits. I just do not understand why a small neighborhood bakery which buys bread and other pastries wholesale and sells them retail should qualify for the exemption, while a store across the street which does the same thing, except that it happens to also sell a few donuts which were baked on the premises, should not. It would appear to be simply another case of small businesses not having enough "political muscle" to retain an exemption originally adopted by Congress to protect them from the adverse economic impact of minimum wage increases.

The overtime exemption under which supervisory personnel in retail and service industries can spend up to 40 percent of their time in nonsupervisory work would also be eliminated. This exemption was adopted in 1961, when coverage was first extended to retailing. It was based on the recognition that "non supervisory" work such as selling and handling stock is an integral part of the duties of "supervisory" personnel such as sales managers and executives in these industries.

Under the committee bill, supervisory personnel in retailing and manufacturing industries would be treated the same, even though they are inherently different. A machine shop foreman has different duties than a department store manager. Congress recognized this difference in 1961, and in the absence of evidence that it no longer exists, should recognize it now. Neither the hearing record nor discussions in Committee have furnished such evidence.

In addition to complete or partial repeal of several broad exemptions affecting businesses of all sizes, the Committee bill would repeal several exemptions which are applicable primarily to small firms. For example, the minimum wage exemptions for motion picture theaters, small loggers and sawmills with eight or fewer employees, and small telegraph companies grossing less than $500 a month, would be repealed.

Minimum wage coverage would be extended to some 150,000 farmworkers by repeal of the exemption for "local, seasonal, hand harvest laborers." This would have the further effect of reducing the size of farms to which minimum wage coverage extends, because such employees would be included for the first time in computing the "500 man-day test." At present, small farms using less than 500 "man-days" of labor during the peak quarter of the preceding calendar year are exempt from coverage. The impact of this change would fall heaviest on fruit and berry farms, which utilize large numbers of hand laborers during a short harvest season. It seems inequitable that a small berry farm should be covered for the entire year, because it requires a large amount of labor during a brief harvest season, while a neighboring farm which utilizes the same amount of labor annually escapes coverage merely because of the different harvest conditions for the crop grown.

The committee bill would extend coverage to further agricultural employees by repealing the existing minimum wage and overtime exemption for shade-grown tobacco farms.

OVERTIME COVERAGE FOR STATE AND LOCAL EMPLOYEES

The committee bill would extend minimum wage and overtime coverage to 1.7 million Federal, and 3.3 million State and local government employees. Although the estimated direct minimum wage impact on State and local governments would be relatively small—$141 million annually—the overtime and "ripple effect" costs would be much greater. Based on Labor Department estimates, the overtime cost could be as much as $305 million annually. The inflationary and unemployment consequences of these increased wage costs could be substantial, particularly in highly labor intensive city governments.

DOMESTIC EMPLOYEES

The direct wage impact of the committee bill's extension of coverage to 1 million domestic employees would be about $833 million annually. About 70 percent of domestic workers currently are paid less than the proposed $2.20 minimum rate. The additional cost, and recordkeeping requirements would result in elimination of many of these jobs. Since most domestic employees are unskilled, and would have difficulty finding employment elsewhere, the committee bill would leave them no alternative, but welfare, once again penalizing those who need help the most. For that reason, Secretary of Labor Brennan opposed extending coverage to domestics. He stated flatly that such an extension would have a "severe disemployment effect."

Further, Mr. President, I think Congress' power to extend coverage to domestic workers is questionable. The Fair Labor Standards Act is based on the commerce power, which, to be sure, is pervasive. But there are limits. My understanding is that Congress can regulate activities which are entirely intrastate, so long as there is a "rational basis" for a finding that the activity affects interstate commerce in a substantial way. Should the issue be tested in the courts, I think the proponents of this extension of coverage will be hard pressed to demonstrate that interstate commerce is substantially affected by employment of domestic workers. The weakness of their position can be illustrated best by quoting from the committee report, which presumably makes their strongest argument on this point:

> The additional question of the constitutionality of coverage of domestics was raised. The Committee found that domestics and the equipment that they use in their work are in interstate commerce. For example, vacuum cleaners are produced in only six states, and laundry equipment is produced in only seven states creating a tremendous flow in commerce of these items used daily by domestics. Also, it is common knowledge that every domestic handles such items as soap, wax and other household cleaners that have moved in interstate commerce. In addition, employment of domestics in households frees time for the members of the household to themselves engage in activities in interstate commerce.

All I can say is that if domestic workers are in interstate commerce by virtue of the fact that they use vacuum cleaners, then the commerce power indeed has no limits.

Mr. President, in addition to these broad extensions of coverage to new categories of employees, S. 1816 as reported would further extend overtime coverage by completely or partially eliminating

many exemptions which have long been recognized under the Fair Labor Standards Act.

Overtime coverage would be extended to about 1.3 million additional workers through total or partial repeal of overtime exemptions for the following categories of employees; agricultural processing; seafood processing; cotton ginning; sugar processing; local transit; hotels, motels, and restaurants; nursing homes; auto, aircraft and truck and trailer dealerships; catering and food service, bowling establishments; and oil pipelines. It should be kept in mind that the proposed changes in these exemptions would be likely to drive up the costs of products as well as unemployment rates in the industries affected—especially in the retail-service industries, which employ the greatest portion of the workers to whom coverage would be extended.

MINIMUM WAGE AND POVERTY

The traditional argument made by organized labor in support of large increases in minimum wage rates, and broad extensions of coverage is that they will reduce poverty in this country.

The manager of the bill, Mr. WILLIAMS, has just restated it.

S. 1861 is based on this argument. The assertion is made that an increase of $2 this year would be necessary in order to bring the annual earnings of a head of family of four to the poverty level, and that a further increase to $2.20 next year would permanently end welfare for full-time workers. This argument was succinctly stated in the committee report on S. 1861 last year. It had a righteous ring to it:

> If the conditions that poverty breeds in this country are to be changed, poverty wages must be eliminated. These conditions will not change unless the FLSA minimum wage is increased, because minimum wage workers rarely have the bargaining position or the skills necessary to increase their wages as the cost of living increases. In essence, Congress is the bargaining agent for the nation's working poor.
>
> In approving an ultimate-stage increase, the Committee acted to make the sight of a full-time worker on welfare a thing of the past. Of equal importance, the practice of governmental subsidization of wages through welfare payments to the working poor will be at an end, at a tremendous saving to the taxpayers and with a significant boost to the morale and the dignity of the working poor of this country.

Although I think organized labor's historical position on minimum wage legislation is motivated less by a desire to reduce poverty than by a desire to increase their leverage at the collective bargaining table, some observations on the so-called poverty argument are in order. While I share the committee's goal of improving the lot of the working poor, I think the view that minimum wage legislation is an effective way to deal with poverty is totally unrealistic.

First, the poverty level is tied to the consumer price index; as inflation forces the cost of living up, the poverty level moves with it. This exposes as empty rhetoric the claim that an increase to $2.20 will "make the sight of a full-time worker on welfare a thing of the past." Excessive minimum wage increases will not stop inflation; on the contrary, they will contribute to it.

Second, the statement that an hourly wage of $2 is necessary to bring a family of four above the poverty line assumes that there is only one wage earner, when in fact, the average family of four has 1.5 wage earners. This illustrates why, as Congressman JOHN ANDERSON characterized it during debate on the House minimum wage bill last year, "the minimum wage is a blunt, imprecise instrument for dealing with poverty in America." The minimum wage is not geared to family need. Raising the minimum wage to $2 per hour would increase the annual income of one worker by $800, regardless of whether he is single, the head of a family of four, or a family of six.

The poverty level of an urban family of four is $4,274. It is nearly $5,300 for a family of six, and over $6,400 for a family of seven. It would require $2.65 per hour to bring a family of six with one wage earner up to the poverty level; it would require $3.20 for a family of seven. About 46 percent of the working poor in 1970 were members of families of six or larger. This makes it absolutely clear that to suggest that the minimum wage increases recommended in the committee bill would "put an end" to welfare for full-time workers is to play cynical games with the poor people of this country.

Unemployment contributes to poverty as much as low wages. In 1970, only 37 percent of the heads of working poor families had full-time jobs all year. About 46 percent had part-time jobs, or full-time jobs for less than 26 weeks. The point is that these people are poor primarily because of unemployment, not low wages. Large increases in minimum wage rates would not improve their situation. In fact, to the extent that such increases would reduce job opportunities, that would be to their detriment. The same is true of full-time workers in low-paying jobs. It is difficult to see how the "morale and dignity" of the working poor who receive welfare supplements will be boosted when they are unemployed and entirely dependent on welfare.

Mr. President, I ask unanimous consent that a piece in this morning's Washington Post by George Will, entitled "Another Minimum Wage Hike?" be inserted in the RECORD at this point.

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

ANOTHER MINIMUM WAGE HIKE?

(By George Will)

Acting in its traditional role of tireless protector of the strong, the Senate is about to follow the House of Representatives in voting to increase unemployment among the nation's vulnerable workers—especially black teenagers.

The Senate will do this in the name of humanitarianism as it votes another increase in the minimum wage. The Senate probably will adopt the House bill, as against the administration's proposals.

The main arguments between the House and the administration concern whether coverage should be extended; how fast the minimum should rise to $2.20 per hour; and whether there should be a "youth differential," whereby anyone under 18 and full-time students could be paid 15 percent less than the regular minimum wage.

The House, reflecting the position of organized labor, wants to extend coverage to domestic and government workers. It wants to go to $2.20 one year quicker than the administration (by 1974) and rejects the "youth differential."

The administration's proposals are less toxic than those of the House. But the really striking and depressing thing in both wings of the Capitol is that so few politicians—Sens. Peter H. Dominick (R-Colo.) and Robert Taft Jr. (R-Ohio) being honorable exceptions—acknowledge that minimum wage legislation usually is harmful to many of the people who are supposed to benefit.

I suspect that one reason economics is known as the "demand science" is that it, unlike other social sciences, is sufficiently rigorous to occasionally reach clear conclusions that can interfere with political desires. Certainly today there is a remarkable consensus among independent economists about the matters relevant to minimum wage legislation:

Blacks suffer more than whites, and teenagers more than adults from sluggish job markets.

Minimum wage legislation makes it harder for blacks and teenagers to find employment in good times, and harder to hold jobs when times are not good.

White adult males benefit most from the effect of minimum wage legislation on lost job opportunities and increased job instability among blacks and teenagers.

There are more poor people whose poverty derives from unemployment than from holding jobs that pay inadequate wages.

While it is true that some workers are paid so poorly they must also draw welfare, it is equally true that raising the minimum wage will cause some of these people to become unemployed people on welfare.

None of these points is surprising. Minimum wage laws hurt marginal workers because their skills are least productive and most easily dispensed with. That is why it does not pay to pay them much.

Minimum wage legislation has a regressive cost-benefit distribution. It puts marginal workers in jeopardy while helping—not surprisingly—those who push hardest for such legislation, organized labor.

Of course, not all economists acknowledge this. The economists who work for organized labor deploy a lot of methodological arguments designed to show that the state of the economist's art is such that we can not know for sure who will be affected how by minimum wage legislation.

There are a couple of things to say about these arguments.

First, if the science of economics is not able to predict dismal results from such legislation, then it cannot predict good results. So we should err on the side of caution and leave bad enough alone.

Second, there is something suspiciously selective about the epistemological scrupulousness of organized labor's economists. When labor is lobbying Congress for laws to protect the republic from Italian shoes, labor's economists are remarkably confident about their ability to say just how many shoemakers will be booted into poverty by a given number of Italian shoes.

Organized labor wants a steadily rising minimum wage in order to raise the general wage floor, thereby giving an upward thrust to the negotiating position of unions that, one would have thought, were already powerful enough.

In addition, organized labor wants a high minimum wage enforced nationwide so there will be less temptation for industry to locate in poorer, low wage (often non-union) areas. The fact that minimum wage legislation causes unemployment in some areas and hinders the growth of employment opportunities in other areas, is of no concern to organized labor.

The only amusing thing about minimum wage legislation is that it, like most other

things in American economic life, confounds the Marxist prophecy.

Marx said capitalists will always act so as to create a reserve army of the unemployed to use in grinding the face of organized labor. But today it is organized labor, with its racial discrimination; its apprenticeship programs restricting access to professions, and now, again, minimum wage demands that is swelling the reserve army of the unemployed.

Mr. DOMINICK. Mr. President, this view is shared by economists John M. Peterson and Charles T. Stewart, Jr. In their study, "Employment Effects of Minimum Wage Rates," published by the American Enterprise Institute for Public Policy Research, they concluded:

Great caution should be exercised in raising minimum wage rates and extending their coverage, because adverse effects are a matter of degree related to the size of the imposed wage increase and because as yet economists have no method for determining what a "safe" level might be.

The regressive distribution of the costs and gains of statutory wage minimums—costs to the less advantaged—brings into question both the wisdom and equity of such minimums. Policymakers would be advised to examine critically the contradiction between large public expenditures designed to help small business, depressed areas, and disadvantaged workers on the one hand and minimum wage policy that harms these same groups on the other. They would also be advised to look to means other than statutory minimums for dealing with the problems of low wage rates and poverty.

Poverty is primarily a function of the state of the economy. When the economy is healthy and expanding, the number of people below the poverty level declines. The overall health of the economy has been good over the last 10 years. During that period, the number of people below the Government-established, annually revised poverty level declined by 14.1 million—40 percent—even though our total population increased by 12 percent. Although the number of people below the poverty level increased slightly in 1970 and 1971—recession years—it decreased in 1972.

In view of the argument that minimum wage increases reduce poverty, it is interesting to note that 1970 and 1971 were the last 2 years during which increases in minimum wage rates pursuant to the 1966 amendments to the Fair Labor Standards Act went into effect. But whether the increased poverty in 1970 and 1971 was related primarily to the recession or to the minimum wage increases that went into effect in those years is not important. The important point—and a point on which there is a consensus among economists who have studied it—is that excessive minimum wage increases, whether or not they came at a time when the economy is healthy, adversely affect low-wage earners by reducing marginal jobs. In short, if we really want to reduce poverty in America, enactment of excessive minimum wage increases over too short a period of time is precisely not the way to do it.

The argument is also made that "American workers have an economic and moral right to share in the economy's rising productivity." In this context it should be pointed out that the annual rate of increases in productivity has slowed recently. Overall productivity has grown about 10 percent since 1966. Assuming all workers should share the benefits if increased productivity, I do not understand how this could be the basis for the committee's recommended increases amounting to 25 percent immediately and 37 percent within a year. Moreover, due to the unemployment effects of these increases, marginal workers whom we are ostensibly trying to help, will benefit the least. At best, the committee's recommended 25 percent increase immediately would mean $0.40 an hour to a $1.60 earner, plus an additional $0.60 per hour for overtime pay. At worst, it would mean unemployment. Those who would benefit most are the ones who need help the least—highly paid skilled workers. Assuming existing wage differentials would be reestablished, the 25 percent increase in minimum rates would assure a $4 per hour wage earner a windfall increase of $1 per hour, plus $1.50 per hour in overtime pay. And such workers would not be threatened by unemployment.

In summary, when all of the consequences of S. 1861, the "Fair Labor Standards Amendments of 1973" are taken into account, it becomes apparent that a more appropriate title would be the "Unfair Labor Standards Amendments of 1973:" unfair to marginal workers—the young, the handicapped, the elderly, the poor—who would be priced out of the job market; unfair to farmers, who would be forced to absorb a 69.2 percent increase in labor costs when even with the assistance of numerous Federal programs they are able to maintain only a marginal standard of living, and small farms are rapidly disappearing from the American scene; unfair to small businessmen, who unlike their large corporate competitors, do not have sufficient profit margins or diversification to absorb radical increases in labor costs; unfair to consumers, who would be forced to pay higher prices for goods and services in all segments of the economy; and unfair to poor people of this country to whom false, undeliverable promises would be made.

THE SUBSTITUTE

The substitute—Amendment No. 330—sponsored by myself, Mr. TAFT, and Mr. BEALL, is essentially the same as S. 1725, which I introduced on May 7 with Senator TAFT. Like the committee bill, it provides for substantial increases in minimum wage rates, but stretches them out over a reasonable period of time in order to minimize the inflationary and unemployment effects.

It would increase the minimum wage for all covered nonfarm workers to $2.30 an hour over a 4-year period. The rate for covered farmworkers would be increased from its present level of $1.30 an hour to $2 an hour over a 3-year period.

To avoid worsening the high teenage unemployment rate—14 percent for white teenagers; 31 percent for nonwhites—the substitute provides for a "youth differential" rate of 85 percent of the new rates. It would apply to youths under 18 only during their first 6 months on a job, and to full-time students working at part-time jobs. Employers could use the "youth differential" rate only in accordance with Department of Labor regulations insuring that adult workers would not be displaced.

The substitute provides for extending minimum wage coverage to some 5-million remaining Federal, State, and local employees not covered by the 1966 amendments. Minimum wage coverage would be extended to the same Federal, State, and local employees as are covered in the committee bill—elected public officials and their personal staffs, military personnel, professional, executive, and administrative personnel, employees in noncompetitive positions, and volunteer employees such as those in the Peace Corps and Vista would not be included. But unlike the committee bill, the substitute would not extend overtime coverage to such employees, primarily because of the considerable wage costs this would impose on State and local governments.

The substitute would provide for no other extensions of coverage, and would not revise existing exemptions. Before any attempt is made to revise the many complex exemptions which have been carved out for various industries, I think Congress needs more facts. Accordingly, the substitute would require the Secretary of Labor to do a comprehensive study of the exemptions and submit to Congress within 3 years a report containing recommendations as to whether each exemption should be continued, removed, or modified.

Our substitute differs significantly from the one we offered last year in that it provides for larger increases in minimum wage rates, provides for a "youth differential" with a considerably narrower application, and extends minimum wage coverage to Federal, State, and local government employees. In contrast, S. 1861 as reported by the committee is, with the exception of a few minor changes, identical to the bill reported last year.

REASONABLE WAGE INCREASES

As I mentioned earlier, under the substitute, the minimum wage for nonagricultural employees would be increased from the present level of $1.60 an hour to $2.30 an hour in five steps stretched out over a 4-year period. The minimum wage would be raised to $1.80 an hour on the effective date of these amendments—60 days after enactment—to $2 an hour a year later, to $2.10 an hour 2 years after the effective date, to $2.20 3 years after the effective date, and to $2.30 4 years after the effective date. Assuming these amendments were to go into effect this year, the minimum wage for nonagricultural employees would reach $2.30 an hour sometime in 1977.

Unlike previous increases in minimum wage rates, these increases would apply equally to all nonagricultural employees within coverage of the Fair Labor Standards Act, regardless of when they were first covered. I understand why it is necessary to phase-in newly covered businesses at lower rates initially, but I have never been able to understand why it makes sense to perpetuate the gap. I think the increases this bill proposes are moderate enough to avoid undue hardship on those industries first brought within coverage of the Fair Labor Standards Act by the 1966 amendments.

The substitute would increase the minimum rate for farmworkers from its present level of $1.30 an hour to $1.90 an hour in three steps. It would be raised to $1.50 on the effective date, to $1.70 a year later, to $1.90 2 years later, and to $2, 3 years later.

The minimum rate for employees in Puerto Rico and the Virgin Islands would be increased by 37.5 percent above the most recent rate established by the special industry committees for each industry. The increase would be in three steps of 12.5 percent each, the first taking place on the effective date of these amendments, the second 1 year later, and the third a year after that. The total increase would be roughly comparable to that of employees on the mainland, and the existing industry committee system under which minimum wages are established on an industry by industry basis would be preserved. In establishing higher wage rates in Puerto Rico and the Virgin Islands, it is important to keep in mind the possible unemployment effects—particularly in view of the fact that the unemployment rate there now is about 12 percent.

The minimum rate for employees in the Canal Zone would remain at $1.60 in order to avoid worsening the already great disparity between wages paid workers in the Canal Zone and workers in Panama, where minimum rates range from 40 to 70 cents per hour.

I think the wage increases proposed in this bill are reasonable, and are stretched out over long enough periods of time so that they could be absorbed without a great inflationary impact on the economy. They are based on the recognition that excessive increases have adverse inflationary and unemployment effects, and reflect an effort to minimize those effects.

THE YOUTH DIFFERENTIAL

Mr. President, the current overall unemployment rate is about 5 percent. For youths 16 to 19 years of age, it is 14 percent. The rate for nonwhite youths in the same category is much higher—31 percent. These figures, and their social implications, are alarming. But they are in fact understated, because they are based only on youths who are not looking for employment, either because they have tried, and are discouraged, or because they see all their friends out of work and are convinced no jobs are available. Insufficient data exist regarding the number of youths in this nonparticipating category, but there are undoubtedly enough to affect true unemployment rates considerably—particularly in the inner city areas.

These disquieting facts are attributable primarily to two things which occurred during the decade of the 1960's: First, the teenage population as a percentage of the total population increased from 9 percent to 13 percent. Second, Congress legislated a 60 percent increase in the minimum wage—from $1 to $1.60—and extended coverage to the teenage labor-intensive retail, service, and agriculture industries—the effect of which was to eliminate many marginal jobs held by teenagers. Congress cannot do anything about the first; it can and should do something about the latter.

I do not think it is any longer open to serious question that minimum wage increases operate to reduce job opportunities for teenagers. Teenagers have substantial disadvantages in competing with adults for jobs. They are unskilled and inexperienced; their job search is limited geographically—close to home or school—they need part-time or temporary work compatible with school schedules; they are eligible for the draft; and for a variety of reasons, they have a high turnover rate. Consequently, whenever changed economic conditions—an increase in the minimum wage, for example—exert pressure on employers to reduce labor costs, jobs held by teenagers are among the first to go.

There is general agreement among the experts that minimum wage increases result in decreased job opportunities for low-skilled marginal workers—particularly inexperienced teenagers. The Labor Department's 1973 report to Congress on the Fair Labor Standards Act summarizes three recent studies analyzing the impact of minimum wage increases on youth employment. Each of the studies clearly indicates that youth employment is adversely affected by minimum wage increases.

Studies by Marvin Kosters and Finish Welch for the Rand Corp., Prof. Yale Brozen of the University of Chicago, David Kaun of the University of Pittsburgh, and Prof. John M. Peterson and Charles T. Stewart, Jr., of the American Enterprise Institute, amass convincing evidence that this is true. Professor Brozen's study showed that the ratio of teenage unemployment increased from 2.5 in 1960 to 3.6 in 1968, during which time the minimum wage was increased from $1 to $1.60, and its coverage broadened considerably. The Kosters-Welch study concludes:

> Our evidence indicates that increases in the effective minimum wage over the period 1954–1968 have had a significant impact on employment patterns. Minimum wage legislation has had the effect of decreasing the share of normal employment and increasing vulnerability to cyclical changes in employment for the group most "marginal" to the work force . . . teenagers. Thus as a result of increased minimum wages, teenagers are able to obtain fewer jobs during periods of normal growth and their jobs are less secure in the fact of short-term employment changes.
>
> Minimum wage legislation has undoubtedly resulted in higher wages for some of the relatively low productivity workers who were able to attain employment than these workers would have received in its absence. The cost in terms of lost employment opportunities and cyclical vulnerability of jobs, however, has apparently been borne most heavily by teenagers. And a disproportionate share of these unfavorable employment effects appear to have occurred to non-white teenagers. The primary beneficiaries of the shifts in the pattern of employment shares occasioned by minimum wage increases were adults, and among adults, particularly white adult males.

Since the population growth of white teenagers is expected to decline to 5 percent over the next decade, their unemployment situation may become easier to deal with. But no relief is in sight for black youths. Their projected population growth for the remainder of this decade is 44 percent. The excessive minimum wage increases proposed in S. 1861 as reported would diminish even further the employment opportunities of black teenagers. A study by Thomas Gale Moore, "The Effect of Minimum Wages on Teenage Unemployment Rates," published in the August 1971 issue of the Journal of Political Economy might be interesting to note here. He developed an econometric model based on available data which suggests that past Secretary of Labor Wirtz's proposal to increase the minimum wage to $1.80 in 1970, and to $2 in 1971 would have increased nonwhite teenage unemployment by 4.6 percent in 1971, 11.3 percent in 1972, 14.5 percent in 1973. and 15.6 percent in 1974.

The predictions of that econometric model based on the increases recommended in the committee bill are even more interesting. Dr. Moore testified before the committee this year that, in the absence of a youth differential provision, S. 1861 could cause a 21.9-percent increase in nonwhite youth unemployment rates, and a 7.1-percent increase in white youth unemployment rates by September, 1976.

Economist Milton Friedman describes the minimum wage law as—

> The most anti-Negro law on our statute books—in its effect, not its intent.

Economist Paul A. Samuelson states the problem as succinctly as possible, in the form of a rhetorical question:

> What good does it do a black youth to know that an employer must pay him $1.60 per hour if the fact that he must be paid that amount is what keeps him from getting a job?

Congress recognized when it amended the Fair Labor Standards Act in 1966 that something needed to be done to soften the impact of minimum wage increases on teenage unemployment. A system was established under which employers in retail, service, and agriculture who obtained certificates from the Labor Department could hire full-time students at 85 percent of the applicable minimum rate for up to 20 hours a week. Due to the narrow scope of that system, and the redtape involved in getting certificates, it has gone unused for the most part. The result, as current statistics demonstrate, is that it has been ineffective in reducing youth unemployment.

Opponents of a youth differential system point to the relatively low utilization rate of hours authorized under the existing certification system, and conclude that teenagers will not accept jobs for less than the minimum wage.

While it is true that only about 42 percent of the total hours authorized under certificates were utilized in 1969, the unwillingness of teenagers to work for subminimum wages was not the primary reason. Employers were surveyed by the Labor Department, and the most frequent reason they gave for under-utilization was simply that no jobs were available. Other reasons given were that the work of teenagers is unsatisfactory, and the burdensome recordkeeping requirements and redtape involved in getting

certificates. In order to minimize red-tape, many employers requested authorization for the maximum hours to which they were entitled, even though they did not have sufficient job openings to utilize them completely.

The committee bill would retain the existing 85 percent certification system essentially unchanged, except for extending it to full-time students employed part-time at educational institutions. This would essentially do nothing to reduce the high youth unemployment rate, or to lessen the adverse impact of the bill's large increases and extensions of coverage on youth unemployment.

The youth differential provision of the substitute is considerably narrower in application than the provision I supported last year. First, the differential rate would be 85 percent of the applicable new minimum rates, rather than 80 percent as previously—it should be kept in mind that under this proposal no youth could be paid less than the applicable minimum rates in effect now—Second, for youths under 18, the differential rate could be paid only during the first 6 months of employment. Full-time students would be eligible for the youth differential, but only for part-time work—not more than 20 hours per week—except where they are employed at the educational institution they are attending. Students working full time at off-campus jobs during vacations would not be eligible for the youth differential rate, except at jobs in the retail-service industries, or agriculture.

This narrowed application of the youth differential should meet the objections of those who felt the provision in our substitute last year would have reduced adult employment opportunities. The 6-month limitation would further reduce the already minimal possibility of competition between adult workers and teenagers for low-skilled jobs. This provision would encourage employers to provide inexperienced young workers with job training opportunities necessary in order for them to acquire marketable job skills. Also, few adults seek the kinds of part-time jobs held by students.

The effect of this youth differential provision would be to preserve job opportunities for students and teenagers which would otherwise be eliminated when existing minimum wage rates are increased. It is not a question of displacing adult workers. It is a question of whether marginal jobs are held by teenagers and students working part time, or whether such jobs are simply eliminated.

In any event, I think that the need to do something to reduce youth unemployment is so imperative that the youth differential concept should be tested now. Its effects can be assessed when minimum wage legislation is again reviewed.

Mr. President, in conclusion I feel our substitute offers a superior alternative to the committee bill. It provides for substantial increases in minimum wage rates, but would minimize the inflationary and unemployment effects accompanying such increases. I ask unanimous consent that a section-by-section analysis of the substitute and a comparison of the major differences between it and the committee bill be printed in the RECORD.

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

SECTION-BY-SECTION ANALYSIS OF THE DOMINICK-TAFT-BEALL AMENDMENT IN THE NATURE OF A SUBSTITUTE TO S. 1861

SECTION 2

Amends section 3(d) and 3(e) of the Fair Labor Standards Act to include under the definitions of "employer" and "employee" the United States and any state or political subdivision of a state. This would extend minimum wage coverage to an estimated 5 million federal, state and local government employees (1.7 million federal, 3.3 million state and local government). Military personnel, professional, executive and administrative personnel, employees in non-competitive positions, and volunteer-type employees, such as Peace Corps and Vista, would not be included in the extension of coverage, nor would elected officials or their personal staff. (Conforms with S. 1861, except that minimum wage coverage only—not overtime—is extended to such employees.)

Also amends section 3(m), under which tips, up to 50 percent of the applicable minimum wage rate, may be included for purposes of computing wages paid employees. New requirement added, that in order for employer to qualify for tip credit, employees must be informed of the law, and must actually retain all tips received. (Conforms with section 2(d) of S. 1861.)

SECTION 3

Amends section 6(a)(1) of the Fair Labor Standards Act to raise the minimum wage for non-agricultural employees to $2.30 an hour in five steps over a four-year period. The minimum wage would be raised to $1.80 an hour on the effective date of these amendments (60 days after enactment); to $2.00 an hour one year later; to $2.10 two years after the effective date; to $2.20 three years after the effective date, and to $2.30 four years after the effective date. These increases would apply equally to all non-agricultural employees within the coverage of the Act, regardless of when they were first covered.

Amends section 6(a)(5) of the Act to raise the minimum wage for agricultural employees to $1.50 an hour during the first year after the effective date of these amendments, $1.70 an hour during the second year, $1.90 an hour during the third year, and $2.00 an hour thereafter.

SECTION 4

Amends section 6(a) of the Fair Labor Standards Act to retain the present minimum wage of $1.60 an hour for employees in the Canal Zone.

SECTION 5

Amends section 6(c) of the Fair Labor Standards Act to raise the minimum wage in Puerto Rico and the Virgin Islands by three 12½ percent increases over the most recent wage order rate, the first increase to be effective either 60 days after enactment of the bill or one year after the effective date of the most recent wage order, whichever is later. The second increase would be effective one year after the first; the third increase would be effective one year after the second.

SECTION 6

Amends section 12 of the Fair Labor Standards Act to authorize the Secretary of Labor to require employers to obtain proof of age from any employee. This would facilitate enforcement of the child labor provisions of the Act. (Conforms with section 5 of S. 1861.)

SECTION 7

Amends section 13(c)(1) of the Fair Labor Standards Act which relates to child labor in agriculture to prohibit employment of children under 12 except on farms owned or operated by parents; and to prohibit employment of children aged 12 and 13 except with written consent of their parents or on farms where their parents are employed. (Conforms with section 6(c) of S. 1861.)

Amends section 13(d) of the Act to extend the existing child labor exemption for newsboys delivering daily newspapers to newsboys delivering advertising materials published by weekly and semi-weekly newspapers. Does not create a new minimum wage or overtime exemption.

SECTION 8

Amends section 14(b) of the Fair Labor Standards Act to establish a special minimum wage rate for youth under 18 and full-time students of 85 percent of the applicable minimum wage or $1.60 an hour ($1.30 an hour for agricultural employment), whichever is higher. The special minimum wage for the same employees in Puerto Rico, the Virgin Islands, and American Samoa would be 85 percent of the industry wage order rate applicable to them, but not less than the rate in effect immediately prior to the effective date of the Fair Labor Standards Amendments of 1973.

Non-students under 18 would qualify for the "youth differential" rate only during their first 6 months on a job. Full-time students would qualify for the differential rate (a) while employed at the educational institution they are attending; or (b) while employed part-time (not in excess of 20 hours per week) at any job, except that they could work full-time during school vacations at jobs in retail-service industries or agriculture.

The existing requirement in the Act that employers receive Labor Department certification prior to employment of youth at the special minimum rate would be removed. The Secretary of Labor would be required to issue regulations insuring against displacement of adult workers. Employers violating the terms of the youth differential provision would be subject to existing civil and criminal penalty provisions of the Act.

SECTION 9

Amends section 16 of the Fair Labor Standards Act to provide for a civil penalty of up to $1,000 for each violation of the child labor provisions of section 12 of the Act. (Conforms with section 9 of S. 1861.)

SECTION 10

Amends section 16(c) to allow the Secretary of Labor to bring suit to recover unpaid minimum wages or overtime compensation and an equal amount of liquidated damages without requiring a written request from an employee. In addition, this amendment would allow the Secretary to bring such actions even though the suit might involve issues of law that have not been finally settled by the courts. (Conforms with section 8(b) of S. 1861.)

SECTION 11

Amends the Age Discrimination in Employment Act of 1967 (P.L. 90-202) to extend its coverage to federal, state and local government employees. (Conforms with section 12 of S. 1861.)

SECTION 12

Requires the Secretary of Labor to undertake a comprehensive review of the minimum wage and overtime exemptions under section 13 of the Fair Labor Standards Act and to submit to Congress within three years a report containing recommendations as to whether each exemption should be continued, removed or modified.

SECTION 13

Technical amendments.

SECTION 14

Provides that the amendments made by this Act would become effective sixty days after enactment, and authorizes Secretary of

Labor to promulgate regulations necessary to carry out such amendments.

MAJOR DIFFERENCES BETWEEN S. 1861 AS REPORTED AND THE DOMINICK-TAFT-BEALL SUBSTITUTE

S. 1861 as reported

Nonagricultural employees covered prior to 1966 (present minimum wage—$1.60)—$2.00 sixty days after enactment; $2.20 a year later.

Nonagricultural employees covered by 1966 and 1973 amendments (present minimum wage—$1.60)—$1.80 sixty days after enactment; $2.00 a year later; $2.20 thereafter.

Agricultural employees (present minimum—$1.30)—$1.60 sixty days after enactment; $1.80 a year later; $2.00 the following year; and $2.20 thereafter.

Substitute

Nonagricultural employees regardless of when covered—$1.80 sixty days after enactment; $2.00 a year later; $2.10 two years later, $2.20 three years later; $2.30 four years later.

Agricultural employees—$1.50 sixty days after enactment; $1.70 a year later; $1.90 two years later; $2.00 three years later.

ANNUAL WAGE RATES UNDER S. 1861 AND SUBSTITUTE

92D CONGRESS, ASSUMING FIRST INCREASE HAD GONE INTO EFFECT IN 1972

	1972	1973	1974	1975
S. 1861 (as passed by Senate):				
Non farm-covered prior to 1966	$2.00		$2.20	
Covered in 1966 and newly covered	1.80	$2.00		$2.20
Farm	1.60	1.80	2.00	2.20
Substitute:				
Non farm-covered prior to 1966	1.80	2.00		
Covered in 1966	1.70	1.80	2.00	
Farm	1.50	1.70		

93D CONGRESS, ASSUMING FIRST INCREASE IS EFFECTIVE IN 1973

	1973	1974	1975	1976	1977
S. 1861 (as reported):					
Non farm-covered prior to 1966	$2.00	$2.20			
Covered in 1966 and newly covered	1.80	2.00	$2.20		
Farm	1.60	1.80	2.00	$2.20	
Substitute:					
Non farm-covered prior to 1966	1.80	2.00	2.10	2.20	$2.30
Covered in 1966 and newly covered	1.80	2.00	2.10	2.20	2.30
Farm	1.50	1.70	1.90	2.00	

EXTENSIONS OF COVERAGE

S. 1861 as reported

Coverage extended to following new categories of employees:

1. Federal employees (1.7 million; minimum wage and overtime).

2. State and local government employees (3.3 million; minimum wage and overtime).

3. Domestic employees (1 million; minimum wage).

4. Small business employees—

(a) Small retail and service stores (662,000 employees; minimum wage and overtime)—retail and service "establishment" exemption repealed, extending coverage to stores grossing less than $250,000 if they are part of an "enterprise" which grosses $250,000 annually.

(b) Small bakeries, ice cream parlors, candy shops, drug stores, optometrist establishments, lumber yards, and other small retail businesses which gross less than $250,000 annually, and which "make or process" goods they sell (minimum wage and overtime).

(c) Small logging and sawmill operations with 8 or fewer employees (minimum wage).

(d) Motion picture theatres (minimum wage and overtime).

(e) Small telegraph companies (minimum wage and overtime).

5. Agricultural employees—

(a) Coverage extended to "local seasonal hand-harvest laborers", and such employees included for purposes of the 500 man-day test (75,000–150,000 employees, minimum wage).

(b) Coverage extended to agricultural employees engaged in harvesting and processing of shade-grown tobacco (minimum wage).

Substitute

Extends minimum wage coverage (not overtime) to federal, state, local government employees.

REVISION OF EXEMPTIONS

S. 1861 as reported

Completely or partially repeals exemptions for following categories of employees:

1. Small retail and service establishments grossing less than $250,000, but which are part of "enterprise" grossing $250,000 annually (minimum wage and overtime).

2. Small retail establishments which "make or process" goods they sell (minimum wage and overtime).

3. Administrative and executive employees in retail—service industries—40% allowance for non-supervisory work eliminated (minimum wage and overtime).

4. Local, seasonal, hand-harvest laborers (minimum wage).

5. Agricultural processing (overtime).

6. Seafood processing (overtime).

7. Cotton ginning (overtime).

8. Sugar processing (overtime).

9. Local transit (overtime).

10. Hotels, motels & restaurants (overtime).

11. Nursing homes (overtime).

12. Auto, aircraft & truck & trailer dealerships (overtime).

13. Catering and food service (overtime).

14. Bowling establishments (overtime).

15. Motion picture theaters (minimum wage and overtime).

16. Small loggers and sawmills (minimum wage).

17. Shade grown tobacco (minimum wage).

18. Oil pipelines (overtime).

19. Small telegraph companies (minimum wage and overtime).

Substitute

Changes no existing exemptions and creates no new ones. Directs Labor Department to undertake comprehensive study of all exemptions and submit to Congress within 3 years a report containing recommendations as to whether each should be repealed, retained unchanged or modified.

YOUTH DIFFERENTIAL

S. 1861 as reported

Retains existing 85% student certificate system which applies only to full-time students employed in retail and service firms and agriculture, but extends to full-time students employed part-time at educational institutions they are attending.

Substitute

Replaces student certificates system with new system containing following features:

1. Applicable to full-time students working in part-time jobs (20 hours per week) in any industry (work in excess of 20 hours per week permitted during school vacations in jobs in retail-service industries or agriculture); and non-students aged 16 and 17 during first six months on a job in any industry.

2. Differential rates—non-agricultural work—$1.60 or 85% of applicable minimum rate, whichever higher; and agricultural work—$1.30 or 85% of applicable rate, whichever higher.

3. No requirement that certificates be obtained from Labor Department prior to hiring of eligible youths.

4. Secretary of Labor directed to promulgate regulations insuring that no adult employment would be displaced.

Mr. DOMINICK. Mr. President, I will, together with my colleague, the Senator from Ohio (Mr. TAFT), be bringing up for debate later tonight and tomorrow a substitute for the committee bill which will accomplish what I think is needed at the present time in terms of minimum wage increases, but which does not give what I believe to be the excessive rate called for by the committee bill.

Mr. President, on behalf of the Senator from Texas (Mr. TOWER), I ask unanimous consent that Mr. Gary Lieber be permitted the floor during debate on the pending measure, and on behalf of the Senator from Arizona (Mr. FANNIN), I make the same request for Mr. Tom Shroyer.

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

Who yields time?

Mr. JAVITS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. JAVITS. Mr. President, as I understood it, time was not subject to be yielded until 3 o'clock, it being understood that the Senator from New Jersey (Mr. WILLIAMS) and I would have the floor.

The PRESIDING OFFICER. The time from 2:06 to 3 p.m. was under control.

Mr. JAVITS. Between the Senator from New Jersey and me?

The PRESIDING OFFICER. However, it was not to be charged to the 6 hours. It was to be under the same control as the basic 6 hours.

The Chair would advise the Senator that the Senator from New Jersey (Mr. WILLIAMS) and the Senator from Pennsylvania (Mr. SCOTT) have control of the time.

Mr. WILLIAMS. Mr. President, I yield 5 minutes to the Senator from New York.

The PRESIDING OFFICER. The Senator from New York is recognized for 5 minutes.

Mr. JAVITS. I would first like to express my gratification for having worked with the Senator from New Jersey (Mr. WILLIAMS) to bring out the measure which is now pending before the Senate. We shall stand together in respect of what I believe is a matter of basic justice for the American people, a redress of grievances that is long since overdue.

This is a bill which is at least 1 year after its time. It is a bill which will enable low-income workers to provide themselves and their families with the essentials of life.

Mr. President, as the ranking minority member of the Committee on Labor and Public Welfare and as the cosponsor of S. 1861, I want to congratulate the distinguished chairman of the committee, Senator WILLIAMS on the work he has done to bring this measure before the Senate. I strongly urge the Senate to approve the committee bill and reject the substitutes which will shortly be offered. The committee bill is basically the same bill approved by the Senate last year, and the passage of a year has made

the justification and need for it stronger than ever.

In my view, the establishment of a Federal minimum wage at a level which will enable low-income workers to provide themselves and their families with the essentials of life not only makes good economic sense, but also represents a moral obligation which we in Congress have to insure that all Americans are treated justly and humanely by our economic system.

The issue before the Senate is not whether the minimum wage should be raised—most agree that an increase is warranted—but rather how much and how soon it should be raised. Even the most cursory glance at the cost of living figures in recent years shows that the increases provided for in S. 1861 are, at most, barely adequate to compensate low-income workers for inflation since 1966, the last time minimum wage legislation was enacted.

The committee bill provides for an immediate increase from $1.60 to $2 for industries covered prior to 1966 with a further increase to $2.20 1 year later. For nonagricultural activities first covered in 1966—medium-size retail and service establishments and certain State and local government employees—and activities first covered by this year's bill—primarily domestics, and the remaining Federal, State, and local employees—the immediate increase would be to $1.80 with two annual increases of 20 cents, until the rate of $2.20 an hour is reached. For agricultural employees working on covered farms, the bill would provide an immediate increase from $1.30 an hour to $1.60 an hour and further annual increases of 20 cents an hour until the rate of $2.20 an hour is reached.

Given the fact that since 1968, the date the $1.60 rate became affective for pre-1966 coverage, the cost of living has increased by 28.9 percent, these increases can be hardly deemed excessive. Indeed, a minimum wage rate of $2 an hour will not even provide a full-time worker with an income sufficient to meet the poverty level as defined by the U.S. Government, which now stands at $4,300.

I think we should all bear in mind as we discuss minimum wage rates what we are really talking about in terms of weekly income for a full-time worker earning the minimum wage. For the nonagricultural employee working 40 hours a week, the present minimum wage of $1.60 provides a weekly gross income of $64 and a take-home pay of less than $60. Yearly annual income would be $3,328—almost $1,000 less than the officially defined poverty level. A minimum wage of $2 per hour provides an employee working 40 hours a week with a gross weekly income of $80 per week and take-home pay of less than $75 per week. The same worker's annual income would be $4,160, still $140 below the officially defined poverty level.

Finally a minimum wage of $2.20 per hour next year would provide a full-time worker with the gross weekly income of $88 a week and annual income of approximately $4,600. That amount will be barely sufficient to meet the poverty level next year, at the time the rate is scheduled to go into effect under S. 1861. While these figures demonstrate that the increases provided for in S. 1861 cannot be deemed excessive, in the light of the legitimate economic needs of low-income workers, it should also be emphasized that the committee, continuing the tradition followed in the case of previous minimum wage increases, has taken extra precautions to insure that the increases can be absorbed easily. Thus, as I have pointed out, for all new coverage since 1966 the initial increase will be only to $1.80 per hour rather than $2 an hour. Also, in the case of agriculture workers, the initial increase is only 30 cents an hour with further annual increases of only 20 cents, until parity with other workers is achieved. The bill also will continue to exempt over 90 percent of the farms in the country.

Another example of the committee's concern to insure that this bill will not be disruptive of the economy is the fact that the bill maintains the present $250,000 test for coverage for retail and service establishments, except in the case of chainstores which are part of enterprises whose total gross is more than $250,000. In this respect, my personal view is that the committee has actually leaned back too far. I would have preferred to see the $250,000 retail and service test at least reduced in this bill, with appropriate transitional provisions, but the committee was not sympathetic to that view.

The committee bill before us now is almost precisely the bill that passed the Senate last year. Had that bill been enacted into law last year, the minimum wage would already be at $2, with a further increase to $2.20 scheduled for next year. It is self-evident that if an increase to $2 was justified last year and approved by the Senate, an increase to $2 this year is even more justified and should be approved by the Senate once again.

The committee bill is also preferable to the substitutes which will be offered to it in respect of extensions of coverage. The committee bill would extend coverage to about 6.8 million employees, most of whom fall into three categories: First, domestics; second, State and local government employees not covered in 1966; and third, local hand harvest laborers working on farms.

Insofar as domestics are concerned, there is no question but that these workers, along with agricultural workers, are perhaps the lowest paid of all American workers and, therefore, are the ones who most desperately need the protection of the Fair Labor Standards Act. It is claimed that covering domestics under the minimum wage law will result in harassing housewives throughout all America and in eliminating jobs for domestic workers, particularly in rural areas. The short answer to this contention is that domestic workers have been covered under several State minimum wage laws; for example, Maryland, Massachusetts, Montana, New York, and Wisconsin, and there is no evidence whatsoever that such coverage has resulted in harassment of housewives or a reduction in the demand for domestics. Indeed, in many areas of the country, including New York, the problem is frequently the reverse: there are not enough workers willing to engage in domestic employment to meet the demand. Bringing minimum wage coverage to domestics will be one step, and a very important step, to bringing some measure of dignity to this type of employment and thus serve to attract a more qualified and more stable work force to the job.

With regard to the estimated 4 to 5 million Federal, State, and local employees which would be brought under coverage of the act, we know that the overwhelming majority of these workers already earn more than $2 an hour. Thus, the financial impact of this coverage on governmental units will be minimal. Furthermore, the committee has taken into account the special problems associated with overtime coverage for firemen, policemen, and correctional officers by including in the bill transitional and averaging provisions which will enable governmental units to adjust to these provisions with a minimum of difficulty. Perhaps the best argument for this coverage is that offered by Senator SCHWEIKER in committee. He pointed out that the Government should not be unwilling to give to its own employees the same economic benefits it requires private employers to pay to their employees.

Mr. President, every time minimum wage legislation is considered by the Congress, the opponents make prophecies of economic doom. First, they claim that a minimum wage increase would be inflationary. The answer to this argument is that the historical record indicates the previous increases in the minimum wage have had no discernible effect on the problem of inflation. Indeed, more than not, and as is the case now, we have raised the minimum wage in order to catch up with inflation.

In the Economic Stabilization Act Congress has especially exempted workers with incomes of less than $3.50 an hour from the economic stabilization program. In my view, that exemption represents a congressional determination that the burden of fighting inflation should not fall on low-income workers, who certainly bear no responsibility for the inflation and perhaps are most adversely affected by it. Also, the existence of the stabilization program should not be viewed as a deterrent to increases in the minimum wage but rather as an added reason why we can safely raise the minimum wage now, because it will restrain any ripple effect.

Actually, although there has been a great deal of discussion of the so-called ripple effect of minimum wage increases, the studies conducted by the Department of Labor, which are described in a committee report, pages 10–12, have not substantiated the existence of any significant ripple effect from previous increases in the minimum wage. The direct cost impact of the increases provided in S. 1861 is 0.5 percent of payroll during the first year; 0.4 percent during the second year; 0.3 percent during the third year; and 0.01 percent during the fourth year. Given the fact that any ripple effect

would not appear to be substantial, and the fact that greater increases in the minimum wage have been absorbed easily in the past, there is no merit to the charge that the increases provided in S. 1861 would be inflationary.

The second claim made by opponents of minimum wage legislation concerns alleged disemployment effects. Unquestionably, certain economists believe that an increase in the minimum wage may produce adverse employment consequences, especially for the poor, unskilled workers whom the FLSA is designed to benefit. This is another kind of doomsday prophecy which we have heard before but which has been contradicted by our experiences in connection with previous increases in the minimum wage.

The overwhelming weight of the evidence is to the effect that increases in the minimum wage have not produced negative effects on unemployment, particularly when they have occurred in times of rising economic activity such as we are now experiencing. I ask unanimous consent that a table prepared by the Department of Labor showing the unemployment rate on the effective date on each of the changes in the minimum wage law since 1950 and the rate 6 months and 1 year before and after such effective dates be printed in the RECORD.

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

SEASONALLY ADJUSTED UNEMPLOYMENT RATES OF PERSONS 16 TO 19 YEARS OF AGE AND 20 YEARS AND OVER ON THE EFFECTIVE DATE OF CHANGES IN THE MINIMUM WAGE UNDER THE FAIR LABOR STANDARDS ACT, AND 1 YEAR BEFORE, 6 MONTHS BEFORE, 6 MONTHS AFTER, AND 1 YEAR AFTER SUCH CHANGES, UNITED STATES, 1950-73

Effective date of change in the minimum wage	Minimum wage rate	Unemployment rate, 16 to 19 years					Unemployment rate, 20 years and over				
		1 year before change	6 months before change	On effective date of change	6 months after change	1 year after change	1 year before change	6 months before change	On effective date of change	6 months after change	1 year after change
Jan. 25, 1950 [1]	$0.75	10.0	14.3	15.2	11.2	8.5	3.8	6.2	5.9	4.6	3.4
Mar. 1, 1956 [1]	1.00	11.0	11.3	11.5	9.8	11.2	4.2	3.6	3.7	3.5	3.2
Sept. 3, 1961 [2]	1.15 and 1.00	14.5	17.1	18.0	15.1	14.5	4.9	6.1	5.8	4.8	4.9
Sept. 3, 1963 [1]	1.25	14.5	17.1	17.4	16.3	15.7	4.9	4.8	4.5	4.6	4.2
Sept. 3, 1964 [3]	1.15	17.4	16.3	15.7	15.8	14.7	4.5	4.6	4.2	3.8	3.4
Sept. 3, 1965 [3]	1.25	15.7	15.8	14.7	13.1	12.8	4.2	3.8	3.4	3.0	2.8
Feb. 1, 1967 [2]	1.40 and 1.00	12.4	12.4	13.0	13.4	12.9	3.0	3.0	2.9	2.9	3.0
Feb. 1, 1968 [2]	1.60 and 1.15	13.0	13.4	12.9	12.0	11.9	2.9	2.9	3.0	2.7	2.6
Feb. 1, 1969 [3]	1.30	12.9	12.0	11.9	12.2	13.3	3.0	2.7	2.6	2.7	3.3
Feb. 1, 1970 [3]	1.45	11.9	12.2	13.3	15.7	16.6	2.6	2.7	3.3	4.1	4.8
Feb. 1, 1971 [3]	1.60	13.3	15.7	16.6	16.9	18.5	3.3	4.1	4.8	5.0	4.5

[1] Change in minimum rate for previously covered employees only.
[2] Change in minimum rate for previously covered and newly covered employees.
[3] Change in minimum rate for newly covered employees only.
Source: U.S. Department of Labor, Bureau of Labor Statistics, "Employment and Earnings."

Mr. JAVITS. As the table shows, in the vast majority of cases, the unemployment rate for both youths and adults was less 6 months and 1 year after the effective date of the minimum wage change than it was on the effective date of the change. Moreover, in many of those instances, the unemployment rate had actually been higher before the change than on the effective date of the change or 6 months or a year thereafter.

The table does show that in the changes in 1969 through 1971 unemployment rates increased for both youths and adults; however, it should be borne in mind that the increases in those years affected only the relatively small number of employees who were first covered under the 1966 amendments.

On the whole, the figures clearly indicate that the economy has absorbed past increases in the minimum wage rate greater in percentage than those which would be provided under S. 1861 with no discernible adverse effects on employment.

It is true, of course, that an increase in the minimum wage will inevitably result in some localized instances of adverse employment effects. But what our historic experience shows is that such local effects are minimal. Indeed, the economic effects studies conducted by the Labor Department during the past years, many of which have focused on the effects of minimum wage changes in special industries, have virtually all shown little or no adverse employment effects from changes in the minimum wage. For example, in agriculture the fact is that although farm employment generally has declined, the decline has been less on covered farms that it has on noncovered farms.

PROVISIONS AFFECTING YOUTH

One of the most controversial issues to surface in connection with S. 1861 has been the desirability of a special youth differential. To put this matter in perspective, I would like to first briefly summarize the provisions in existing law which bear on the problem of youth unemployment. Current law contains several provisions dealing with the special problems of people first entering the work force.

For example, section 14(a) of the act permits the Secretary to issue special certificates for learners and apprentices permitting their employment at minimum wage rates specified in the certificates. There is no minimum fixed in the law that must be paid to such learners and apprentices. Under these provisions the Secretary has wide discretion in fixing minimum wage rates which reflect the low productivity or other problems associated with apprentices and trainees. Obviously, many teenagers first entering the job market fit into this category.

Another provision dealing specially with youth is the full-time student certificate program, under which retail and service establishments may apply for certificates under which they employ a full-time student for part-time work at 85 percent of the minimum wage rate. The proportion of student hours worked cannot exceed the proportion of student hours worked in the 1-year period prior to coverage of the establishment under the minimum wage law. The same program also applies to agriculture, without being limited to the same proportions of students hours worked in any base year. The committee bill would add educational institutions to those establishments qualified to participate in the student certificate program.

Other provisions of the FLSA which have a bearing on the youth problem are those which exempt some establishments from coverage altogether; for example, seasonal recreational and amusement establishments and small retail and service establishments, both of which types of establishments employ youths in significant numbers, are exempt from both the minimum wage and overtime requirements of the law. Also, agricultural workers under 16 are exempt if they are paid the same price rate as adults.

The proponents of a youth differential argue that these provisions are not sufficient to deal with adverse effects of minimum wage increases on youth and that we must approve what amounts to an across-the-board youth differential in order to deal with the problem of increasing teenage unemployment.

I cannot accept such a radical change in our approach to minimum wage legislation without much more conclusive evidence than the proponents of the youth differential have yet been able to offer that the increases in the minimum wage provided for in S. 1861 would have any serious adverse effects on youth employment. This is especially true since the proponents of the youth differential offer no real assurances that an across-the-board differential of the kind that they propose, would not, in at least some instances, serve as an inducement for employers to replace adult employees with youths at subminimum rates of pay.

The economic studies which have been done on the relationship between the minimum wage and teenage unemployment are hardly definitive. Perhaps the most comprehensive study is the one conducted by the Labor Department, the results of which were published in 1970. The Department's report concluded that—

It was not possible to adequately separate out the effects of minimum wage changes from other developments. A demonstrable relationship exists between minimum wages and youth unemployment rates if other variables are excluded from the analysis, but when other variables such as population and school enrollment changes are taken into account, the effect of changes in the mini-

mum wage upon teenage unemployment becomes obscure.

Unquestionably, some economists do maintain that the minimum wage does adversely affect teenage employment opportunities and recommend a youth differential. However, at least some of their studies have been severely criticized, because of failure to take into account such matters as major demographic changes in the teenage component of the population. As stated by Prof. Michael C. Lovell, of Wesleyan University, in a recent article in the December 1972, issue of the Western Economic Journal:

To sum up, the proposition that the minimum wage materially affects the level of unemployment receives support provided one is willing to assert as part of the maintained hypothesis that the substantial increase in the teenage population relative to the rest of the labor force has not materially influenced the teenage unemployment problem; but this is a dubious proposition. An optimist can hope that as additional observations accumulate it may eventually be possible with more sophisticated simultaneous equation techniques to segregate adequately the effects of such factors. Pending the results of further study, it seems more reasonable to accept, tentatively and reluctantly, the null hypothesis that the minimum wage has no impact on teenage unemployment.

Another defect in the economic studies which have been done on this problem is the failure to examine the experience of those States which have a youth differential under State minimum wage laws. For example, the minimum wage in the State of New York is $1.85, but the State law provides an across-the-board youth differential of 30 cents per hour for workers under 18, up to 10 percent of the work force of any employer. Not one of the three economists who appeared before the committee to support a youth differential had looked at the experiences under the New York law. In response to my own inquiries I have been informed by the New York State Department of Labor that comparatively few employers have applied for certificates permitting them to pay the youth differential and even those were primarily for part-time workers in retail and service establishments who would be eligible in most States for student certificates under Federal laws. Lastly, and perhaps in the last analysis most important, even those economists who favor the youth differential are unanimous in the view that overall economic performance is of vastly greater importance than minimum wage rates in affecting teenage unemployment.

CHILD LABOR

Mr. President, now I turn to a subject—child labor in agriculture—with which I have been concerned since I have been a member of the Committee on Labor and Public Welfare and one on which I have fought several battles on the Senate floor. Child labor in agriculture is a moral outrage. More than two decades ago, Congress acted to stop a widespread abuse of industrial child labor in industry. Yet, despite the fact that agriculture is classified as one of the most hazardous occupations in which anyone can engage, nothing adequate has been done to curb child labor in agriculture.

The present committee bill would stop, at long last, the shameful exploitation of the very young children in agriculture. At long last, it would permit very young children to remain in school or in the home, where they belong, and protect them from the hazards of field employment, often in 100-degree heat, and what for them are subhuman conditions.

The committee provisions now included in the bill, which I had the honor to author, are similar to those advanced by Senator WILLIAMS, our chairman, and myself in 1966, and which previously passed the Senate in 1961 and 1963. For 12 years we have allowed this situation to continue. Now is the time to end it, once and for all.

Under the bill, children under age 12 would be barred from employment in agriculture except on their parents' farm with parental consent. Children 14 and over could work during nonschool hours.

Examples of abuses of child labor in agriculture are not difficult to find. Present law permits child labor in agriculture during nonschool hours in the district where the child lives while employed. Thus, in Oregon's Willamette Valley in 1970, it was possible for 75 percent of the strawberry field force to be composed of children under age 14. The committee discovered to its shock and consternation that a 6-year-old child of one migrant family worked in the fields for 15 hours per day, 7 days a week, in 100-degree heat, for 23 cents an hour. All members of this body are also familiar with the countless examples of injury to young children employed in agriculture, which I repeat, is classified as one of our more dangerous occupations. Thus, the reasons which persuaded the Senate to adopt a similar provision in 1966 are no less compelling today.

The restrictions in the committee bill apply only to those very young children—under age 12—they do not apply to any child of whatever age, who works on his parents' farm. They are designed only to provide a modicum of safety to those very young children employed and exploited through agricultural labor and to whom the basic child labor provisions of the act have been unavailable for over 20 years.

Almost two generations ago, this Nation outlawed a practice which had become a national scandal—industrial child labor. If anyone in this body has forgotten the practices which, at the turn of the century, built whole industries upon the endless toil of children not yet even in their teens, let him examine the following transcript of the testimony of 8-year-old Helen Susscak answering Judge Gray's questions about her job in a textile mill in 1911:

JUDGE. Helen, what time do you go to work?

HELEN. Half after 6 evenin's.

JUDGE. When do you come home from the mill?

HELEN. Half after 6 mornin's.

JUDGE. How far do you live from the mill?

HELEN. I don't know, I guess it mostly takes an hour to get there.

JUDGE. And the inspector tells me it's across lonely fields exposed to storms that sweep down the valley. What's your pay, Helen?

HELEN. I gits 3 cents an hour, sir.

JUDGE. If my arithmetic is good that is almost 26 cents for a night's work. Well, now, we do indeed find the flesh and blood of little children coined into money.

But what we condemned with indignation over a generation ago in the textile mills and industrial plants of this Nation we continue to accept in an often equally oppressive form—agricultural child labor. There are the same long hours, the same negligible pay, the same backbreaking work, the same exposure to the elements, the lack of educational opportunity despite the nominal restrictions on working during school hours—all the same practices which deprive the child of a real childhood.

We ought not to look away now from the exploitation of children in agriculture—with all its destructive effects—at the very time when we propose to extend Federal minimum wage protection to other deprived groups in our society.

Can it really be said that these children need protection less than garage mechanics, busdrivers, or retail salesmen?

Can it really be said that 10-year-old children working for hours in the fields harvesting the food we eat are any the less exploited than children were 50 years ago manufacturing the clothes we wore?

In agriculture, as in industry, long ago, it is the same old practice—perhaps less noticed, but just as harmful—and it ought to be stopped.

As a continuing problem, violations of existing child labor laws applying to nonagricultural work are still too frequent. For that reason, last year I offered, and the committee accepted, additional amendments providing for a civil penalty of up to $1,000 to be imposed on employers who violate the child labor provisions of the FLSA and authority for the Secretary of Labor to require employees to obtain proof of age. These provisions are included in the present bill and should give the Department of Labor considerably enhanced power to curtail abusive child labor in all its shameful fashions.

Mr. President, for all of these reasons I urge the Senate will give its approval to S. 1861, as reported by the committee.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Hackney, one of its reading clerks, announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 504) to amend the Public Health Service Act to provide assistance and encouragement for the development of comprehensive area emergency medical services systems.

The message also announced that Mr. HANSEN of Idaho had been appointed as a conferee at the conference on the bill (S. 795) to amend the National Foundation on the Arts and the Humanities Act of 1965, and for other purposes, vice Mr. LANDGREBE, resigned.

FAIR LABOR STANDARDS AMENDMENTS OF 1973

The Senate continued with the consideration of the bill (S. 1861) to amend

the Fair Labor Standards Act of 1938, as amended, to extend its protection to additional employees, to raise the minimum wage to $2.20 an hour, and for other purposes.

Mr. RIBICOFF. Mr. President, I urge Congress to pass S. 1861 to increase the Federal minimum wage to $2 in October 1973 and $2.20 within a year. This means that 6.7 million Americans would receive a wage increase when the bill becomes law. We must also expand the coverage of the Fair Labor Standards Act to include millions of Americans who are not protected by minimum wage and overtime laws and assure that all workers receive equal pay for equal work.

Skyrocketing inflation is taxing away the incomes of all American wage-earners. Since 1966 when the present $1.60 minimum wage was enacted the overall cost of living has gone up by 35 percent. Food prices are up over 34 percent, transportation costs have increased 33 percent, property taxes have escalated 39 percent, and medical care costs are up 34 percent.

As a result, a minimum wage of over $2 an hour is needed just to maintain the buying power of the rate set by Congress 7 years ago. Workers must be protected against this spiralling inflation. Enactment of S. 1861 as reported out of the Labor and Public Welfare Committee would provide this protection.

S. 1861 would extend important minimum wage protection to an additional 8.4 million Americans, including Federal, State, and local employees, many workers in agriculture, retail, service, and manufacturing, and domestic help. All of these employees deserve the protection of Federal minimum wage laws.

The bill would also assure millions of additional workers of their rights to adequate overtime pay and expand the minimum wage laws to make clear that women are entitled to equal pay for equal work.

The economic impact of increasing the minimum wage would be beneficial to the economy. Arguments that increasing the minimum wage results in decreased employment are not borne out by the facts. Each year the Department of Labor's report to Congress on the impact of the minimum wage has indicated increased employment and beneficial improvements for workers, especially those at the bottom end of the economic scale. No adverse effects have been found.

This legislation is long overdue. Last year the Senate passed a similar bill only to face obstacles in the House. We must act now to protect the income of all American workers.

The PRESIDING OFFICER (Mr. McCLURE). The hour of 3 p.m. having arrived, the Chair now lays before the Senate the amendment of the Senator from Texas (Mr. TOWER) which the clerk will state.

The legislative clerk read as follows:

Strike out all after the enacting clause and insert in lieu thereof the following: That this Act may be cited as the "Fair Labor Standards Amendments of 1973".

INCREASE IN MINIMUM WAGE

SEC. 2. (a) Section 6(a)(1) of the Fair Labor Standards Act of 1938 is amended to read as follows:

"(1) (A) not less than $1.75 an hour during the first year from the effective date of the Fair Labor Standards Amendments of 1973,

"(B) not less than $1.85 an hour during the second year from the effective date of such amendments,

"(C) not less than $1.95 an hour during the third year from the effective date of such amendments, and

"(D) not less than $2.05 an hour thereafter."

(b) Paragraph (5) of section (6)(a) is amended to read as follows:

"(5) if such employee is employed in agriculture, not less than $1.45 an hour during the first year from the effective date of the Fair Labor Standards Amendments of 1973, not less than $1.55 an hour during the second year from the effective date of such amendments, not less than $1.65 an hour during the third year from the effective date of such amendments, and not less than $1.75 an hour thereafter."

(c)(1) Section 6(b) of such Act is repealed.

(2) Subsections (c), (d), and (e) of section 6 of such Act are redesignated as subsections (b), (c), and (d), respectively.

EMPLOYEES IN THE CANAL ZONE

SEC. 3. Section 6(a) of the Fair Labor Standards Act of 1938 is amended by striking out the period at the end of paragraph (5) of such section and inserting in lieu thereof a semicolon and the word "or", and by adding at the end thereof the following new paragraph:

"(6) if such employee is employed in the Canal Zone not less than $1.60 an hour."

EMPLOYEES IN PUERTO RICO AND THE VIRGIN ISLANDS

SEC. 4. Paragraphs (A) and (B) of section 6(b)(2) of the Fair Labor Standards Act of 1938 (as redesignated by section 3(c)(2) of this Act) as amended to read as follows:

"(A) The rate or rates applicable under the most recent wage order issued by the Secretary prior to the effective date of the Fair Labor Standards Amendments of 1973 increased by 8.5 per centum unless such rate or rates are superseded by the rate or rates prescribed in a wage order issued by the Secretary pursuant to the recommendations of a review committee appointed under paragraph (C). Such rate or rates shall become effective sixty days after the effective date of the Fair Labor Standards Amendments of 1973, or one year from the effective date of the most recent wage order applicable to such employee theretofore issued by the Secretary pursuant to the recommendations of a special industry committee appointed under section 5, whichever is later.

"(B)(i) Effective one year after the applicable effective date under paragraph (A), the rate or rates prescribed by paragraph (A) increased by an amount equal to 8.5 per centum of the rate or rates applicable under the most recent wage order issued by the Secretary prior to the effective date of the Fair Labor Standards Amendments of 1973 unless such rate or rates are superseded by the rate or rates prescribed in a wage order issued by the Secretary pursuant to the recommendation of a review committee appointed under paragraph (C).

"(ii) Effective two years after the applicable effective date under paragraph (A), the rate or rates prescribed by subparagraph (i) of this paragraph increased by an amount equal to 8.5 per centum of the rate or rates applicable under the most recent wage order issued by the Secretary prior to the effective date of the Fair Labor Standards Amendments of 1973 unless such rate or rates are superseded by the rate or rates prescribed in a wage order issued by the Secretary pursuant to the recommendation of a review committee appointed under paragraph (C)."

EXPANDING EMPLOYMENT OPPORTUNITIES FOR YOUTH; SPECIAL MINIMUM WAGES FOR EMPLOYEES UNDER EIGHTEEN AND STUDENTS

SEC. 5. Section 14(b) of the Fair Labor Standards Act of 1938 is amended to read as follows:

"(b)(1) Subject to paragraph (2) and to such standards and requirements as may be required by the Secretary under paragraph (4), any employe may, in compliance with applicable child labor laws, employ, at the special minimum wage rate prescribed in paragraph (3), any employee—

"(A) to whom the minimum wage rate required by section 6 would apply in such employment but for this subsection, and

"(B) who is under the age of eighteen or is a full-time student.

"(2) No employer may employ, at the special minimum wage rate authorized by this subsection—

"(A) for a period in excess of one hundred and eighty days any employee who is under the age of eighteen and is not a full-time student; or

"(B) for longer than twenty hours per week any employee who is a full-time student, except in any case in which such student is employed by the educational institution at which he is enrolled: *Provided*, That students covered by this subsection may work on a full-time basis during school vacations.

"(3) The special minimum wage rate authorized by this subsection is a wage rate which is not less than $1.60 an hour during the first two years from the effective date of the Fair Labor Standards Amendments of 1973, and not less than $1.75 an hour thereafter, except that such special minimum wage rate for employees in Puerto Rico, the Virgin Islands, and American Samoa shall not be less than 85 per centum of the industry wage order rate otherwise applicable to such employees, but in no case shall such special minimum wage rate be less than that provided for under the most recent wage order issued prior to the effective date of the Fair Labor Standards Amendments of 1973.

"(4) The Secretary shall by regulation prescribe standards and requirements to insure that this subsection will not create a substantial probability of reducing the full-time employment opportunities of persons other than those to whom the minimum wage rate authorized by this subsection is applicable.

"(5) For purposes of sections 16(b) and 16(c)—

"(A) any employer who employs any employee under this subsection at a wage rate which is less than the minimum wage rate prescribed by paragraph (3) shall be considered to have violated the provisions of section 6 in his employment of the employee, and the liability of the employer for unpaid wages and overtime compensation shall be determined on the basis of the otherwise applicable minimum wage rate under section 6; and

"(B) any employer who employs any employee under this subsection for a period in excess of the period prescribed by paragraph (2) shall be considered to have violated the provisions of section 6 in his employment of the employee during the period in excess of the authorized period.

"(6) The provisions of this subsection shall not apply to employment in agriculture."

PENALTIES

SEC. 6. The first two sentences of section 16(c) of the Fair Labor Standards Act of 1938, as amended, are amended to read as follows: "The Secretary is authorized to supervise the payment of the unpaid minimum wages or the unpaid overtime compensation owing to any employee or employees under section 6 or 7 of this Act, and the agreement of any employee to accept such payment shall upon payment in full constitute a waiver by such employee of any right

he may have under subsection (b) of this section to such unpaid minimum wages or unpaid overtime compensation and an additional equal amount as liquidated damages. The Secretary may bring an action in any court of competent jurisdiction to recover the amount of the unpaid minimum wages or overtime compensation and an equal amount as liquidated damages."

EXEMPTION REVIEW

SEC. 7. The Secretary of Labor is hereby instructed to commence immediately a comprehensive review of the exemptions under section 13 of the Fair Labor Standards Act of 1938 and submit to the Congress not later than three years after the date of enactment of this Act a report containing: (1) an analysis of the reasons why each exemption was established; (2) an evaluation of the need for each exemption in light of current economic conditions, including an analysis of the economic impact its removal would have on the affected industry; and (3) recommendations with regard to whether each exemption should be continued, removed, or modified.

TECHNICAL AMENDMENTS

SEC. 8. (a) Section 6(c)(2)(C) of the Fair Labor Standards Act of 1938 is amended by substituting "1973" for "1966".

(b)(1) Section 6(c)(3) of such Act is repealed.

(2) Section 6(c)(4) of such Act is redesignated as 6(c)(3).

(c)(1) Section 7(a)(1) of such Act is redesignated as 7(a).

(2) Section 7(a)(2) of such Act is repealed.

(d) Section 14(c) of such Act is repealed and section 14(d) is redesignated as 14(c).

(e) Section 18(b) is amended by striking out "section 6(b)", and inserting in lieu thereof "section 6(a)(6)", and by striking out "section 7(a)(1)" and inserting in lieu thereof "section 7(a)".

EFFECTIVE DATE

SEC. 9. Except as otherwise provided in this Act, the amendments made by this Act shall take effect sixty days after enactment. On and after the date of enactment of this Act, the Secretary is authorized to promulgate necessary rules, regulations, or orders with regard to the amendments made by this Act.

The PRESIDING OFFICER. Time is under control. Who yields time?

Mr. TAFT. Mr. President, I yield myself 5 minutes on the bill.

The PRESIDING OFFICER. The Senator from Ohio is recognized for 5 minutes.

Mr. TAFT. Mr. President, I shall not talk at this time about the Tower-Fannin substitute, as I expect other Senators will be in the Chamber shortly to do so, but I should like to make some remarks at this time with regard to the bill generally which, of course, will be supplemented in considerable detail when the Dominick-Taft substitute is the order of business before the Senate.

Mr. President, there is a need for enactment of an increase in the minimum wage and I am certain that all Members of this body desire to see the elimination of substandard and exploitive wage practices. Consideration must be given, however, to the relatively high level of unemployment still existing in the country and great inflationary pressures present in the economy. In fact, inflation has been such an issue that Senators on both sides of the aisle have expressed concern regarding this most pressing problem.

The President is expected to respond to this problem this week and his proposals under phase IV hopefully will be a constructive vehicle to curb spiraling inflation within the country. This problem, however, is not merely the responsibility of the executive branch, as the legislative branch also must act responsibly in considering matters that have significant economic impact on the Nation's economy. On page 115 of the committee report, Senators DOMINICK, BEALL, and I cite estimates from the Department of Labor that the ripple effect—the cost to employers under the committee bill of restoring existing wage differentials in industries throughout the country as a result of the minimum wage increase—would be approximately $22.5 billion in 1973, $17.1 billion in 1974, $5.6 billion in 1975, and $139 to $143 million in 1976.

As has already been indicated by the distinguished Senator from Colorado in his opening remarks on the bill, this does not take into account the ripple effect and the various other factors that seem likely further to increase in a substantial way the impact involved.

The committee, in attempting to justify its position, which includes the largest one-step dollars and cents increase in the history of the Fair Labor Standards Act, has taken an unrealistic approach that is very difficult to support. The committee assembles a number of charts and cities various statistics which appear, on the surface, to support their position. On closer examination, however, one finds that such information averages out the adverse impact of the committee's proposals, and fails to focus upon many important questions regarding the impact of extending coverage of the Fair Labor Standards Act and increasing the minimum wage. I respectfully question whether the proponents of the committee position are aware that the economic conditions of the Northeast are not necessarily prevalent in other regions of the country. Further, the committee's analysis is deficient with regard to the adverse effect on the segments of the population least able to compete in the labor market and is particularly distressing in that no constructive proposals were submitted to deal with the problem of high youth unemployment.

The committee in reporting S. 1861, rejected every major amendment that Senators DOMINICK, BEALL, and I offered. The proponents of the committee's position, in fact, were unwilling to even discuss any middle ground for agreement. The committee bill unfortunately, is almost an exact copy of the proposal they recommended last year, and represents no modifications or compromise from the bill which was not able to move through Congress. It is also close, indeed, to the now House-passed bill which again thwarted all attempts to arrive at a compromise, taking into account the unemployment factors and taking into account the inflationary factor. This is extremely unfortunate as it seems extremely likely such an attitude will frustrate, if not prohibit, swift enactment of the needed increase in the minimum wage. Senators DOMINICK, BEALL, and I, therefore, plan to call up our amendment No. 330 to S. 1861, which is a substitute proposal for the committee bill. I am hopeful and confident that Senators will closely examine the issues involved in this subject and that they will act in a spirit of compromise for the national interest.

Mr. President, I have noted particularly the article in the Washington Post this morning which the Senator from Colorado placed in the RECORD. I want to call that to the attention of all Senators, and also call their attention to the article printed in the RECORD yesterday by the distinguished Senator from Texas (Mr. TOWER) which bears further on the points I have mentioned.

Mr. President, I yield the floor.

Mr. FANNIN. Mr. President, what is the pending business?

The PRESIDING OFFICER (Mr. MCCLURE). The pending business is the amendment offered by the Senator from Texas (Mr. TOWER).

Mr. FANNIN. I thank the Chair. I understand that is amendment No. 252; is that correct?

The PRESIDING OFFICER. That is correct, amendment No. 252, as modified.

Mr. FANNIN. I thank the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. FANNIN. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER. Is the Senator acting for the Senator from Texas?

Mr. FANNIN. The Senator is a cosponsor of the bill and I am acting for the Senator from Texas.

The PRESIDING OFFICER. The Senator from Arizona is recognized for 5 minutes.

Mr. FANNIN. Mr. President, first of all, I should like to explain what is proposed by the Tower-Fannin minimum wage amendment in the nature of a substitute for S. 1861.

One, it increases the minimum wage for those workers covered under the FSLA from $1.75, 60 days after enactment, to $1.85 1 year after, or 1974; $1.95 1 year after that, 1975; and then $2.05 1 year later, which would be 1976.

On agriculture workers, the scale would be $1.45, 60 days after enactment; $1.55 1 year later, 1974; $1.65 1 year after that, 1975; and then $1.75 in 1976. There is also a youth differential.

The differential would be a fulltime student under 21 for a maximum of 20 hours a week; a student under 18 years of age, the rate would be $1.60 until the adult minimum wage goes to $1.95, and then $1.75 at that time.

The coverage would be all nonagricultural industries and the time would be not to exceed 180 days for nonstudents under 18 and for 20 hours a week for students during the school year. The substitute does not extend minimum wage coverage or amend the overtime provisions of the act. Instead, it requires the Secretary of Labor to make a comprehensive 3-year study of all exemptions under the FSLA.

First, I want to speak against the committee bill, S. 1861. This bill is essentially the same bill which passed the Senate last year after the defeat of the Taft-Dominick substitute by a 47-to-46 vote.

While I am no longer a member of the Senate Labor Committee, I have taken the time to study the various bills on

minimum wage, because I believe it is one of the most important subjects that Congress will pass on this year. The House has already passed the so-called Dent bill which is similar to the committee bill. In my opinion, if the committee bill passes the Senate, the President should exercise his veto power.

In consideration of this legislation, I have been concerned with two primary goals. I believe we have to broaden the economic opportunities for the young, the disadvantaged, the impoverished, and the marginal worker. I believe we want to reduce unemployment and bring inflation under control. We must attempt to relieve our cities of their financial problems, caused in part by high welfare costs and relief rolls. We must attempt to accelerate development in our rural areas and restore farming to its rightful place in our economy.

The committee bill works contrary to those goals.

I intend to speak later of the effect of higher minimums upon imports, exports, and disemployment. These are the areas which have the greatest impact upon the farmer, especially the growers of citrus fruits and vegetables.

At this time I want to voice my concern with other specific provisions of the committee bill.

The committee bill would extend coverage, but not overtime, to an estimated 1,200,000 domestic service employees. Apparently, the committee majority finds constitutional basis for coverage in the "commerce clause" on the ground that cleaning product sales affect commerce, and domestic employment releases other persons to work in commerce. I had thought that the "commerce clause" had been extended to its outermost limits, but this breaks all bounds.

The Department of Labor has taken the position, both last year and this year, that it would be almost impossible to enforce this provision of the committee bill.

I just cannot imagine the housewife struggling with the paperwork which would be required. I can imagine the housewife giving her husband the alternative of either filling out the forms or dispensing with the domestic and performing half the housework himself. It has been my impression that domestics are in such short supply and in such great demand that they can ordinarily set their own wages.

The extension of coverage to some 5 million State and local government employees is offensive to me. This is a massive intrusion of the Federal Government into State and local governmental affairs. State and local officials can better appreciate the differences in the cost of living, which vary widely between States. The administration is concerned about the vitality and viability of State and local governments. Federal Government regulation of wages of State and local government employees would be at cross-purposes with those goals and would tend to weaken our system of federalism.

The failure of the committee bill to provide a lower minimum for teenagers standing alone provides sufficient reason for me to vote against the bill. Economists from three leading universities advocated a youth differential. Prof. Thomas Moore of Michigan State University estimated that the effect of the committee bill, S. 1861, which has the same schedule of minimums as the House now passed bill, would increase nonwhite teenage unemployment by 11.6 percentage points by September 1974; 18.8 points by September 1975; and around 21 to 23 points each year to September 1979. White teenage unemployment would go up but at a lesser rate, according to Professor Moore.

Many nations, among them the United Kingdom, France, and Japan, have lower minimum wages for youth. The central argument for a lower minimum rate for teenagers in the United States is their very high unemployment rate, and in particular the extremely high unemployment rate of nonwhite teenagers.

Teenage unemployment rates, white and nonwhite

[In percent]

WHITE	
Teenagers (16–19):	
1969	10.7
1970	13.5
1971	15.1
1972	14.2
Total labor force:	
1969	3.1
1970	4.5
1971	5.4
1972	5.0
NONWHITE	
Teenagers (16–19):	
1969	24.1
1970	29.1
1971	31.7
1972	33.5
Total labor force:	
1969	6.4
1970	8.2
1971	9.9
1972	10.0

Source: Monthly Labor Review, February 1973.

The ratio of teenage to adult unemployment rates has tended to rise, while the proportion of the labor force in the 16 to 19 age group has also been rising. It has been observed that, apart from this trend, the ratio of teenage to total unemployment rates has risen every time the minimum has been increased. Source: American Enterprise Institute, Legislative Analysis, May 9, 1973, page 16.

Surely the Senate does not wish to accelerate this already alarming increase in teenage unemployment.

The current minimum wage for agricultural workers under FLSA i $..30 per hour. The committee bill would raise this minimum to $1.60 in 1973, $1.80 in 1974, $2.00 in 1975 and $2.20 in 1976. Mr. President, these increases would destroy the fruit and vegetable industry in my State of Arizona. Our close proximity to Mexico, where the average rate for farm workers is approximately 30 cents per hour, has played a major part in the rapid increase of imports from Mexico. Arizona's fruit and vegetable industry has been hard put to live with the $1.30 present minimum. It simply cannot continue with increases which will go to $2.20 under the committee bill. I intend to discuss this further in a later speech on the effect of higher minimums upon imports.

Mr. President, as we stand on the threshold of uncertainty in our economy, a substantial increase in the minimum wage and extension of coverage would appear to be an untimely action when one relates it to inflation, unemployment problems and international competition.

For these reasons, I have joined Senator TOWER in introducing an amendment in the nature of a substitute for S. 1861. Our bill does not treat the Fair Labor Standards Act as a Federal tool to erase poverty in the Nation. Instead, it recognizes the impact of inflation on marginally and unskilled workers.

Our bill increases the minimum wage for nonagricultural workers from $1.60 to $1.75 60 days after enactment; $1.85 during the 2d year; $1.95 during the 3d year and $2.05 during the 4th year.

The Tower-Fannin amendment would gradually raise the minimum wages for agricultural workers from the present $1.30 per hour to $1.75 over the same 4-year time period. Our substitute amendment contains a "youth differential" for teenagers below age 18 and full-time students below age 21 of $1.60 to be increased to $1.75 when the adult wage rises to $1.95. These special wage rates for non-students could only apply for a maximum of 180 days.

The Tower-Fannin amendment does not make any change in existing coverage, with respect to both application of the minimum wage and the overtime exemptions. Instead, we propose that the Department of Labor undertake a 3-year review of all existing exemptions.

I urge passage of the Tower-Fannin amendment.

Mr. President, one aspect of the minimum wage issue that is frequently overlooked is the devastating effect unrealistic legislation can have on smaller communities. In the June 21, 1973, edition of the Arizona Record, published at Globe, Ariz., Publisher Tom E. Anderson expresses his fears concerning this issue.

I ask unanimous consent that his editorial be printed in the RECORD at this point.

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

TEENAGERS HIT: UNREALISTIC MINIMUM WAGE HURTS RATHER THAN HELPS

(By Tom E. Anderson)

All businesses are affected by an increase in the federal minimum wage. When the wage floor goes up, wages above the minimum also rise to maintain differentials between skill levels. And when labor costs go up, either prices increase or workers are laid off—to keep total costs at a competitive level.

Hardest hit are workers in low wage, small profit-margin industries. They are the most prone to layoff and can afford it the least. Employers in these industries, as well, may find that costs no longer allow them to be competitive. The result—a shutdown and loss of jobs for the community.

In its zeal to provide everyone with a higher wage, the Democratic leadership of Congress also proposes to close the door of opportunity to those who need it most—our youth. Unemployment rates among those under 21, particularly minorities, are several times the national average.

Many businesses cannot afford to pay teenagers a higher minimum and, given no other choice, simply do not hire them. Colleges and universities, which provide numerous jobs for students, face a similar problem. Finan-

cially hard-pressed private institutions may have to lay off some student employees. Public universities would have to demand a larger share of our taxes. Congress, in acting on minimum wages, should certainly provide provisions for a youth opportunity wage. The three-step proposal, which would raise the present $1.60 an hour minimum wage to $2.20 over three years, would raise the minimum to $1.90 this year, then to $2.00 and $2.20 in annual steps. It would fix a special rate for workers 18 years old and under of 80 per cent of the minimum during their first six months on the job and hold the coverage where it is now.

The three-step proposal was offered by a coalition of Republicans and Southern Democrats but was defeated in favor of the two-step leadership-backed bill which would raise the minimum to $2.00 this year and to $2.20 a year later. The latter would also bring 3.3 million state and local employees under coverage, 1.7 million federal workers and one million household domestics. At present about 46 million workers are covered. No differential is provided for teenagers.

The key vote in the House came on the move by the coalition to substitute the Erlenborn bill for Dent's Democratic leadership bill. Voting for the substitute were all three of Arizona's Republican representatives—Conlan of our district, Rhodes and Steiger. Voting against the substitute, also predictably, was Arizona representative Udall. The vote was 218–199 against the substitute.

Attention on the matter will now shift to the Senate where Arizona senators Fannin and Goldwater are again expected to support a substitute bill.

I know from our own experience and what I have observed in Globe-Miami that voting a straight-laced minimum wage bill may be great politically but is not beneficial for teenagers and not conducive to holding down the rate of unemployment.

ELIMINATION OF EXEMPTIONS

Mr. FANNIN. The committee bill would further extend coverage by completely eliminating many exemptions which have long been recognized under the Fair Labor Standards Act.

Minimum wage coverage would be extended to some 150,000 farmworkers by elimination of the exemption for "local, seasonal, hand harvest laborers" section 13(a)(6). This would have the further effect of reducing the size of farms to which minimum wage coverage extends, because such employees would be included for the first time in computing the 500 man-day test. The impact of this would fall heaviest on fruit and berry farms, which utilize large numbers of hand laborers during two short harvest seasons.

Sections 7 (c) and (d) of present law provide exemptions or partial exemptions from overtime for seasonal employment. Section 7(c) provides a 10 hour workweek in a seasonal industry if employees receive premium pay for hours in excess of 10 in 1 day or 50 in 1 week. The committee bill eliminates this partial exemption from overtime.

Section 7(d) of present law provides the same partial exemption from overtime premium pay for "recurring seasonal peaks of operation at the places of first marketing or first processing of agricultural or horticultural commodities from farms if such industry is engaged in the handling, packing, preparin, storing, first processing, or canning of any perishable agricultural or horticultural commodities in their raw or natural state."

Mr. President, these provisions have been carefully limited by the Secretary of Labor by regulations which the affected industries understand. Under those regulations, as I have pointed out, some dozen of the major packing and canning companies have moved major operations into Mexico to take advantage of the cheaper wage rates. Does the committee honestly desire to drive the remaining canners and packers out of the United States and throw additional thousands of employees out of work?

The committee bill first raises the present minimum for agricultural workers from $1.30 per hour to $1.60 immediately and to $2.20 per hour ultimately. It then proceeds to knock out the exemptions which have made it possible for farmers to survive. Still not content with the havoc it would bring, the committee bill goes forward to destroy many of the exemptions from overtime provided by section 13(b) of present law. Since my State of Arizona is a large producer of cotton, I was particularly alarmed by the elimination of section 13(b)(15). This subsection exempts from premium overtime pay "any employee engaged in ginning of cotton for market, in any place of employment located in the county where cotton is grown in commercial quantities." I suggest that other Senators give particular attention to what the committee bill does to section 13 and determine how it would affect industries of large importance in their States.

Mr. TOWER. I yield myself such time as I may require.

Mr. President, I strongly oppose S. 1861, as reported by the Senator Labor and Public Welfare Committee. My opposition extends to nearly every major provision of the bill. Enactment of this will negate any positive efforts that have been or will be implemented in our battle against inflation and unemployment. If Congress passes minimum wage legislation similar to S. 1861 or the House passed bill, I shall implore the President to exercise his veto prerogative.

Unfortunately, an opponent of this bill is quickly labeled as being motivated by a feeling of total disregard and lack of compassion for the downtrodden and disadvantaged.

This myth has been perpetuated despite massive economic evidence backing up the contention that legislation like the pending bill can have adverse impacts on just those groups of workers the Fair Labor Standards Act is intended to aid.

I very much regret that this debate is again taking place. The same pro and con arguments that were debated last year will again be repeated. Had the spirit of compromise been realized this might have been avoided and the Congress would not be faced with the distinct possibility of taking all or nothing of a 37-percent increase in the minimum wage within a year and 2 months—an increase from $1.60 to $2.20, the largest monetary incremental increase in the history of the Fair Labor Standards Act.

Mr. President, I am sure that other Senators will discuss in depth the various provisions of S. 1861 and why they are ill-conceived. Briefly, I would like to discuss this matter by emphasizing my disagreement with the committee's decisions and its analyses within the context of the following broad category areas:

First. Minimum wage increases for covered employees.

Second. Extensions of coverage and repealing of overtime exemptions.

Third. The absence of an effective provision to improve the youth unemployment problem.

The 37 percent increase in the minimum wage is based upon the committee's belief that this is an effective mechanism to restore the consumer purchasing power of the "working poor" and that therefore, by a touch of the congressional magic wand, poverty in America will diminish to a more tolerable level, if not automatically disappear. The same reasoning is being employed with respect to farm workers whose minimum would be increased to $2.20 after three years from the bill's effective date.

There is no rational basis for such conclusions on at least two grounds. First, as pointed out in so many instances, the conditions of the poor are not geared to wage rates but to family size and general employability in the free market. In 1971 only 37 percent of head of households of working poor families were employed for a full year at a full-time job. Another 46 percent held varying types of part-time jobs. Nearly half of the working poor were members of families with six people or more. It is therefore simplistic at best to call for a $2.20 artificially set minimum wage having no relationship whatsoever to supply and demand factors.

To be consistent, the committee should have reported a $2.65 minimum wage since that level corresponds to the Labor Department's poverty level for a family of six. However, a $2.65 minimum wage or a $2.20 minimum to become effective within such a short period of time fails to recognize the important fact that the average working poor family contains more than one worker.

This factor, of course, tends to destroy the underlying foundation of S. 1861.

Instead, Mr. President, the needs of the working poor relate to expanded employment opportunities. I have introduced with Senator FANNIN a minimum wage bill because its provisions recognize the major objective of the law—to insure against the abuse of low skilled workers. We surely do not believe that this government intrusion into the free market can erase poverty; in fact unless the act is amended in the fashion we have proposed, it is our firm belief that poverty will be increased rather than decreased.

The deciding factors to be weighed in minimum wage debate must be analyzed by utilizing a broad based cost-benefit study. John Peterson and Charles Stewart stated in their important study "Employment Effects of Minimum Wage Rates"—

The government's studies have demonstrated repeatedly that some workers receive higher wages when minimums are increased. This is undoubtedly true. But it should be

stressed that unless the wage gains of some workers exceed the employment losses of others (including reduced hours of work), workers as a group do not gain. The fundamental objective of minimum wage legislation is not just higher wages for some workers at the expense of others but larger total payroll.

Therefore, disemployment or the loss of jobs due to increased minimum wages can and have in the past canceled out the benefits obtained by some workers. Economic conditions of the working poor will improve when the economy is thriving and therefore will not be advanced through huge minimum wage increases that contribute to unemployment. In this light a vast majority of economists who have studied the matter suggest that minimum wage increases have an adverse effect on low and unskilled employees or potential employees.

As in the case of so many well intended social programs, the Fair Labor Standards Act has retarded the economic growth of just those groups of people which the act was intended to assist.

The sectors of the economy most affected by the Fair Labor Standards Act are the retail and service industries and certain types of manufacturing. A study by William Shkurti and Belton Fleisher concluded that retail employment grew at only one-fourth of the rate of sales from 1960–65. It was in this period that retail businesses became most affected by the minimum wage.

Studies by Yale Brozen of the University of Chicago conclude that those few workers helped directly by rapid minimum wage increases would have received comparative wage increases without Government intervention anyway within a short period of time.

On the other hand, Mr. Brozen states that these type of increases have tended to restrict the expansion of low-wage manufacturing industries in the South and that workers so displaced have crowded into the uncovered areas, thereby resulting in depressed economic conditions for the poor.

The Peterson and Stewart study concludes that:

1. Existing evidence on the effects of minimum wage rates is substantial and should serve to sharpen the focus of further research and debate in the field.

2. The impression created in most government studies that federal minimum wage policy has produced no adverse employment effects is erroneous.

3. The weight of the evidence produced by academic research is that adverse relative employment effects are related to the relative wage impact of statutory minimums.

4. The general model of economic theory most nearly corresponds to the observed results of statutory minimums, whereas the alternative models used to support minimum wage advocacy have been shown to be non-predictive in theory and in fact.

5. Minimum wage rates produce gains for some groups of workers at the expense of others, with the adverse employment effects greatest among workers who are the most disadvantaged in terms of marketable skills or location. The unqualified claim that statutory minimums help the poor must be denied.

6. As to the policy implications of these findings, perhaps the most important is that the regressive distribution of the effects of raises in statutory wage minimums brings into question both the wisdom and equity of such minimums.

In addition to discounting real economic data, proponents of the 37-percent increase deny that the legislation is inflationary, leading to Government imposed pressure on the entire economy for comparable wage increases. The committee report maintains that the Congress must be the bargaining agent for the working poor and that huge minimum wage increases represent a successful negotiation. This reasoning is downgraded by the evidence I have already presented and that will be no doubt expanded upon by other Senators who will speak to this issue.

As far as inflationary pressure is concerned, the effects come not from the comparatively small aggregate payroll increases obtained by workers in order to bring them within the new statutory minimum, but rather from indirect wage increases required to maintain wage differentials. It is admitted that it is difficult to quantify in dollars and cents this "ripple effect." However, to deny its existence seems to me to ignore basic factors in labor-management relations. Witness, for instance, the NLRB case cited in the minority report that an employer was charged with an unfair labor practice for failing to consult the union before restoring wage differentials caused by a recent minimum wage increase.

The real benefactor of this legislation is organized labor. The irresponsible elements within the leadership of organized labor have no need for the unskilled marginal worker, often black, often young. These workers, many of whom will be unemployed, are the least ripe for union organizing due to their status in transitional rather than normal employment patterns.

On the other hand, those who benefit from the ripple effect will be implored to recognize that minimum wage legislation would not have passed Congress but for the presence and influence of organized labor.

EXTENSIONS OF COVERAGE AND REPEAL OF EXEMPTIONS

S. 1861 extends coverage to more than 7 million workers. Such an expansion of coverage can have the same negative effects as the 37-percent increase in the minimum wage for those already covered by the Fair Labor Standards Act.

For instance, the bill extends minimum wage and overtime coverage to domestic employees. While I believe that the argument that this provision will be generally impossible to enforce is a sound one, I feel there are even better grounds for opposition.

First, there is no rational basis for the conclusion that domestics are in interstate commerce, and thereby can be reached by Federal legislation. The belief that the interstate commerce connection attaches due to the equipment they use in their work is dubious at best. That the commerce clause has been stretched far beyond the intentions of the Founding Fathers is readily admitted by most knowledgeable observers. However, affirmation of this reasoning put forth in S. 1861 would put the last nail in the coffin of the commerce clause. The Founding Fathers, in their wisdom, may have realized the need for a flexible constitutional interpretation of the commerce clause in order to take into consideration the development and evolution of the country. On the other hand, I seriously doubt that the Founding Fathers ever intended that the commerce clause be rendered meaningless.

Secondly, I cannot accept the reasoning of the proponents of this provision that minimum wage coverage will bring to the domestic servant occupation a spirit of pride and dignity that for some reason doesn't exist now. Such reasoning implies that domestic service employees lack the sense of dignity and pride that other workers have. Such a broad conclusion defies logic and to the extent it may be true in individual cases, I cannot begin to believe that minimum wage coverage is going to achieve a spiritual restoration in job pride.

The economic effects of this extension will likewise produce negative results, unless our sole objective is providing a basis for organized labor to organize domestics on the grounds that they were responsible for the passage of the legislation. At a time when Congress has taken positive action to encourage the employment of housewives, I think it unwise to contradict that policy through the minimum wage law. Particularly outside the Northeastern part of the country, employers of domestics will either cease employing them or reduce their hours per week. This will result in disemployment and reduced purchasing power for the working poor family. Overall employment in the country will be reduced since many housewives will no longer consider it economically feasible to obtain part-time work.

Mr. President, with equal vigor I strongly oppose extension of the Fair Labor Standards Act to State and local government workers. Besides the constitutional questions that clearly arise, I object to this callous invasion of federalist principles which in recent decades has been greatly weakened to the disadvantage of States and municipal governments. As in the case of domestics, this represents hypocritical Federal policy. The revenue sharing concept has been accepted as a forward looking approach to both problem solving and as a means to restore the basic tenets of American federalism. Extension of minimum wage to State and local governments represents a step backward in our quest to achieve this national objective.

The National League of Cities—Conference of Mayors has contacted my office, informing me of the immense problems cities will face if this provision is enacted. Particularly with respect to overtime coverage, cities will be forced to readjust their particular employment systems that are geared to local needs and demands because of a foreign edict enforced by a Federal Government that has no understanding of their problems.

S. 1861 would revise by modifying or eliminating no less than 19 separate exemptions from minimum wage coverage. I do not believe that a substantial case has yet to be presented for eliminating any of these exemptions. It is for this

reason that the Tower-Fannin substitute instead requires the Secretary of Labor to undertake a 3-year comprehensive study of all current exemptions.

Within that time frame the Secretary would report his findings and recommendations as to the feasibility of retaining, modifying or eliminating each and every exemption. This is the kind of analysis that needs to be done before Congress embarks upon a systematic review of exemptions. It should be recalled that each and every exemption was put into the act for specific reasons, whether it be because of the abnormal working hours and conditions in the industry or a scarcity of labor in the particular business. Those who desire to remove any of these exemptions must bear the burden of proving that they are no longer necessary or desirable.

I do not intend to discuss every one of the 19 changes S. 1861 proposes. I would however like to allude to one or two as examples pointing out the undesirable effects of the changes proposed.

The committee bill removes the overtime exemptions for local transit operators. This action has been proposed despite the enormous financial difficulty facing this industry. Since 1954 at least 268 local bus companies have gone out of business and operating losses for the entire industry were $427 million in 1971 alone!

Removing the overtime exemption for transit workers would only add to these already enormous losses and would result in either more cities without public transit facilities, increased fares or further Federal subsidization of transit systems throughout the country.

When transit systems fail, those who have the greatest need for low-cost transportation—the needy, the aged, the young and the handicapped are hurt the most. The Senate has gone on record in support of increased federal support for mass transit. To remove this overtime exemption at this time would not be consistent with our past actions.

Mr. President, I am very much concerned about the committee action as it relates to agriculture. In particular I call to the attention of the Senate the removal of overtime exemptions for agricultural processing, sugar processing, cotton ginning as well as the extension of coverage to local, seasonal hand harvest laborers, for determining whether a farm meets the act's 500-man-day test. I know that Senator FANNIN and others will speak in detail about the detrimental effect which S. 1861 will have on American agriculture. I ask unanimous consent at this time to place in the RECORD the statement in support of the retention of the cotton ginning exemption by Mr. Tony Price of the Texas Cotton Ginning Association.

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

STATEMENT ON S. 1861 BY J. H. TONY PRICE

This statement is presented for the Texas Cotton Ginners' Association, a trade organization representing the 1,004 cotton gin establishments in Texas with headquarters at 3724 Race Street in Dallas, by J. H. Tony Price, executive vice president of the Association.

This Association strongly urges the Senate Subcommittee on Labor to amend S. 1861 in its present form so as to retain the exemption from overtime authorized in Section 13 (b) (15) of the Fair Labor Standards Act (as amended), and to retain the partial exemption from overtime authorized in Section 7(c) for certain seasonal agricultural processing industries. This request for retention of the overtime exemptions is made for the following reasons: the conditions which originally justified the exemptions in Section 13(b) (15) and Section 7(c) still exist in the cotton ginning industry.

Obviously, ginning is a seasonal process directly related to the harvest of the cotton crop. A cotton gin cannot be used for any other purpose than to separate lint from seed, and plants are idle up to 10½ months per year. The rate of ginning is directly responsive to the harvest rate of the crop and ginning employers have no control over the volume of cotton received. Nor does the ginning employer have any control over weather interruptions. These two factors make inapplicable employment practices used in other industries and through the years have seriously eroded the quantity of labor supply available to do this seasonal, sometimes intermittent work.

Cotton gins in the past have drawn heavily from labor on surrounding farms. With mechanization and the sharp drop in number of jobs on farms, this source of labor is no longer stable. Since the gins operate only a short period each year, only one or two employees are maintained on a year-round basis. Thus, the bulk of the labor currently used by cotton gins in Texas comes from "moonlighters" and the migrant labor stream. The latter also continues to dwindle, according to Texas Employment Commission reports.

To sum it up; our industry is affected by a severe labor shortage that can not be resolved by an increase in wages, or payment of overtime.

Historically, the payment of overtime has been to encourage increased employment by dividing work into shifts. With the shortage of seasonal labor, this concept isn't applicable in the ginning industry. Less than 20% of the gins in Texas now operate with two shifts as opposed to over 65% five years ago. The decline in two shift operations is directly caused by the shortage of seasonal labor.

Thus, the removal of overtime exemptions in the cotton ginning minimum wage structure would not accomplish the objective of this particular concept of overtime. The elimination of overtime exemptions would cause many gins to close—conservatively, we estimate 15 to 20 percent of those now operating in Texas—and thus abolish extra income jobs for that segment of our work force which we describe as "moonlighters." This source of workers usually are individuals who supplement income from other seasonal jobs or use vacation time from other full time jobs. The industry also employs many individuals 60 years old and older who would be affected by any change in employment practices.

Also, it should be recognized that cotton ginning, unlike most other agricultural processing establishments, is a service business. Cotton gin management does not take title to the commodity being processed. Ownership remains with the producer of the cotton throughout the process and it is sold only after it is "ginned." History has shown that it is difficult, and often works hardships, for service industries completely responsive to customer demands to operate on other than straight time labor arrangements.

Under present ginning practices, labor costs based on overtime payments and minimum wages proposed in S. 1861, would increase by at least 85%. Although there has been some misunderstanding on this point, the cotton gin receives no federal government subsidy in any form. The payments made to cotton producers do not pass through to the cotton gin and there should be no confusion on this point. Charges for ginning service would remain the same regardless of payments to customers from any outside source. Much of the ginning industry's processing capability was installed 5 to 12 years ago and was designed to handle a much larger crop than now exists under federal programs. When the current Agricultural Act went into effect in the 1960s, ginning volume was automatically decreased nearly one-third.

On the basis that removal of overtime exemptions would not accomplish any beneficial purpose to the employee, or employer, this Association respectfully requests the inclusion of exemptions now authorized under Section 13(b) (15) and Section 7(c) in any new amendments to the Fair Labor Standards Act. We believe these exemptions are justified under present conditions more so than they were when the Act was passed in 1938 and amended in 1966.

Thank you.

Mr. TOWER. Mr. President, I think a strong case is made for the retention of existing exemptions at least until the Congress has had time to analyze a comprehensive analysis of the pros and cons of each exemption. Tampering with these particular occupational classifications will result in the same economic effects as a general 37-percent increase in the minimum will have. The wholesale repeal of these exemptions will force low paid workers into the few remaining even lower paid occupations exempt from the act. One of these occupations is unemployment, which I dare say S. 1861 tends to promote as the major exemption that would remain within the Federal wage and hour law.

YOUTH EMPLOYMENT OPPORTUNITIES

The most disappointing feature of the committee bill is its failure to do something about the youth unemployment problem. It is so distressing because it is so obvious that a serious problem exists. While I understand that Senator BUCKLEY who has led the fight in Congress for a youth differential wage intends to speak on this matter at length, its crucial, intricate relationship to the broad policy questions encircling this debate compels me to speak to this issue.

The proponents of this legislation would have you believe that they recognize the problem and intend to do something about it. What S. 1861 does include is the retention of a precertification program that has been most ineffective. Moreover, the provision in S. 1861 does nothing for nonstudents under 18, the category where the unemployment problem is so serious.

The unemployment rate for teenagers as a whole is approximately three times the rate of adults. It has not been under 10 percent for 20 years. The unemployment rate for black youths is over 30 percent.

The overwhelming evidence points to a direct relationship between the Federal minimum wage and teenage unemployment.

For instance, a report entitled "Youth Employment Minimum Wages," was compiled by the Bureau of Labor Statistics. It outlines several studies which show adverse effects of the minimum wage. The reasons for this relationship between minimum wage increases and higher youth unemployment are obvious.

First. Most employees are less willing to hire inexperienced and less productive

young people than older, more productive workers, even when older workers have to be paid higher wages.

Second. When young and inexperienced workers must be paid the same wages as more productive and experienced workers, marginal jobs will be phased out rather than filled with the younger worker.

Third. Reduction of job opportunities affects teenagers more than adults. Most teenagers, especially those just beginning to work, are unskilled. The unskilled are usually first to be let go because their work is the least essential.

Concurrently, most teenagers have little or no work experience. This makes them less desirable to an employer than an equally skilled adult who has worked before, and has learned to adjust to the discipline of regularity of work.

The committee rejects any youth differential despite the fact that it is favored by learned individuals of varying ideologies. It rejects the views of Dr. Milton Friedman who has labeled the minimum wage law as the most anti-Negro statute on the books today; and it has rejected the thinking of the Nobel Prize winning economist Paul Samuelson who has asked:

What good does it do a black youth to know that an employer must pay him $1.60 an hour, or $2.00 an hour, if the fact that he must be paid that amount keeps him from getting a job?

The massive Kosters and Welsh study covering the years of 1954–68 concluded:

Evidence indicates that increases in the effective minimum wage over time have had a significant impact on unemployment patterns. Minimum wage legislation has had the effect of decreasing the share of normal employment . . . of the group most marginal to the work force type, teenagers. Thus, as a result of increase in minimum wages, teenagers are able to obtain fewer jobs and their jobs are less secure.

Columnist Milton Viorst has urged a two-tier minimum wage system with separate minimum wage rates for teenagers. He took fellow liberals to task for not seeing the wisdom of finding employment for these young people, instead of having them standing idle on street corners.

Andrew Brimmer, one of the Federal Reserve Governors, examined the labor market for 1961 through 1972. Governor Brimmer stated:

On balance, the evidence tentatively suggests the changes in the Fair Labor Standards Act may have some adverse impact on teenage employment. The youth differential may, to some extent, alleviate the burden of youth on employment.

Douglas Adie of Ohio University, in his booklet, "Teenage Unemployment in Real Federal Minimum Wages" reaches three conclusions:

Increases in federal minimum wage cause unemployment among teenagers. The effects tend to persist for considerable periods of time. The effects seem to be strengthening as coverage is increased and enforcement of the laws becomes more severe.

Sar A. Levitan, Director of George Washington Center for Manpower Policy Studies, and Robert Taggart, Executive Director of the National Manpower Policy Task Force reported this year:

To one extent, the employment problems of the young are aggravated by the labor market regulations. State and Federal minimum wage laws have also contributed to the rising rates of teenage unemployment. The major relevant Federal law is the Fair Labor Standards Act.

The Kosters and Welch study indicates teenage employment in 1971 would have been lowered by 8 percent, or 565,000 jobs if the minimum wage had been increased to $2 an hour, from $1.60. There are those today who are advocating a raise to $2.20 an hour, claiming that there will be no impact on youth. Since 1950, when the minimum wage was only 75 cents an hour, the labor force participation rates for black teenagers 16 and 17 plummeted from 59.8 to 34.8 percent, and the rates for black 18 and 19 year olds dropped from 77.5 to 61.8 percent. Clearly, minimum wage laws are discouraging these young workers from even entering the labor market.

Statistics do indicate the teenage unemployment rate has risen relative to that of adults each time the minimum wage rate has been increased during the post-war period, and that the disparity became substantially larger during the 1960's when a large number of service and retail employees were brought under the act. These industries have traditionally provided considerable experience for new workers, but the requirement to pay minimum wage rates may be discouraging employers from hiring inexperienced workers.

Supporters of the youth differential point out that many other industrialized countries, such as Great Britain, the Netherlands, and Germany, have much lower youth unemployment rates relative to adults, and that young workers in these countries typically start at wage rates substantially below those for more experienced workers.

We do not yet have adequate institutions and procedures in the United States to bridge the transition between formal schooling and the job market. A youth differential could help close this gap, as do lower wage rates in other countries, by encouraging employers to hire first-time job seekers, thereby providing the work experience and job discipline that is necessary for successful entry into mainstream employment.

The differential would not displace adult workers. Teenage and adult labor markets basically do not overlap, so there is little direct competition for jobs. About 90 percent of 16- and 17-year-old nonagricultural workers hold part-time jobs, while only about 4 percent of family heads—male—are employed in these jobs. The Labor Department estimates that less than 1 percent of older workers would find themselves in direct competition with teenagers as a result of the youth differential position.

Nor will the end of the "baby boom" entry into the labor market result in a gradual disappearance of the youth employment problem. Teenage unemployment is especially severe among black teenagers—who have had unemployment rates as high as 40 percent in some areas during recent years—and the black teenage labor force is expected to continue to grow at the same high rate during the coming decade.

The youth differential provision in the Tower-Franklin substitute provides for employment of youth under age 18, or who are full-time students at wage rates not less than $1.60 an hour, rising to $1.75 when the statutory minimum rises to $1.95 per hour. Such employment is subject to a period of not longer than 180 days for any employee who is under the age of 18 and not a full-time student at the special minimum wage rate.

The committee's nonresponse to this problem and its general feeling that if there is such a problem it is caused by racial discrimination is not only simplistic but unfortunate in that such an unsubstantiated charge cannot do anything but retard the steady movement toward social justice and equality under the law.

It is most regretful that the proponents of this legislation do not recognize the youth unemployment problem now. I am sure that my good friend from New York, Senator JAVITS, who I have great respect for, and other will raise the problem as they have in the past in conjunction with the appropriations for the Neighborhood Youth Corps and related programs.

Why is it that Congress has only recognized the youth employment problem when it comes to the implementation of grant-in-aid programs which oftentimes result in make-work and temporary job situations and on the other hand has bypassed meaningful youth differential proposals that offer to the youth of this country concrete opportunities to learn a skill and become productive participants in the private sector economy?

Unless a meaningful youth development opportunities provision is enacted I, myself, will feel hard pressed to justify further taxpayer expenditures for narrowly constructed categorical programs of the kind just mentioned.

CONCLUSION

Mr. President, the substitute Senator FANNIN and I have offered today takes a reasonable approach to the broad policy issues confronting the Congress. It provides for a $1.75 minimum for all nonagriculture workers now covered by the act with successive 10 cents increase in the next 3 years, culminating in a $2.05 minimum. The substitute contains similar increases for farmworkers.

It is a fair proposal for all of the country unlike S. 1861 which fails to take into consideration wage and cost of living standards on a regional basis. Our substitute does not extend coverage and amend existing overtime exemptions since we feel that such action would result in serious disemployment as well as in some instances being constitutionally suspect and contrary to current announced national objectives. We do recognize that there may be a need to adjust current exemptions and therefore our substitute provides for a 3-year study of all exemptions by the Secretary of Labor and the requirement that he report his findings and recommendations to Congress within that time period.

Last, the substitute contains a meaningful youth employment opportunity provision. The intent of the Tower-Fannin substitute is to provide the nec-

essary protection for unskilled and low-skilled while at the same time eliminating the possibility that this protection will extend only in theory and that in practice disemployment and inflation will be produced.

All the benefits theoretically conceivable under the Fair Labor Standards Act are irrelevant if the individual worker finds himself unemployed.

Mr. President, I urge adoption of the pending substitute.

The PRESIDING OFFICER. Who yields time?

Mr. WILLIAMS. Mr. President, I yield myself at this point such time as I may require.

Let me say at the outset, having served with the Senator from Texas on the Committee on Banking, Housing and Urban Affairs, and having shared positions with him on the Securities Subcommittee, and having found ourselves in so much agreement on securities legislation, I have to sort of take a moment here to shift gears when I find myself in strong opposition to the position of my friend from Texas, though he did open on one hopeful note. It was a small note, but the Senator from Texas did say that he was opposed to nearly all the provisions of S. 1861, the bill we are debating here, which I introduced with Senator JAVITS and others.

I underline the word "nearly" all of the provisions. Evidently as to some parts of S. 1861 we are in agreement. If I may take the moment I have to highlight some of the points as to which we are in agreement, I believe one is the provision dealing with liquidated damages, which provides that the Secretary of Labor can sue for liquidated damages, which is in the nature of a deterrent penalty for the violator of the law paying less than the minimum. Certainly the wage earner should be able to ask the Secretary of Labor to sue for him and come out with the money due and the deterrent in the form of liquidated damages. So I am encouraged there.

I do not think we are on all fours on the study by the Secretary of Labor on some of the exemptions that remain, but while not on all fours, we are somewhat in philosophical agreement on S. 1861, and that agreement applies to the amendment offered in the nature of a substitute by the Senator from Texas and the Senator from Arizona.

The Senator from Texas raised the specter of a Presidential veto of this legislation, if S. 1861 should be passed and sent to the White House. I would suggest to the Senator from Texas that while this is always a possibility where legislation differs from administration and White House proposals, the same thing applies to the Senator's own amendment.

It, too, is vetoable because it is clearly not nearly adequate from the standpoint of the administration. As I understand the amendment that is before us, the minimum wage in 1973 would go to $1.75, then $1.85 in 1974, then $1.95, and then to $2.05 by 1976. This is far short of the administration's proposal, which would carry the minimum wage to $1.90 this year, then to $2.10, then to $2.20, and then to $2.30. As a matter of fact, the $2.30 of the administration's proposal is a level that has not even been reached by the Javits-Williams proposal in S. 1861. So if veto is the whole problem, and if that impresses anyone around here, I would say the Tower-Fannin proposal is vetoable, too.

Mr. President, with reference to the Tower-Fannin amendment, I am in complete and total opposition to the amendment No. 252 proposed by my distinguished colleague from Texas in the nature of a substitute for the pending bill S. 1861.

There are some economists and others who have long resisted the entire theory of minimum wage legislation.

They view such legislation, be it for a minimum wage or for a child labor prohibition, as an unwarranted restriction on the free market economy. I accept their view for the academic theory that it is and I hope that they understand that our society has rejected that theory since 1938 when the Fair Labor Standards Act was passed.

In 1938 it was a noble venture to provide a minimum wage. It was a new and novel theory, but, Mr. President, it is no longer a new and novel theory. It is a matter of urgent economic necessity and the basis of economic survival for millions of American workers.

The amendment which is pending before us, if passed, would make the consideration of any further activity on this bill absurd. It is offered in the nature of a substitute.

I consider it a callous approach to the needs of the many millions of Americans who are currently at or close to the present minimum wage. This amendment would do no good and in fact the passage of this amendment would do great harm.

I say that it would do great harm because I believe that adoption of this amendment would be a congressional message to the low-wage worker that Congress is not concerned about the rising consumer price index and the erosion of his dollar counts for naught.

The first step increase in this amendment would provide a percent increase of less than 10 percent. It is outrageous when you consider that the consumer price index has risen close to 29 percent in the 5 years since the last minimum wage went into effect. To adopt a wage scale that would come to $2.05 in 4 years when a minimum wage of more than $2 an hour is needed today just to keep at the poverty line is cruel, harsh, and unfeeling in my judgment, Mr. President.

I ask, How can we overlook the fact that the $1.60 an hour fixed in 1966, which became effective in 1968, requires for equivalence $2.16 today? As a matter of fact, the review of the minimum wage of $1.60, and in the years since it was enacted in 1966, its equivalence in those successive years is exactly this:

To equal $1.60 in 1966, in 1967 we needed $1.64; in 1968, $1.71; in 1969, $1.81; in 1970 it came to $1.99; in 1972, $2.06; and in 1973, $2.14.

As a matter of just home economics, the $1.60 minimum wage worker has been getting, not an increase in his wages, but an annual reduction of his wages. To carry him over the Tower 4 years would not even bring him up to $1.60 an hour in terms of 1968 values.

That is why this is a cruel, harsh hoax—callous, indeed. All of this economic theory of righteous concern for the wage earner in his job is, in my judgment, a lot of poppycock.

I am sorry the distinguished Senator from Texas (Mr. TOWER) is not here at this point to hear my saying that the economics of going to $2.05 an hour by 1976 is not even giving the wage earner $1.60 an hour in terms of what the law was when it became effective in 1968.

It takes today, to equal 1968's, $1.60, $2.16. So I do not see how it can be anything other than a cruel trick to talk minimum wage increases when we are using the levels included in the Tower-Fannin amendment.

Mr. President, there will be another substitute to follow this one, if the amendment in the nature of a substitute is defeated. There are some differences between the other proposal which will be sponsored by the Senator from Colorado (Mr. DOMINICK) and the Senator from Ohio (Mr. TAFT), two most valued members of the Committee on Labor and Public Welfare.

I consider the substitute that will come up also to be unacceptable, but at least there is a recognition in their basic wage package that we do have a serious economic need to improve the wage levels for low wage workers.

Even the Secretary of Labor and the administration strongly recommend an increase in the minimum wage to at least the level of the first step of S. 1861. Frankly I fail to perceive how anyone should take seriously an amendment which has as its last step 4 years later, a nickel an hour more than the first step proposed under the pending legislation.

Moreover, I note that this amendment would maintain the present wage inequities in Puerto Rico, would provide no additional coverage, would abandon the concept of parity for farmworkers, and would not extend the coverage even to employees of Federal, State, and local governments.

In short, Mr. President, this is an amendment that has no positive attributes to it. It is a negative amendment and I believe that it should not be given extensive consideration by this body. It should promptly and overwhelmingly be defeated.

If there is to be an issue as to the extent to which minimum wage legislation should be improved I believe that we should be in a position to vote on a serious proposition. I say this with all due respect to my colleagues who have offered it because I believe I understand their theory which is as I said at the outset that minimum wages are not good, that minimum wage legislation is wrong, and that whatever needs to be done to avoid any legislation is proper.

If that is their view I respect them for it but I certainly hope that no one is fooled by an appearance that this is reasonable or fair legislation or that there is any economic justification whatsoever for these low-level increases.

I hope also that there is no Member of the Senate who is fooled for a minute into thinking that a vote against this amendment will make a vote for the forthcoming substitute respectable. Each amendment must be considered on its own as an individual matter. We all know that. I expect to address a good deal more time to the merits of the next proposed substitute rather than the present amendment No. 252, if the present amendment is defeated which I earnestly hope it will be.

Mr. President, I have no immediate requests for time in opposition here and I yield the floor.

Mr. TOWER. Mr. President, I yield such time as he may require to the distinguished Senator from North Carolina (Mr. HELMS).

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

Mr. HELMS. Mr. President, I have listened with considerable interest to the distinguished Senator from Texas (Mr. TOWER) and the distinguished Senator from New Jersey (Mr. WILLIAMS), and with particular interest in the adjectives used by the Senator from New Jersey who described the Tower-Fannin amendment as "cruel, harsh, and unfeeling."

It occurred to me, as I listened to the Senator from New Jersey, that it might be reasonable to wonder how "cruel, harsh, and unfeeling" those will feel who will lose their jobs as a result of this sort of continued intervention by the Government.

Of course, there are many in this country, I am afraid—an increasing number of people—who feel that the law of supply and demand is, as the Senator from New Jersey suggested, an "economic theory" that is a "lot of poppycock," to quote exactly the words of the distinguished Senator from New Jersey.

But, in any case, Mr. President, I wholeheartedly support the Tower-Fannin substitute. Contrary to what else may be said about it, it is a reasonable compromise with those who are endeavoring to get Congress to legislate benefits in the private sector of the economy. It provides for step increases to $2.05 by 1976 for nonagriculture workers and $1.75 by 1976 for agriculture workers.

Although the vast majority of workers are well above these levels already, it is a normal phenomenon for minimum wage increases to ripple upward through the economy because of the necessity to preserve wage distinctions between different classes of work. At a time when inflation is already bringing ill-advised Government intervention into the economy, the Congress should not be fueling the fires with enormous step increases in wages. S. 1861, as reported by the committee, would provide for a 37-percent increase in some categories by 1976. The only word for such a proposal is "irresponsible."

It seems to me that you have to have a willing suspension of disbelief to maintain that Government fiat can establish wage rates in private enterprise. Such belief overlooks the fact that supposedly we still live in a free country. The Government does not yet force an employer to hire an employee if that employee does not earn his keep. When wages are raised in excess of what a worker's production is worth, the employer, if he wishes to stay in business, will either do without the services of the employee or invest in machinery which will enable him to get along with fewer employees. That precisely is what is happening and has been happening throughout the country, of course.

The true name of S. 1861 perhaps should be "The National Unemployment Act of 1973." This is particularly so because of the broad extensions of coverage into areas which were never covered before because of the marginal skills of the workers involved. Precisely because they are marginal, such skills are the easiest to do without. This bill is taking away from the unskilled the opportunity to earn their own way. The inclusion of domestics is a case in point. There may be some who secretly rejoice that many households that presently employ domestics would have to do without. I doubt that those who would lose their jobs will have the same pleasure.

Another name for S. 1861 could be "The National Big Business Act of 1973." Needless to say, I have nothing against private enterprises that are successful, efficient, and profitable so that they are able to grow to considerable size. This is what the free economy is all about. But on the other hand, Federal legislation should not discriminate against the small business, the individual proprietorship, and the family firm by imposing unfair burdens upon them. Small business simply does not have the overhead or the scale to charge off increased costs of unskilled labor against the earnings of more profitable jobs. Small retail stores, service industries, food processors, small restaurants, little logging operations and the like are often already struggling to survive because their wage scale cannot compete with bigger firms. Government intervention in the labor market in the form of higher minimum wage rates could easily tip the scales against them.

The same is true of agricultural employees. The vast majority of farms in my State are family farms. They are able to survive because they have a nucleus of workers in the family unit. At harvest time, however, they need outside help. They cannot get along without part-time and transitory workers. This is especially true in tobacco growing because of the enormous amount of hand labor involved. By 1976, this bill, S. 1861, would be paying such workers the same minimum as paid to urban dwellers in big cities. It is manifestly unjust to expect the same minimums to be paid to workers in a rural economy, where the cost of living is lower, as to workers in an urban area, where all costs are higher.

Finally, I would note that S. 1861 does nothing to improve the employment rate among youths and students. It continues the present cumbersome arrangements which make it almost too much trouble for businesses to employ many young people. Some people seem to feel that youth employment takes jobs away from older workers. But such discrimination against youth is unjust. It is precisely at this time in life when young people should receive the opportunities to be trained in the habits that enable them to become useful and disciplined members of society. The Tower-Fannin substitute provides for a youth differential which would tend to maximize youth employment in jobs suited to their abilities.

Mr. President, if we could repeal the law of supply and demand as it relates to the labor market, then perhaps I would have no objections to increasing the minimum wage to the levels in S. 1861. Indeed, why not set the minimum wage at $10 an hour, instead of $2.20? To do the one is as easy as to do the other. The market would adjust to the one as well as to the other. The only difference would be in the rate of unemployment. I oppose the concept of the minimum wage because it is unjust to the worker, particularly to the worker with marginal skills. The minimum wage literally prevents him from being hired at all at a rate at which he pays his own way. The minimum wage law makes him a social cripple. It is a deception to hold out the promise of higher wages when you are really, when all is said and done, squeezing him out of the job market.

In a period of rampant inflation, the Tower-Fannin substitute makes some adjustments which are close enough to the practical realm to be absorbed. But if the worker at the lower end of the wage scale is having trouble making things meet, the way to help him most is to stop inflation. I have spoken about this many times on the floor of the Senate. To do this, we have to stop Government spending in excess of what the Government takes in. And we should stop intervening in the economy in ways which push the spiral up. S. 1861, with its exorbitant increases, is this kind of rash intervention. In my judgment, it pushes prices up and pushes marginal workers out of their jobs. If this is the way to help the poor man, then the poor man doesn't need that kind of help.

Mr. President, my staff advises that our office has received more than 700 pieces of mail concerning this question. Only 16 have favored S. 1861 as reported the the Committee on Labor and Public Welfare. Nine of the 16 have come from national labor union leaders. The other seven have come from North Carolina labor union leaders. On the other hand, we have more than 700 letters from mayors, from college officials, and from various other citizens who described what will happen to them if this bill is approved. I ask unanimous consent to have these communications printed in the RECORD.

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

CHARLOTTE, N.C.,
June 21, 1973.

Senator JESSE HELMS,
Capitol Hill, D.C.:

Oppose minimum wage and overtime inclusions to the Senate Labor and Public Welfare Committee.

Mayor JOHN M. BELK.

WELDON, N.C.

Senator JESSE HELMS,
Senate Office Building,
Washington, D.C.:

Urge opposition to S B. 1725 and S B 1861 minimum wage local governments.

S. W. OAKLEY, *Mayor.*

OXFORD, N.C.

Senator JESSE HELMS,
U.S. Senate,
Washington, D.C.:

Re Senate Bills 1725 and 1861, minimum wages applicable to municipalities. The city of Oxford, N.C., urges your opposition to the subject bills.

H. T. RAGLAND, *City Manager.*

RALEIGH, N.C.

Hon. JESSE HELMS,
Senate Office Building,
Washington, D.C.:

This city cannot absorb the proposed overtime and other burdens proposed in H.R. 7935, S. 1725 and S. 1861. Congress should leave local government employees to local government.

W. H. CARPER, *City Manager.*

CAMPBELL COLLEGE,
Buies Creek, N.C., June 12, 1973.

Hon. JESSE HELMS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR HELMS: It is my understanding that the Congress soon will increase the minimum wage to $2.00 per hour, effective immediately and $2.20 per hour next year.

While I can understand and deeply appreciate the desire for all of our people to have a better life, I have to question the wisdom of the present plan to raise the minimum wage particularly as it applies to our own campus. Presently, Campbell College is paying $1.79 per hour to 176 hourly employees. We estimate that the first increase alone will cost us approximately $73,216 and that additional adjustments that will have to be made as a result of the first increase will amount to approximately $80,000. Unfortunately, we were not aware of these increases at the time we made our budget, and no provision was made for them. Our payment in the second year will be approximately $150,000.

During the past year we employed approximately 510 students. The increase in the minimum wage for our students will amount to $34,000 in the first year with an additional cost of $51,000 in the second year.

Colleges and universities can get funds from only three sources—freshmen, friends and the government. If we continue to increase the minimum wage without any exemption for those who are employed by colleges, I feel that the time will soon arrive when because of inability of colleges to continue their programs of employment, many young people will have no option except to enter public colleges and universities.

In North Carolina it costs the State about seven times more to educate the students in the public sector than in the private sector. Thus, the overall impact of the increase in the minimum wage is going to be particularly great on families, colleges and the government.

We realize the pressures that are brought upon you daily and regret them, but we thought you ought to know the problems that are confronting those of us who have to meet the requirements of the new legislation with unbudgeted funds.

Sincerely yours,

NORMAN ADRIAN WIGGINS,
President.

HICKORY, N.C., *July 12, 1973.*

Senator JESSE HELMS,
Dirksen Office Building,
Washington, D.C.:

We urge your opposition to S. 1861 and your support of the Taft-Dominick substitute, S. 1725. The inclusion of a youth wage differential is of great importance to Catawba County.

C. HUGH MORETZ,
President, Catawba County Chamber of Commerce.

LINCOLNTON - LINCOLN COUNTY CHAMBER OF COMMERCE,
Lincolnton, N.C., July 6, 1973.

Hon. JESSE HELMS,
Senate Office Building,
Washington, D.C.

DEAR SENATOR HELMS: I am sure you agree that continuing inflation constitute the greatest threat to the economy of our country. In my opinion, the principle reasons for run away inflation are the fact that the federal government continually spends more than its income and new legislation such as Senate Bill S1861 continues to be favored in the halls of Congress. This bill would create more inflation and more unemployment, particularly among young people and minority groups.

I think I represent a majority of your constituents in asking that you oppose this measure.

Sincerely,

HUGH SAWYER,
Executive Vice President.

WINSTON-SALEM RETAIL MERCHANTS ASSOCIATION,
Winston-Salem, N.C., July 16, 1973.

Hon. JESSE HELMS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR HELMS: If we must have an increase in the minimum wage, please support S. 1725 sponsored by Senators Taft and Dominick.

Sincerely,

ERNEST YARBROUGH,
Managing Director.

NORTH CAROLINA INNKEEPERS ASSOCIATION, INC.,
July 2, 1973.

Senator JESSE HELMS,
Senate Office Building,
Washington, D.C.

DEAR SENATOR HELMS: On behalf of the lodging industry of North Carolina, I urge you to support Senate Bill 1725, sponsored by Senators Dominick and Taft.

It is of great importance that we be allowed to maintain the "overtime exemption" as described in this Bill.

We sincerely hope that you will support and vote for S. 1725.

Thank you for this and for all you are doing for our industry and the great State of North Carolina.

Sincerely yours,

ELEANOR F. UPTON.

DURHAM N.C.

Senator JESSE HELMS,
U.S. Senate,
Washington, D.C.:

Your support of Dominick-Taft bill (S. 1725) on minimum wage would help hold down rising costs of health care.

JOHN T. KERR,
North Carolina Health Care Facilities Association.

CHARLOTTE, N.C.

Senator JESSE HELMS,
Capitol Hill, D.C.:

Respectfully request your support of S. 1725 rather than S. 1861 which is highly inflationary.

G. EVERETT SUDDRETH.

S & W CAFETERIAS, INC.,
Charlotte, N.C., June 1, 1973.

Hon. JESSE HELMS,
Senate Office Building,
Washington, D.C.

DEAR SENATOR HELMS: We are not opposed to a reasonable and workable increase in the minimum wage. But we are concerned that some bills now introduced are neither reasonable nor workable. One reason is that they propose annual increments to the minimum wage that are too large and too fast. Annual increments greater than 10¢ an hour will work a severe hardship on our business. A modest and gradual increase in the minimum wage is necessary for our economic health.

We are already absorbing a large part of the spiraling cost of food. This is made necessary by strong consumer resistance to menu price increases.

The Erlenborn Bill (H.R. 2831) is a realistic approach to the problem of increasing the minimum wage.

I urge your support for H.R. 2831.

Yours very truly,

JOHN D. LINEBERGER,
Vice President.

ROSE'S STORES, INC.,
Henderson, N.C., June 19, 1973.

Hon. JESSE HELMS,
U.S. Senate,
Washington, D.C.

DEAR JESSE: As a representative of retailing in our good state of North Carolina and southeastern United States, we ask that you give careful study to the two proposed minimum wage bills now before the Senate Subcommittee—Dominick-Taft Bill S. 1725 and Williams-Javits Bill S. 1861.

Of the two bills, retailing can more readily adjust to the Dominick-Taft Bill S. 1725. We favor the Dominick-Taft Bill S. 1725 which would raise the present minimum from $1.60 to $1.80 upon the effective date of this bill—60 days after enactment, to $2.00 a year later, to $2.10 the following year, to $2.20 the next year, and finally to $2.30. These raises would be the same for those covered by the 1966 amendments to the FLS as it would for those covered prior to 1966. This bill is very similar to the Erlenborn Substitute which had unanimous support of our North Carolina Representatives even though it was barely defeated by 19 votes—due to votes from northern and western states which were highly industrialized.

We are vitally opposed to the Williams-Javits Bill S. 1861 which calls for an immediate boost to $2.00 and 2.20 in 1974, which also contains other onerous provisions for retailers.

A relatively smooth curve of increases as contained in Bill S. 1725 is less disruptive for the economy than an immediate increase to $2.00, for as you know, when the federal minimum is raised, the entire rate structure is moved upward. Past experience in retailing has indicated that for every dollar spent in coming up to the minimum approximately another two dollars is spent in accommodating higher wages to this minimum. The ripple effect is immediately felt since employers cannot raise the minimum wage of affected employees without considering at the same time the wages of their superiors or other jobs within the store. It is our sincere belief that this will certainly result in tremendous inflationary impact on the products and services we buy; on the consumer; and on the already overwrought economy.

We ask you to support the Dominick-Taft Bill S. 1725.

Yours very truly,

JOHN T. CHURCH,
Chairman of the Board.

PIEDMONT CASKET CO., INC.,
July 10, 1973.

Senator JESSE A. HELMS,
Dirksen Senate Office Building,
Washington, D.C.

DEAR SENATOR HELMS: As a business owner, in your district, may I strongly urge you to oppose Senate Bill 1861 and support Senate Bill 1725 as it relates to the minimum wage legislation this year.

As a small business in a very competitive market, we feel there is simply no way that Senate Bill 1861, with this fast progressing

minimum wage amounts, be compatible with our industry. It is simply too much too fast.

We are in strong support of fair wages, however, I cannot endorse this 37½ percent boost particularly when it is coming at a time that business is hampered by such strict controls.

Please support Senate Bill 1725.

Yours truly,

A. L. AYDLETT, Jr.,
Secretary and Treasurer.

CROSS POULTRY CO.,
Raleigh, N.C.

Hon. JESSE HELMS,
U.S. Senate,
Washington, D.C.:

Urgently request that you support the Dominick-Taft S1725 minimum wage bill substitute and vigorously oppose the inflationary minimum wage bill introduced by Senator Williams S1861.

Respectfully,

C. H. CROSS.

Mr. JAVITS. Mr. President, will the Senator yield me 5 minutes in opposition?

Mr. WILLIAMS. I yield.

Mr. JAVITS. Mr. President, I have heard with great interest the position of our colleagues on the Tower-Fannin substitute, and I think the key to it is their reliance on the law of supply and demand. This, it seems to me, fails to take account of the reason why we have a minimum wage bill at all.

If we were relying, in respect of the minimum wage, upon the law of supply and demand, we would be back to the 1840's, the 1850's, and the 1860's in the English industrial development. They relied on the law of supply and demand, and it brought on the doctrines of Karl Marx, which were very much apposite to that disastrous human experience and are entirely inapposite today.

We legislate a minimum wage precisely because we wish to place a floor under the economy, for social and economic reasons; and we realize that by placing that floor under the economy, we are interposing government for important social purposes, rather than allowing the law of supply and demand to work its will, which would result in some people working at subhuman wages—wages that we regard as socially unacceptable.

Therefore, I believe that the analysis made by Senator WILLIAMS on behalf of this bill, that if we take the minimum wage as it was and adjusted it to today's cost of living, it would be $2.16 an hour, is the proper standard of judgment.

Second—and very important—I do not think anybody believes the administration is trying to give our economy away. Even the administration, in the bill which Senator DOMINICK and Senator TAFT are sponsoring, in essence contemplates a materially increased minimum wage, stepping up from $1.80 to $2, $2.10, $2.20, and to $2.30—far beyond the schedule which is contained in the Tower-Fannin substitute.

In addition, I find the absence of coverage of domestics and State and local employees to be something which I cannot conceive the Senate accepting. There are about a million domestics who are going to be covered if this bill becomes law. All of us have had experience with domestics. Aside from big metropolitan centers where competition is very heavy, it represents a depressed and often oppressed occupation; and yet it should be one which has distinction. We gave domestics coverage under social security and in many States they are covered by unemployment compensation. This answers the question of hardship on the housewife. She is making out social security quarterly statements now for domestic employees and paying the social security tax, so she knows what she is paying and what the domestic gets every quarter.

In my State and in other States we pay unemployment compensation for domestic workers, and they are covered by the minimum wage law. Those of us who employ domestic workers are much better off giving them the dignity of a calling rather than the position of a servant. The inclusion of the minimum wage contributes to that end and in addition lends dignity and humanity in terms of society for people that work very hard.

Mr. President, State and local employees also work very hard. We have been over that time and again. This is the most numerous group to be covered under S. 1861, as reported, with about 5.5 million workers to be covered. How can we establish a minimum wage for 47 million Americans and fail to establish a minimum wage for those who work for the government?

Finally, a very signal omission in Tower-Fannin is anything on child labor in agriculture. A mere reading of the child labor provisions as they stand now gives one a chill. The only child labor provisions now in effect cover hazardous agriculture. There is no minimum age for children in nonhazardous agriculture outside of school hours. This is where the horrible examples actually take place. For industry, 14 years is specified for employment outside of school hours in nonmanufacturing work.

Reform in agricultural employment with respect to child labor is long overdue, yet the Tower-Fannin substitute contains no provisions dealing with this problem.

Mr. President, with all of those deficiencies I cannot conceive of our turning the clock back, even on what the administration has sought, by adopting the Tower-Fannin substitute. I hope it is defeated.

I thank the Senator for yielding.

AMENDMENT OF LABOR MANAGEMENT RELATIONS ACT, 1947—CONFERENCE REPORT

Mr. WILLIAMS. Mr. President, I submit a report of the committee of conference on S. 1423, and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. MCCLURE). The report will be stated by title.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 1423) to amend the Labor Management Relations Act, 1947, to permit employer contributions to jointly administered trust funds established by labor organizations to defray costs of legal services, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Is there objection to the consideration of the conference report?

There being no objection, the Senate proceeded to consider the report, which reads as follows:

CONFERENCE REPORT (S. REPT. 320)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 1423) to amend the Labor Management Relations Act, 1947, to permit employer contributions to jointly administered trust funds established by labor organizations to defray costs of legal services, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment insert the following:

That section 302(c) of the Labor Management Relations Act, 1947, is amended by striking out "or (7)" and inserting in lieu thereof "(7)" and by adding immediately before the period at the end thereof the following: "; or (8) with respect to money or any other thing of value paid by any employer to a trust fund established by such representative for the purpose of defraying the costs of legal services for employees, their families, and dependents for counsel or plan of their choice: *Provided*, That the requirements of clause (B) of the proviso to clause (5) of this subsection shall apply to such trust funds: *Provided further*, That no such legal services shall be furnished: (A) to initiate any proceeding directed (i) against any such employer or its officers or agents except in workman's compensation cases, or (ii) against such labor organization, or its parent or subordinate bodies, or their officers or agents, or (iii) against any other employer or labor organization, or their officers or agents, in any matter arising under the National Labor Relations Act, as amended, or this Act; and (B) in any proceeding where a labor organization would be prohibited from defraying the costs of legal services by the provisions of the Labor-Management Reporting and Disclosure Act of 1959".

And the House agree to the same.

HARRISON A. WILLIAMS,
JENNINGS RANDOLPH,
CLAIBORNE PELL,
GAYLORD NELSON,
THOMAS P. EAGLETON,
HAROLD E. HUGHES,
WILLIAM D. HATHAWAY,
JACOB K. JAVITS,
RICHARD S. SCHWEIKER,
ROBERT TAFT, JR.,
ROBERT T. STAFFORD,
Managers on the Part of the Senate.

CARL D. PERKINS,
FRANK THOMPSON, Jr.
WILLIAM L. CLAY,
JOHN BRADEMAS,
JAMES G. O'HARA,
WILLIAM D. FORD,
Managers on the Part of the House.

Mr. JAVITS. Mr. President, I suggest the absence of a quorum, to be charged equally to both sides.

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

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. JAVITS. Mr. President, do we have a time limitation on this matter?

The PRESIDING OFFICER. There is not a time limitation.

Mr. JAVITS. I thank the Chair. I shall only be a moment.

The PRESIDING OFFICER. The Senator may proceed.

Mr. JAVITS. Mr. President, this is a conference report dealing with the establishment, through collective bargaining, of plans for the giving of legal services to workers.

One of the main problems we had in this connection in the conference related to the choice of such plans by workers that is, whether it should be a closed panel, which means lawyers within a given plan, or an open panel, which means that the worker is going to get his own lawyer and the plan is to pay for it.

Our general intention was to make both available through collective bargaining, rather than to limit it to either one. We spelled out that intention in language. As the Senator who moved that the Senate recede with an amendment, I think that our intention should be clear in respect of the legislative history we are making here. Unions and employers will have the same freedom that they now have in setting up medical and hospital plans, to establish closed panel or open panel plans.

I respectfully ask my colleague, the Senator from New Jersey (Mr. WILLIAMS) who chaired the conference and led the Senate conferees, if this is his understanding of the provisions we drafted.

Mr. WILLIAMS. That certainly is my understanding. We preserved the freedom of choice and selection in collective bargaining.

Mr. President, on May 16, 1973, this body, by a vote of 79 to 15 passed S. 1423, a bill to amend the Labor-Management Relations Act, 1947, to permit employer contributions to jointly administered trust funds established by labor organizations to defray costs of legal services.

As I made clear in presenting this legislation to the Senate on that date,

It is important to note that this bill will not direct the establishment of such programs.

It will not dictate the terms and conditions of such programs, and it will not interfere in any way with the operations of such programs. It will not finance such programs.

Rather, it will bring such joint programs within the scope of collective bargaining by removing an unwarranted and unintended Federal roadblock to the establishment of such programs by the private sector with private funding.

This measure will not replace national, State, or local bar association procedures with Federal procedures.

It will not subvert State control over the practice of law with Federal control.

It will neither require nor prohibit open panels or closed panels, and it will neither require nor prohibit the establishment of such programs.

It will not require labor or management to agree to any such program, and, within, the limits provided herein, the parties will be free to determine the types of benefits and the manner in which legal services will be provided.

Nothing in this measure will affect the traditional relationship between lawyers and their clients nor the duty of lawyers to fully represent their clients.

Mr. President, during deliberations on this legislation in the other body last month, an amendment was agreed to which was apparently intended to require labor and management to agree to the use of so-called "open-panel" plans to the exclusion of "closed-panel" plans or a variation of either. The intent of this amendment was to insure to the employees "freedom of choice" in legal services. While the Senate conferees completely agree to the concept of free choice, we wished to insure true free choice to the parties to the legal services trust funds which will be established under this legislation.

We therefore, reluctantly, but unanimously, agreed to recede to the House amendment, with an amendment, designed to insure the greatest degree of flexibility to the parties in the collective bargaining process. This was accomplished by adding the two words "or plan" to the House amendment making it read in relevant part, "for counsel or plan of their choice."

As thus amended, the bill, while preserving the concept of "freedom of choice" expressed in the House bill, would also:

First, add to and expand upon the concept of free choice to encompass the right of employers, unions, and workers, to freely choose in each particular case the type of plan they feel best meets their needs, whether open, closed, or the limitless gradations in between;

Second, eliminate any constitutional objections to the present language of the House bill;

Third, promote the development of choice of lawyer plans by bar associations, insurance companies, and other groups;

Fourth, insulate the Congress from regulating the practice of law, under this legislation;

Fifth, permit experimentation designed to hold down the cost of such programs; and

Sixth, eliminate any discrimination against jointly trusted plans, thereby permitting the parties in this early stage to experiment with different approaches in the consumer marketplace.

While the merits of unrestricted and limited use plans have been debated endlessly in legal forums, the managers on the part of the Senate believed that the inclusion of freedom of choice of attorneys would add a significant value that would not be available in limited plans. We believe, therefore, that the parties should be encouraged to give full consideration to "free choice" features as well as to other factors. But the choice, under our system should be reposed in the parties and not imposed upon them by governmental fiat.

Freedom of choice, if it is to be truly meaningful, should be left to the bargaining groups to fashion for themselves the type of legal service plan which can best fit the needs of their particular group in that particular area. Federal dictation of the pattern of legal service plans, while well intentioned, removes the freedom of choice available to the parties. The amendment, therefore, would maximize freedom of choice. In so doing, it accords with the statutory scheme of section 302, which in analogous areas such as health care, leaves the formulation of any plan to the parties.

The language of the House bill required modification to meet applicable constitutional standards. In four cases decided over the past decade *United Mine Workers* v. *Illinois State Bar*, 389 U.S. 217 (1968); *Brotherhood of Railroad Trainmen* v. *Virginia State Bar*, 377 U.S. 1 (1964); *NAACP* v. *Button*, 371 U.S. 415 (1963); and *United Transportation Union* v. *Michigan State Bar*, 401 U.S. 576 (1971) the U.S. Supreme Court upheld the constitutional right of trade unions and other consumer groups to decide for themselves what kind of legal service plan best fitted the needs of their group. All four cases involved direct attempts to outlaw closed panel arrangements with lawyers by consumer groups.

The Supreme Court held in these cases that the freedom of these groups to set up plans of their own choice was protected by both the first and 14th amendments to the U.S. Constitution and that no body or group could amend or abridge their right to make such arrangements with such attorneys whom they felt would best meet the legal needs of their group. As a result, the American Bar Association amended its canons in 1969 to permit group arrangements and thereafter all State bar associations followed suit so that today the various types of group arrangements are permissible—providing they conform with applicable bar standards such as preserving the attorney-client privileges, no advertising, and do not prohibit a member of the group from using the services of other attorneys. The managers on the part of the Senate were concerned that the House bill, as written, might directly impinge upon the fundamental first amendment right of groups to enter into arrangements with lawyers.

If unions and other consumer groups have first amendment rights to enter into arrangements for their membership, these rights cannot be diluted, denied, or abridged simply because an additional party, that is, an employer, is added to the administration of the legal services program. The employer contributing the money—and the union negotiating the contribution—and the worker whose moneys are being contributed to the fund should not be deprived of the right to decide for themselves the type of plan they feel would best meet their needs in each particular case.

The language of the conference amendment would enhance the maximum unfolding of free choice plans, whereas in our judgment, the House bill without perfecting amendment, would not have accomplished its desired objective of promoting the use of open panel plans. Following on the heels of the four Supreme Court decisions well over 4,000 group arrangements were entered into—none of which were of an open panel nature. The ABA formed a special legal services committee to determine if open

panel plans could be fostered. Over a 3-year period, the ABA committee sponsored the Shreveport prepaid open panel experiment, is supporting the proposed California bar open panel experiment, stimulated State bar associations and other groups to design open panel plans, and developed interim standards regulating all such plans—such as reporting, provision for advisory board on all plans, including bar association designees—and has proposed to the forthcoming August 1973 ABA convention that the ABA itself set up a national nonprofit corporation which would perform the same functions in the legal services field as the Blue Cross-Blue Shield did in the health care field.

The bar, the insurance industry, fringe benefit consultants, and many other interested organizations are poised to market open panel plans from one end of this country to the other, looking only to the speedy enactment of this amendment to section 302 to stimulate these offerings. These groups are convinced they can thereby emulate the past experience of the medical field, where today, well over 90 percent of the employees are covered by open panel health care plans, through Blue Cross-Blue Shield insurance companies or self-insured programs.

In addition, today all employee plans are union-designed and administered. Amendment of section 302 adding the requirement that employers participate equally in joint plans will serve to guarantee that full and complete consideration will be given to all options—including open panel plans. Likewise, most employee legal service plans—as in the health care and pension fields—will be purchased and provided directly by employers rather than by jointly trusteed funds. Finally, prepaid bar and insurance company plans will be made available to nonemployee groups such as property owners, credit union members, farmers, et cetera.

In short, the bar and insurance companies and other experts, based upon 3 full years of investigation, solid study, experiments and planning, support the modification, confident that in open and free competition in the marketplace their efforts will result in a dominating role for open panel plans.

The House bill—without modification—would impose Federal regulation over the manner of practice of law by private practitioners, a subject which hitherto has been left to State and local bar associations. During the course of the hearings, testimony was received concerning the relevant merits of various types of arrangements. The Senate bill, as I have previously noted, properly left to State and local bar associations the regulation of these group arrangements.

If today the Congress tips the scales in one direction by legislating compulsory open panel plans by jointly trusteed funds, what is to preclude it tomorrow from changing its mind and legislating in favor of compulsory closed panel plans—either for jointly trusteed funds, or for unilaterally administered funds—employers, trade unions and all groups—or to fix the maximum price that can be charged by attorneys for a given service to any such plan—or any citizen; or legislating—adding to or removing—qualifications which attorneys must possess in order to practice under the plan—or generally.

The House bill would have unintentionally discriminated against jointly trusteed funds. Employers and unions are each free today to provide closed arrangements for their members. Nothing contained in the House bill would preclude unilateral employer or union closed panel plans. The anomalous result would be that employers would continue to remain free to provide closed arrangements for their employees, and unions for their membership, but jointly-trusteed plans would be so prohibited. Furthermore, employers and unions in the public sector—Federal, State and local—would not be precluded from entering into closed group arrangements. And consumer groups, church groups, farmers, students, civil rights groups, et cetera, would not be prohibited from entering into closed arrangements.

Moreover, closed arrangements are an integral part of our business life—whether in government, corporations, trade associations, employer groups, et cetera. For example, insurance policies of all types provide for representation by counsel selected by the insurance company. The examples are endless.

Legal service plans are in their infancy. The parties should be free to experiment to determine the most appropriate methods for the delivery of quality legal services at a reasonable cost. At a time when the costs of medical services are rising out of sight, and Congress is providing financial incentives to encourage closed group arrangements in the medical field the House bill would not only have failed to provide incentives for group practice or even equality of treatment, but would have foreclosed any possibility of such group arrangements. It thus denied the purchasers of such services any voice in controlling costs. The role of trustees would have been restricted to money pay outs.

Mr. President, although the managers on the part of the Senate would have preferred the Senate passed bill, unamended, we unanimously agree to recommend to this body the conference report on S. 1423 as a reasonable resolution of the differences between the two houses and recommend that the conference report be agreed to.

Mr. JAVITS. I thank my colleague very much. With that, I wish to state to the Senate that I favor adoption of the conference report.

The PRESIDING OFFICER. The question is on agreeing to the adoption of the conference report.

The report was agreed to.

FAIR LABOR STANDARDS AMENDMENTS OF 1973

The Senate resumed the consideration of the bill (S. 1861) to amend the Fair Labor Standards Act of 1938, as amended, to extend its protection to additional employees, to raise the minimum wage to $2.20 an hour, and for other purposes.

The PRESIDING OFFICER. Who yields time?

Mr. TOWER. Mr. President, will the Senator from New York yield me time on the bill?

Mr. JAVITS. How much time does the Senator desire?

Mr. TOWER. Would the Senator yield to me for 5 minutes?

Mr. JAVITS. I yield to the Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. TOWER. Mr. President, S. 1861 will especially have a negative impact in the South, the Midwest, and the Mountain States. It is simply a fact of life that the economic condition of the Northeast are not the same as those in other parts of the country. The adverse employment effects of S. 1861 may be minimal in the Northeast but I submit that they will be quite severe in other sections of the country.

Due to the economic differences which do exist, an increase in the manner so contemplated by S. 1861 places artificial pressures on those areas of the country that have lower labor costs and a lower cost of living. A motivating force, therefore, for this legislation, is regional economic warfare. Prof. Marshall Colberg of Florida State University put it this way:

> Basically, the national minimum wage, as applied to manufacturing at least, is a device for waging regional economic warfare. It wipes out by government decree a part of the attraction which labor surplus areas should properly have for new capital in a private enterprise economy.

Dr. Douglas K. Aide and others that appeared before Congress this year made note of this regional economic impact.

Dr. Aide said:

> The employers whose costs are increased by minimum wages tend to be in the less industrialized parts of the country—in the South and West rather than the North and East. Increases in the minimum wage render them less able to compete with industries in other parts of the country and retards their economic development relative to other parts of the country.

To a certain extent, State minimum wage laws reflect this economic disparity. For instance, New York and Massachusetts have State minimum wages of $1.85 an hour and will automatically be increased if the Federal wage is increased. Texas, on the other hand, has a State wage of $1.40 and the wage minimum in Arizona is below that.

Cost-of-living standards vary from region to region and State to State. The cost of living for a family of four in New York City is 32 percent higher than for a family of four in Austin, Tex. The proponents of this legislation may maintain that these economic differences are unfair and that the Federal Government should actively seek to do away with them. I, for one, am pleased that Texans do not have to face up to a New York City cost-of-living basis.

If regional economic distinctions are to disappear it should transpire through the forces of the marketplace and not through the imposition by Congress of unreasonable, artificial wage regulations.

To return to a point I made earlier, although I am certain it was not the intent of the sponsors of the bill to do this, because I know the sponsors to be men of good will and men who are well-motivated, the practical effect of the bill will

be to discriminate, in my own State, against those blacks and Mexican Americans who can only work in a marginally employable capacity in many instances. These are the very people who need help the most.

I know when the last minimum wage increase was approved, a number of small businesses closed in my State and my hometown. I anticipate, if this bill is enacted, that many employers will close their businesses before they will absorb the additional cost of the higher minimum wage.

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

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

Mr. TOWER. Mr. President, I have some remarks that were prepared by the Senator from Arizona (Mr. FANNIN) for delivery on this issue. He is necessarily absent being detained at the White House. I ask unanimous consent that his remarks be printed in the RECORD in the context of the debate.

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

THE EFFECT OF HIGHER MINIMUMS UPON IMPORTS, AND DISEMPLOYMENT

(STATEMENT OF SENATOR FANNIN)

Mr. President, increases in the minimum wage have always been supported by the stated objective: to bring about a reduction or elimination of poverty. While I have no quarrel with that objective, in determining the amount of any increase and any extension of coverage, I firmly believe we must consider the side effects on inflation and foreign trade.

Foreign trade—A higher minimum wage will tend to raise prices in low-wage industries. The international competitive position of these industries will tend to be weakened. Exports may decline and imports rise. The shift of spending, from domestic production to imports, has consequences quite different from the shift between firms and industries at home. If domestic competitors take over the market of a firm that is driven out by high costs, they can absorb most of its employees. But when the competition is foreign, or when a whole industry is undermined, many more workers lose their jobs than just those whose pay was previously below the minimum wage, and all the secondary effects on employment are negative.

Since my state of Arizona, like Florida, is a large producer of citrus fruits and vegetables, I have taken the time to read the statement of the Florida Fruit and Vegetable Association presented before the Labor Committee of the House. The end of the Bracero program in 1964 cut off a vast supply of immigrant labor and increased costs of labor for the U.S. horticultural industry. However, there was no corresponding cost increase in Mexico. "U.S. horticultural imports from Mexico have risen from around $15 million 12 years ago, to $200 million last year and much of this production for export is at least partially financed and directed by American interests."

Eight major U.S. vegetable processing and canning companies have established plants in Mexico. They are: H. J. Heinz of Pittsburgh, Campbell Soup of New Jersey, Corn Products of New York, General Foods of New York, Gerber Products of Michigan, California Packing of California, and Green Giant of Minnesota. While Mexican tax credits and weather conditions play a part in the motivation to move, the major consideration is the low rates in Mexico. I cannot document the average hourly rate for farm labor in Mexico. Those rates are not published by the Mexican government. However, individual growers and farm trade organizations inform me that the average rate is about 30¢ per hour for a nine-hour day.

The Committee bill raises the minimum wage for Agricultural workers from the present rate of $1.30 per hour to $1.60 in 1973, to $1.80 in 1974, to $2.00 in 1975 and to $2.20 in 1976. The American fruit and vegetable farmers in states like Arizona, California, Texas and Florida cannot compete with Mexico if the committee bill becomes law. The list of major packers and canners establishing plants in Mexico cannot help but double. The result will be more and more unemployment in the United States.

I have some personal knowledge about farming. I have great sympathy for the farm laborer. He performs a lot of back-breaking work. I do not want to see the employment of these people with minimum marketable skills drastically reduced if not eliminated. We are all concerned about the depopulation of many rural areas and the concentration of our population in urban areas. We want to reverse those trends.

Unfortunately, when minimum wage levels are increased, the next level of employees, who are already above the minimum wage level, feel that they must have a gradient increase to put them in a more favorable comparison, and the effect is that wages are bumped all along the line. This will not only affect the ability to employ the less skilled at levels that are increasingly pricing them out of the market, but has a pervasive influence of affecting the employability of people at all levels of wages.

The net consequence of this is to have a debilitating effect on employment, thus making it more difficult to solve the unemployment problem.

Foreign industrial wages—As of March 1, 1973, based on the market rates of exchange, the average hourly earnings in the ten most industrialized nations are as follows:

Italy	$1.40
United Kingdom	1.55
France	1.60
Japan	1.90
Netherlands	2.10
Belgium	2.15
West Germany	2.55
Sweden	3.35
Canada	3.55
United States	3.80

(SOURCE.—International Economic Report of the President, pg. 40)

All average earnings have increased greatly in the last two years with the greatest being in Japan and West Germany.

AVERAGE GROSS MONEY WAGES PER WAGE EARNER IN MANUFACTURING IN LESS DEVELOPED COUNTRIES (FROM LIBRARY OF CONGRESS, JUNE 19, 1973)

Country	Year	National currency	U.S. dollars[1]
Brazil (cruzeiros)	1970	429.2 per month [2]	86.71
Chile (escudo)	1971	1,480.7 per month	93.72
Colombia (peso)	1970	5.9 per hour	.31
Korea (won)	1971	16,978 per month [3]	45.52
Mexico (peso)	1971	1,851 per month	[4] 148.20
Philippines	1971	245 per month	38.10
Taiwan (dollars)	1971	8.43 per hour [5]	.21
Venezuela (bolivar)	1971	999.4 per month	227.14

[1] End-of-year exchange rates (from International Monetary Fund) used in computation.
[2] Includes salaried employees.
[3] Includes family allowances.
[4] 82 cents; 45-hour week.
[5] U.S. Bureau of Labor Statistics estimate.

Source: National currency wage data from International Labor Office.

Minimum wage legislation cannot be considered independently of other factors. We are living in an interdependent society, an interdependent world. We cannot ignore the economic competition in which our country is engaged related to other developing and developed nations. America's average wage level is already significantly high in relation to other nations' wages. To aggravate this comparison further would be unwise.

Of course, if average and basic wages domestically were not keeping up with domestic inflation trends, then there might be some justification for elevating the wage ranges through the mechanism of raising the base. But this disparity is not the fact. Our average wages are more than keeping up with domestic inflationary pressures.

For example, in January, 1966, the U.S. average rate of pay for manufacturing employees on a forty hour basis was $2.62 per hour. In January, 1973, this figure averaged $3.90, an increase of over 50%. The BLS cost of living index for January of 1966 was 95.4. In January of 1973 this index was 127.7, an increase of about one-third. Wages were advancing more than inflation.

In the state of Arizona, for the periods of time, the average rates of pay in certain of Arizona's major industries, including electronics, increased from 2.70–80 to 3.97. So in Arizona, wages are also more than keeping up with the rate of inflation.

In the hearings on multinational corporations conducted by the Finance Committee this spring, the witness for IBM was asked to compare the wage rates paid in comparable IBM plants in Lexington, Kentucky and Amsterdam, Holland. His answer was that if wages and benefits costs were $100, in Lexington, they would be $70, in Amsterdam.

I have already referred to the average hourly earnings in the ten most industrial nations, and other nations which may be described as rapidly developing in the industrial field.

With the Asian wages, I have attempted to secure more recent data upon the average hourly earnings including fringe benefits. I find that in Taiwan it is 29¢ per hour and in South Korea it is 39¢ per hour.

For Mexico, I have quoted agricultural witnesses as testifying to a 30¢ per hour average wage for farm labor. I find that the average wage in the electronics industry is about $1.00 per hour.

If the Senate is interested in safeguarding American jobs in low-wage industries, we will have to choose between increased protection which has the effect of a tax on consumers or leaving the minimum wage where it is. For my part, I prefer the latter.

Mr. TOWER. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time consumed be equally charged against both sides.

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

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

Mr. TOWER. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. Who yields time? The Senator from New Jersey has 14 minutes remaining.

Mr. WILLIAMS. Mr. President, is that all the time remaining?

The PRESIDING OFFICER. The Senator is correct.

Mr. HANSEN. Mr. President, I would like to address myself at this time to the several proposals in this Congress for raising the statutory minimum wage under the Federal Fair Labor Standards Act from its present levels of $1.60 an hour for nonfarm workers and $1.30 for agricultural workers. The House-passed legislation provides for an increase to $2 until June 30, 1974 followed by an increase to the level of $2.20. The committee bill, S. 1861 calls for an initial $2 hourly minimum for nonagricultural employees, to be increased after 1 year to $2.20. My concern about these proposals stems from my belief that they will increase unemployment, aggravate the existing inflationary spiral and harm the marginal, low-income workers we might delude ourselves into thinking we are assisting.

No one can be absolutely certain that raising the Federal minimum wage would cause layoffs or curtail job opportunities. But evidence from the past leads to that conclusion, and I am inclined to agree with past experiences.

When an employer is forced by law to increase wages to those of his employees earning less than the new minimum, his costs directly are increased by the legally required amounts. They are further increased to the extent that employers raise the wages of those already earning at the new minimum wage level or higher, in order to maintain some or all of the occupational differentials existing in the wage structure of his establishment. A higher minimum wage would increase costs for overtime pay as well as regular pay, since by law overtime must be recompensed at the premium rate of 1½ times the base rate.

The Senate bill, S. 1861, would further increase labor costs by covering under the FLSA for the first time sizable numbers of employees not now subject to law.

What does an employer do when faced with higher labor costs? In some cases he can absorb them from his profits. Such a response is not likely in the highly competitive, low-profit industries where the minimum wage hits the hardest. But to the extent that increased costs are absorbed from profits, this would subtract from the capital funds available to employers for the expansion, the growth, the new product lines which are the source of additional jobs in our economy.

The employers faced with an increased payroll because of a higher statutory minimum wage may simply go out of business, or discontinue less profitable product lines. He may lay off his least productive employees or switch them from full-time to part-time work. He may try to make do with one worker where two were employed before. He may heighten his efforts to improve worker performance and productivity, to enhance the efficiency of his operation. He may introduce machinery as a substitute for some of his workers. All of these adjustments create further unemployment.

Of course he may also raise prices to absorb higher labor costs. No doubt this would be the favored reaction of an employer to the extent that he could do so in the face of competition from other firms in his line of business and from alternative products. Where an increase in prices results in a loss of sales, this too may create unemployment. Most firms paying wages below $2 an hour nowadays are labor-intensive employers. They do not operate heavily mechanized establishments; gains in sales and losses in sales therefore are rather directly translated into gains and losses in employment.

It is often claimed that an increase in the minimum wage will create jobs because of greater purchasing power achieved by the low-wage workers whose earnings go up. These workers will spend more, sales will grow, new jobs will be the result.

Such an argument overlooks the fact that this added purchasing power in the hands of workers formerly earning below the new minimum wage is not really an aggregate increase in buying power at all, but only a transfer. The money to pay for the higher minimum wage comes from other people's pockets, possibly from profits, but more probably from consumers in the form of higher prices. There is no creation of total buying power in a minimum wage increase—only a redistribution, and no increase in aggregate sales or in total number of jobs. The conclusion that increases in Federal minimum wage levels are bound to cause some loss in the number of jobs and job opportunities is inescapable.

The New York State Department of Labor evaluated the impact of State minimum wage legislation after the statutory hourly minimums in New York were raised in the retail trades to $1 in larger cities and to 90 cents in smaller communities, from previous minimums ranging from 65 to 75 cents an hour. The evaluation found that employers affected by the increased wage rates took a variety of actions to adjust to the higher costs. Weekly payroll savings of $79,000, nearly one-fourth of the total increases in wage costs, were achieved by reduced hours, layoffs and quits not replaced. Five percent of the stores affected by the wage increase also reported reduction in the hiring of extras. Altogether nearly 1,000 employees reportedly lost their jobs as a result of the minimum wage boost, and another 500 who quit were not replaced.

Such legislation is primarily intended to help the low-wage worker—the unorganized, the rural, those in low-productivity work, the least skilled, the uneducated, the young, minority groups, and others. Yet it is precisely among those categories that the job-displacement impact of higher minimum wage rates falls most drastically.

George Will in an editorial in this morning's Washington Post pointed to some of the fallacies of a "humanitarianism" based on increasing the statutory minimum wage. Will found that those who suffer the most are the "Nation's vulnerable," as they are the first to be displaced.

The editorial writer lauds the Taft-Dominick approach, calling it an exception because it acknowledges that minimum wage legislation is harmful to many of the people who are supposed to benefit.

In part, George Will states:

Acting in its traditional role of tireless protector of the strong, the Senate is about to follow the House of Representatives in voting to increase unemployment among the nation's vulnerable workers—especially black teenagers.

The Senate will do this in the name of humanitarianism as it votes another increase in the minimum wage. The Senate probably will adopt the House bill, as against the administration's proposals.

The main arguments between the House and the administration concern whether coverage should be extended; how fast the minimum should rise to $2.20 per hour; and whether there should be a "youth differential," whereby anyone under 18 and full-time students could be paid 15 per cent less than the regular minimum wage.

The House, reflecting the position of organized labor, wants to extend coverage to domestic and government workers. It wants to go to $2.20 one year quicker than the administration (by 1974) and rejects the "youth differential."

The administration's proposals are less toxic than those of the House. But the really striking and depressing thing in both wings of the Capitol is that so few politicians—Sens. Peter H. Dominick (R Colo.) and Robert Taft, Jr. (R-Ohio) being honorable exceptions—acknowledge that minimum wage legislation usually is harmful to many of the people who are supposed to benefit.

I suspect that one reason economics is known as the "dismal science" is that it, unlike other social sciences, is sufficiently rigorous to occasionally reach clear conclusions that can interfere with political desires. Certainly today there is a remarkable consensus among independent economists about five matters relevant to minimum wage legislation:

Blacks suffer more than whites, and teenagers more than adults from sluggish job markets.

Minimum wage legislation makes it harder for blacks and teenagers to find employment in good times, and harder to hold jobs when times are not good.

White adult males benefit most from the effect of minimum wage legislation on lost job opportunities and increased job instability among blacks and teenagers.

There are more poor people whose poverty derives from unemployment than from holding jobs that pay inadequate wages.

While it is true that some workers are paid so poorly they must also draw welfare, it is equally true that raising the minimum wage will cause some of these people to become unemployed people on welfare.

None of these points is surprising. Minimum wage laws hurt marginal workers because their skills are least productive and most easily dispensed with. That is why it does not pay to pay them much.

Professor Friedman continues:

Unquestionably, the most important effect of the minimum wage rate is unemployment.

So says Prof. Milton Friedman, one of this country's leading economists:

Of all the laws on the statute books of this country, I believe that the minimum wage law probably does the Negroes the most harm. It is not intended to be an anti-Negro law but, in fact, it is.

Lest the opinions of Professor Friedman be discounted by some as coming from a very conservative economist, I wish to stress here that a growing and politically diverse number of economists are convinced that, by eliminating marginal job opportunities, the minimum wage is hurting people it is supposed to help, striking hardest at blacks and teenagers.

What good does it do a black youth to know that an employer must pay him $1.60 an hour if the fact that he must be paid that amount is what keeps him from getting a job?

This question comes from Paul Samuelson, a Nobel Prize winner for his contributions in economics and generally considered to be in the liberal camp. Legislators who really wish to help the poor may benefit from the following judgment of another liberal economist, James Tobin, a member of the Council of Economic Advisers under President Kennedy:

People who lack the capacity to earn a decent living should be helped, but they will not be helped by minimum wage legislation, trade-union pressures or other devices which seek to compel employers to pay more than their work is worth. The likely outcome of such regulations is that the intended beneficiaries are not employed at all.

The destructive impact of minimum wage legislation on employment among youth is stressed by a recent, well-regarded study by two Ohio University researchers, Douglas Adie and Gene L. Chapin. Their conclusion is as follows:

We feel that the results of our study are unambiguous. Increases in the Federal minimum wage cause unemployment among teenagers; the effects tend to persist for considerable periods of time and seem to be strengthening as coverage is increased and as enforcement become more rigorous.

Mr. President, the two most pressing problems in the American economy are unemployment and inflation. We all desperately seek solutions for these two problems. Raising the Federal minimum wage at this time is not part of the solutions we need; on the contrary, such a step will only aggravate the problem.

There are approximately 5-million people unemployed in this country. The unemployment rate is twice that of the national average for blacks and other minorities. How are we going to help these people find jobs if we make it impossible for American business to hire them? We cannot force anybody to hire a disadvantaged worker if the output of that worker yields less than his cost.

Mr. President, my experience with the minimum wage law goes back to my years as Governor of Wyoming. I recommended during the time I was Governor that we increase the minimum wage in Wyoming. Following my recommendation, that action was taken by the legislature. I began later to have misgivings as to the wisdom of my conclusion.

I have since had the opportunity to visit with Daniel Patrick Moynihan several years ago when he was a domestic adviser to the President. Mr. Moynihan told the members of the Finance Committee that increasing the minimum wage was the greatest disservice that would be done to the people of this country with the fewest labor skills.

In the words of editorial writer George Will, let us not in the name of humanitarianism vote to increase unemployment among the vulnerable and provide an impetus for continued inflation through enacting the committee bill.

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

The PRESIDING OFFICER. The order is for the vote to come at 5 o'clock. It would take unanimous consent to alter that previous order.

Mr. WILLIAMS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. WILLIAMS. Mr. President, is that order for no later than 5, or precisely at 5?

The PRESIDING OFFICER. At 5 o'clock.

Mr. WILLIAMS. 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.

AMENDMENT OF THE FLOOD CONTROL ACT OF 1968

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the pending amendment be set aside for not to exceed 10 minutes, and that the Senate proceed to the consideration of Calendar No. 294, H.R. 6717.

The PRESIDING OFFICER (Mr. McCLURE). Without objection, it is so ordered. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 6717) to amend section 210 of the Flood Control Act of 1968.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its immediate consideration.

The Senate proceeded to consider the bill, which had been reported from the Committee on Interior and Insular Affairs with an amendment to strike out all after the enacting clause and insert:

That the first paragraph of section 4(b) of the Land and Water Conservation Fund Act of 1965, as amended (78 Stat. 897; 16 U.S.C. 4601–5), is amended to read as follows:

"(b) SPECIAL RECREATION USE FEES.—Each Federal agency developing, administering, or providing specialized sites, facilities, equipment, or services related to outdoor recreation shall provide for the collection of special recreation use fees for the use of sites, facilities, equipment, or services furnished at Federal expense: Provided, That in no event shall there be a charge for the day use or recreational use of those facilities or combination of those facilities or areas which virtually all visitors might reasonably be expected to utilize, such as, but not limited to, lightly developed or back-country campgrounds, picnic areas, boat ramps where no mechanical or hydraulic equipment is provided, drinking water, wayside exhibits, roads, trails, overlook sites, visitors' centers, scenic drives, and toilet facilities."

Mr. BIBLE. Mr. President, the Interior Committee amended H.R. 6717 by striking out all after the enacting clause and substituting in lieu thereof the language of S. 1381, a bill which originated in the Interior Committee and which would amend the Land and Water Conservation Fund Act to prohibit the charging of recreation user fees by any Federal agency except at specialized facilities. S. 1381 was passed by the Senate on May 16, 1973.

It is the conviction of the Interior Committee that there should be a uniform Federal fee system to be used by all agencies for comparable services and facilities provided. This is also in line with the intention of the Senate and House conferees when the Land and Water Conservation Fund Act was amended in 1972.

The provisions of H.R. 6717, as amended, spell out and make clear that Congress does not intend to authorize fees for those facilities or combination of facilities which visitors have traditionally received free.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment in the nature of a substitute.

Mr. BIBLE. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. BIBLE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

Mr. BIBLE's amendment is as follows:

On page 3, after line 17, add a section 2 as follows:

"SEC. 2. Section 4(a)(2) of the Land and Water Conservation Fund Act of 1965, as amended (78 Stat. 879; 16 U.S.C. 4601–5), is amended to read as follows:

" 'Reasonable admission fees for a single visit at any designated area shall be established by the administering Secretary for persons who choose not to purchase the annual permit or who enter such an area by means other than by private, noncommercial vehicle. A "single visit" means that length of time a visitor remains within the exterior boundary of a designated fee area beginning from the day he first enters the area until he leaves, except that on the same day such admission fee is paid, the visitor may leave and re-enter without the payment of an additional admission fee to the same area.' "

Mr. BIBLE. Mr. President, H.R. 6717, as amended by the Interior Committee, amends the Land and Water Conservation Fund Act. This act, as amended by the 92d Congress, prohibits any Federal agency from charging an "entrance" or "admission" fee to any recreation area except at designated units of the national park system administered by the Department of the Interior and national recreation areas administered by the Department of Agriculture. No admission fees of any kind shall be charged or imposed for entrance into any other

federally owned areas used for outdoor recreation purposes.

An annual permit called the Golden Eagle Passport is authorized for sale which would allow entry without further fees for the bearer and those who accompany him in a private vehicle. If a visitor does not purchase a Golden Eagle, the law provides for the Park Service or Forest Service, as the case may be, to charge "reasonable admission fees for a single visit at any designated area."

Somehow in the interpretation of this language the executive agencies have construed a single visit to mean a daily visit and that an entrance charge can be made for each continuous day a visitor is in the park. The only reference to a daily charge in the law refers to "daily use fees for overnight occupancy * * * " at campgrounds, et cetera.

When the Land and Water Conservation Fund Act was amended in the 92d Congress, it was the intention of the Senate and House conferees that if a person entered a fee area of the park system, he would have to pay an entrance fee whether he was there for 1 day or several days. As long as he stayed within the boundaries of the park, he would have no more admission fees to pay. Obviously, if the person was camping he would incur a daily user fee charge, but unless he went out of the park and came back in after the day on which he entered, he would only pay a single entrance charge. In other words, a single visit is just that. A single visit could be 1 day or it could be more than 1 day. It is a charge to get in—not a charge to stay.

My amendment, Mr. President, is intended to clarify the existing law and to spell out more clearly the intention of the Congress when it amended the Land and Water Conservation Fund in the 92d Congress.

The Senator from Oklahoma is intensely interested in this entire problem. He called it to our attention earlier in the session. I think we have made our application uniform, and with this amendment, I think, the bill will meet most of the objectives of the distinguished Senator from Oklahoma.

I move the adoption of my amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Nevada.

The amendment was agreed to.

Mr. BARTLETT. Mr. President, I call up an amendment which I have at the desk, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 3, line 13, strike the words "lightly developed or back-country campgrounds,".

On page 3, line 17, strike the quotation mark and add a new sentence as follows: "No fee may be charged for access to or use of any campground not having the following—flush restrooms, showers reasonably available, access and circulatory roads, sanitary disposal stations reasonably available, visitor protection control, designated tent or trailer spaces, refuse containers and potable water."

Mr. BARTLETT. Mr. President, first I would like to thank and compliment the Senator from Nevada for his interest in this area. His amendment was very much needed, and is consistent with the legislative intent of the original act. It is also consistent with the thrust of the bill I introduced in the Senate, which is the language that he is amending here.

My amendment which was just read spells out in detail when fees may be charged for the use of campgrounds for overnight camping. I think the adoption of this amendment would eliminate any misconstruction or difference of opinion as to when facilities should be charged for and when they should not be charged for. I have discussed the amendment with General Morse, of the Corps of Engineers. He said that he would favor having the whole matter very clearly spelled out, as this does, and that this was acceptable to him.

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

Mr. BARTLETT. I yield.

Mr. BIBLE. Mr. President, the Senator has discussed his amendment with me. I think it falls very clearly in line with the language of this particular section. We have worked on the section for a long period of time, and I think once and for all we have made clear to the administrative people exactly what we mean. I believe it is a good amendment, and I think it should be adopted.

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

The amendment was agreed to.

Mr. BARTLETT. Mr. President, I ask unanimous consent to have printed in the RECORD at this point remarks on this subject by the Senator from Kansas (Mr. DOLE).

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

STATEMENT BY SENATOR DOLE

LIMITATION ON USER FEES

As one of the original sponsors of S. 1381, the Senate-passed bill to limit user fees charged at federal lakes administered by the Corps of Engineers, I am pleased to urge passage of the House companion bill by the Senate today. In fact, I would point out that as reported this bill is substantially the same as the Senate bill.

This bill was introduced in an effort to meet a basic unfairness, a distortion of congressional intent and a clear case of administrative impracticality. I would point out these matters briefly, for I have earlier detailed the circumstances leading to introduction of this bill.

THREE FACTORS

First, the Corps of Engineers, quite unadvisedly in my opinion, issued a very high-handed and inaccurate announcement of its user fee policies. This announcement led to widespread alarm among thousands of campers, boaters and picnickers in Kansas and elsewhere that they were to have their recreation activities taxed beyond their ability to afford them—perhaps as much as $30 for a family of four per weekend. As it turned out the actual fees were finally established at a much lower and more reasonable level. But, nonetheless, a great deal of ill-will and irritation was generated by the handling of these proposals.

Second, as the fees were finally set they included assessments on the utilization of so-called day-use recreation facilities. These fees were not so excessive as originally feared, but a serious question arose about Congress' intent that such fees were to be charged at all. These day-use areas are the types of facilities which almost every visitor to a lake could be expected to use, and it was felt that Congress never intended to impose a tax on everyone who comes for a hike, a picnic, an afternoon in the sun or a day's fishing.

Third, although these fees were not set on a per-person basis as the original announcement indicated, even collecting a charge from each car load of visitors to an area will be such a costly, time consuming operation that these collections will never break even. Manpower and administrative costs will almost inevitably consume more than the revenues brought in by the fees, so it does not appear to make much sense to collect them. In addition the irritation and inconvenience—both to visitors and Corps of Engineers personnel—will further add to the overall negative aspects of these fees.

URGE SENATE APPROVAL

So, Mr. President, I firmly support this bill and urge that my colleagues in the Senate will again vote it their approval. Its passage will be a further step toward successful elimination of an unnecessary, unwise and useless irritation and inconvenience to the millions of Americans who each year enjoy the attractions of our federal lakes and recreation areas.

I am hopeful that the House and Senate conferees can follow favorable Senate action with their agreement, so this measure can become law at the earliest possible date.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill (H.R. 6717) was read the third time, and passed.

The title was amended so as to read: "An act to amend certain provisions of the Land and Water Conservation Fund Act of 1965 relating to the collection of fees in connection with the use of Federal areas for outdoor recreation purposes."

Mr. BIBLE. Mr. President, I move to reconsider the vote by which the bill was passed.

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

The motion to lay on the table was agreed to.

FAIR LABOR STANDARDS AMENDMENTS OF 1973

The Senate continued with the consideration of the bill (S. 1861) to amend the Fair Labor Standards Act of 1938, as amended, to extend its protection to additional employees, to raise the minimum wage to $2.20 an hour, and for other purposes.

Mr. ROBERT C. BYRD. Mr. President, what is the pending business before the Senate?

The PRESIDING OFFICER. The pending question is on agreeing to amendment No. 252, as modified, to S. 1861.

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 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.

Pursuant to the previous order, the hour of 5 p.m. having arrived, the question is on agreeing to the amendment of the Senator from Texas (Mr. TOWER), No. 252, as modified.

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Washington (Mr. MAGNUSON) is absent on official business.

I also announce that the Senator from Mississippi (Mr. STENNIS) is absent because of illness.

I further announce that, if present and voting, the Senator from Washington (Mr. MAGNUSON) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Kansas (Mr. DOLE) is necessarily absent.

The result was announced—yeas 19, nays 78, as follows:

[No. 299 Leg.]

YEAS—19

Bartlett	Curtis	Hruska
Bennett	Eastland	McClure
Brock	Ervin	Scott, Va.
Buckley	Fannin	Thurmond
Byrd, Harry F., Jr.	Goldwater	Tower
Cotton	Hansen	Young
	Helms	

NAYS—78

Abourezk	Griffin	Moss
Aiken	Gurney	Muskie
Allen	Hart	Nelson
Baker	Hartke	Nunn
Bayh	Haskell	Packwood
Beall	Hatfield	Pastore
Bellmon	Hathaway	Pearson
Bentsen	Hollings	Pell
Bible	Huddleston	Percy
Biden	Hughes	Proxmire
Brooke	Humphrey	Randolph
Burdick	Inouye	Ribicoff
Byrd, Robert C.	Jackson	Roth
Cannon	Javits	Saxbe
Case	Johnston	Schweiker
Chiles	Kennedy	Scott, Pa.
Church	Long	Sparkman
Clark	Mansfield	Stafford
Cook	Mathias	Stevens
Cranston	McClellan	Stevenson
Domenici	McGee	Symington
Dominick	McGovern	Taft
Eagleton	McIntyre	Talmadge
Fong	Metcalf	Tunney
Fulbright	Mondale	Weicker
Gravel	Montoya	Williams

NOT VOTING—3

Dole	Magnuson	Stennis

So Mr. TOWER's amendment (No. 252) as modified, was rejected.

Mr. WILLIAMS. Mr. President, I move that the Senate reconsider the vote by which the amendment was rejected.

Mr. HUMPHREY. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 330

The PRESIDING OFFICER. Under the previous order, the senior Senator from Colorado (Mr. DOMINICK) is recognized for the purpose of calling up an amendment.

Mr. DOMINICK. Mr. President, I am not certain whether, under the rule, I may modify the amendment I am about to call up, since the Senator from Ohio (Mr. TAFT) has asked for the yeas and nays. I state that as a parliamentary inquiry.

The PRESIDING OFFICER. Since the amendment has not been formally offered, the Senator has a right to modify it prior to offering it.

Mr. DOMINICK. I thank the Chair. I send to the desk amendment No. 330 together with a modification and ask that it be read.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. DOMINICK. Mr. President, I ask that the further reading of the amendment be dispensed with and that the amendment be printed in the RECORD.

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

The amendment, as modified, is as follows:

Strike all material after the enacting clause and, in lieu thereof, insert the following: That this Act may be cited as the "Fair Labor Standards Amendments of 1973".

DEFINITIONS AND APPLICABILITY TO GOVERNMENT EMPLOYEES

SEC. 2. (a) Section 3(d) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(d)) is amended to read as follows:

"(d) 'Employer' includes any person acting directly or indirectly in the interest of an employer in relation to an employee, including the United States, any State or political subdivision of a State, and any agency or instrumentality thereof or interstate governmental agency, but shall not include any labor organization (other than when acting as an employer), or anyone acting in the capacity of officer or agent of such labor organization."

(b) Section 3(e) of such Act is amended by adding at the end thereof the following: "In the case of any individual employed by the United States, 'employee' means any individual employed (i) as a civilian in the military departments as defined in section 102 of title 5, United States Code, (ii) in executive agencies as defined in section 105 of title 5, United States Code (including employees who are paid from nonappropriated funds), (iii) in the United States Postal Service and the Postal Rate Commission, (iv) in those units of the legislative and judicial branches of the Federal Government having positions in the competitive service, and (v) in the Library of Congress. In the case of any individual employed by a State, or the political subdivision of any State or any interstate governmental agency the term 'employee' shall include any employee of that State, political subdivision, or agency but the term shall not include any individual elected to public office in any State or political subdivision of any State by the qualified voters thereof or any person chosen by such officer to be on such officers' personal staff, or an appointee on the policymaking level or an immediate adviser with respect to the exercise of the constitutional or legal powers of the office. The exemption set forth in the preceding sentence shall not include employees subject to the civil service laws of a State government or political subdivision or applicable to an interstate governmental agency."

(c) Section 3(h) of such Act is amended to read as follows:

"(h) 'Industry' means a trade, business, industry, or other activity, or branch or group thereof, in which individuals are gainfully employed.".

(d) The last sentence of section 3(m) is amended to read as follows: "In determining the wage of a tipped employee, the amount paid such employee by his employer shall be deemed to be increased on account of tips by an amount determined by the employer, but not by an amount in excess of 50 per centum of the applicable minimum wage rate, except that the amount of the increase on account of tips determined by the employer may not exceed the value of tips actually received by the employee. The previous sentence shall not apply with respect to any tipped employee unless (1) such employee has been informed by the employer of the provisions of this section, and (2) all tips received by such employee have been retained by the employee, except that nothing herein shall prohibit the pooling of tips among employees who customarily and regularly receive tips."

(e) (1) The first sentence of section 3(r) of such Act is amended by inserting after the word "whether", the words "public or private or conducted for profit or not for profit, or whether".

(2) The second sentence of such subsection is amended to read as follows: "For purposes of this subsection, the activities performed by any person in connection with the activities of the Government of the United States or any State or political subdivision shall be deemed to be activities performed for a business purpose.".

(f) The first sentence of section 3(s) of such Act is amended by inserting after the words "means an enterprise", the parenthetical clause "(whether public or private or operated for profit or not for profit and including activities of the Government of the United States or of any State or political subdivision of any State)".

(g) Section 4 of such Act is amended by adding at the end thereof the following new subsection:

"(f) The Secretary is authorized to enter into an agreement with the Librarian of Congress with respect to any individual employed in the Library of Congress, to provide for the carrying out of his functions under this Act with respect to such individuals. Notwithstanding any other provision of this Act, or any other law, the Civil Service Commission is responsible for administering the provisions of this Act with respect to any individual employed by the United States (other than an individual employed in the United States Postal Service and Postal Rate Commission). Nothing in this subsection shall be construed to affect the right of an employee to bring an action for unpaid minimum wages, or unpaid overtime compensation, and liquidated damages under section 16(b) of this Act.".

(h) Section 13(b) of such Act is amended by striking out the period at the end of paragraph (19) and inserting in lieu thereof a semicolon and the word "or" and by adding at the end thereof the following new paragraph:

"(20) any employee employed by the United States (A) as a civilian in the military departments as defined in section 102 of title 5, United States Code, (B) in executive agencies as defined in section 105 of title 5, United States Code (including employees who are paid from nonappropriated funds), (C) in the United States Postal Service and the Postal Rate Commission, (D) in those units of the legislative and judicial branches of the Federal Government having positions in the competitive service, and (E) in the Library of Congress; and any employee employed by any State or a political subdivision of any State and any agency or instrumentality thereof or interstate governmental agency, except any such employee brought within the purview of Section 7 of this Act

by the Fair Labor Standards Amendments of 1966."

INCREASE IN MINIMUM WAGE

SEC. 3. (a) Section 6(a)(1) of the Fair Labor Standards Act of 1938 is amended to read as follows:

"(1)(A) not less than $1.80 an hour during the first year from the effective date of the Fair Labor Standards Amendments of 1973,

"(B) not less than $2 an hour during the second year from the effective date of such amendments,

"(C) not less than $2.10 an hour during the third year from the effective date of such amendments,

"(D) not less than $2.20 an hour during the fourth year from the effective date of such amendments, and

"(E) not less than $2.30 an hour thereafter."

(b) Paragraph (5) of section (6)(a) is amended to read as follows:

"(5) if such employee is employed in agriculture, not less than $1.50 an hour during the first year from the effective date of the Fair Labor Standards Amendments of 1973, not less than $1.70 an hour during the second year from the effective date of such amendments, not less than $1.90 an hour during the third year from the effective date of such amendments, and not less than $2 an hour thereafter."

(c)(1) Section 6(b) of such Act is repealed.

(2) Subsections (c), (d), and (e) of section 6 of such Act are redesignated as subsections (b), (c), and (d), respectively.

EMPLOYEES IN THE CANAL ZONE

SEC. 4. Section 6(a) of the Fair Labor Standards Act of 1938 is amended by striking out the period at the end of paragraph (5) of such section and inserting in lieu thereof a semicolon and the word "or", and by adding at the end thereof the following new paragraph:

"(6) if such employee is employed in the Canal Zone not less than $1.60 an hour."

EMPLOYEES IN PUERTO RICO AND THE VIRGIN ISLANDS

SEC. 5. Paragraphs (A) and (B) of section 6(b)(2) of the Fair Labor Standards Act of 1938 (as redesignated by section 3(c)(2) of this Act) are amended to read as follows:

"(A) The rate or rates applicable under the most recent wage order issued by the Secretary prior to the effective date of the Fair Labor Standards Amendments of 1973 increased by 12.5 per centum unless such rate or rates are superseded by the rate or rates prescribed in a wage order issued by the Secretary pursuant to the recommendations of a review committee appointed under paragraph (C). Such rate or rates shall become effective sixty days after the effective date of the Fair Labor Standards Amendments of 1973, or one year from the effective date of the most recent wage order applicable to such employee theretofore issued by the Secretary pursuant to the recommendations of a special industry committee appointed under section 5, whichever is later.

"(B)(i) Effective one year after the applicable effective date under paragraph (A), the rate or rates prescribed by paragraph (A), increased by an amount equal to 12.5 per centum of the rate or rates applicable under the most recent wage order issued by the Secretary prior to the effective date of the Fair Labor Standards Amendments of 1973 unless such rate or rates are superseded by the rate or rates prescribed in a wage order issued by the Secretary pursuant to the recommendation of a review committee appointed under paragraph (C).

"(ii) Effective two years after the applicable effective date under paragraph (A), the rate or rates prescribed by subparagraph (i) of this paragraph increased by an amount equal to 12.5 per centum of the rate or rates applicable under the most recent wage order issued by the Secretary prior to the effective date of the Fair Labor Standards Amendments of 1973 unless rate or rates are superseded by the rate or rates prescribed in a wage order issued by the Secretary pursuant to the recommendation of a review committee appointed under paragraph (C)."

PROOF OF AGE REQUIREMENT

SEC. 6. Section 12 of the Fair Labor Standards Act of 1938 is amended by adding at the end thereof the following new subsection:

"(d) In order to carry out the objectives of this section, the Secretary may by regulations require employers to obtain from any employee proof of age."

CHILD LABOR IN AGRICULTURE

SEC. 7. (a) Section 13(e)(1) of the Fair Labor Standards Act of 1938 is amended to read as follows:

"(c)(1) Except as provided in paragraph (2) the provisions of section 12 (relating to child labor) shall not apply to any employee employed in agriculture outside of school hours for the school district where such employee is living while he is so employed, if such employee—

"(A) is employed by his parent, or by a person standing in the place of his parent, on a farm owned or operated by such parent or person, or

"(B) is fourteen years of age or older, or

"(C) is twelve years of age or older, and (i) such employment is with the written consent of his parent or person standing in place of his parent, or (ii) his parent or such person is employed on the same farm.".

(b) Section 13(d) of such Act is amended to read as follows:

"(d) The provisions of sections 6, 7, and 12 shall not apply with respect to any employee engaged in the delivery of newspapers to the consumer, and the provisions of section 12 shall not apply with respect to any such employee when engaged in the delivery to households or consumers of shopping news (including shopping guides, handbills, or other type of advertising material) published by any weekly, semiweekly, or daily newspaper."

EXPANDING EMPLOYMENT OPPORTUNITIES FOR YOUTH; SPECIAL MINIMUM WAGES FOR EMPLOYEES UNDER EIGHTEEN AND STUDENTS

SEC. 8. Section 14(b) of the Fair Labor Standards Act of 1938 is amended to read as follows:

"(b)(1) Subject to paragraph (2) and to such standards and requirements as may be required by the Secretary under paragraph (4), any employer may, in compliance with applicable child labor laws, employ, at the special minimum wage rate prescribed in paragraph (3), any employee—

"(A) to whom the minimum wage rate required by section 6 would apply in such employment but for this subsection, and

"(B) who is under the age of eighteen or is a full-time student.

"(2) No employer may employ, at the special minimum wage rate authorized by this subsection—

"(A) for a period in excess of one hundred and eighty days any employee who is under the age of eighteen and is not a full-time student; or

"(B) for longer than twenty hours per week any employee who is a full-time student, except in any case in which any such student (i) is employed by the educational institution at which he is enrolled, or (ii) is employed during a school vacation in a retail or service establishment or in agriculture.

(3) The special minimum wage rate authorized by this subsection is a wage rate which is not less than the higher of (A) 85 per centum of the otherwise applicable minimum wage rate prescribed by section 6, or (B) $1.30 an hour in the case of employment in agriculture or $1.60 an hour in the case of other employment, except that such special minimum wage rate for employees in Puerto Rico, the Virgin Islands, and American Samoa shall not be less than 85 per centum of the industry wage order rate otherwise applicable to such employees, but in no case shall such special minimum wage rate be less than that provided for under the most recent wage order issued prior to the effective date of the Fair Labor Standards Act of 1973.

"(4) The Secretary shall by regulation prescribe standards and requirements to insure that this subsection will not create a substantial probability of reducing the full-time employment opportunities of persons other than those to whom the minimum wage rate authorized by this subsection is applicable.

"(5) For purposes of sections 16(b) and 16(c)—

"(A) any employer who employs any employee under this subsection at a wage rate which is less than the minimum wage rate prescribed by paragraph (3) shall be considered to have violated the provisions of section 6 in his employment of the employee, and the liability of the employer for unpaid wages and overtime compensation shall be determined on the basis of the otherwise applicable minimum wage rate under section 6; and

"(B) any employer who employs any employee under this subsection for a period in excess of the period prescribed by paragraph (2) shall be considered to have violated the provisions of section 6 in his employment of the employee during the period in excess of the authorized period."

CIVIL PENALTY FOR CERTAIN LABOR VIOLATIONS

SEC. 9. Section 16 of the Fair Labor Standards Act of 1938 is amended by adding at the end thereof the following new subsection:

"(e) Any person who violates the provisions of section 12, relating to child labor, or any regulation issued under that section, shall be subject to a civil penalty of not to exceed $1,000 for each such violation. In determining the amount of such penalty, the appropriateness of such penalty to the size of the business of the person charged and the gravity of the violation shall be considered. The amount of such penalty, when finally determined, may be—

"(1) deducted from any sums owing by the United States to the person charged; or

"(2) recovered in a civil action brought by the Secretary in any court of competent jurisdiction, in which litigation the Secretary shall be represented by the Solicitor of Labor; or

"(3) ordered by the court, in an action brought under section 17 to restrain violations of section 15(a)(4), to be paid to the Secretary.

Any administrative determination by the Secretary of the amount of such penalty shall be final, unless within fifteen days after receipt of notice thereof by certified mail the person charged with the violation takes exception to the determination that the violations for which the penalty is imposed occurred, in which event final determination of the penalty shall be made in an administrative proceeding after opportunity for hearing in accordance with section 554 of title 5, United States Code, and regulations to be promulgated by the Secretary. Sums collected as penalties pursuant to this section shall be applied toward reimbursement of the costs of determining the violations and assessing and collecting such penalties, in accordance with the provisions of section 2 of an Act entitled 'An Act to authorize the Department of Labor to make special statistical studies upon payment of the cost thereof, and for other purposes' (48 Stat. 582)."

PENALTIES

SEC. 10. (a) The first three sentences of section 16(c) of the Fair Labor Standards Act of 1938, as amended, are amended to read as follows:

"The Secretary is authorized to supervise the payment of the unpaid minimum wages or the unpaid overtime compensation owing to any employee or employees under sections 6 or 7 of this Act, and the agreement of any employee to accept such payment shall upon payment in full constitute a waiver by such employee of any right he may have under subsection (b) of this section to such unpaid minimum wages or unpaid overtime compensation and an additional equal amount as liquidated damages. The Secretary may bring an action in any court of competent jurisdiction to recover the amount of the unpaid minimum wages or overtime compensation and an equal amount as liquidated damages. The right provided by subsection (b) to bring an action by or on behalf of any employee and of any employee to become a party plaintiff to any such action shall terminate upon the filing of a complaint by the Secretary of Labor in an action under this subsection in which a recovery is sought of unpaid wages or unpaid overtime compensation under sections 6 and 7 or other damages provided by this subsection owing to such employee by an employer liable under the provision of subsection (b), unless such action is dismissed without prejudice on motion of the Secretary."

(b) Section 11 of the Portal-to-Portal Pay Act of 1947 is amended by deleting "(b)" after "section 16".

NONDISCRIMINATION ON ACCOUNT OF AGE IN GOVERNMENT EMPLOYMENT

SEC. 11. (a) (1) The second sentence of section 11(b) of the Age Discrimination in Employment Act of 1967 is amended to read as follows: "The term also means (1) any agent of such a person, and (2) a State or political subdivision of a State and any agency or instrumentality of a State or a political subdivision of a State, and any interstate agency but such term does not include the United States, or a corporation wholly owned by the Government of the United States.".

(2) Section 11(c) of such Act is amended by striking out ", or any agency of a State or political subdivision of a State, except that such term shall include the United States Employment Service and the system of State and local employment services receiving Federal assistance".

(3) Section 11(f) of such Act is amended to read as follows:

"(f) The term 'employee' means an individual employed by any employer except that the term 'employee' shall not include any person elected to public office in any State or political subdivision of any State by the qualified voters thereof, or any person chosen by such officer to be on such officer's personal staff, or an appointee on the policymaking level or an immediate adviser with respect to the exercise of the constitutional or legal powers of the office. The exemption set forth in the preceding sentence shall not include employees subject to the civil service laws of a State government, governmental agency, or political subdivision.".

(4) Section 16 of such Act is amended by striking the figure "$3,000,000", and inserting in lieu thereof "$5,000,000".

(b) (1) The Age Discrimination in Employment Act of 1967 is amended by redesignating sections 15 and 16, and all references thereto, as section 16 and section 17, respectively.

(2) The Age Discrimination in Employment Act of 1967 is further amended by adding immediately after section 14 the following new section:

"NONDISCRIMINATION ON ACCOUNT OF AGE IN FEDERAL GOVERNMENT EMPLOYMENT

"SEC. 15. (a) All personnel actions affecting employees or applicants for employment (except with regard to aliens employed outside the limits of the United States) in military departments as defined in section 102 of title 5, United States Code, in executive agencies as defined in section 105 of title 5, United States Code (including employees and applicants for employment who are paid from nonappropriated funds), in the United States Postal Service and the Postal Rate Commission, in those units in the government of the District of Columbia having positions in the competitive service, and in those units of the legislative and judicial branches of the Federal Government having positions in the competitive service, and in the Library of Congress shall be made free from any discrimination based on age.

"(b) Except as otherwise provided in this subsection, the Civil Service Commission is authorized to enforce the provisions of subsection (a) through appropriate remedies, including reinstatement or hiring of employees with or without backpay, as will effectuate the policies of this section. The Civil Service Commission shall issue such rules, regulations, orders, and instructions as it deems necessary and appropriate to carry out its responsibilities under this section. The Civil Service Commission shall—

"(1) be responsible for the review and evaluation of the operation of all agency programs designed to carry out the policy of this section, periodically obtaining and publishing (on at least a semiannual basis) progress reports from each such department, agency, or unit;

"(2) consult with and solicit the recommendations of interested individuals, groups, and organizations relating to nondiscrimination in employment on account of age; and

"(3) provide for the acceptance and processing of complaints of discrimination in Federal employment on account of age.

The head of each such department, agency, or unit shall comply with such rules, regulations, orders, and instructions of the Civil Service Commission which shall include a provision that an employee or applicant for employment shall be notified of any final action taken on any complaint of discrimination filed by him thereunder. Reasonable exemptions to the provisions of this section may be established by the Commission but only when the Commission has established a maximum age requirement on the basis of a determination that age is a bona fide occupational qualification necessary to the performance of the duties of the position. With respect to employment in the Library of Congress, authorities granted in this subsection to the Civil Service Commission shall be exercised by the Librarian of Congress.

"(c) Any persons aggrieved may bring a civil action in any Federal district court of competent jurisdiction for such legal or equitable relief as will effectuate the purposes of this Act.

"(d) When the individual has not filed a complaint concerning age discrimination with the Commission, no civil action may be commenced by any individual under this section until the individual has given the Commission not less than thirty days' notice of an intent to file such action. Such notice shall be filed within one hundred and eighty days after the alleged unlawful practice occurred. Upon receiving a notice of intent to sue, the Commission shall promptly notify all persons named therein as prospective defendants in the action and take any appropriate action to assure the elimination of any unlawful practice.

"(e) Nothing contained in this section shall relieve any Government agency or official of the responsibility to assure nondiscrimination on account of age in employment as required under any provision of Federal law.".

EXEMPTION REVIEW

SEC. 12. The Secretary of Labor is hereby instructed to commence immediately a comprehensive review of the exemptions under section 13 of the Fair Labor Standards Act of 1938 and submit to the Congress not later than three years after the date of enactment of this Act a report containing: (1) an analysis of the reasons why each exemption was established; (2) an evaluation of the need for each exemption in light of current economic conditions, including an analysis of the economic impact its removal would have on the affected industry; and (3) recommendations with regard to whether each exemption should be continued, removed, or modified.

TECHNICAL AMENDMENTS

SEC. 13. (a) Section 6(c)(2)(C) of the Fair Labor Standards Act of 1938 is amended by substituting "1973" for "1966".

(b)(1) Section 6(c)(3) of such Act is repealed.

(2) Section 6(c)(4) of such Act is redesignated as 6c(3).

(c)(1) Section 7(a)(1) of such Act is redesignated as 7(a).

(2) Section 7(a)(2) of such Act is repealed.

(d) Section 14(c) of such Act is repealed and section 14(d) is redesignated as 14(c).

(e) Section 18(b) is amended by striking out "section 6(b)", and inserting in lieu thereof "section 6(a)(6)", and by striking out "section 7(a)(1)" and inserting in lieu thereof "section 7(a)".

EFFECTIVE DATE

SEC. 14. Except as otherwise provided in this Act, the amendments made by this Act shall take effect sixty days after enactment. On and after the date of enactment of this Act, the Secretary is authorized to promulgate necessary rules, regulations, or orders with regard to the amendments made by this Act.

Mr. DOMINICK. Mr. President, the amendment I have offered is No. 330, in the nature of a substitute. The modification is simply a correction of a draftsmanship error in the preparation of the amendment. The 1966 amendments extended minimum wage and overtime coverage to certain State and local government employees in hospitals, extended care institutions, schools, and certain local transit agencies. The committee bill this year extends minimum wage and overtime coverage to most of the remaining Federal, State, and local government employees not covered by the 1966 amendments. Our substitute, since it is intended to extend minimum wage coverage only to these employees contains a specific overtime exemption for them. The overtime exemption was inadvertently drafted so that it applies to all Federal, State, and local employees, including those State and local employees to whom overtime coverage was extended in 1966. Since we do not intend to cut back on existing overtime coverage, this modification is necessary to make sure the overtime exemption in our substitute does not apply to State and local employees covered in 1966.

Having called up the amendment, I think we have enough Senators present so that I may ask for the yeas and nays

on the amendment which I understand will occur at 12:30 p.m. tomorrow. I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. DOMINICK. Mr. President, I am going to be very brief. I yield myself 5 minutes. I think other Senators desire to speak for awhile tonight and then also tomorrow.

I reluctantly voted against the Tower-Fannin amendment because I personally, having been involved in the discussions within the committee, felt that it does not go far enough toward making up for the lapse in the minimum wage legislation which we passed since 1966.

The amendment which we are offering, and which I have just brought up on behalf of myself, the Senator from Ohio (Mr. TAFT), and the Senator from Maryland (Mr. BEALL), is a substitute for the committee bill.

This amendment is essentially the same as S. 1725, which I introduced on May 7 with Senator TAFT.

It provides for increasing the minimum wage for all covered nonfarm-workers to $2.30 an hour over a 4-year period. The rate for covered farmworkers would be increased from its present level of $1.30 an hour to $2 an hour over a 3-year period.

To avoid worsening the high teenage unemployment rate—14 percent for white teenagers; 31 percent for nonwhites—the substitute provides for a "youth differential" rate of 85 percent of the new rates. It would apply to youths under 18 only during their first 6 months on a job, and to full-time students working in part-time jobs. Employers could use the youth differential rate only in accordance with Department of Labor regulations insuring that adult workers would not be displaced.

The substitute provides for extending minimum wage coverage to the remaining Federal, State, and local government employees not covered by the 1966 amendments. No exemptions would be repealed, but the Labor Department would be directed to undertake a comprehensive study of the 36 or more existing minimum wage and overtime exemptions, and submit to Congress a report containing recommendations as to whether each should be retained, repealed, or modified.

Our substitute differs significantly from the one we offered last year in that it provides for larger increases in minimum wage rates, provides for a youth differential with a considerably narrower application, and extends minimum wage coverage to Federal, State, and local government employees. In contrast, with the exception of a few minor changes, S. 1861 as reported by the committee, is identical to the bill reported last year.

Again, I am strongly opposed to S. 1861 as reported. I think the minimum wage increases and extensions of coverage it provides for will have serious inflationary and unemployment effects throughout the economy. I think the consequences will be felt primarily by those who are most vulnerable: small farmers and small businessmen, who will be forced to absorb large increases in labor costs over a short period of time; marginal workers—the young, the handicapped, the elderly, the poor—who would find it more difficult to obtain employment; and consumers, who would be forced to pay higher prices necessitated by large increases in labor costs in all segments of the economy.

The committee bill would raise the minimum wage for most workers from its present level of $1.60 an hour to $2.20 an hour next year—a 37.5-percent increase. It would extend minimum wage and overtime coverage to about 7 million new employees. The result will be an estimated $4.7 billion increase in the Nation's annual wage bill. This estimate includes only the direct cost of raising wages to the higher rates. It does not include increased overtime costs resulting from the higher rates. Nor does it include the "ripple effect" cost of raising wages which are above the minimum rates in order to restore existing wage differentials after the higher rates go into effect. Based on Labor Department figures, this "ripple effect" cost could be in excess of $45 billion.

I think the wage increases provided for in the committee bill should be stretched out over a longer period of time. I think steps should be taken to lessen the adverse employment impact of these increases on youth. I think it is a mistake for the Federal Government to mandate overtime coverage for domestic household workers. I think it is a mistake to repeal 18 minimum wage and overtime exemptions until we have more complete information regarding whether the reasons for which they were originally adopted by Congress still exist.

Mr. ROBERT C. BYRD. Mr. President, may we have order in the Senate while the Senator is explaining the amendment?

The PRESIDING OFFICER. The Senate will be in order. Persons desiring to converse will please leave the Chamber.

The Senator may proceed.

Mr. DOMINICK. The net result of the youth differential provision we have put in is to circumscribe it very sharply to get it away from the certification procedure which is not working at all because it is so filled with redtape that very few companies understand the instructions, and we still give opportunity for the young people in this country to be able to get jobs. They are among the highest number of unemployed we have, particularly black young people. This will give them an opportunity to get into the job stream which they do not now have.

Without going into great detail at this time, I think that I should also say that if the committee bill should pass the way it is now, the House having passed a similar bill, it faces a very dubious future. I would like to see us do something in the way of improving the minimum wage structure we now have. This will be accomplished by our substitute. It will not be accomplished by the committee bill, because of the nature of the bill itself, plus what I suspect will be done downtown if the bill goes through in that form.

Mr. President, it is a little ironic that organized labor—the chief proponent of the committee bill—is solely responsible for the 1-year delay we have had in legislating a minimum wage increase. They chose to scuttle the minimum wage bill last year, rather than go to conference with the House bill, which contained a youth differential provision. They appear to be willing to postpone an increase for another year by refusing to compromise. S. 1861 as reported, is identical in all material respects, to the bill reported out last year. It would appear they feel it is more important to have a "political issue" than to increase wages for the poor people they say they are trying to help.

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

Mr. DOMINICK. I yield.

Mr. HANSEN. Mr. President, I ask unanimous consent that a member of my staff, Miss Jody Reed, may be permitted on the floor during the debate on this bill.

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

The Senator's 5 minutes have expired.

Mr. DOMINICK. I yield myself 1 additional minute.

The PRESIDING OFFICER. The Senator is recognized.

Mr. DOMINICK. Mr. President, at this time I ask unanimous consent to have printed in the RECORD a letter from the American Farm Bureau Federation, dated July 16, 1973, commenting on the minimum wage legslation and sharp opposition to the committee bill as it was presented to the Senate. In this letter they do not take any strong position in connection with the provisions of the substitute except at the end where they say, "The substitution of the Dominick-Taft proposals for the provisions of S. 1861 would substantially reduce the adverse effects of minimum wage legislation."

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

AMERICAN FARM BUREAU FEDERATION,
July 16, 1973.

HON. PETER H. DOMINICK,
U.S. Senate,
Washington, D.C.

Re: Minimum Wage Legislation

DEAR SENATOR DOMINICK: In the near future the Senate will take action on the minimum wage bill, S. 1861. This letter is to set forth Farm Bureau's views on the issues involved.

We respectfully recommend your support for the Dominick-Taft substitute for S. 1861.

We believe rapid increases in minimum wage levels and the repeal of most exemptions as proposed in S. 1861 would have substantial adverse consequences. We set forth below as briefly as possible a few of the reasons for our convictions in this respect.

The schedule of rapid increases proposed in S. 1861 would push up costs and prices. The impact of the upward thrust on costs and prices would not be limited to the actual increases required by the bill but would affect the whole wage-price situation as workers sought to reestablish customary wage differentials between skills and categories of workers. Thus the enactment of S. 1861 would make it more difficult to moderate inflationary trends by fiscal and monetary measures.

The youth differential provisions of the Dominick-Taft substitute are, we believe, es-

sential to preserve employment opportunities for young workers. Employment of young people is essential for them to learn to work. The enactment of higher minimum wages inevitably will make their employment more difficult. The inclusion of a youth differential would substantially moderate the adverse consequences of minimum wages on employment opportunities for young workers.

Our chronic balance of payments problem and our continuing adverse trade deficit situation are symptomatic of a loss of the competitive strength of U.S. industry in the world and U.S. markets. No effective solutions have been developed. The accumulation of dollar surpluses by other countries and the steady expansion in ownership of U.S. businesses by foreign owners continues. The rapid minimum rate increases involved in S. 1861 would make it more difficult to deal with these fundamental problems.

An important aspect of the U.S. economy has been its flexibility to adjust to new circumstances and developments. One important area of flexibility is the ability of our enterprises to respond to changes in demand by changing hours of employment.

This is more important for some economic functions than for others. The Fair Labor Standards Act, at least partially, has recognized the importance of maintaining such flexibility by providing exemptions from overtime requirements under certain limited circumstances. The enactment of S. 1861 would repeal most of these exemptions and reduce the capacity of our economy to respond or adjust to new developments and emergency situations.

To summarize, it is our conviction that these are all important problems—important to the whole society. These are problems for which adequate solutions have not been adopted. The impact of excessive minimum wage increases and restrictive overtime provisions on these problems is adverse. The extent of the adverse effects is substantial.

The substitution of the Dominick-Taft proposals for the provisions of S. 1861 would substantially reduce the adverse effects of minimum wage legislation.

May we express our appreciation for your consideration of these views.

Sincerely yours,

WILLIAM J. KUHFUSS,
President.

Mr. DOMINICK. Mr. President, I yield 15 minutes to the Senator from Maryland.

The PRESIDING OFFICER. The Senator from Maryland is recognized.

Mr. BEALL. Mr. President, I rise in support of amendment No. 330, which I cosponsored with Senators DOMINICK and TAFT. The issue presented to the Senate today is not whether there should be an increase in the minimum wage, but rather the amount and the period of time in which the proposed increases will become effective. Indeed, it should be noted that the substitute amendment provides ultimately for a higher minimum wage of $2.30 an hour but it does so over a 4-year period, whereas the bill as recom. ended by the committee would increase the minimum wage to $2.20 an hour over a 14-month period.

Mr. President, the Nation has had a difficult battle with inflation over the past years—inflation, which has hit all families across the country, but in particular, those living on a fixed income. Indeed, inflation and the rise in the cost-of-living is probably the No. 1 issue on the minds of the American public. Every American citizen has a stake in the success of our antiinflation efforts.

The President of the United States in response to those pressures is expected to announce this week a new phase IV program in an effort to stabilize the economy.

There are some encouraging indications that inflation may run only about 4 percent for the remainder of the year, if so, this would be encouraging since it would represent a drop from the recent rate of approximately 6 percent. The point I wish to make is that in our economic decision, it is important that we strike a balance to avoid again the dangers of overheating our economy this year as well as the overcooling or a recession next year.

Admittedly, no one knows precisely what course we should follow to avoid these twin dangers, but I believe that there is general agreement that the situation calls for restraint and moderation. The Taft-Dominick-Beall substitute, in my judgment, by providing for a reasonable increase, represents such an approach.

To achieve the goal of real growth and not inflated growth, I believe, calls for considerable amount of statesmanship on the part of the Congress. We cannot do all things for all people. We simply cannot satisfy all of the demands that are made upon the Federal Treasury. Only last week it was reported that the Congress thus far has increased fiscal 1974 spending by 1 billion over the administration's budget ceiling. As the Senate knows, we, on two occasions, have voted for a budget ceiling which is $700 million less than the administration's ceiling, the Office of Management and Budget Director, Mr. Ash, recently was quoted as saying that if Federal out-lays rise much above the administration's $268.7 billion target that "we should have some tax increase."

Mr. President, from discussons I have had with fellow Marylanders I am convinced that they believe that one-third of the dollar value of the national output is more than enough for the tax collectors.

It should be pointed out that in 1929 the Government spending came to about 10 percent of the dollar value of our National out-put. Since then, it has risen from 20 percent in 1940 to 30 percent in 1965 and to 35 percent last year. This is particularly true because the people believe that the expansion of Government spending and programs have not produced benefits that the programs promised when they were enacted.

So Mr. President, we have passed the point when we can pass and add program after program to old programs and pay for our generosity through increased borrowing and bigger deficits. Since 1960 we have had a deficit every year with the exception of 1969.

My concern over the inadequate attention given to the Congress with respect to the budgetary process prompted me to introduce S. 758, the "Congressional Budget Control and Oversight Improvement Act." I am encouraged with the growing interest in the Congress in improving the budgetary process and in our ability to evaluate programs.

The work of the Joint Committee on Budget Control and the Government Operations Committee will, I hope produce needed action by Congress this year. We, in the Congress, simply must put our own house in order. We cannot continually decry the erosion of congressional powers to the executive branch unless we, in the Congress, are willing to face up to our responsibilities.

I read with considerable interest Senator PROXMIRE'S July 7 speech in which he pointed out the alarming increases in interest rates and in wholesale prices, and urged Congress to make a $5 billion reduction in the President's budget. With two devaluations of the dollar already taking place, and the continued pressure on the dollar, although I believe that the dollar is undervalued and there are recent indications that the international markets are recognizing this fact, we cannot afford or risk large budget deficits.

More specifically to the issue before the Senate, the measure reported by the committee would increase the nonagriculture employees from the present $1.60 an hour minimum to $2 an hour 60 days after enactment—and this would represent the largest one step monetary increase in the history of the Fair Labor Standards Act—and to $2.20 an hour 1 year thereafter.

For nonagriculture workers covered by the minimum wage after 1966, the committee bill raises the minimum to $1.80 an hour 60 days after enactment; $2 an hour 1 year later; and $2.20 an hour the following year. This amounts to a 37.5 percent increase over 26 months.

For agriculture employees, the reported bill increases the minimum to $1.60 an hour 60 days after enactment; $1.80 an hour 1 year later; $2 an hour 2 years later and $2.20 an hour the following year. This increase would represent the largest percentage increase, of 69.2 percent over 38 months, for farmworkers in the history of the minimum wage act. On the other hand, the Dominick-Taft-Beall substitute provides for an increase over a 4-year period to $2.30 for both pre and post nonagriculture employees as follows: $1.80, 60 days after enactment; $2 a year thereafter; $2.10 the second year; and $2.20 the third year; and $2.30 the fourth year.

For agriculture employees, the substitute would increase the minimum wage from $1.30 to $2 an hour over a 3-year period as follows: $1.50 60 days after enactment; $1.70 a year thereafter; $1.90 the second year; and $2 an hour the third year.

Mr. President, when the minimum wage is increased, additional costs to those affected industries follows. This is elementary. Inflationary impact can be minimized to the extent that minimum wage increases are absorbed by profits.

It needs to be emphasized that the impact of minimum wage tends to be concentrated in low-wage manufacturing industries, in retail trade and service industries, and farming. These industries typically have lower profit rates and are highly competitive. The failure rate of businesses in trade services is high.

Dun & Bradstreet statistics indicate that 43 percent of small businesses and industrial failures in 1971 occurred in retail trade. One of the primary reasons was the increased cost of doing business, including wages.

Last year the committee bill attempted to substantially lower the $250,000 small business test, but the committee action was reversed on the Senate floor and this year the committee wisely decided not to lower the small business enterprise test. I certainly am pleased and applaud this decision.

The committee bill would also extend minimum wage coverage to an estimated 4.9 million Federal, State, and local government employees. I am in agreement that the same basic wage level should be applicable to both private and public employees and in agreement with the committee's extension of minimum wage coverage for public employees.

There are, however, some unique problems with respect to extension of overtime to State and local employees, as desirable as this may be, particularly with respect to those employees involved in public safety work. While the committee bill would phaseout the overtime exemption, the minority views point out some potential problems with this approach and raise questions with respect to its actual impact on the Nation's fire and police forces and local governments.

In addition, the reported bill would repeal the various minimum wage and overtime exemptions in present law, whereas the substitute would retain such exemptions.

In committee, we offered an amendment which called for a study of such provisions so that information upon which to base an informed decision would be available. Unfortunately, this amendment was defeated.

Also, the committee would extend minimum wage coverage to some 1 million domestic employees. While the intent of the committee is commendable, that is, to raise the wages of domestic employees, I am deeply concerned with the practical effect of this amendment. Labor Secretary Brennan, in testifying before the Labor Subcommittee, posed the difficult problem presented by covering domestics.

This is a difficult problem and the Department finds itself on the horns of a dilemma. For example, in large metropolitan areas such as Washington, New York, or Boston, domestics are already receiving more than the minimum wage we propose for other employees. There, this amendment will have little, if any, effect. In other areas of smaller cities and towns, domestics receive considerably less than the present minimum. The problem with applying the minimum wage to them has, as analysis clearly shows, a severe disemployment effect. This would reduce the income of many families where a member was employed either full-time or part-time in household work. Domestic service is in some respects unique from other forms of employment. A household who hires a maid typically has just so much budgeted for that purpose with no more available. She also has no opportunity to pass on any higher wage cost. If it comes down to it, the housewife can substitute her labor and that of other family members for the domestic. Few employers in other fields can do so.

I tried to moderate the impact of the amendment by phasing-in the domestic coverage on a more gradual basis, but the committee rejected this amendment. In addition, I feel that an exemption for families with incomes, say around $15,000 from the minimum wage coverage would be appropriate. Analogous to the exemption given to small businesses, such an exemption might reduce the disemployment effect of the committee's proposal. Again, I could not muster sufficient support.

Mr. President, the situation varies significantly between States and even within States. Domestics in the Washington, D.C. metropolitan area are probably already making minimum, as the Secretary stated. But in other areas of Maryland—western Maryland, the Eastern Shore, and southern Maryland, the situation and the income levels are considerably different. Also, the administration and enforcement of minimum wage coverage to domestics poses very serious problems.

It is probably unrealistic to expect housewives to maintain the records required by minimum wage.

Finally, the committee's definition of domestics leaves a lot to be desired as it would appear that a teenager doing lawn work, if he earned over $5 a week during the summer, would be brought under this coverage.

Mr. President, one of the most serious difficulties with the bill as reported by the committee is its failure to deal with the youth unemployment issue. In the first quarter of this year the unemployment rate for workers 16 to 19 years was 14.7 percent, a rate that is nearly 4 times the rate for adult workers. These statistics are particularly appalling for the Nation's black youth, with nearly one out of every three black teenager unable to find employment.

The youth differential that appears in the substitute is modified from the version that was before the Senate last year. A youth differential of 85 percent of the statutory minimum for employment of nonstudent youths under 18 is provided and this is limited to 6 months.

For fulltime students, the differential would apply only to youth employed full or part-time at an educational institution which they are attending or for employment positions that the student accepted which provided not more than 20 hours of work per week.

Finally, in response to the concern about the displacement of adult workers as a result of youth employment, the proposal requires the Secretary of Labor to issue regulations to make certain that the youth differential would not create a substantial probability of reducing the full-time employment opportunities of adult workers.

The youth differential has the support of many prominent economists. One of the better known studies in support of a youth differential was completed last year by Finis Welch, now a member of the National Board of Economic Research and Marvin Kosters, an assistant director of the Cost of Living Council, their study advocated a youth differential even greater than the one proposed in the pending substitute. Their study concluded:

Minimum wage legislation has apparently played an important role in increasing the cyclical sensitivity of teenage unemployment.

They found that:

As the minimum wage rises, teenagers are able to obtain fewer jobs, and their jobs are less secure over the business cycle. A disproportionate share of these unfavorable employment effects accrues to nonwhite teenagers.

Economist Paul Samuelson put the issue this way:

What good does it do a black youth to know that an employer must pay him a $1.60 an hour if the fact that he must be paid that amount is what keeps him from getting a job?

Mr. Andrew F. Brimmer, a member of the Federal Reserve Board also discussed the changes in the minimum wage and their adverse impact on job opportunities for teenagers stating:

A number of studies by economists have shown that the progressive extension of minimum wage coverage to retail trade and service industries may have had an adverse impact on teenage employment.

Teenage employment is heavily concentrated in retail trade and service establishments. For example, over three-fifths of all young workers held jobs there in 1972. These are areas in which average wages are typically below the average for the economy as a whole and where extension of FLSA coverage would have had a noticeable impact. Although it is difficult to measure the impact of teenage employment, it would seem that raising labor costs may have provided a disincentive for employers to hire teenagers. Young people searching for their first job typically have no vocational training or experience. They need extra training and more instruction than an older worker, and all of this is costly to employers. Raising the wages of these inexperienced workers may become too costly to the employer, and job opportunities for young workers may be adversely affected. Given this situation, the implication is clear: Teenagers occupy jobs in industries where a further extension of coverage and an increase in the statutory minimum might further diminish employment opportunities for young people.

To help forestall such a prospect, I urge the adoption of a special entry wage for young workers. The Administration proposal for a youth minimum wage would meet this need. The case for an entry wage rests mainly on the incentive it would give employers to help pave the way for young people to begin productive careers in the working world.

Similarily, Prof. James Coleman of Johns Hopkins University, the author of the so-called Coleman Report, sees minimum wage laws as an obstacle to young employment and urges their relaxation. In a February 1972 article in "Psychology Today" he writes:

The new goal must be to integrate the youth into functional community roles that move them into adulthood. To accomplish this goal requires fundamental changes in the relationship of the youth to the community. Practices currently barring youth from productive activity in many areas—such as minimum wage laws and union membership barriers against the youth—must be relaxed.

In fact, Professor Coleman has indicated, and I am paraphrasing his comments, that one of the traditional means of upward mobility in this Nation has been the step-by-step advance up the job ladder. Professor Coleman views increasing the minimum wage as, in effect, removing some of the lower rungs and thus making it more difficult for youth and others on the labor market fringes to start in the job market.

In addition to the appalling high rate of unemployment, I believe the unrest

and discontent of our youth could partially be answered by a meaningful experience and contact with the real world of work. I believe that the young people could profit from this productive activity and society as a whole could profit from their idealisms, enthusiasm, and energy.

The Congress itself in 1966 recognized the need to do something about youth employment when it authorized special certification under which fulltime students were permitted to be employed at 85 percent of the applicable minimum wage in retail and service establishments and farms. However, the system just has not worked due to all of the red tape involved.

It should be pointed out that no youth could be paid less than the present minimum rates in effect now. The red tape would be eliminated and the Secretary of Labor would promulgate regulations to insure that no adult employment would be displaced.

Mr. President, the present youth unemployment trend cannot be continued. While no one can say for certain that this program will work, many economists and a number of studies indicate that it is worth a try. A lower minimum wage should encourage employers to hire teenagers. A lower minimum wage should induce the creation of jobs which at present are not worth the standard wage but may be worth a somewhat lower wage. The benefits of work experience may be even greater than the job and the income for the youth. In addition, such early employment will not only acquaint students early with the world of work and the occupations that they might wish to pursue in their adulthood, but also likely lead to higher incomes in their future careers. The alternative is to maintain the status quo and the intolerably high unemployment rate among youth.

Mr. President, last year during consideration of the minimum wage bill I quoted an editorial from the Baltimore Sun which argued for a reasonable increase in the minimum wage such as I believe is representative in the Dominick-Taft-Beall substitute, saying:

> It says something about the temper and wisdom of majority forces in the Congress that they pick a time of stubborn and painfully high unemployment-cum-inflation to push a 25 percent boost in mandated minimum wage. Neither on the liberal nor the conservative side of the permanent economic debate can they find much doctrinal comfort. Lord Keynes warned that employers wouldn't employ unless they saw a fair value-from the wage money they put out. And he assumed, without thinking it necessary to explicate, the primordial fact of economic life never more persuasively put than by Calvin Coolidge: "For a man to have a job, some one has to hire him."

So Mr. President, for all these reasons I believe that the Dominick-Taft-Beall substitute bill approach is fair to employees, fair to employers and in the best interest of the country on the whole. I urge its enactment.

For all these reasons, I believe that the Dominick-Taft-Beall substitute bill approach is clearly in the best interest of the country as a whole.

I think an important point was made at the conclusion of his remarks by the Senator from Colorado. There are indications that the bill that has been brought from committee will not be received very favorably downtown.

The indications are, and I think they are quite convincing, that we can be looking forward to a veto if the bill passes the Congress in its present form.

There are some Members of the House that have the same feelings as I do.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. BEALL. Mr. President, I yield myself 1 additional minute.

Mr. President, I think that we have a choice here. We can either have a political issue in which we will be able to say that the Preident may kill the minimum wage bill, or we can reasonably get an increase in the minimum wage for the lower income, disadvantaged people in this country.

This year I hope that Congress will in its wisdom adopt the substitute that provides the kind of a compromise that I think would be received favorably all over this Nation and would provide an increase to many people who are disadvantaged.

Mr. DOMINICK. Mr. President, I think the Senator from Maryland's remarks are very cogent. I am delighted to be a cosponsor of the amendment with the Senator from Maryland. He has been very constructive in committee and has suggested several compromise proposals, none of which, unfortunately, were adopted. However, I hope that we can get some of them adopted through our substitute.

Mr. JAVITS. Mr. President, I yield myself 3 minutes in opposition.

Mr. President, I shall be very brief. I do think that the record ought to show opposition by the managers of the bill tonight and the basic reasons for it.

I have heard with interest the suggestion of a veto. However, we are a long way from that stage. After the Senate passes the bill, it will have to come to agreement with the other body.

As to what the President will or will not do, I remember a lot of times when there was no veto and a final agreement was made with the President on a program, or there was an override. I have also heard complete silence when there was a veto. I do not think we ought to be overwhelmed by that consideration at this stage of the legislation.

Mr. President, this substitute is better than the Tower-Fannin substitute, but it still has very serious deficiencies. The fact is that it does not do what needs to be done respecting millions of people who need the basic economic protection that the Fair Labor Standards Act affords, and the increases in the minimum wage provided in S. 1861, as reported.

This substitute does not include domestics under the FLSA. The fact is that there are almost 900,000 social security returns made by families who employ domestics. That indicates that we are not going to put some kind of a new or heavy burden on housewives. They already carry a pretty heavy burden, even though not everyone files a return.

There is also the matter of overtime exemptions. This substitute promises a study of all exemptions, and does nothing about phasing out or eliminating those, such as agricultural processing which are no longer justified, even according to the findings of the Labor Department.

The Williams-Javits bill is also much better than the substitute for the 5 million local and State government employees who would not otherwise get overtime protection. I note that S. 1861, as reported, does make allowances for the special overtime problems of security personnel, such as firemen and policemen.

Mr. President, I ask unanimous consent that a list of the major deficiencies of the Dominick-Taft substitute, as compared with S. 1861, as reported be printed in the RECORD at this point.

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

AMENDMENT No. 330—(S. 1725)

1. The minimum wage increases are smaller and are spread over a greater period of time.

2. Fails to extend coverage to domestics.

3. Retains the $250,000 test for small businesses which are part of large chain-store operations.

4. Retains the $1.60 minimum wage in the Canal Zone.

5. Provides only three 12.5% increases in the minimum wage in Puerto Rico.

6. Fails to extend overtime coverage to Federal, State, and local government employees.

7. Provides an 85% youth differential for youths under 18 and full-time students, thus creating the danger of wholesale replacement of adults by youths subminimum rates.

8. Fails to raise the minimum wage for agricultural workers to parity with nonagricultural workers.

9. Fails to include the hours worked by local seasonal hand harvest laborers in the 500 man-days test.

10. Fails to extend coverage to local seasonal hand harvest laborers.

11. Fails to repeal the following overtime exemptions:

(a) Agricultural processing;

(b) Seafood processing;

(c) Oil pipeline;

(d) Cotton ginning and sugarcane and sugar beet processing; and

(e) Partmen and mechanics in auto, truck and trailer dealerships and all employees in aircraft dealerships.

12. Fails to modify the following overtime exemptions:

(a) Local transit employees;

(b) Hotel, motel and restaurant employees;

(c) Nursing home employees;

(d) Catering and food service employees; and

(e) Bowling employees.

13. Fails to repeal the following minimum wage and overtime exemptions:

(a) Motion picture theater employees;

(b) Shade grown tobacco employees engaged in processing such;

(c) Certain telegraph agency employees; and

(d) Certain employees of retail-manufacturing establishments.

14. Fails to repeal minimum wage exemption for logging and sawmill employees.

Mr. JAVITS. This is a bill whose time has come because of inflation and because of the basic requirements of our society.

I hope very much for these reasons and for other reasons which we will advance as the debate continues, that the pending substitute will be rejected.

Mr. DOMINICK. Mr. President, I yield 10 minutes to the Senator from Ohio.

The PRESIDING OFFICER. The Senator from Ohio is recognized for 10 minutes.

Mr. TAFT. Mr. President, I thank the Senator for yielding. I am delighted to be a sponsor of the amendment with the Senator from Colorado and the Senator from Maryland.

The considerations and the circumstances regarding consideration of minimum wage legislation are different this year.

In the first place, the House has acted differently. Last year the House passed a bill that was similar in certain aspects to the proposed Dominick-Beall-Taft substitute. The House-passed bill never went to conference, but at least was a constructive starting place. Unfortunately, this is not the case this year.

I think there should be a change in the minimum wage rate. I think there should be a reasonable increase in the minimum wage.

The question before the Senate, however, is whether we will get a minimum wage bill very quickly, or wait until December.

Mr. President, I think realistically that those who want to see an immediate enactment of a minimum wage bill should support the substitute.

It has been said earlier that the Tower substitute was just as subject to a veto as the committee bill because the figures in the Tower proposal were below those in the administrative proposal. I did not vote for the Tower proposal because the wage rate figures involved were too low. I do not think this argument however, is a good one to oppose the Dominick-Beall-Taft substitute.

I think that realistically the Senate must recognize that there is great doubt that any compromise bill will be accepted by the conference committee due to the attitudes that presently exist on the part of the House and on the part of the principles in the Senate involved in the consideration of this legislation.

Mr. President, I hope for a change in that attitude. I think that if we can bring about a change in that attitude, perhaps we will eventually get a workable bill in December even after a veto occurs.

The Senator from New York said that we cannot always be sure of a veto. It is true that we cannot always be sure of a veto on any piece of legislation. However, I can assure the Senate that I think the pending legislation in its present form, as it presently exists before the Senate in the committee bill, is about as certain to be vetoed as any measure that I think has come through the Senate since I have served here, and perhaps even during my service in the House of Representatives as well.

Mr. President, I would like to talk for a moment about the deficiencies that have just been mentioned by the distinguished Senator from New York on the matter of coverage of domestics.

Again, here there is a question of disemployment. As the committee report points out, we are dealing with an area in which, for many families, there is no flexibility whatever to increase the wage level for domestics without cutting back on the hours worked or cutting back entirely on their employment. The Senator from Maryland made an excellent suggestion in committee that might have gone some distance toward solving this particular problem, but he was unable to obtain approval of his proposal due to the position of the proponents of the committee bill.

The other area I would like to stress is the matter of youth unemployment. Last year the youth differential issue was considered, and if there was any single issue on which the committee bill is deficient, it is the youth differential issue.

Youth unemployment figures have not improved since last year, as the committee report points out. Youth unemployment has continued to go up, particularly with regard to black youth. The 1972 figures showed 16.4 percent unemployment among 16-year-old white youth, and 35.1 percent among male 16- to 17-year-old black youth. This is a major problem.

Because this is an issue on which many Senators may tomorrow decide how to cast their vote, I would like to talk about it in some depth.

Mr. President, the lack of a youth training wage or a youth differential in the committee bill demands the attention of every Member of the Senate.

Unemployment among teenagers has been a perplexing problem and we must not add to it by the action we take on minimum wage legislation. In his testimony before the House General Subcommittee on Labor, the Secretary of Labor testified:

> In March of this year there were 627,000 sixteen and seventeen year olds who were unemployed. This was 17.2 percent, seasonally adjusted, of the total of this age group in the labor force as compared with a 4 percent unemployment figure among adult workers age 20 or over in March.

Thus, it appears that even under the existing minimum wage rate of $1.60 many employers have found they could not afford to employ inexperienced untrained help at the minimum rate.

In view of the fact that the committee proposal would increase the minimum wage rate for nonagricultural and agriculture workers so dramatically with its consequential disemployment affect for young people, it is incumbent upon us to take action to halt the reduction of employment opportunities.

To provide job opportunities for young people, employers must be given an inducement to hire them.

The proposed substitute would accomplish this by establishing payment of a special youth minimum rate of 85 percent of the prevailing minimum wage, or $1.60, whichever is higher, for nonstudent youth and 85 percent of the prevailing minimum of $1.30, whichever is higher, for youths seeking farm jobs.

To assure that the special youth rates do not reduce the number of jobs available to older workers, the substitute authorizes the Secretary of Labor to prescribe standards and requirements to guard against loss of employment opportunities for adults.

I know that the Department of Labor is engaged in doing much to reduce the incidence of unemployment among the Nation's youth. However, more must be done. All these efforts will be diminished, if private employers refuse to meet the surplus of youths seeking jobs because of the inequitable increase in the minimum wage proposed by S. 1861 which prices unskilled, disadvantaged young people out of the job market.

Another obstacle to youth unemployment is the existing requirement authorizing prior certification by the Department of Labor before an employer can hire a youth at a lower wage. The substitute would eliminate this cumbersome certification procedure while the committee bill seeks to perpetuate it.

Most youngsters want to work, either out of necessity or to help advance their education and future job potential. These youths must be given a chance to work—to become a part of society. I believe the youth differential proposal will help provide them with the entry they seek into the work force. I strongly urge its adoption.

Mr. President, I also call to the Senate's attention the table on page 127 of the committee report, outlining the unemployment rates for 16- and 17-year-olds from 1963 to 1972.

The PRESIDING OFFICER. The Senator's 10 minutes have expired.

Mr. DOMINICK. I yield the Senator 5 more minutes.

Mr. TAFT. For male white 16- and 17-year-olds the figures started in 1963 at 17.8 percent. It drifted along, went down somewhat in 1964, 1965, and 1968. Then the unemployment figures started up slightly, and now are at 16.4 percent.

In the case of black youth, however, we see little improvement except in the year 1968 or 1969, when the 27 percent figure, which started in 1963, went down to about 25 percent.

Unfortunately, in 1972, however, we find it back up to 35 percent. I certainly think the Senate should consider this fact.

Further, I call to the attention of the Senate the table on page 130 of the committee report, where Senators DOMINICK, BEALL, and I have included a table from Dr. Thomas Moore showing the added youth unemployment effect that S. 1861 is projected to have. Let us take a look at those figures for a moment.

The effect of S. 1861 on teenage unemployment rates in added percentage points of unemployment is predicted to occur at a particularly alarming rate.

It is estimated that the total increased percentage that would be involved in September 1974, would be 11.6 percent. By 1975 these figures climb to 18.8 percent, in 1976 to 21.9 percent, and ultimately, by September 1979, to almost 23 percent increased unemployment among nonwhite teenagers. These figures are

over and above the already too high figures and are only nonwhite figures.

It is little wonder, then, that Mr. Andrew Brimmer of the Board of Governors of the Federal Reserve System, and one of our more prominent black citizens in this country, wrote to me in alarm. I have included his letter on this subject in the minority views of the committee report at pages 130 to 132. Mr. Brimmer points out that he felt it would be extremely disadvantageous insofar as black youth is concerned not to include some type of youth differential in the minimum wage increases to be enacted.

These figures are shocking and it is very difficult to understand why proponents of the bill continue to ignore this most pressing problem.

The real basis of the majority report of the committee is that the minimum wage must be increased quickly to end poverty in this country.

I do not agree with this proposition as it is inflationary, and not in the best interests of the individuals involved who are as they will be most hurt by inflation, especially those at the very low income level.

The PRESIDING OFFICER (Mr. HASKELL). The 5 minutes of the Senator have expired.

Mr. DOMINICK. I yield the Senator 2 more minutes.

Mr. TAFT. Mr. President, Congress must try to alleviate poverty and unemployment. There are many other programs to meet these problems, which should be acted upon. But poverty is not going to be solved by the minimum wage law. Unfortunately, the higher we raise the minimum wage, the more the disemployment effect. The committee bill really goes too far and will increase poverty rather than help to correct poverty problems.

Opponents to the youth differential argue that: First, a lower teenage minimum would discriminate against older adult workers and simply shift unemployment from teenagers to adult workers; Second, a lower minimum wage would reduce the wages of teenagers who otherwise would be working at the standard minimum wage; and Third, teenagers will not take jobs at a subminimum wage. None of these arguments is based on factual analysis.

The argument that a lower teenage minimum would discriminate against older workers and thus displace adults is the most often cited reason for opposition to a youth differential. It is important to remember, however, that the youth differential is only applicable to youths under 18 and to full time students. Thus, the category of prospective employees is largely limited to students, as the average age of a high school graduate in this country is 18.1 years. Thus, the type of job opportunities sought will be part time and vacation oriented. Seasonal, recreational positions, training and intern positions, and marginal service employment are the employment opportunities most sought after by youths. These are the types of jobs adults do not actively seek, and in fact, very often adults refuse to consider these types of positions.

If there would be any adult employment displacement, as a result of youth differential—a notion which has never been statistically proven—it would be so small and so limited as to have no discernable effect on the adult job market. The adults involved, if any, would be those who do not have the skills or experience to obtain better employment and should be provided with manpower training.

The PRESIDING OFFICER. The 2 minutes of the Senator have expired.

Mr. TAFT. Mr. President, I do not care to elaborate further on the youth differential provision tonight. I believe the principal points with regard to it have been made and I hope they will be helpful to Senators in studying the bill. I will elaborate further tomorrow when the Senate returns to debate the Dominick-Beall-Taft substitute.

Mr. WILLIAMS. Mr. President, will the Senator from Ohio yield?

Mr. DOMINICK. On your own time.

Mr. TAFT. I am glad to yield——

Mr. WILLIAMS. On my time, yes. You keep the floor for some questions and it will be on my time for that purpose.

Mr. President, I oppose amendment No. 330 which is the so-called substitute amendment for S. 1861. This amendment is a replay of last year's arguments and last year's views. This amendment was defeated in the Senate last year because it was recognized that it was an insufficient response to the vital need represented by the committee bill.

The substitute amendment would have the effect of undercutting the careful work of the committee which considered each of the provisions of S. 1861 last year and this, as well as the deliberations of the Senate on this bill last year. Adoption of this amendment would preclude Senate debate on matters of vital importance to the working poor of this country.

The long suffering people who will receive the benefit of an amendment to the minimum wage bill are owed at least an open and free debate on each of the issues raised in the committee reported bill, S. 1861.

For example, the substitute amendment is deficient in two principal elements; that is, the minimum wage rate and the expansion of coverage.

In addition the substitute incorporates a differential subminimum rate for young people, a provision which, as we have explained in some detail in the committee report, has the potential for undermining this country's long standing policy of a floor on wages.

In light of a 35-percent increase in the cost of living since 1966, when Congress last legislated an increase in the minimum wage, the increases called for in the substitute are wholly inadequate.

They provide only a 12½-percent increase at this time in the minimum rate, thus legislating a further slippage in the battle against the rising cost of living for the working poor.

S. 1861, as reported by the committee, at least provides a wage increase that will leave the minimum wage worker in approximately the same position that he was in 1966 with regard to the cost of living.

I recognize that the substitute and its wage rate actually goes to a higher scale of $2.30 in the fifth year. I would be frank to say that Congress ought to be in a position to be addressing itself to the needs of the low-wage workers at that time and not be bound to a wage rate which in 5 years will be hopelessly outdated.

I think the Members of this body ought not be fooled by the endloading procedure of the substitute bill. Yes, it looks good or reasonably so 4 or 5 years down the line, but that is really only part of the question. The basic and critical issue which the Congress must face today when we vote on this amendment—is whether or not the Congress is going to provide an adequate wage level for the millions of low wage workers now. It is not a question of what we do next year or the year after or the year after that. The question really is what we failed to do last year, failed to do the year before and must do now. I would note in passing that had we passed even the substitute bill last year the current wage rate under that bill would be the same $2 an hour that is in the committee bill. The administration proposed a $1.90 wage package and in fact the Secretary of Labor during his testimony reflected that he could take a $2 minimum wage now. The substitute is deficient because it fails to recognize the $2 now.

In addition the substitute wage rate is deficient because it again provides a cynical approach to the needs of the American worker by suggesting that our economy can only stand a 10 cents an hour increment in any given time.

In this connection the treatment of farmworkers under this substitute is likewise cynical. The plight of the farm worker deserves better than a 20-cent-an-hour raise from the $1.30 an hour situation where the farmworker has been for the last 4 years. The farmworker deserves better than a minimum wage of $2 an hour in 4 years and a perpetual 30 cents an hour differential from the industrial wage rate. It is unneeded, unnecessary, and uncalled for.

I do not believe that we can in good conscience legislate a minimum rate that totally fails to recognize the plight of this Nation's work force.

Of equal importance to the wage rate deficiency in the substitute is the lack of any extensive expansion of coverage of the Fair Labor Standards Act except with respect to Federal, State, and local government workers.

I believe that the Senators who offered the substitute ought to be commended for at least accepting a proposition that public employees are to receive the minimum wage along with the millions of other covered workers, although I disagree with their failure to allow these workers overtime compensation protection. But there are many workers in the private sector whom the committee bill would assist and I believe that substitute is insensitive to these needs.

Since 1961 Congress has recognized that expansion of coverage goes hand in hand with an increase in the minimum wage in order to insure that the Fair Labor Standards Act provides adequate protection for those workers who need us. In my judgment the denial of overtime protection to public employees and the failure to repeal any of the minimum wage and overtime exemptions presently in the law are irresponsible oversights.

The hearings in the 92d Congress and the extensive record in the 93d Congress hearing reflect without question the need to eliminate or modify many of the exemptions in the private sector. The proponents of the substitute offered an amendment in committee which would have eliminated the repeal of the exemption substituting instead their proposition that the Department engage in additional studies of exemptions.

I would suggest to my distinguished colleagues that the department has spent nearly $15 million in the last 15 years studying exemptions. All of those studies have concluded that most of these exemptions are unnecessary and no longer warranted. The Secretary of Labor in testimony before this committee of this year made much of the same judgment. It is time to end the studies and repeal the exemptions.

I urge opposition to this amendment.

Mr. President, I did not have the opportunity to hear all of the Senator's discussion of this legislation and the substitute he has joined the Senator from Colorado in offering, but as I was trying to talk to some of the exemptions that are dealt with in the legislation, I think I did hear the word "veto" mentioned again. So I am wondering whether the Senator could repeat what is the concern, what part of S. 1861 is basic to his veto concerns? It certainly is not the wage rates in the bill; is it? It cannot be the wage rates in the bill because Secretary Brennan, as he appeared, and I trust he speaks for the admnistration, and he is, in this connection, the administration's spokesman, said that he is ready for $2 an hour now. That is exactly what S. 1861 does. So, is it the wage rate that has brought this specter of a veto, this vague cloud suggested that will come over the bill if it should be passed here?

Mr. TAFT. I believe that this is certainly one of the items involved——

Mr. WILLIAMS. Notwithstanding what Secretary Brennan said?

Mr. TAFT. Yes.

Mr. WILLIAMS. In other words, the administration is vetoing the Secretary of Labor?

Mr. TAFT. I do not believe the administration and the Secretary are necessarily apart. I know the section in the transcript to which the Senator refers. I was present when the Secretary of Labor made the statement. I disagreed with it then and I do so now. I do not know precisely what the Secretary would say today, but I am certain he would reflect concern for curbing inflationary pressures in the economy.

The effect of the committee bill would be substantial to the economy. There is, as the Senator, I am sure, knows, a great body of economic opinion which feels that there is a ripple effect of very considerable substance when the minimum wage is increased. But more than that, psychologically other pressures are present in the economy. Inevitably if the Senate passes this bill, particularly with the largest increase in dollars and cents we have ever put into any one jump in a minimum wage bill, it will build a sizeable demand pressure in the economy for higher wages and a possible breaking away from the wage guidelines. I want to commend organized labor on the fact that they have shown restraint in their wage demands in the major settlements made recently. I am encouraged by that. I hope this situation continues. I believe it also must continue in the Congress on this issue.

Mr. WILLIAMS. The things that have happened in the economy since make it even more demanding that the $1.60 an hour be raised, that the worker get a little more money in order to pay that grocery bill.

Mr. TAFT. The Senator is suggesting the poverty argument set out in the committee report. I frankly disagree with that argument. I do not think this is the way to handle the problem of poverty. Some workers affected by this bill, unfortunately, will, under the pressures of today's economy, lose their jobs or have to work shorter hours.

Mr. WILLIAMS. The Senator comes from a State that is known for its institutions of higher learning. I had the benefit of learning my economics at Oberlin. I have learned enough to study those who are economists and every economist has said that no increase in the minimum wage has caused unemployment.

Mr. TAFT. We had testimony exactly to that point from Dr. Adie of Ohio University.

Mr. WILLIAMS. They did not say that other increases in past years did. They were suggesting that this bill would. Dr. Adie was projecting, but it was not on the basis of experience.

Mr. TAFT. He and the other economists on the panel agreed that as a classic economic opinion on the subject of minimum wage increases generally—not merely this particular bill. He was talking about what economists generally feel about a minimum wage increase. I am not saying we should not have one, but we have to recognize it is inflationary in certain aspects.

Mr. WILLIAMS. Well, we will deliberate overnight on our resources here and come in tomorrow morning and compare authorities. I think that on the authority that has come to us, we have relied heavily on the Department of Labor over the years on this one question of the relationship between increasing the minimum wage and unemployment following that increase. My conclusion is drawn from the——

Mr. TAFT. Is the Senator talking about unemployment or inflation?

Mr. WILLIAMS. Unemployment and also inflation. These are two of the factors that have been presented to us, that unemployment does not follow an increase in the minimum wage.

Mr. TAFT. Unfortunately, unemployment of youth is clearly shown from the figures cited, and can be affected by an increase in the minimum wage. This is a specialized group. I have said that I do not think the unemployment of youth particularly affects adult unemployment.

As a matter of fact the 1969 Annual Report of President Lyndon Johnson's Council of Economic Advisers warned about the unemployment effect of excessive minimum wage increase, as follows:

> Although increases in the minimum wage are likely to be reflected in higher prices, society should be willing to pay the cost if this is the best way to help low-wage workers. Yet, excessively rapid and general increases in the minimum can hurt these workers by curtailing their employment opportunities.
>
> Since 1956, the federal minimum has gone up about in line with average hourly compensation, while coverage has progressively expanded to cover low-wage industries. In considering the future rate of increase for minimum wages, careful scrutiny should be made of the possibility of adverse employment effects. The benefits of higher minimums should be weighed against alternative ways of helping low-wage workers.

Mr. WILLIAMS. Mr. President, I ask unanimous consent to have printed in the RECORD a table showing the "seasonally adjusted unemployment rates of persons 16 to 19 years of age and 20 years and over on the effective date of changes in the minimum wage under the Fair Labor Standards Act, and 1 year before, 6 months before, 6 months after, and 1 year after such changes."

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

SEASONALLY ADJUSTED UNEMPLOYMENT RATES OF PERSONS 16 TO 19 YEARS OF AGE AND 20 YEARS AND OVER ON THE EFFECTIVE DATE OF CHANGES IN THE MINIMUM WAGE UNDER THE FAIR LABOR STANDARDS ACT, AND 1 YEAR BEFORE, 6 MONTHS BEFORE, 6 MONTHS AFTER, AND 1 YEAR AFTER SUCH CHANGES, UNITED STATES, 1950-73

Effective date of change in the minimum wage	Minimum wage rate	Unemployment rate, 16 to 19 years					Unemployment rate, 20 years and over				
		1 year before change	6 months before change	On effective date of change	6 months after change	1 year after change	1 year before change	6 months before change	On effective date of change	6 months after change	1 year after change
Jan. 25, 1950 [1]	$0.75	10.0	14.3	15.2	11.2	8.5	3.8	6.2	5.9	4.6	3.4
Mar. 1, 1956 [1]	1.00	11.0	11.3	11.5	9.8	11.2	4.2	3.6	3.7	3.5	3.2
Sept. 3, 1961 [2]	1.15 and 1.00	14.5	17.1	18.0	15.1	14.5	4.9	6.1	5.8	4.8	4.9
Sept. 3, 1963 [1]	1.25	14.5	17.1	17.4	16.3	15.7	4.9	4.8	4.5	4.6	4.2

Footnotes at end of table.

EASONALLY ADJUSTED UNEMPLOYMENT RATES OF PERSONS 16 TO 19 YEARS OF AGE AND 20 YEARS AND OVER ON THE EFFECTIVE DATE OF CHANGES IN THE MINIMUM WAGE UNDER THE FAIR LABOR STANDARDS ACT, AND 1 YEAR BEFORE, 6 MONTHS BEFORE, 6 MONTHS AFTER, AND 1 YEAR AFTER SUCH CHANGES, UNITED STATES, 1950-73—Continued

Effective date of change in the minimum wage	Minimum wage rate	Unemployment rate, 16 to 19 years					Unemployment rate, 20 years and over				
		1 year before change	6 months before change	On effective date of change	6 months after change	1 year after change	1 year before change	6 months before change	On effective date of change	6 months after change	1 year after change
Sept. 3, 1964 [1]	$1.15	17.4	16.3	15.7	15.8	14.7	4.5	4.6	4.2	3.8	3.4
Sept. 3, 1965 [2]	1.25	15.7	15.8	14.7	13.1	12.8	4.2	3.8	3.4	3.0	2.8
Feb. 1, 1967 [3]	1.40 and 1.00	12.4	12.4	13.0	13.4	12.9	3.0	3.0	2.9	2.9	3.0
Feb. 1, 1968 [3]	1.60 and 1.15	13.0	13.4	12.9	12.0	11.9	2.9	2.9	3.0	2.7	2.6
Feb. 1, 1969 [2]	1.30	12.9	12.0	11.9	12.2	13.3	3.0	2.7	2.6	2.7	3.3
Feb. 1, 1970 [3]	1.45	11.9	12.2	13.3	15.7	16.6	2.6	2.7	3.3	4.1	4.8
Feb. 1, 1971 [3]	1.60	13.3	15.7	16.6	16.9	18.5	3.3	4.1	4.8	5.0	4.5

[1] Change in minimum rate for previously covered employees only.
[2] Change in minimum rate for previously covered and newly covered employees.
[3] Change in minimum rate for newly covered employees only.

Source: U.S. Department of Labor, Bureau of Labor Statistics, "Employment and Earnings."

Mr. WILLIAMS. I point out that Secretary Hodgson said in his 1972 report:

On balance, the wage increases granted to 1.6 million workers to $1.60 minimum wage standard had no discernible adverse effect on overall employment levels and relatively little impact on overall wage or price trends.

This was Secretary Brennan's predecessor, but I will say that he is the custodian of the most comprehensive national records on the figures dealing with employment and price trends.

Mr. TAFT. As I pointed out earlier, we were dealing with a particular time and with a particular economic situation at that point. We were in a wartime economy.

Also, the Secretary of Labor's 1972 report to Congress, pursuant to section 4(d) of the Fair Labor Standards Act, recognized the need to carefully consider the inflationary impact of minimum wage increases, cautioning against the excessive increases proposed in S. 1861.

Mr. WILLIAMS. We have considered them carefully and they are not excessive. I do not think I am going to convince the Senator from Ohio, and, conversely——

Mr. TAFT. This discussion has been going on for some months, and I am delighted to carry on the colloquy with the chairman. I think the colloquy started with the discussion as to why there might be a veto; and I would like to come back to that point. I have learned nothing in the last few days that does not persuade me that that veto is a very likely possibility on a number of points.

Mr. WILLIAMS. That is very likely.

Again, if we try to guess every element that might go into a veto I doubt that we would get our job done as we should. We are a branch of the Government and have our job to do; and if it is vetoed, we know that we have to take other action.

Mr. TAFT. I do not completely agree. I feel that there is a duty on the part of the legislative branch and the executive branch to try to solve problems in a spirit of compromise, not to make a political issue by putting a bill on the desk of the President which he then vetoes.

Mr. WILLIAMS. We are not in quite that close a discussion or negotiation process once the bill is here on the floor. That precedes. But the negotiations here toward meeting the possibility of a veto are not as they were earlier, before we got to the floor of the Senate.

Mr. TAFT. I do not want to say that the reasons I have given would be the only reasons that might result in a veto, and I think the veto would be sustained. There are other provisions.

While I go along with it—and the Senator from Colorado has—I think the Senator from New Jersey knows that this was indicated as an area of disagreement——

Mr. WILLIAMS. I do not think it is the rate or the extended coverage. It seems to me that the major problem is the youth differential, and here it is just a matter of adjusting no further. We will vote up or down on that issue.

The problem is that the substitute of the Senator from Ohio takes the whole thing and gives us one vote on all these propositions, and that is one of the regrets I have about that approach.

Mr. TAFT. Am I to understand that the chairman would support a separate amendment offered if the substitute should fail, regarding the youth differential question?

Mr. WILLIAMS. I have adjusted my thinking on the student differential. We now have an accommodation here, and we have extended the youth differential to students at institutions of higher learning. This is an extension of a differential, and that is in the bill I have introduced with Senator JAVITS.

The Fair Labor Standards Act currently permits the employment of full-time students at a wage rate not less than 85 percent of the applicable minimum wage.

This subminimum rate applies to part-time employment during school time or full-time employment during vacations and holidays in retail and service establishments and in agriculture.

The subminimum wage can be utilized by employers upon the issuance of a certificate by the Secretary of Labor.

According to the Department of Labor, almost 50 million hours were authorized for the employment of full-time students at subminimum rates by certificates in effect on June 20, 1972.

A 1970 Department Analysis of Certificate Utilization shows that only 42 percent of the man-hours authorized at 85 percent of the statutory minimum wage were used.

Even more significantly, the analysis shows that one-fifth of the establishments holding certificates did not use them. Evidently, employers did not view the certificate application as a burden when they applied even when they had no immediate need.

Furthermore, the Department of Labor estimates that less than 2 percent of the applications for student certificates were denied in fiscal 1972.

S. 1861 expands the full-time student certificate program to apply to educational institutions, thereby increasing student employment opportunities.

The bill retains the certification procedure because it has proven to be a proper mechanism for insuring that students will not be used to displace other workers.

The youth subminimum contained in the amendment under discussion would violate the basic concept of the act which represents an "economic charter" for the lowest paid workers.

The only exceptions to the wage base concept have been full-time students, learners, apprentices, and handicapped workers.

To achieve its objective the minimum wage must be an irreducible minimum below which wages for workers will not be allowed to fall.

For this reason, the rate has always been set conservatively below the level which could be justified by economic data.

For example, the minimum wage rates specified in S. 1861 are considerably below the $3.55–$3.70 hourly rate which the Bureau of Labor Statistics "lower budget" would have required in autumn 1972.

The $2 an hour minimum wage rate which is set for the effective date of S. 1861 will mean wage increases for only 7½ percent of all covered workers.

The $2 an hour minimum rate is only half of the average hourly earnings for production workers in manufacturing.

Obviously, such a rate is intended only for the young, the unskilled and the untrained.

Frequently these workers are members of minority groups.

Mature, skilled and trained workers are paid considerably more.

In this period of unacceptable unemployment, we should not, in my judgment, jeopardize the employment of adults by a subminimum wage rate for young people.

Secretary of Labor Brennan expressed his views on this problem at the hearing on his nomination.

The Secretary stated:

I believe in a realistic and adequate (minimum) wage.

I am aware of the problem of youngsters, many of whom have to pay their way through school, but I am fearful if we have a difference of wages with the youngsters and their fathers in the area where minimum wage is so important, this could create problems.

If they are going to perform the same duties, the same responsibilities, I do not see why there should be any difference in the rate.

In the hearings on such proposals in 1971, former Secretary of Labor Hodgson said:

I recognize that there may be some concern that a lower minimum wage for young people under age 18, for full-time students, and for young job-starters may reduce employment opportunities for older workers.

There may be some risk in marginal cases.

It is well known that the minimum wage worker is typically regarded as a "marginal" worker.

The Secretary's 1971 statement is hardly reassuring for the minimum wage employee who must bear the risk of losing his job because of a youth subminimum wage.

The proposed amendment would make it the Goverment's policy to move unemployed 16- to 17-year-olds to the front of the hiring line by allowing employers to pay them substandard wages while placing older unemployed workers at a competitive disadvantage, even though their problems of getting jobs, once unemployed, are far more serious in family and social terms.

Such a policy simply makes no sense.

The argument that an increase in the minimum wage rate increases youth unemployment is unconvincing.

Although certain economists have concluded that a minimum wage increase would adversely affect teenage unemployment, others have criticized such studies on various grounds.

However, the massive study prepared by the Department of Labor in 1970 concluded that they were unable to establish any relationship between minimum wage increases and youth unemployment.

Mr. TAFT. I am glad that the Senate has studied this problem. But I point out that the problem of youth unemployment is not one that only relates to full-time students. It also relates to people who are not in school.

Mr. WILLIAMS. I do not know if it is this way in the State of Ohio, but I know that in the State I have the honor to represent, the State of New Jersey, in those areas where we have the highest levels of youth unemployment, we also have our highest levels of adult unemployment.

It seems to me that there is a grave risk in going with discriminatory, cheap labor offered to youth. It would encourage teenagers to drop out. The risk is that the jobs will go to them and that they will replace jobs that might be there for the main breadwinner of the family, the adults.

Mr. TAFT. As I have indicated, there is no evidence that this has occurred in the past, and I do not think there will be any evidence that it would occur in the future. If it should occur, any effect would be maintained by the 6-month limitation which the substitute places on the application of the youth differential and by the power given to the Secretary of Labor to see that a particular employment pattern does not result in job displacement for adult workers.

Mr. WILLIAMS. If there is a better way to deal with it than patterns or practices after the fact, it is to precertify the youth to insure that the youth job does not take a job from an adult.

Mr. TAFT. As the Senator is aware, the reason why the substitute does away with the certificate system is that it has not proven to be practical or workable.

The PRESIDING OFFICER. The 1 hour allocated on the Dominick-Taft amendment for this evening has expired. The time will now have to be on the bill.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the time during the remainder of the day not be charged to either side.

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

Mr. ROBERT C. BYRD. I ask unanimous consent that the time during the 2 hours of debate on the substitute tomorrow, preceding the vote at 12:30, be equally divided between both sides.

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

Mr. DOMINICK. Mr. President, will the Senator from New Jersey yield?

Mr. WILLIAMS. I yield.

Mr. DOMINICK. I just want to add to what the Senator from Ohio has said.

The Senator from New Jersey will recall that Secretary Brennan's testimony was strongly against the increased coverage of domestics in the bill which the Senator offers; that he was in favor of a youth differential; and that we felt the committee bill would add to the inflationary cycle. This would seem to mean that this bill, as reported by the committee, is not favorably received even by the Secretary of Labor.

I also invite the attention of the Senator from New Jersey to a chart on page 240 of the RECORD which was put in by the Labor Standards of the Department of Labor concerning what an increase in the minimum wage does to employment. I believe this was inserted in the RECORD by the Senator.

The Senator will note that on the effective date of the 1969 increase, there was 11.9 percent unemployment among youth aged 16 to 19. One year later, that unemployment had gone up to 13.3 percent in 1970, when the minimum wage rate went up to $1.45, the same figures are from 13.3 unemployment to 16.6—1 year later. In 1971, when it became $1.60, it went from 16.6 to 18.5.

So it seems to me that if we look at least at those 3 years, following the increase in the minimum wage, there was an increase in teenage unemployment, which is exactly what we have been trying to say.

It does not do any good to tell a kid he can get $2.20 an hour if he does not have a job. We are saying he should be given a chance to have a job, to get into the workstream all the way through. So, I am delighted the Senator has inserted this chart furnished by the Labor Department into the RECORD. It helps demonstrate what we have been trying to get across—that wage increases, without a meaningful youth differential provision, have adverse effects on teenage employment.

As far as domestics are concerned, for the life of me, as I said earlier today, I simply cannot understand how the Interstate Commerce Clause can be spread sufficiently wide to get that in. For the RECORD, I wish to read the definition of a domestic worker or private household worker within the Department of Labor, which is backed up so far as domestic workers being household workers in Webster's Dictionary.

They include—

Maids, housekeepers, practical nurses, domestic workers, day workers, house cleaners, grass cutters, handymen, window washers, chauffeurs, yard workers, cooks, companions, gardeners, laundresses, caretakers, charwomen, butlers, waiters, kitchen workers and babysitters.

Granted the Senator has eliminated babysitters from the domestics, they include everything else. If any housewife, when a young man comes around to mow the lawn, has to pay him the minimum wage, withhold, and all the rest, I think that is going to make liars out of a lot of people. It will be almost as bad as prohibition with respect to disregard for the law.

Mr. WILLIAMS. With regard to unemployment, this chart is further evidence that economic conditions have a great deal to do with unemployment figures, too.

The period the Senator cited was the period during the last administration of economic recession and the unemployment figures generally follow the same trend as the youth unemployment during the period.

Mr. DOMINICK. But did not the Senator put that chart in the RECORD as indicating there is no increase in unemployment?

Mr. WILLIAMS. Certainly. And following that I will place in the RECORD a description of the point I am making, that economic conditions have a great deal to do with these levels of employment in all groups, including youth.

The chart shows that before 1969, every time the minimum wage was increased, the teenage unemployment rate, 1-year later was lower than on the date of the increase. Additionally with the exception of 1962 and 1964—where the difference was statistically insignificant—one-tenth of 1 percent—the rate 6 months after the date of the increase was also lower than on the date of the increase.

In 1969–71, the years cited by Senator DOMINICK, the only workers subject to minimum wage increases were those newly covered by FLSA in 1966. This amounted to 10 million workers, out of 45 million then covered by the act. Indeed, the 1969 4(d) report suggests that only 2 million workers were subject to wage increases due to the minimum wage increases that went into effect in 1969. By contrast, in 1968, when 7 million workers were affected, the unemployment rate for teenagers dropped almost

1 percent in the 6 months following the effective date of those increases.

We are all aware of the recession which occurred during 1969–71. As the chart shows, unemployment for both adults and teenagers increased during that period, as one would expect. There is no justification whatsoever for attributing this increase to the increases in minimum wages which went into effect for a very limited number of workers during this period. On the contrary, the record in the years prior to 1969 demonstrates that the minimum wage, by itself, has had no demonstrable adverse effect on either adult or youth unemployment.

Mr. DOMINICK. All I can say is that we do have the chart in the RECORD and the chart speaks for itself.

Mr. BEALL. Mr. President, I wish to observe in connection with the colloquy between the chairman of the committee and the Senator from Ohio in discussing certification, that I believe certification is indeed a discouragement for those seeking employment. Certification generally tends to discourage people from engaging in certain activities. We have an example in connection with the guaranteed loan program in higher education where last year we required certification from the college to the bank that people are qualified for loans. It is reported by the banks that it caused a 40-percent reduction in the number of applications. So certification tends to discourage people rather than to encourage them to a particular activity. Certification in youth employment is an important factor that should be considered when we discuss this matter.

ORDER FOR ADJOURNMENT UNTIL 10 A.M. TOMORROW

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

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

ORDER FOR ROUTINE BUSINESS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that upon the conclusion of the remarks by the Senator from Wisconsin (Mr. PROXMIRE) tomorrow there be a period for the transaction of routine morning business, not to extend beyond the hour of 10:30 a.m., with statements limited therein to 3 minutes.

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

QUORUM CALL

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

The PRESIDING OFFICER. The clerk will call the roll.

The 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.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will convene tomorrow at 10 a.m.

After the two leaders or their designees have been recognized under the standing order, the distinguished Senator from Wisconsin (Mr. PROXMIRE) will be recognized for not to exceed 15 minutes.

There will then be a brief period for the transaction of routine morning business not to extend beyond 10:30 a.m., with statements therein limited to 3 minutes each.

At 10:30 a.m. debate will resume on the amendment offered by the Senator from Colorado (Mr. DOMINICK) and the Senator from Ohio (Mr. TAFT).

A rollcall vote will occur on the Dominick-Taft amendment at 12:30 p.m.

Other amendments will be called up during the afternoon. Rollcall votes can be expected to occur thereon.

If a slack period should occur during which no amendments are being offered to the minimum wage bill, the Senate may turn temporarily to the consideration of S. 440, the so-called war powers bill, for opening statements tomorrow.

ADJOURNMENT

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 10 o'clock a.m. tomorrow.

The motion was agreed to; and, at 6:27 p.m., the Senate adjourned until tomorrow, July 18, 1973, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate July 17, 1973:

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

David Olan Meeker, Jr., of Indiana, to be Assistant Secretary of Housing and Urban Development, vice Floyd H. Hyde.

IN THE ARMY

The Army National Guard of the United States officers named herein for promotion as Reserve Commissioned Officers of the Army under the provisions of title 10, United States Code, section 593a and 3392:

To be major general

Brig. Gen. William McGilvery Buck, SSN, xxx-xx-xxxx.

Brig. Gen. Evan Albert Turnage, SSN xxx-xx-x...

EXTENSIONS OF REMARKS

ONE HUNDRED SCIENTIFIC-MINDED YOUTH STUDY IN NATIONAL YOUTH SCIENCE CAMP IN WEST VIRGINIA—VISIT CAPITOL AND HEAR JOHN NASSIKAS

HON. JENNINGS RANDOLPH

OF WEST VIRGINIA

IN THE SENATE OF THE UNITED STATES

Tuesday, July 17, 1973

Mr. RANDOLPH. Mr. President, during these summer months there are many groups of young people visiting the historic monuments and governmental centers of the Nation's Capital. I call attention to one such group which is both unique and representative of the Nation as a whole. Last week 100 young high school seniors at the National Youth Science Camp visited the Capitol, and attended a luncheon in the Senate Dirksen Building at which I was privileged to serve as host, as I have for 10 years.

This year the National Youth Science Camp is in its 11th year of operations in the hills of West Virginia. The camp originated in 1963 as part of the West Virginia centennial celebration, and was so enthusiastically received that the State has continued to support it. After 10 years of operation, the NYSC program of varied scientific and human relationships continues to challenge the 100 delegates. These delegates—two from each State selected on the basis of their scientific abilities and achievements—live for 3 weeks in a wilderness environment while probing life's marvels and mysteries through seminars with top scientific personnel.

The camp was founded with the idea of recognizing promising high school graduates in a distinct way. At the same time, the outdoor experience provides them with a greater awareness of their world and its dimensions. Problems that face the scientific community demand the attention of young minds. The NYSC is one means by which these developing minds can be exposed to some of the realities facing scientific disciplines, while at the same time providing them with a broad view of the opportunities which daily life provides.

These 100 young campers are housed at Camp Pocahontas, a former 4–H camp located near Durbin, in the beautiful Monongahela National Forest. Nearby is the National Radio Astronomy Center at Greenbank, where leading scientists are probing the secrets of the universe.

I said these 100 young men—unfortunately the available facilities cannot accommodate their female counterparts—are unique. Perhaps this is not wholly accurate, for in their wide range of activities, they mirror the intellectual and athletic interests of all American youth. Certainly their academic and leadership credentials—determined by school selection committees in each State—would impress any college recruiter.