A. Thomas E. Wheeler, 1425 K Street NW., Suite 900, Washington, D.C. 20005.
B. Grocery Manufacturers of America, Inc., Washington, D.C. 20005.
D. (6) $48. E. (9) $280.

A. Leonard M. Wickliffe, 11th and L Building, Sacramento, Calif. 95814.
B. California Railroad Association, 11th and L Building, Sacramento, Calif. 95814.
D. (6) $3,126. E. (9) $7,400.84.

A. Wilkinson, Cragun & Barker, 1735 New York Avenue, NW., Washington, D.C. 20006.
B. Arapahoe Tribe of Indians, Fort Washakie, Wyo.
E. (9) $129.35.

A. Wilkinson, Cragun & Barker, 1735 New York Avenue NW., Washington, D.C. 20006.
B. American Society of Travel Agents, Inc., 360 Lexington Avenue, New York, N.Y. 10017.
E. (9) $743.09.

A. Wilkinson, Cragun & Barker, 1735 New York Avenue NW., Washington, D.C. 20006.
B. Bonneville International Corp., 136 East South Temple Street, Salt Lake City, Utah.
E. (9) $64.70.

A. Wilkinson, Cragun & Barker, 1735 New York Avenue NW., Washington, D.C. 20006.
B. Brigham Young University, Provo, Utah.
E. (9) $62.65.

A. Wilkinson, Cragun & Barker, 1616 H Street NW., Washington, D.C. 20006.
B. College Placement Council, Inc., 65 East Elizabeth Street, Bethlehem, Pa.
E. (9) $6.80.

A. Wilkinson, Cragun & Barker, 1735 New York Avenue NW., Washington, D.C. 20006.
B. Confederated Salish and Kootenai Tribes of the Flathead Reservation, Mont.
E. (9) $249.35.

A. Wilkinson, Cragun & Barker, 1735 New York Avenue NW., Washington, D.C. 20006.
B. Estate of Albert W. Small, c/o Mrs. Albert W. Small, 5803 Green Tree Road, Bethesda, Md.
E. (9) $0.70.

A. Wilkinson, Cragun & Barker, 1735 New York Avenue NW., Washington, D.C. 20006.
B. The Hoopa Valley Tribe, P.O. Box 817, Hoopa, Calif.
E. (9) $133.56.

A. Wilkinson, Cragun & Barker, 1735 New York Avenue NW., Washington, D.C. 20006.
B. National Association of Insurance Agents, Inc., 85 John Street, New York, N.Y. 10038.

A. Wilkinson, Cragun & Barker, 1735 New York Avenue NW., Washington, D.S. 20006.
B. Quinaielt Tribe of Indians, Taholah, Wash.
E. (9) $265.26.

A. Wilkinson, Cragun & Barker, 1735 New York Avenue NW., Washington, D.C. 20006.
B. The Three Affiliated Tribes of the Fort Berthold Reservation, New Town, N. Dak.
E. (9) $189.19.

A. Harry D. Williams, 1660 L Street NW., Suite 204–05, Washington, D.C. 20036.
B. Ashland Oil, Inc., P.O. Box 391, Ashland, Ky. 41101.
D. (6) $250.

A. Williams & Jensen, 1130 17 Street NW., Washington, D.C. 20036.
B. Bankers Association of Puerto Rico, c/o Wender, Murase & White, 350 Park Avenue, New York, N.Y. 10022.

A. Williams & Jensen, 1130 17th Street NW., Washington, D.C. 20036.
B. C. Brewer & Co., Ltd., P.O. Box 3470, Honolulu, Hawaii.
E. (9) $400.

A. Williams & Jensen, 1130 17th Street NW., Washington, D.C. 20036.
B. International Utilities Corp., 1500 Walnut Street, Philadelphia, Pa. 19102.
E. (9) $400.

A. Williams & Jensen, 1130 17th Street NW., Washington, D.C. 20036.
B. National Council for Health Care Services, 407 N Street SW., Washington, D.C.

A. Williams & Jensen, 1130 17th Street NW., Washington, D.C. 20036.
B. Ward Industries, Inc., P.O. Box 849, Conway, Ark. 72032.
E. (9) $400.

A. Wilmer, Cutler & Pickering, 900 17th Street NW., Washington, D.C. 20006.
B. Dealer Bank Association, P.O. Box 479, Wall Street Station, New York, N.Y. 10005.

A. Kenneth Wollack, 1341 G Street NW., Washington, D.C. 20005.
B. American Israel Public Affairs Committee, 1341 G Street NW., Washington, D.C. 20005.
D. (6) $750.

A. Women's International League for Peace and Freedom, 1213 Race Street, Philadelphia, Pa. 19107.
D. (6) $5,129.74. E. (9) $9,304.55.

A. Burton C. Wood, 1625 L Street NW., Washington, D.C. 20036.
B. National Association of Home Builders of the United States, 1625 L Street NW., Washington, D.C. 20036.
D. (6) $5,343.75. E. (9) $874.60.

A. V. T. Worthington, 1500 North Quincy Street, Arlington, Va 22207.
B. Association of Petroleum Re-Refiners, Box 7116, Arlington, Va., 22207.

A. John L. Zorack, 1709 New York Avenue NW., Washington, D.C.
B. Air Transport Association.
D. (6) $1,415. E. (9) $475.55.

SENATE—*Wednesday, August 1, 1973*

The Senate met at 10 a.m., and was called to order by Hon. FRANK E. MOSS, a Senator from the State of Utah.

PRAYER

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

O Lord, whose word declares "Righteousness exalteth a nation, but sin is a reproach to any people" (Proverbs 14: 34) be gracious and merciful to us in this time of testing. Keep us as a nation under Thy providence knowing also that we are under Thy judgment. Make us to remember that the ways of the Lord are true and righteous altogether and with what judgment we judge we shall be judged. Strengthen us here that we may walk in the way of Thy statutes and fulfill the mission which in Thy providence has been given to us.

We pray in His name who came not to destroy but to fulfill the law. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., August 1, 1973.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. FRANK E. Moss, a Senator from the State of Utah, to perform the duties of the Chair during my absence.

JAMES O. EASTLAND,
President pro tempore.

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

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Tuesday, July 31, 1973, be dispensed with.

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

COMMITTEE MEETINGS DURING SENATE SESSION

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

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

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider nominations on the Executive Calendar, beginning with New Reports.

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

The ACTING PRESIDENT pro tempore. The nominations on the Executive Calendar, beginning with New Reports, will be stated.

U.S. AIR FORCE

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

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the nominations be considered en bloc.

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

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

DISTRICT OF COLUMBIA COUNCIL

The second assistant legislative clerk proceeded to read sundry nominations in the District of Columbia Council.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the nominations be considered en bloc.

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

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

The second assistant legislative clerk proceeded to read sundry nominations in the Superior Court of the District of Columbia.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the nominations be considered en bloc.

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

LEGISLATIVE SESSION

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

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

REGULATION OF CLEARING AGENCIES AND TRANSFER AGENTS UNDER SECURITIES EXCHANGE ACT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 339, S. 2058.

The ACTING PRESIDENT pro tempore. The bill will be stated by title.

The assistant legislative clerk read as follows:

S. 2058, to amend the Securities Exchange Act of 1934 to provide for the regulation of clearing agencies and transfer agents, and for other purposes.

The ACTING PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Banking, Housing and Urban Affairs with an amendment, to strike out all after the enacting clause and insert:

That this Act may be cited as the "Securities Processing Act of 1973."

SECTION 1. Section 2 of the Securities Exchange Act of 1934 (15 U.S.C. 78b), is amended by striking the word "and" immediately before the phrase "to impose requirements necessary to make such regulation and control reasonably complete and effective," and by adding the following immediately after that phrase: "and to provide for the development of an integrated national system for the prompt and accurate processing and settlement of securities transactions and the safeguarding of funds and securities,".

SEC. 2. Section 15A(k)(2) of the Securities Exchange Act of 1934 (15 U.S.C. 78o–3(k)(2)) is amended by inserting after clause (D) the following:

"(E) the time and method of making settlements, payments, and deliveries and of opening, maintaining, and closing accounts."

SEC. 3. Section 3(a) of the Securities Exchange Act of 1934 (155 U.S.C. 78c(a)) is amended by adding at the end thereof the following new paragraphs:

"(22) The term 'clearing agency' means any person who acts as an intermediary among participants in making payments or deliveries or both in connection with transactions in securities or who provides facilities (A) for comparison of data respecting the terms of settlement of securities transactions, (B) to reduce the number of settlements of securities transactions, or (C) for the allocation of securities settlement responsibilities. Such term also means any person who acts as a custodian of securities in connection with a system for the central handling of securities whereby all securities of a particular class or series of any issuer deposited within the system are treated as fungible and may be transferred, loaned, or pledged by bookkeeping entry without physical delivery of securities certificates, or which otherwise permits or facilitates the settlement of securities transactions or the hypothecation or lending of securities without physical delivery of securities certificates. The term 'clearing agency' does not include (i) Federal Reserve banks, Federal home loan banks, Federal land banks, (ii) banks, brokers, building and loan, savings and loan, and homestead associations, and cooperative banks by reason of lending, fiduciary, correspondent, or safekeeping functions commonly performed by such institutions on the date of enactment of this paragraph, (iii) life insurance companies and their separate accounts by reason of functions commonly performed by such entities in connection with variable annuity contracts or variable life policies issued by insurance companies; and (iv) registered open-end investment companies and unit investment trusts by reason of functions commonly performed by such entities in connection with shares in such registered open-end investment companies and unit investment trusts.

"(23) The term 'participant', when used with respect to a clearing agency means any person who uses a clearing agency for the purpose of settling or comparing transactions in securities or making or receiving payment for or delivering, lending, or hypothecating securities. Such term does not include a person whose only use of a clearing agency is through another person.

"(24) The term 'transfer agent' means any person who engages on behalf of an issuer of securities, or on behalf of itself as an issuer of securities in (A) countersigning such securities upon issuance; (B) monitoring the issuance of such securities with a view to preventing unauthorized issuance, a function commonly performed by a person called a registrar; (C) registering the transfer of such securities; (D) exchanging or converting such securities; or (E) the transfer, by bookkeeping entry without physical issuance of securities certificates, of record ownership of such securities. The term 'transfer agent' does not include any insurance company or separate account which performs such functions solely with respect to variable annuity contracts or variable life policies which it issues.

"(25) The term 'appropriate regulatory agency', when used with respect to a clearing agency or transfer agent required to be registered under this title, means:

"(A) the Comptroller of the Currency, in the case of a national bank or a bank operating under the Code of Law for the District of Columbia, or a subsidiary of any such bank;

"(B) the Board of Governors of the Federal Reserve System, in the case of a State member bank of the Federal Reserve System, a subsidiary thereof, a bank holding company, or a bank subsidiary of a bank holding company;

"(C) the Federal Deposit Insurance Corporation in the case of a bank insured by the Federal Deposit Insurance Corporation (other than a member of the Federal Reserve System) or a subsidiary thereof; and

"(D) the Commission in the case of all other transfer agents and clearing agencies, and for purposes of subsections (i), (j), (k), and (l)(2) of section 17A of this title, whenever the subject of a disciplinary action, suspension, expulsion, or denial of participation is not a bank.

As used in this paragraph, the terms 'bank holding company' and 'subsidiary' have the meaning given them in section 2 of the Bank Holding Company Act of 1956, as amended.

"(26) The term 'rules of a clearing agency' means the clearing agency's constitution, articles of incorporation, bylaws, or rules or instruments corresponding to the foregoing, and its stated polices and practices relating to its organization, participation, rules of procedure, financial condition, methods of safekeeping, settling, hypothecating, lending and accounting for funds and securities, and similar matters.".

SEC. 4. Section 15(c) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(c)) is amended by adding at the end thereof the following new paragraph:

"(6) No broker or dealer shall make use of the mails or of any means or instrumentality of interstate commerce to effect any transaction in, or to induce or attempt to induce the purchase or sale of, any security (other than an exempted security or commercial paper, bankers' acceptances, or commercial bills) in contravention of such rules and regulations as the Commission shall prescribe as necessary or appropriate in the public interest, for the protection of investors or for the development of an integrated national system for the prompt and accurate processing and settlement of securities transactions to regulate the time and method of and the form and format of documents used in connection with making settlements, payments, transfers, and deliveries and of opening, maintaining, and closing accounts. Nothing in this paragraph shall be construed (A) to affect the authority of the Board of Governors of the Federal Reserve System, pursuant to section 7 of this title, to prescribe rules and regulations for the purpose of preventing the excessive use of credit for the purchase or carrying of securities, or (B) to authorize the Commission to prescribe such rules or regulations for such purpose."

SEC. 5. The Securities Exchange Act of 1934 is amended by inserting after section 17 (15 U.S.C. 78q) the following new section:

"PROCESSING OF SECURITIES TRANSACTIONS

"SEC. 17A. (a)(1) Except as otherwise provided in this subsection, it shall be unlawful for any person, directly or indirectly, to make use of the mails or any means or instrumentality of interstate commerce to perform the function of a clearing agency with respect to any security (other than an exempted security) unless such person is registered under this section. The Commission, by rules and regulations or by order, upon its own motion, or upon application, may conditionally or unconditionally exempt any person, security, transaction, or clearing agency, or any class or classes of persons, securities, transactions, or clearing agencies from any provision or provisions of this section or of any rule or regulation prescribed under this section if the Commission finds that the application of such provision or provisions to such person, security, transaction, or clearing agency or class or classes of persons, securities, transactions, or clearing agencies is not practical or not necessary or appropriate in the public interest or for the prompt and accurate processing and settlement of securities transactions. A person shall not perform the functions of a clearing agency and a transfer agent unless such person is

registered under this section and section 17B of this title.

"(2) The Commission shall include in its annual reports to Congress required by section 23(b) of this trifle information concerning the number of requests for exemptions from this section received, the number granted, and the basis or bases upon which any exemptions were granted.

"(b) Any clearing agency may be registered for the purposes of this section by filing with the Commission a registration statement in such form as the Commission may prescribe containing the rules of the clearing agency and setting forth such other information and accompanied by such other documents as the Commission may, by rule, require.

"(c) An applicant shall not be registered as a clearing agency unless the Commission finds that—

"(1) such clearing agency is so organized and possesses such operational capacity as to facilitate the prompt and accurate processing and settlement of securities transactions, to comply with the provisions of this title and the rules and regulations thereunder, and to carry out the purpose of this section;

"(2) the rules of the clearing agency provide that all (A) registered brokers or dealers or members of a national securities exchange, (B) other registered clearing agencies, (C) registered investment companies, (D) banks (as defined in section 2(a)(5) of the Investment Company Act of 1940), (E) insurance companies, and (F) such other persons or classes of persons as the Commission may from time to time designate by rule as appropriate to the development of an integrated national system for the prompt and accurate processing and settlement of securities transactions are eligible to become participants in such clearing agency, subject only to such other rules of the clearing agency as are expressly permitted under this paragraph. The rules of the clearing agency may condition participation upon compliance with such standards of operational capacity, financial responsibility, and business experience as the Commissions, by rule, finds to be necessary to assure the prompt and accurate processing of securities transactions and the protection of investors, the clearing agency, and its participants. Such rules may also deny participation to persons who have been expelled or suspended by a registered clearing agency during the period of such expulsion or suspension;

"(3) the rules of the clearing agency assure a fair representation of its shareholders (or members) and participants in the adoption of rules of the clearing agency and any amendment thereto, the selection of its officers and directors, and in all other phases of the administration of its affairs;

"(4) the rules of the clearing agency provide for the equitable allocation of dues, fees, and other charges among its participants;

"(5) the rules of the clearing agency do not impose any schedule of prices, or fix rates or charges for services rendered by its participants;

"(6) the rules of the clearing agency are designed to promote the prompt and accurate processing and settlement of securities transactions, to foster cooperation and coordination with national securities exchanges, national securities associations, other clearing agencies, brokers, dealers, banks, insurance companies, registered investment companies, and with other persons engaged in the processing and settlement of securities transactions, and to protect investors and the public interest, and do not have the effect of unfairly discriminating in the admission of participants or among participants in the use of such clearing agency;

"(7) the rules of the clearing agency provide that its participants shall be appropriately disciplined for any violation of its rules by expulsion, suspension, fine, or censure;

"(8) the rules of the clearing agency provide a fair and orderly procedure with respect to the disciplining of participants and the denial of participation to any person seeking participation therein. In any proceeding to determine whether a participant should be disciplined, such rules shall require that specific charges of any rule violation be brought; that such participant shall be notified of and be given an opportunity to defend against such charges; that a record shall be kept; and that a determination to take disciplinary action shall be supported by a statement setting forth—

"(A) any act or practice in which such participant may be found to have engaged, or any required act or practice which such participant may be found to have omitted;

"(B) the specific rule or rules of the clearing agency which any such act or practice, or omission to act, is deemed to violate; and

"(C) the penalty imposed and the reasons therefor.

In any proceeding to determine whether a person shall be denied participation, such rules shall provide that the prospective participant shall be notified of, and be given an opportunity to be heard upon, the specific grounds for denial which are under consideration, that a record shall be kept, and that the determination to deny participation shall be supported by a statement setting forth the specific grounds on which the denial is based. Notwithstanding any other provision of this section, the rules of the clearing agency may provide for the temporary suspension of a participant, the prohibition of such participant's use of the clearing agency, and the closing of its accounts pending determination of the merits of any disciplinary proceeding if, in the opinion of the clearing agency, such suspension, prohibition on use and closing of accounts are necessary for the protection of the clearing agency or its participants, or for the protection of investors or to facilitate the orderly and continuous performance of the clearing agency's services. The rules of the clearing agency shall afford the participant an expedited hearing on the merits in the case of any temporary suspension; and

"(9) the appropriate regulatory agency has not determined within sixty days of such filing that the organization or operational capacity of the clearing agency is such that the clearing agency is unable to provide adequate safeguards for securities and funds which are in its custody or control, or for which it is responsible, or that the rules of such clearing agency are inconsistent with such safeguards for such securities and funds.

"(d) The Commission shall, upon the filing of an application for registration pursuant to subsection (b), publish notice of the filing and afford interested persons a reasonable opportunity for comment. Within ninety days of such filing, the Commission shall:

"(1) by order grant such registration if the Commission finds that the requirements of this section are satisfied, or

"(2) institute an appropriate administrative action to determine whether the application should be denied.

After notice of the grounds for denial under consideration and opportunity for hearing, the Commission shall by order grant such registration unless it finds that a requirement of this section is not satisfied, in which case the Commission shall by order deny such registration. The Commission shall conclude administrative action and issue an order granting or denying the application within one hundred and eighty days of the filing of the application unless the Commission finds good cause to extend such period and publishes its reasons therefor.

"(e) A clearing agency registered under this section may, upon such terms and conditions as the Commission may deem necessary in the public interest, for the protection of investors, or to assure the prompt and accurate processing and settlement of securities transactions, withdraw from registration by filing a written notice of withdrawal with the Commission. If the Commission finds that any registrant or person for whom an application of registration is pending is no longer in existence or has ceased to do business in the capacity specified in the registration statement, the Commission shall by order cancel or deny the registration.

"(f) No clearing agency registered under this section shall, directly or indirectly, participate in the processing or settlement of any transaction in a security (other than an exempted security), or engage in any other activity as clearing agency in contravention of such rules and regulations as the Commission shall prescribe as necessary or appropriate in the public interest, for the protection of investors, to insure fair administration of such clearing agency, or to effectuate the purposes of this section with regard to such matters as minimum standards for the performance of functions, operational compatibility of and cooperation by the clearing agency with other persons involved in the securities handling process, and the prompt and accurate processing and settlement of securities transactions, or as the appropriate regulatory agency shall prescribe as necessary or appropriate for the adequate safeguarding of securities and funds in the clearing agency's custody or control or for which it is responsible.

"(g)(1) Each registered clearing agency shall file with the Commission, in accordance with such rules as the Commission may prescribe, copies of any proposed changes in, additions to, or amendments to the rules of the clearing agency accompanied by a summary statement of the basis and purpose for such proposed change, addition, or amendment. No such proposed change, addition, or amendment shall become effective except in accordance with the provisions of this subsection.

"(2) The Commission shall, upon the filing of a proposed change in, addition to, or amendment to the rules of a clearing agency, publish notice of such proposal together with the clearing agency's statement of basis and purpose, and shall afford interested persons a reasonable opportunity for comment on the proposed change, addition, or amendment. Within forty-five days of such filing the Commission shall—

"(A) by order declare such change, addition, or amendment effective if the Commission finds that the rules of the clearing agency as so changed are not inconsistent with the requirements of this section relating to the registration of clearing agencies or with the purposes of this section and are not otherwise inconsistent with the public interest and that the appropriate regulatory agency has not determined within thirty days of such filing that such change, addition, or amendment is inconsistent with adequate safeguards for securities and funds which are in the custody or control of the clearing agency or for which it is responsible, or

"(B) institute appropriate administrative action to determine whether the proposed change, addition, or amendment in whole or in part, should be disapproved. Within one hundred and twenty days of the filing of the change, addition, or amendment the Commission shall conclude administrative action and shall, by order, declare such change, addition, or amendment effective unless it finds that the rules of the clearing agency as so changed are inconsistent with the requirements of this section relating to the registration of clearing agencies or with the purposes of this section, or are otherwise inconsistent with the public interest, or that the appropriate regulatory agency has determined that such change, addition, or amendment is inconsistent with adequate

safeguards for securities and funds which are in the custody or control of the clearing agency or for which it is responsible, in which case the Commission shall by order disapprove such change, addition, or amendment.

If the Commission does not declare the change, addition, or amendment to be effective or institute administrative action for its disapproval within forty-five days of the date it is filed, the change, addition, or amendment shall become effective on such forty-fifth day with the same force and effect as though it had been declared effective by the Commission.

"(h) Each clearing agency shall at the time of filing a registration statement pursuant to subsection (b), a notice of withdrawal of its registration pursuant to subsection (e), or copies of any proposed changes in, additions to, or amendments to its rules pursuant to subsection (g), file copies of such documents with the appropriate regulatory agency.

"(i) If any registered clearing agency takes any disciplinary action against any participant therein, or denies admission to any person seeking participation therein, such action shall be subject to review by the appropriate regulatory agency, on its own motion, or upon application by any person aggrieved thereby filed within thirty days after such action has been taken or within such longer period as the appropriate regulatory agency may determine. Application to the appropriate regulatory agency for review, or the institution of review by such agency on its own motion, shall not operate as a stay of such action, unless such agency otherwise orders, after notice and opportunity for hearing on the question of a stay (which hearing may consist solely of affidavits and oral arguments).

"(j)(1) In a proceeding to review disciplinary action taken by a registered clearing agency against a participant, after notice and opportunity for hearing and upon consideration of the record before the clearing agency and such other evidence as it may deem relevant—

"(A) if the appropriate regulatory agency finds that such participant has engaged in such acts or practices, or has omitted such acts, as the clearing agency has found him to have engaged in or to have omitted, and that such acts or practices, or omissions to act, are in violation of such rules of the clearing agency as have been designated in the determinaton of the clearing agency, it shall by order so declare and affirm the action taken by the clearing agency or, if appropriate, modify the sanctions or penalties in accordance with paragraph (2) of this subsection, or

"(B) if the appropriate regulatory agency finds that the evidence does not warrant the finding required in clause (A), or if such agency determines that such acts or practices as are found to have been engaged in are not prohibited by the designated rule or rules of the clearing agency or that such act as is found to have been omitted is not required by such designated rule or rules, the appropriate regulatory agency shall by order set aside the action of the clearing agency.

"(2) The appropriate regulatory agency may, having due regard to the public interest, if it finds that any penalty imposed by a registered clearing agency upon a participant is excessive or oppressive, cancel, reduce, or require the remission of such penalty.

"(k) In any proceeding to review the denial of participation in a registered clearing agency, if the appropriate regulatory agency, after notice and opportunity for hearing and upon consideration of the record before the clearing agency, determines that the specific grounds on which such denial or bar is based exist in fact and that the denial or bar is consistent with the rules of the clearing agency and that such rules have not been applied so as to discriminate unfairly in the admission of that participant, it shall by order dismiss the proceeding. In the absence of such a determination, the appropriate regulatory agency shall by order set aside the action of the clearing agency and require it to admit the applicant to participation therein.

"(l) The appropriate regulatory agency, after appropriate notice and opportunity for hearing, is authorized, by order, if such action appears to be necessary or appropriate in the public interest or for the protection of investors or to carry out the purposes of this section—

"(1) to suspend for a period not exceeding twelve months or revoke the registration of a registered clearing agency or impose limitations upon the activities, functions, or operations of such clearing agency, if the appropriate regulatory agency finds that such clearing agency has violated any provision of this title or any rule or regulation thereunder, or has failed to enforce compliance with its own rules, or has engaged in any other activity tending to defeat the purposes of this section;

"(2) to censure, impose operational limitations upon, suspend for a period not exceeding twelve months or expel from a registered clearing agency any participant therein, if the appropriate regulatory agency finds that such participant has violated any provision of this title or any rule or regulation thereunder or any rule of the clearing agency; and

"(3) to remove from office any officer or director of a registered clearing agency who, the appropriate regulatory agency finds, has willfully violated any provision of this title or any rule or regulation thereunder, or has willfully failed to enforce the rules of the clearing agency, or has willfully abused his authority.

"(m) If a proceeding under subsection (l)(1) of this section results in the suspension or revocation of the registration of a clearing agency, the appropriate regulatory agency may, upon notice to such clearing agency, apply to any court of competent jurisdiction specified in section 21(e) or 27 of this title for the appointment of a trustee or may avail itself of any other procedures available under relevant laws. In the event of such an application, the court may, to the extent it deems necessary or appropriate, take exclusive jurisdiction of the clearing agency involved, and the books, records, and assets, wherever located; and the court shall appoint the appropriate regulatory agency or a person designated by the appropriate regulatory agency as the trustee with the power to take possession and to continue to operate or to terminate the facilities of such clearing agency in an orderly manner, for the protection of participants and public investors, subject to such terms and conditions as the court may prescribe.

"(n) Each registered clearing agency shall make, keep, and preserve for such periods such accounts, correspondence, memorandums, papers, books, and other records, and furnish such copies thereof and make such reports and supply such information and documents as the Commission by its rules and regulations may prescribe as necessary or appropriate to keep current or to supplement the registration statement and documents filed pursuant to subsection (b), to facilitate cooperation among clearing agencies and the prompt and accurate settlement of securities transactions, or for the protection of investors or the public interest, or as the appropriate regulatory agency by its rules and regulations may prescribe as necessary or appropriate to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible. The Commission shall promptly furnish to the appropriate regulatory agency any report which it receives from a registered clearing agency pursuant to this section. All accounts, correspondence, memorandums, papers, books, and other records of a clearing agency shall be subject at any time to such reasonable periodic, special, or other examinations by examiners or other representatives of the appropriate regulatory agency as such agency may deem necessary or appropriate in the public interest, for the protection of investors or to carry out the purposes of this section. The appropriate regulatory agency shall make a full and detailed report of any examination made of a registered clearing agency pursuant to this section and shall promptly furnish to the Commission a copy of any such report and of all reports which it receives from registered clearing agencies pursuant to this section.

"(o) The agencies enumerated in section 3(a)(25) of this title shall consult and cooperate with each other and, as may be appropriate, with State banking authorities having supervision over banks operating as clearing agencies and shall advise one another promptly of the pendency or termination of any proceedings, of the promulgation of any rules, and of the entry of any order relating to a clearing agency, participant, class of clearing agencies, or class of participants. At least fifteen days prior to the issuance for public comment or adoption of any proposed rule or regulation regarding clearing agencies pursuant to this title, the agency contemplating issuance or adoption of such role or regulation shall first consult with and request the views of each of the other agencies enumerated in section 3(a)(25) toward the end that rules and regulations applicable to banks registered as clearing agencies may be, to the maximum extent practicable, in accord with both sound banking practices and a sound system for the prompt and accurate processing and settlement of securities transactions. Whenever the Commission is considering an application for registration under subsection (d), a proposed rule change under subsection (g), or the promulgation of any rule under subsection (f), after consulting with each of the other appropriate regulatory agencies with respect to such application, proposed rule change or rulemaking, if the Commission determines that in addition to such consultation it is necessary to review the operations of a clearing agency or agencies for which it is not the appropriate regulatory agency, upon notice to each such clearing agency and the appropriate regulatory agency for each such clearing agency, the commission may conduct such reasonable reviews of the operations of each such clearing agency as are germane to the subject matter of the application, proposed rule change or rulemaking and which are necessary to the proper performance of its responsibilities under this section. To the maximum extent practicable, the Commission shall coordinate its reviews pursuant to the preceding sentence with the inspections and examinations of the appropriate regulatory agencies to assure that clearing agencies are not subject to unnecessary regulatory duplication or undue burdens. Nothing in this section shall impair the authority of any State banking authority or other State or Federal regulatory authority having jurisdiction over a person registered as a clearing agency to make or enforce rules governing such person which are not inconsistent with this section or any rules or regulations promulgated hereunder.

"(p) The Commission shall, on or before December 31, 1976, take such steps as are within its power to bring about elimination of the stock certificate as a means of settlement among brokers or dealers of transactions consummated on national securities exchanges or by means of the mails or other means or instrumentalites interstate commerce. Commencing in 1973 and ending in

1976, the Commission shall report annually to the Congress (1) the steps it has taken and progress it has made toward elimination of the stock certificate as a means of settlement, and (2) its recommendations, if any, for further legislation to eliminate the stock certificate.".

SEC. 6. The Securities Exchange Act of 1934 is further amended by inserting after section 17A (added by section 5 of this Act) the following new section:

"TRANSFER AGENTS

"SEC. 17B. (a) (1) Except as otherwise provided in this subsection, it shall be unlawful for any person, directly or indirectly, to make use of the mails or any means or instrumentality of interstate commerce to perform the function of a transfer agent with respect to any security unless such person is registered in accordance with this section. The Commission, by rules and regulations or by order, upon its own motion or upon application, may conditionally or unconditionally exempt any transfer agent or class of transfer agents or security or class of securities from any provision or provisions of this section or any rule or regulation prescribed under this section if the Commission finds that the application of such provision or provisions to such transfer agent or class of transfer agents or such security or class of securities is not practical or not necessary or appropriate in the public interest or for the prompt and accurate processing and settlement of securities transactions.

"(2) The Commission shall include in its annual reports to Congress required by section 23(b) of this title information concerning the number of requests for exemptions from this section received, the number granted, and the basis or bases upon which the exemptions were granted.

"(3) The provisions of this section shall apply only to securities and to persons performing the function of transfer agent with respect to securities which are registered under section 12 of this title or which would be required to be so registered except for the exemption from registration provided in subsection (g)(2)(B) or (g)(2)(G) of that section.

"(b) Any transfer agent may be registered for the purposes of this section by filing with the appropriate regulatory agency a registration statement which shall state the address of its principal office or offices for transfer agent activities, the identity of the issuers and issues of securities for which it is then acting as transfer agent, and such other information in such detail as the appropriate regulatory agency may require as necessary or appropriate with regard to performance capability, standards and procedures for safe handling and custody of securities, and operational compatibility of the transfer agent's activities with those of other persons involved in the securities handling process. Each appropriate regulatory agency, other than the Commission, shall file with the Commission notice of the name of any transfer agent required to register with such agency under this section, the address of its principal office or offices for transfer agent activity, the identity of the issuers and issues of securities for which it is then acting as a transfer agent and such other information as the Commission may request. Each appropriate regulatory agency shall also file with the Commission such additional information as the Commission may request to keep current the information in such notice and to carry out its responsibilities under this section. Except as otherwise provided in subsections (c) and (d) of this section, a registration statement of a transfer agent filed under this subsection shall become effective thirty days after the receipt of the statement by the appropriate regulatory agency or within such shorter period of time as such agency may determine.

"(c) The appropriate regulatory agency shall, after appropriate notice and opportunity for hearing, by order, deny registration to any transfer agent seeking registration if it finds that such denial is in the public interest and that such transfer agent does not have procedures or the operational capabilities to be able to comply with the provisions and purposes of this section and the rules and regulations prescribed thereunder.

"(d) Pending final determination whether the registration of a transfer agent shall be denied, the appropriate regulatory agency may, by order, postpone the effective date of such registration for a period not to exceed ninety days, except that such agency may extend such period until final determination if it finds good cause for such extension and publishes its reasons therefor.

"(e) Any transfer agent registered under this section may, upon such terms and conditions as the appropriate regulatory agency may deem necessary in the public interest, for the protection of investors or to assure the prompt and accurate processing and settlement of securities transactions, withdraw from registration by filing a written notice of withdrawal with such agency. If such agency finds that any such transfer agent for whom a registration statement is pending is no longer in existence or has ceased to do business as a transfer agent, it shall by order cancel or deny the registration.

"(f) Each registered transfer agent shall make, keep, and preserve for such periods such accounts, correspondence, memorandums, papers, books, and other records, and furnish such copies thereof and shall make such reports and file such information and documents with the appropriate regulatory agency, as such agency by rule or regulation may prescribe as necessary or appropriate to keep current or to supplement the registration statement and documents filed pursuant to subsection (b) and to carry out the purposes of this section. Such accounts, correspondence, memorandums, papers, books, and other records shall be subject at any time to such reasonable periodic, special, or other examinations by examiners or other representatives of the appropriate regulatory agency as such agency may deem necessary or appropriate to carry out the purposes of this section. Each appropriate regulatory agency shall make a report of all examinations conducted by it of any transfer agent and shall, upon request, furnish a copy of such report or of any report or document which it receives from any transfer agent pursuant to this section to any other regulatory agency with responsibilities under this section.

"(g) No transfer agent registered under this section shall, directly or indirectly, engage in any activity as transfer agent in contravention of such rules and regulations as the Commission shall prescribe as necessary or appropriate in the public interest, for the protection of investors or to effectuate the purposes of this section with regard to such matters as standards for the performance of transfer functions, the prompt and accurate processing and settlement of securities transactions, and operational compatability of and cooperation by the transfer agent with other persons involved in the securities handling process, or as the appropriate regulatory agency shall prescribe as necessary or appropriate for the adequate safeguarding of securities and funds.

"(h) The agencies enumerated in section 3(a)(25) of this title shall consult and cooperate with each other and, as may be appropriate, with State banking authorities having supervision over banks acting as transfer agents so that the accounts, correspondence, memorandums, papers, books, records, and other data required of banks acting as transfer agents, the rules and regulations applicable to them, and the inspections thereof, may be in accord with both sound banking practices and a sound system for the prompt and accurate processing and settlement of securities transactions to the maximum extent practicable. Whenever the Commission is considering the promulgation of any rule under subsection (g), after consulting with each of the other appropriate regulatory agencies with respect to such rulemaking, if the Commission determines that in addition to such consultation, it is necessary to review the operations of a transfer agent for which it is not the appropriate regulatory agency, upon notice to each such transfer agent and the appropriate regulatory agency for each such transfer agent, the Commission may conduct such reasonable review of the operations of each such transfer agent as are germane to the subject matter of the rulemaking and which are necessary to the proper performance of its responsibilities under this section. To the maximum extent practicable, the Commission shall coordinate its reviews pursuant to the preceding sentence with the inspections and examinations of the appropriate regulatory agencies to assure that transfer agents are not subject to unnecessary regulatory duplication or undue burdens. Nothing in this section shall be construed to impair the authority of any State banking authority or of any other State or Federal regulatory authority which has jurisdiction over a person registered as a transfer agent to make or enforce rules governing such person which are not inconsistent with this section or any rules promulgated hereunder.

"(i) Compliance with the requirements imposed by this section and section 17A of this title may be enforced under section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818) by the appropriate regulatory agencies other than the Commission. For the purpose of the exercise by such a regulatory agency of its powers under section 8 of the Federal Deposit Insurance Act, registered clearing agencies and transfer agents for which it is the appropriate regulatory agency shall be considered insured banks. Any violation of any requirement imposed under this section or section 17A upon such registered clearing agencies and transfer agents is a violation of the requirements imposed under the Federal Deposit Insurance Act and shall constitute adequate basis for the issuance of orders under section 8(b) and 8(c) of that Act. For purposes of the preceding sentence, the term 'depositors' in section 8(c) of the Federal Deposit Insurance Act shall include participants in such clearing agencies and persons doing business with such transfer agents. In addition to its power under section 8 of the Federal Deposit Insurance Act, each of such appropriate regulatory agencies may, for the purpose of enforcing compliance with this section or section 17A of this title or any rule thereunder, exercise any other authority conferred on it by law.

"(j) The Commission may, after appropriate notice and opportunity for hearing, by order, censure, bar, or place limitations upon any transfer agent for which it is the appropriate regulatory agency, or upon any partner, officer, director, or employee of any such transfer agent, or suspend for a period not exceeding twelve months or revoke the registration of any such transfer agent, if the Commission finds that such censure, barring placing of limitations, suspension, or revocation is in the public interest or necessary for the protection of investors and that such transfer agent or partner, officer, director, or employee thereof has willfully violated or is unable to comply with any provision of this section or any rule or regulation promulgated thereunder. All of the functions and powers of the Commission under this title are available to the Commission to enforce compliance by any person with the requirements imposed under this section and section 17A of this title. The appropriate

regulatory agency shall have primary responsibility to enforce the requirements imposed under this section and section 17A.

"(k) At least fifteen days prior to the issuance for public comment or adoption of any proposed rule or regulation regarding transfer agents, the agency contemplating issuance or adoption of any such rule or regulation shall first consult with and request the views of each of the other agencies enumerated in section 3(a)(25) concerning such rules toward the end that rules and regulations applicable to banks registered as transfer agents may be in accord with both sound banking practices and a sound system for the prompt and accurate processing and settlement of securities transactions to the extent practicable.".

SEC. 7. Section 12 of the Securities Exchange Act of 1934 (15 U.S.C. 78l) is amended by inserting after subsection (i) the following new subsection:

"(j) It shall be unlawful for an issuer, any class of whose securities is registered under this section or which would be required to be so registered except for the exemption from registration provided by paragraph (2)(B) or (2)(G) of subsection (g), by the use of any means or instrumentality of interstate commerce, or of the mails, to issue, either originally or upon transfer, any such securities in a form or with a format which contravenes such rules and regulations as the Commission may prescribe as necessary or appropriate for the prompt and accurate processing of transactions in securities.".

SEC. 8. Section 19 of the Securities Exchange Act of 1934 (15 U.S.C. 78s) is amended by inserting after subsection (e) the following new subsection:

"(f) The Commission is authorized and directed to make a study and investigation of the practice of registration of securities other than in the name of the beneficial owner and to determine (1) whether such registration is consistent with the policies and purposes of this title, with particular reference to sections 12(g), 14, and 15(d), and (2) if consistent, whether steps can be taken to facilitate communications between corporations and their shareholders while at the same time retaining the benefits of such registration. The Commission shall report to the Congress its preliminary findings within six months after the date of enactment of this subsection, and its final results and recommendations within one year of such date.".

SEC. 9. Section 28 of the Securities Exchange Act of 1934 (15 U.S.C. 78bb) is amended by inserting after subsection (b) the following new subsection:

"(c) No State or political subdivision thereof shall impose any tax on any change in beneficial or record ownership of securities effected through the facilities of a registered clearing agency or any nominee thereof or custodian thereof or upon the delivery or transfer of securities to or through or receipt from such agency or any nominee thereof or custodian therefor, unless such change in beneficial or record ownership or such transfer or delivery or receipt would otherwise be taxable by such State or political subdivision if the facilities of such registered clearing agency or any nominee thereof or custodian therefor were not physically located in the taxing State or political subdivision. No State or political subdivision thereof shall impose any tax on securities which are deposited in or retained by a registered clearing agency or any nominee thereof or custodian therefor, unless such securities would otherwise be taxable by such State or political subdivision if the facilities of such registered clearing agency or any nominee thereof or custodian therefor were not physically located in the taxing State or political subdivision.".

SEC. 10. Section 25 of the Securities Exchange Act of 1934 (15 U.S.C. 78y) is amended by inserting after subsection (b) the following new subsection:

"(c) For purposes of subsections (a) and (b) of this section, the term 'Commission' includes the agencies enumerated in section 3(a)(25) of this title insofar as such agencies are acting pursuant to section 17A or 17B of this title."

SEC. 11. This Act shall become effective on the date of its enactment, except that sections 17A(a) and 17B(a) of the Securities Exchange Act of 1934 (as added by this Act) shall become effective one hundred and eighty days after the date of enactment.

Mr. WILLIAMS. Mr. President, today we have before us for final consideration the second bill to grow out of the 18-month securities industry study conducted by the Subcommittee on Securities. Last month we passed S. 470 concerning the Commission rate structure and institutional membership on stock exchanges. That legislation dealt with problems associated with the revenue-side of the securities industry. The present bill, S. 2058, is concerned with the cost-side. It addresses the back office and securities processing problems of the industry, which are costly problems indeed. And it establishes a decisionmaking mechanism and regulatory framework for the development of a national system for the prompt, accurate, and economical processing of securities transactions.

One of the first matters examined by the Securities Subcommittee when it commenced its securities industry study was the operational breakdown or "paperwork crisis" which plagued the securities industry and more importantly, its customers, in the late 1960's. I am sure my colleagues have not forgotten how during this period the industry's inability to handle its own paperwork caused tremendous inconvenience and financial loss to public customers, forced over 100 broker-dealers into liquidation and, for a time, jeopardized the continued operation of the securities markets themselves. To deal with this emergency in 1970 we passed the Securities Investor Protection Act. This act protects customers' funds and securities from the consequences of broker-dealer insolvency. Building on SIPC, our study took a remedial approach to the industry's operational problems.

We have made a comprehensive investigation of the industry's back office structure to determine where improvements were needed in order to assure the investing public that there will be no future "paperwork crisis." S. 2058 is the outgrowth of this investigation.

Based on our study, we determined that two factors played a major role in the operational breakdown—the securities industry's failure to develop a nationwide system for the clearing and settlement of transactions and the lack of a central decisionmaking force in the area of processing securities transactions.

S. 2058 addresses both of these problems. It attempts to remove the barriers to development of an efficient nationwide system for handling securities transactions and it creates a unified regulatory structure for the first time in operational matters.

It is obvious that the Securities and Exchange Commission is the proper agency to fill the leadership vacuum in securities handling matters. S. 2058 therefore gives the SEC general regulatory power over all clearing agencies, depositories, and transfer agents for the purpose of facilitating the development of an efficient national securities transfer system. In addition, it sets a deadline for the elimination of the stock certificate as a device for settlement of transactions among broker-dealers and prohibits the application of State stock transfer taxes in such a way as to impede the development and increased use of certificate depositories and clearing agencies.

During the hearings which were held on this legislation, testimony was received from representatives of regulatory and self-regulatory bodies, the banking and securities industries, corporate issuers and transfer agents, private investors and independent consultants. These hearings made it clear that all persons involved in the securities handling process must be brought within the purview of the same central regulatory pattern established for clearing agencies and that securities handling problems cannot be solved without the active participation of the bank regulatory agencies. Accordingly inspection and enforcement responsibilities are assigned to the "appropriate regulatory agency"—the Commission, the Federal Reserve Board, the Comptroller of the Currency, and the Federal Deposit Insurance Corporation—depending upon the type of clearing agency involved. The bill contains similar provisions respecting transfer agents except that as to transfer agents the registration powers as well as those of inspection and enforcement are lodged with the appropriate regulatory agency. Several provisions of the bill assure cooperation and coordination among the four regulatory agencies assigned responsibilities over clearing agencies and transfer agents.

S. 2058 also empowers the Commission to make rules and regulations concerning the format of securities issued by publicly held corporations and contains provisions regarding State stock transfer taxes and elimination of the use of stock certificates to settle transactions between brokers and dealers. Another section of the bill directs the Commission to study "street name" registration of securities to determine whether it impedes communications with shareholders and whether steps can be taken to facilitate communications with shareholders while preserving the efficiencies of "street name" registration.

In summary, Mr. President, S. 2058 is the end product of nearly 2 years of intensive study, hearings, and deliberations by our committee and its staff, the SEC, the securities industry, and representatives of the investing public. In my opinion it will go a long way to assuring that paper-handling problems will never again cause a break in public confidence in our Nation's securities markets. S. 2058 directs the SEC to assume an active leadership role in establishing a comprehensive and integrated national system for the processing and settlement of securities transactions. Under the Commission's

leadership we can expect to see the impediments removed to development of such a system by the private sector.

Mr. JACKSON. I am concerned about the individual investor. I notice that the committee report on the bill indicates that the individuals may ask for and receive their stock certificates as evidence of ownership. I also note that your legislation contains no provision assuring that right or penalizing the broker for failure to comply within a reasonable time. Will you speak to these points?

Mr. WILLIAMS. I share your concern for the individual investor. As you noted, the committee report makes clear that this legislation in no way alters or affects the right of individual shareholders to obtain and hold stock certificates. With regard to the enforcement of this right, I think it is appropriate to point out that the SEC has a mandate from Congress to carry out the purposes of the Securities Exchange Act, including the provisions added by this bill, in a manner which will protect the rights of all investors.

Mr. JACKSON. The extensive investigation into stolen securities by my Permanent Subcommittee on Investigations has shown that securities held in street name are a choice target for thieves. However, testimony before my subcommittee indicates that a computerized, certificateless system would not be the answer to this problem; one needs only to look at the computer manipulations in the equity funding case to see how sophisticated criminals have become. Therefore, until we can move to a more secure system, the best protection for an individual would be to have his certificate in hand. Congress would be remiss in endorsing any legislation that causes the elimination of certificates for the public stockholder in an effort to help the securities industry solve its own problems.

Mr. WILLIAMS. This legislation is in no way intended to prohibit public investors from personally holding their stock certificates if they wish to do so. The provisions of the bill relating to the elimination of the stock certificate are narrowly drawn. They only concern the use of the certificate as a settlement mechanism in trades between brokers and dealers. The purpose of the bill is to create a nationwide securities processing system; No suggestion is made that certificates should be eliminated for the public stockholder.

Mr. JACKSON. Then you agree with me that it is in the public interest for the individual investor to receive his stock certificate?

Mr. WILLIAMS. I agreee that if a stockholder wishes to receive and hold his stock certificates he should continue to be able to do so. As I said before, the traditional prerogatives and rights of investors to ask for and receive their certificates are not affected, or in any manner abridged, by this bill.

Mr. JACKSON. I agree with you. Another reason would be to insure the continuation of the corporate-stockholder relationship on a 1-to-1 basis.

Mr. WILLIAMS. I am pleased that you raise the point of stockholder communications. The practice of street name registration of customer's securities and the impact of this practice on corporate-stockholder relationships is an important focus of this legislation. In recognition of the need to address this practice in a definitive manner, the bill directs the SEC to study the use of street name registration within the context of the Exchange Act and to report to Congress its findings.

Mr. JACKSON. Then I feel we have cloaked the individual investor with the same degree of protection as we have provided in the general consumer fraud areas.

Mr. WILLIAMS. I can assure you that if, in practice, the rights of individual investors are being violated in disregard of the intent of the Exchange Act, I would be the first to introduce appropriate legislation assuming the protection of those rights.

Mr. JACKSON. All our Members would be well advised to instruct their constituents who are investors to help Congress protect them by advising them to get their certificates.

Mr. WILLIAMS. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make any necessary technical and clerical corrections in the engrossment of S. 2058.

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

Mr. BROOKE. Mr. President, the inability of the securities industry to deal with its persistent operational problems during the 1968–70 period has greatly contributed to the loss of confidence of investors in the efficiency and safety of our capital markets. In addition, this breakdown in paper handling functions threatens to curtail the ability of brokers and dealers to maintain a constant flow of debt and equity instruments available for public investment. Both investor confidence and the continuous availability of investment capital are fundamental to the continued health of our economy. The bill before us today, I believe, will have a profound effect upon the restoration of confidence and efficiency to our securities markets.

The primary purpose of S. 2058 is to establish a system of effective regulation and centralized decisionmaking which will extend to every facet of the securities handling process—broker-dealers, corporate issuers, transfer agents, clearing agencies, and securities depositories. The paperwork crisis of 1968 and 1969, and the current jurisdictional battling among the various self-regulatory agencies for control of all aspects of the processing system are both manifestations of the absence of an effective decisionmaking force in the securities industry for operational matters. Moreover, the development of an efficient, nationwide system for processing securities will provide an effective means of controlling brokers' operational costs—a severe threat to the industry's future profitability. Without the regulatory framework for the development of an integrated national system for the clearing and settlement of all securities transactions, this industry faces continued uncertainty, confusion, and spiraling costs.

The "paperwork crisis" of the late 1960's resulted from the industry's inability to process the tremendous volume of trading that swept all securities markets. All too often deliveries to customers of both cash and securities were late and stock certificates were lost in the rising tide of paper. Firms lost control of their records and over 100 brokerage firms were forced into liquidation—largely as a result of faulty recordkeeping and the backlog of uncompleted transactions. These liquidations caused financial hardships for many investors who left their securities with brokerage houses for safekeeping. The result was a pervasive loss of investor confidence from which the industry has not recovered. Moreover, it led one noted economic historian to recently characterize this crisis as "perhaps the single most dramatic technical failure of the free-enterprise system on record anywhere."

The Congress responded in part to this situation by enacting the Securities Investor Protection Act of 1970, Public Law 598, to help protect securities customers from the consequences of broker-dealer insolvency. With the passage of SIPC, however, Congress has demonstrated that it is not satisfied with merely insuring the public against brokerage house failures. If future securities handling problems are to be avoided, both Congress and the Securities and Exchange Commission must maintain a continuing interest in and close scrutiny of the important operational aspects of the securities business. Accordingly, SIPC directed the Commission to compile a list of unsafe and unsound practices employed by brokers and dealers in conducting their business, to report to the Congress on the corrective steps being taken under existing law, and to submit recommendations on additional legislation which might be needed to eliminate those unsafe and unsound practices. Pursuant to this mandate the Commission concluded in its report:

> That the serious operational problems experienced by the securities industry during the period under study, especially the industry's inability to accurately and promptly process customer transactions, evidenced a need for greater scrutiny and control by the Federal Government.

In addition to the examination of the industry's operational problems undertaken by the Commission's unsafe and unsound practices report, the Securities Subcommittee devoted a substantial portion of February 1972 report of its in-depth study of the economic and regulatory problem confronting the industry to an analysis and specific recommendations designed to prevent future paper-handling breakdowns.

The subcommittee's report found two primary functional causes for the paperwork crisis. First, the industry had failed to develop a nationwide system for clearance and settlement of securities transactions. Second, there existed a lack of uniformity and coordination among the various methods of clearing and settlement in use. The subcommittee found an alarming lack of supervision, coordination, and central decisionmaking which was delaying implementation of many of the technological innovations available

to help solve the problem. Accordingly it recommended:

The Securities Exchange Act of 1934 be amended to make it clear that the Securities and Exchange Commission has the power and the responsibility to direct the evolution of clearance and settlement methods employed by national securities associations and by broker-dealers engaged in interstate commerce;

Legislation be enacted requiring clearing agencies and depositories to register with and report to the SEC and empowering the Commission to review and amend the rules of such entities;

The Commission be directed to proceed with dispatch toward elimination of the stock certificate as a means of settlement between broker-dealers by December 31, 1976, and to report to the Congress annually through 1976 the steps it has taken and progress it has made pursuant to this direction as well as its recommendations, if any, for further legistration to eliminate the certificate;

Legislation be enacted prohibiting the imposition of State and local taxes in such a way as to unnecessarily inhibit the development of efficient national clearing and depository systems; and

The Commission be directed to consider the practice of registering securities in "street name" to determine whether such registration is consistent with the policies of the Securities Exchange Act of 1934 and whether steps can be taken to facilitate communications between corporations and their shareholders while at the same time retaining the benefits of "street name" registration.

Shortly after the subcommittee filed its report, legislation was introduced to implement these recommendations. Hearings were held on May 9, 10, and 11, 1972. On June 27, 1972, the subcommittee, without objection, recommended passage of a securities processing bill, and the full Committee on Banking, Housing and Urban Affairs took similar action on July 25. On August 4, S. 3876 passed the Senate and was sent to the House of Representatives. Unfortunately, however, by the time the House of Representatives passed a similar bill, insufficient time remained in which to work out the differences between the two versions before the session ended.

S. 2058, like its predecessor in the 92d Congress, embodies the five basic recommendations of the subcommittee's report. It provides a centralized authority capable of coordinating the present series of interdependent functions essential to a modernized, nationwide system for the safe and efficient handling of securities transactions.

Clearly, paperwork processing problems are among the most complex facing the industry. On the one hand, they encompass coordinating a number of very complicated functions, and on the other, they involve important and often competing geographic and economic interests. Essentially, however, there are three basic functions that must be performed in a system for the settlement of securities transactions which will meet present and future needs. These are the function of a clearing agency, the function of a depository and the function of a transfer agent. Of these three functions, those of clearing agencies and transfer agents have existed for many years, while the depository function is relatively new. A clearing agent settles transactions between member broker-dealers. Offsetting transactions between them are netted out and settlement and delivery is effected only as to the balance under the traditional balance order system. Under the more recent net by net system, balances may be carried forward and netted against future settling trades. Depositories hold large amounts of securities and effect delivery between participants solely by book entry and without the necessity for actual receipt and delivery of certificates by the participants. Transfer agents transfer certificates from the name of the seller into the name of the buyer.

At present, these three basic functions are largely uncoordinated. Each of the major exchanges and the National Association of Securities Dealers, Inc., has a separate clearing agency for transactions between their members. At present, these clearing agencies are not utilizing the same or even similar methods of clearing. In addition, each corporate issuer either acts as its own transfer agent or retains a separate organization, which may or may not be a bank, to perform that function. There has been a tendency for separate depository systems to be developed, but their interface with the other parts of clearing, settlement, and transfer process has been slow and difficult. The result has been complex procedures whereby many large securities firms must interface with a dozen or more different systems in their daily securities processing operations. Therefore, the development of depositories and clearance systems now operating and being planned, and the functions of transfer agents and other entities involved in the securities handling process must be directed in a manner which keep each system open-ended and compatible with other systems in order that they perform at maximum level and service for the entire investment community.

Finally, the integration of the present proliferation of separate securities processing systems into a centralized, nationwide entity will, over the long term, have a significant impact on the profitability of the brokerage industry. I am concerned with the rapidly rising costs of doing business in the securities industry and its adverse effects upon profits and services. Securities processing of all brokerage firms have increased substantially in recent years and other financial institutions have experienced similar securities processing cost increases. In fact one witness representing the securities industry's largest firm indicated at our hearings that the implementation of a coordinate, nationwide clearing and depository system could mean a reduction of 25 to 30 percent of his firm's back office costs. Without a reduction in securities processing costs, I am afraid that increases will surely be passed on to individual investors in the form of higher and higher commission rates.

Mr. President, processing economies, the public interest in protecting investors against loss of securities and cash, the financial and operational responsibilities of broker-dealers, the need for greater public confidence in the market system and the expectation that the markets of the future will be required to handle higher volume, all require a modernized nationwide system for consummating securities transactions. This legislation goes a long way toward providing the necessary framework for that system. I urge swift passage of this bill as it has been reported by the committee.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment in the nature of a substitute.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

THOUGHTS ON THE SUMMER RECESS

Mr. SCOTT of Pennsylvania. Mr. President, as we near the opportunity for a brief and well-earned recess, it is my hope that all my colleagues will find the opportunity for relaxation, reflection, and occasion for consultation with their constituents, their friends, and their critics, which is much to be preferred to the tendency toward omphaloskepsis in which too often we indulge ourselves in this Chamber.

I hope that when we come back, we will have gained for ourselves a reasonably true sense of proportion because, as Shakespeare says, when "time is broke," there is "no proportion kept."

I believe that we have perhaps failed to distinguished between those matters which are national and from which conclusions can be drawn, and those toward which we have exhibited a sort of cathexis or undue involvement. I hope that we can separate our emotions and our excitement; our tendencies toward overstatement or toward analogies which are absurd; and our rhetoric or "vaulting ambition which o'erleaps itself and falls exhausted on the other."

Perhaps we can come back and see that the country is safe, that the Republic endures and is strong, that there is more civic freedom than civic misdoing; that the system is working and that the country will go ahead in renewed confidence and in its ability to solve its problems, to cleanse itself, and to meet all of its responsibilities, both at home and abroad.

ORDER OF BUSINESS

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

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

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

The assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. TUNNEY). Without objection, it is so ordered.

TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, without prejudice to the distinguished Senator from Minnesota (Mr. HUMPHREY), I ask unanimous consent that there now be a period for the transaction of routine morning business.

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

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

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

PROPOSED AMENDMENTS TO THE BUDGET, 1974, FOR DEPARTMENT OF COMMERCE (S. Doc. No. 93-30)

A communication from the President of the United States, transmitting an amendment to the request for appropriations transmitted in the budget for the fiscal year 1974, in the amount of $6,140,000 for the Department of Commerce (with an accompanying paper). Referred to the Committee on Appropriations, and ordered to be printed.

REPORT ENTITLED "DATA ON ARMY, AIR FORCE, AND NAVY CONTRACTS FROM JULY 15–OCTOBER 15, 1973"

A letter from the Assistant Secretary of Defense, transmitting, pursuant to law, a secret report entitled "Data on Army, Air Force, and Navy Contracts from July 15–October 15, 1973" (with an accompanying report). Referred to the Committee on Armed Services.

REPORT OF NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

A letter from the Administrator, National Aeronautics and Space Administration, transmitting, pursuant to law, a report on amount of appropriated funds used by that Administration for the support of executive dining rooms (with an accompanying report). Referred to the Committee on Appropriations.

REPORTS OF COMPTROLLER GENERAL

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "More Needs To Be Done To Reduce the Number and Adverse Impact of Illegal Aliens in the United States," Immigration and Naturalization Service, Department of Justice, dated July 31, 1973 (with an accompanying report). Referred to the Committee on Government Operations.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Better Management Needed in Civil Agencies Over Selection of In-House or Contract Performance of Support Activities," dated July 31, 1973 (with an accompanying report). Referred to the Committee on Government Operations.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Opportunity for AEC To Improve Its Procedures for Making Sure That Containers Used for Transporting Radioactive Materials Are Safe," Atomic Energy Commission, dated July 31, 1973 (with an accompanying report). Referred to the Committee on Government Operations.

REPORT OF COMMISSION ON THE BANKRUPTCY LAWS OF THE UNITED STATES

A letter from the Executive Director, Commission on the Bankruptcy Laws of the United States, transmitting, pursuant to law, part I of its report (with an accompanying report). Referred to the Committee on the Judiciary.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. JOHNSTON, from the Committee on Banking, Housing and Urban Affairs, with an amendment:

S. 1980. A bill to amend the Defense Production Act of 1950, as amended (Rept. No. 93-364).

By Mr. HARTKE, from the Committee on Commerce, with an amendment:

S. 2188. A bill to provide for the identification of a restructured rail transportation system in the Midwest and Northeast regions of the Nation in order to meet the present and future needs of commerce, the national defense, and the environment; the service requirements of passengers, mail, shippers, States, communities, and the consuming public; and for other purposes (Rept. No. 93-365), together with supplemental and minority views.

By Mr. CANNON, from the Committee on Rules and Administration, without amendment:

S. Res. 143. A resolution establishing a limitation on expenditures by the Committee on Post Office and Civil Service for the procurement of consultants (Rept. No. 93-366).

S. Res. 148. A resolution authorizing additional expenditures by the Committee on Finance for routine purposes (Rept. No. 93-367).

S. Res. 151. A resolution authorizing the printing as a Senate document "Majority and Minority Leaders of the Senate," prepared under the direction of the Secretary of the Senate by the Senate Parliamentarian (Rept. No. 93-368).

By Mr. CANNON, from the Committee on Rules and Administration, with amendments:

S. Res. 135. A resolution authorizing supplemental expenditures by the Committee on Public Works for inquiries and investigations (Rept. No. 93-369).

By Mr. EAGLETON, from the Committee on the District of Columbia, without amendment:

H.R. 4083. A bill to improve the laws relating to the regulation of insurance in the District of Columbia, and for other purposes (Rept. No. 93-370).

H.R. 6713. A bill to amend the District of Columbia Election Act regarding the times of filing certain petitions regulating the primary election for Delegate from the District of Columbia, and for other purposes (Rept. No. 93-371).

By Mr. EAGLETON, from the Committee on the District of Columbia, with amendments:

H.R. 8250. A bill to authorize certain programs and activities of the government of the District of Columbia, and for other purposes (Rept. No. 93-372).

By Mr. HARTKE, from the Committee on Veterans' Affairs, with amendments:

S. 275. A bill to amend title 38 of the United States Code increasing income limitations relating to payment of disability and death pension, and dependency and indemnity compensation (Rept. No. 93-373).

EXECUTIVE REPORTS OF COMMITTEES

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

By Mr. CURTIS, from the Committee on Agriculture and Forestry:

Frank B. Elliott, of Virginia, to be Administrator of the Farmers Home Administration.

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

Mr. CANNON. Mr. President, as in executive session, from the Committee on Armed Services, I report favorably the nomination of Maj. Gen. William Edward Potts, U.S. Army, to be lieutenant general; the reappointment of Lawrence J. Lincoln on the active list of Regular Army from temporary disability retired list for 1 day to be major general, Regular Army, and lieutenant general, Army of the United States and place him on the retired list in the grade of lieutenant general; Vice Adm. E. Edwin Bell, U.S. Navy, for appointment to grade of vice admiral, when retired and Brig. Gen. Harold R. Vague, for promotion in the Air Force to the grade of major general. I ask that these names be placed on the Executive Calendar.

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

Mr. CANNON. Mr. President, in addition, there are 93 temporary appointments in the Marine Corps to the grade of lieutenant colonel; 49 temporary promotions in the Air Force Reserve to the grade of lieutenant colonel and colonel; and Comdr. Grace Murray Hopper, U.S. Naval Reserve retired, for permanent promotion to the grade of captain on the retired list. Since these names have already appeared in the CONGRESSIONAL RECORD and to save the expense of printing on the Executive Calendar, I ask unanimous consent that they be ordered to lie on the Secretary's desk for the information of any Senator.

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

By Mr. PASTORE, from the Joint Committee on Atomic Energy:

William A. Anders, of Virginia, to be a member of the Atomic Energy Commission.

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

By Mr. McGEE, from the Committee on Post Office and Civil Service:

John Y. Ing, of Hawaii, to be a Governor of the U.S. Postal Service.

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

By Mr. RANDOLPH, from the Committee on Public Works:

Russell E. Train, of the District of Columbia, to be Administrator of the Environmental Protection Agency.

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

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

Thomas R. Byrne, of Pennsylvania, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary to Norway; and

John R. Stevenson, of New York, Special Representative of the President for the

Law of the Sea Conference and Chief of Delegation, for the rank of Ambassador (Exec. Rept. No. 93–10).

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

By Mr. PELL, from the Committee on Foreign Relations without reservation:

Executive D, 93d Congress, first session, amendments to the International Convention on Load Lines, 1966, adopted at London on October 12, 1971, at the seventh session of the Assembly of the Intergovernmental Maritime Consultative Organization (Exec. Rept. No. 93–11);

Executive I, 93d Congress, first session, six amendments to the Convention for the Safety of Life at Sea, 1960 (Exec. Rept. No. 93–12);

Executive C, 93d Congress, first session, Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, opened for signature at Washington, London, Mexico City, and Moscow on December 29, 1972 (Exec. Rept. No. 93–13); and

Executive H, 93d Congress, first session, Convention on International Trade in Endangered Species of Wild Fauna and Flora, signed at Washington on March 3, 1973 (Exec. Rept. No. 93–14).

AMENDMENT OF SMALL BUSINESS ACT—CONFERENCE REPORT—REPORT OF A COMMITTEE (S. REPT. NO. 93–363)

Mr. CRANSTON, from the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 1672) to amend the Small Business Act, submitted a report thereon, which was ordered to be printed.

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 or passed as indicated:

By Mr. STEVENS:

S. 2301. A bill to amend the act entitled "An act to establish a contiguous fishery zone beyond the territorial sea of the United States," approved October 14, 1966, to require that the method of straight baselines shall be employed for the purpose of determining the boundaries of such fishery zone, and for other purposes. Referred to the Committee on Commerce.

By Mr. SCOTT of Pennsylvania:

S. 2302. A bill to provide for the addition of Colonial Germantown in the city of Philadelphia, State of Pennsylvania to Independence National Historical Park. Referred to the Committee on Interior and Insular Affairs.

S. 2303. A bill to authorize the establishment of the Fort Mifflin National Historic Site in the State of Pennsylvania, and for other purposes. Refererd to the Committee on Interior and Insular Affairs.

By Mr. DOLE:

S. 2304. A bill to provide for mobile home-State offices for Senators. Referred to the Committee on Public Works.

By Mr. MCCLURE:

S. 2305. A bill to amend the Natural Gas Act to extend its application to the direct sale of natural gas in interstate commerce, and to provide that provisions of the act shall not apply to certain sales in interstate commerce. Referred to the Committee on Commerce.

By Mr. MUSKIE:

S. 2306. A bill for the relief of Penelope C. Bitsakou. Referred to the Committee on the Judiciary.

By Mr. HUMPHREY:

S. 2307. A bill for the relief of Mr. Afhok Gupta. Referred to the Committee on the Judiciary.

By Mr. MONDALE:

S. 2308. A bill to amend the Social Security Act to provide for judicial review by providers and others of actions undertaken pursuant to titles XVIII and XIX of such act, and for other purposes. Referred to the Committee on Finance.

By Mr. SAXBE (for himself and Mr. TAFT):

S. 2309. A bill to change the name of the Lockbourne Air Force Base, Ohio, to the Eddie Rickenbacker Air Force Base. Referred to the Committee and Armed Services.

By Mr. LONG (for himself and Mr. JOHNSTON):

S. 2310. A bill to amend the act of October 27, 1965, to change the procedure prescribed for local interests for making local contributions for the cost of the work and to amend the responsibility for operation and maintenance of the navigation structures required for the project for hurricane-flood protection on Lake Ponchartrain, La. Referred to the Committee on Public Works.

By Mr. BENNETT:

S. 2311. A bill to amend the program of grant to States for aid to families with dependent children; and

S. 2312. A bill to amend the Social Security Act to improve the program of payments for Old-Age, Survivors, and Disability Insurance. Referred to the Committee on Finance.

By Mr. PASTORE:

S. 2313. A bill for the relief of Gaetano Tindaro Russo and his wife, Carmela Torre de Russo. Referred to the Committee on the Judiciary.

By Mr. EASTLAND:

S. 2314. A bill for the relief of Jiri Emanuel Huebner. Referred to the Committee on the Judiciary.

By Mr. CANNON:

S. 2315. A bill relating to the compensation of employees of Senate committees. Referred to the Committee on Post Office and Civil Service.

By Mr. PASTORE:

S. 2316. A bill to authorize the disposal of copper from the national stockpile and the supplemental stockpile. Referred to the Committee on Armed Services.

By Mr. HARTKE:

S. 2317. A bill to provide for a study of the feasibility and desirability of establishing a proposed Ohio River National Parkway in the State of Indiana, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

By Mr. ERVIN (for himself, Mr. ABOUREZK, Mr. BAKER, Mr. BAYH, Mr. BEALL, Mr. BIBLE, Mr. CANNON, Mr. CASE, Mr. CHURCH, Mr. CRANSTON, Mr. EAGLETON, Mr. FULBRIGHT, Mr. GRAVEL, Mr. HART Mr. HASKELL, Mr. HATFIELD, Mr. HUGHES, Mr. HUMPHREY, Mr. INOUYE, Mr. JAVITS, Mr. KENNEDY, Mr. MANSFIELD, Mr. MCGEE,, Mr. MOSS, Mr. PELL, Mr. PERCY, Mr. RANDOLPH, Mr. RIBICOFF, Mr. ROTH, Mr. STAFFORD, Mr. STEVENSON, Mr. TUNNEY, Mr. WEICKER, and Mr. WILLIAMS):

S. 2318. A bill to enforce the first amendment and fourth amendment to the Constitution, and the constitutional right of privacy by prohibiting any civil or military officer of the United States or the militia of any State from using the Armed Forces of the United States or the militia of any State to exercise surveillance of civilians or to execute the civil laws, and for other purposes. Referred to the Committee on the Judiciary.

By Mr. DOMINICK:

S. 2319. A bill to amend the Wild and Scenic Rivers Act by designating segments of certain rivers in the State of Colorado for study as potential components of the National Wild and Scenic Rivers Systems. Referred to the Committee on Interior and Insular Affairs.

By Mr. GRAVEL:

S. 2320. A bill to amend the Davis-Bacon Act to provide that reports required under that act be public information, and for other purposes. Referred to the Committee on Labor and Public Welfare.

By Mr. CRANSTON:

S. 2321. A bill to amend the National Security Act of 1947 to limit to 8 years the time any person may serve as the Director of the Central Intelligence Agency, and for other purposes. Referred to the Committee on Armed Services.

By Mr. PROXMIRE:

S.J. Res. 143. Joint resolution to provide for a temporary extension of the authority of the Secretary of Housing and Urban Development with respect to the insurance of loans and mortgages, and for other purposes. Referred to the Committee on Banking, Housing and Urban Affairs.

By Mr. SPARKMAN:

S.J. Res. 144. Joint resolution to provide for a temporary extension of the authority of the Secretary of Housing and Urban Development with respect to the insurance of loans and mortgages, and for other purposes. Considered and passed.

(The joint resolution is printed in full in the RECORD where discussion was had relating to same, and appears at a later point in the RECORD.)

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. STEVENS:

S. 2301. A bill to amend the act entitled "An act to establish a contiguous fishery zone beyond the territorial sea of the United States," approved October 14, 1966, to require that the method of straight baselines shall be employed for the purpose of determining the boundaries of such fishery zone, and for other purposes. Referred to the Committee on Commerce.

Mr. STEVENS. Mr. President, the bill which I am introducing today would change the present method used for determining the inward boundary of the 3-mile territorial sea. In most instances, the low water line along the coast, the straight baseline method would be employed. Thus, except where the 24-mile closing rule applies, the inward boundary of the territorial sea would be computed by drawing a straight line between the two headlands of a bay or other indentation in the coastline. In the case of a bay which is more than 24 miles wide, the inward boundary would be determined by drawing a line across the width of the bay at the point where it exceeds 24 miles. Where there is a fringe of islands along the coast, the inward boundary would be computed by drawing a straight line between the islands. Any areas enclosed within the line would be designated as part of the inland waters of the United States. Since the inward boundary of the territorial sea would be drawn further from shore along certain stretches of the coastline of my State of Alaska, the use of the straight baseline method would significantly widen the marine areas under the jurisdiction

of both Alaska and the United States in these coastal regions.

This bill will protect American fisheries from the depredations of foreign fishermen. Such protection is necessary for two reasons. First, foreign fishing activity off the coasts of the United States has seriously threatened our marine resources. American fishermen are required to adhere to stringent laws and regulations respecting the time, place, and manner of fishing activities. However, foreign fishermen are subject to fewer restrictions. As a result, the salmon runs in my State have often been threatened by foreign nationals using harvesting techniques which are forbidden to our own fishermen.

Foreign fishing activity only a few miles off the coasts of the United States has also posed a severe economic threat to American commercial fishermen. Partly as a result of this activity, the United States ranks well down among the world's fishing nations, a poor sixth, behind Japan, Peru, Communist China, the U.S.S.R., and Norway, in spite of our advanced technology in other areas and abundant natural resources. The economic consequences of foreign fishing are felt throughout the United States. However, one area in which the deleterious effects are felt most heavily is in Alaska, where fishing is the second greatest revenue producing industry and is the industry employing the largest number of people. Alaskans look to the sea often as their only source of income. Additionally, many Alaskans depend on sea food for a large part of their diet.

Mr. President, this legislation is an attempt to deal with a problem that has been vexing Alaska for some time. An interdisciplinary task force published a series of charts provisionally delimiting the boundaries of the United States. These used the arcs of circles method rather than a straight baseline method or a combination of the two based upon historical precedent. These charts have caused serious problems in Alaska. They have created international pockets of water in Chatham and Shelikof Straits.

On May 15, 1972, the Senate Commerce Committee held hearings in Juneau, Alaska, on these provisional territorial charts. They are reprinted and available as serial No. 92–69. A number of witnesses, experts on Alaska geography, history, and international law, testified on all aspects of the charts, including the desirability of straight baselines.

This legislation is identical to S. 872, which I introduced in the 92d Congress. It is also identical to H.R. 2283, the subject of hearings last month in the House Merchant Marine and Fisheries Committee.

This legislation has excited a great deal of interest. Dr. John Harville, the Executive Director of the Pacific Marine Fisheries Committee—an organization of the Western States, Alaska, California, Idaho, Oregon, and Washington—has spoken to my staff on this legislation indicating the importance of it.

Governor Egan of Alaska has also endorsed the bill. I ask unanimous consent to print in the RECORD at this point the bill itself and the telegram I received from Governor Egan.

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

S. 2301

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 2 of the Act entitled "An Act to establish a contiguous fishery zone beyond the territorial sea of the United States", approved October 14, 1966 (16 U.S.C. 1092), is amended by inserting "(a)" immediately after "SEC. 2." and by adding at the end thereof the following new subsection:

"(b) For the purposes of this section, the baseline for measuring the breadth of the territorial sea shall be established in accordance with the provisions of the Convention on the Territorial Sea and the Contiguous Zone which came into force on September 10, 1964, and, where applicable, the method of straight baselines shall be employed in drawing the baseline pursuant to article 4 of such convention."

SEC. 2. Such Act of October 14, 1966, is amended by adding at the end thereof the following new sections:

"SEC. 5. Within the two-year period beginning on the date of enactment of this section, the baseline for the purpose of charting the contiguous fishery zone, described in subsection (b) of section 2 of this Act, shall be marked on large-scale charts officially recognized by the United States.

"SEC. 6. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act."

JUNEAU, ALASKA,
June 13, 1973.

HON. TED STEVENS
U.S. Senate,
Washington, D.C.:

Urge your active support H.R. 2283, a bill to amend the act to establish a contiguous fisheries zone beyond the territorial sea of the U.S. (16 VSC 1092) point to point method of drawing straight base lines from which breadth of territorial sea is measured considered highly advantageous to Alaska and U.S. This provision traditionally supported by Alaska legislature and administration. Understand H.R. 2283 in committee on merchant marine and fisheries with hearings scheduled this week by subcommittee on fisheries and wildlife conservation.

WILLIAM A. EGAN, *Governor.*

By Mr. SCOTT of Pennsylvania:

S. 2302. A bill to provide for the addition of colonial Germantown in the city of Philadelphia, State of Pennsylvania to Independence National Historical Park. Referred to the Committee on Interior and Insular Affairs.

Mr. SCOTT of Pennsylvania. Mr. President, I am today introducing a bill to provide for the addition of colonial Germantown in Philadelphia to the Independence National Historical Park.

The Colonial Germantown Historical District has been designated a registered national historical landmark under the provisions of the Historic Sites Act of 1935. There is only one district in America which carries this distinction.

The property involved is Market Square in the colonial section of Germantown in Philadelphia. As a resident of nearby Chestnut Hill, I can attest to the value and historic significance of the property.

I hope that my bill will be considered favorably.

By Mr. SCOTT of Pennsylvania:

S. 2303. A bill to authorize the establishment of the Fort Mifflin National Historic Site in the State of Pennsylvania, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

Mr. SCOTT of Pennsylvania. Mr. President, I am pleased to introduce legislation to establish the Fort Mifflin National Historic Site, thus making it a part of the National Park System.

Old Fort Mifflin was an active military installation from 1772, when construction began under the British, until the late 1950's. It has served this Nation in every military involvement from the Revolutionary War up to, and including, the Korean conflict. During the Revolutionary War, the Old Fort held off the British for nearly 2 months even after sustaining heavy damage.

In recent years, the Shackamaxon Society in Philadelphia has had operational jurisdiction over the Old Fort in addition to coordinating restoration attempts. The job, however, is expensive and the Society needs assistance in order to utilize the Old Fort for bicentennial purposes in 1976.

An identical bill is being introduced in the House of Representatives by Representative BILL BARRETT. With his effort and that of the entire Pennsylvania delegation, Old Fort Mifflin can assume its rightful place in history.

By Mr. McCLURE:

S. 2305. A bill to amend the Natural Gas Act to extend its application to the direct sale of natural gas in interstate commerce, and to provide that provisions of the act shall not apply to certain sales in interstate commerce. Referred to the Committee on Commerce.

Mr. McCLURE. Mr. President, any objective analysis of the present energy crisis must conclude that one basic cause was the 1954 Supreme Court decision concerning price regulation of natural gas. In this decision, concerning Phillips Petroleum Co. against Wisconsin, the Court held that the Federal Power Commission had authority to regulate the prices at which natural gas field producers sold their production to interstate pipeline companies. The Warren Court came to this conclusion despite the explicit intent of Congress, expressed by the Natural Gas Act of 1938 in these terms:

[15 U.S.C. 717(b)] The provisions of this chapter . . . shall not apply . . . to the production or gathering of natural gas.

I will not go into the sorry record of the attempts by the Federal Power Commission to regulate wellhead prices. Whether based on some unwieldy costs of service procedures or on setting area-wide ceiling prices, involving distinctions between old gas and new gas, the results speak for themselves. The residential natural gas consumer has not been helped by FPC efforts to hold down prices. These efforts have led directly to the present shortage of natural gas and indirectly to shortages of fuel oil, gasoline, and technology for removing sulphur from coal and sulphur dioxide from powerplant exhaust gases.

The time has come to reverse this decline in natural gas reserves. And, the first step in this process is to remove the authority of the Federal Power Commission to regulate wellhead prices for new supplies of natural gas. This will accomplish these vital objectives.

First, it will stimulate exploration and development of new gas fields, plus increase the economic feasibility of existing marginal wells. Second, it will conserve new supplies of natural gas, by discouraging wasteful uses—uses which were created by the cheapness of price-controlled gas. And, third, it will stimulate the search for new sources of clean fuel, particularly from coal, and new techniques for using existing reserves.

President Nixon recently proposed the discontinuance of price regulation at the wellhead of gas from new wells, gas newly-dedicated to interstate markets, and the continuing production of natural gas from expired contracts. I differ, however, in several aspects with the President's proposed bill, and am thereby offering this alternative, the Natural Gas Conservation Act of 1973.

First, my proposal exempts only gas from new wells, not rededicated supplies. This will, I believe, stimulate necessary exploration and development without imposing additional economic burden on the consumer.

Second, my proposal would leave jurisdiction for a 3-year period over price ceilings with the Federal Power Commission, rather than the Secretary of the Interior. I believe that this 3-year transition is necessary to protect against possible exorbitant price increases of a temporary nature. After 3 years, supply and demand should maintain competitive levels without this ceiling-setting authority.

Mr. President, to summarize my objection to the present system of regulation and to lend further argument for my proposal, I quote from an article entitled, "The Natural Gas Shortage and the Regulation of Natural Gas Producers," written by Stephen Breyer, professor of law at Harvard Law School, and Paul W. MacAvoy, professor of economics at MIT. This article, printed in the Harvard Law Review in April 1973, is adapted from a forthcoming book on energy regulation by the authors, funded and soon to be published by the Brookings Institution:

> In sum, the arguments against the present system of gas field market regulation are compelling. Price control is not needed to check monopoly power, and efforts to control rents require impossible calculations of producer costs and lead to arbitrary allocation of cheap gas supplies. In practice, regulation has led to a virtually inevitable gas shortage. It has brought about a variety of economically wasteful results, and it has ended up by hurting those whom it was designed to benefit. Thus, less, not more, regulation is required.

I recommend the complete article to my colleagues as an excellent analysis of this complex subject, and hope that the authors will have the opportunity to testify before the appropriate committees on the proposed legislation.

Conservation of natural gas demands that Federal Power Commission price controls on wellhead production of new supplies be removed. Despite statements to the contrary, the residential consumer will not be hit with outrageous price increases, since higher-priced new gas will be rolled-in with lower-priced existing supplies. In that manner, a further deterioration of the existing natural gas supply situation—with its attendant harmful effects on other forms of fuel and energy—can be reversed and future consumers of this clean, valuable energy source will be protected. I urge immediate attention to this legislation, in light of the continuing energy crisis in our Nation today.

By Mr. MONDALE:

S. 2308. A bill to amend the Social Security Act to provide for judicial review by providers and others of actions undertaken pursuant to titles XVIII and XIX of such act, and for other purposes. Referred to the Committee on Finance.

ADMINISTRATIVE AND JUDICIAL REVIEW FOR HEALTH CARE PROVIDERS

Mr. MONDALE. Mr. President, under existing law, hospitals and nursing homes providing health care under the medicare and medicaid programs have only a limited right to obtain judicial review of decisions by the Secretary of Health, Education, and Welfare which affect them.

H.R. 1, passed by the Congress last year, established a Provider Reimbursement Review Board to provide administrative review when a controversy arises over the amount or reimbursement a hospital or nursing home is entitled to for services provided.

However, the scope of judicial review of HEW reimbursement decisions was left unsettled. HEW argues that judicial review is available only when the Secretary of Health, Education, and Welfare reverses or modifies a Board decision favorable to a nursing home or hospital.

On a related matter, HEW has taken the position that it does not have to abide by the requirements in the Administrative Procedure Act for notice and opportunity to comment on the rules it issues.

I believe that no person or group or institution should be denied the right to judicial review and the procedural safeguards that others are entitled to.

The legislation I am introducing today, therefore, would guarantee judicial review of all final decisions of the new Provider Reimbursement Review Board when more than $10,000 is involved, and would make clear that the requirements of notice and opportunity to comment contained in the APA apply fully to HEW rulemaking.

This measure is identical to that introduced in the House by the distinguished Congressman from New York, Mr. CAREY.

I do not pretend that this bill is the definitive answer to these problems. I do believe, however, that this matter should be carefully considered in hearings before the Finance Committee. We should then take action based on those hearings to arrive at a careful and well-considered solution.

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

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

S. 2308

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 1878 of the Social Security Act is amended to read as follows:

"PROVIDER REIMBURSEMENT REVIEW BOARD

"SEC. 1878. Any provider of services which has filed a required cost report within the time specified in regulations may obtain a hearing with respect to such cost report by a Provider Reimbursement Review Board (hereinafter referred to as the 'Board') which shall be established by the Secretary in accordance with subsection (h), if—

"(1) such provider—

"(A) is dissatisfied with a final determination of the organization serving as its fiscal intermediary pursuant to section 1816 as to the amount of total program reimbursement due the provider,

"(B) has not received such final determination from such intermediary on a timely basis after filing such report, where such report compiled with the rules and regulations of the Secretary relating to such report, or

"(C) has not received such final determination on a timely basis after filing a supplementary cost report, where such cost report did not so comply and such supplementary cost report did so comply,

"(2) the amount in controversy is $10,000 or more, and

"(3) such provider files a request for a hearing within one hundred and eighty days after notice of the intermediary's final determination under paragraph (1)(A) or with respect to appeals pursuant to paragraph (1)(B) or (C), within one hundred and eighty days after notice of such determination would have been received if such determination had been made on a timely basis.

"(b) The provisions of subsection (a) shall apply to any group of providers of services if each provider of services in such group would, upon the filing of an appeal (but without regard to the $10,00 limitation), be entitled to such a hearing, but only if the matters in controversy involve a common question of fact or interpretation or validity of any law or regulation and the amount in controversy is, in the aggregate, $10,000 or more.

"(c) At such hearing, the provider of services shall have the right to be represented by counsel, to introduce evidence, and to examine and cross-examine witnesses. Evidence may be received at any such hearing even though inadmissable under rules of evidence applicable to court procedure.

"(d) A decision by the Board shall be based upon the record made at such hearing, which shall include the evidence considered by the intermediary and such other evidence as may be obtained or received by the Board, and shall be supported by substantial evidence when the record is viewed as a whole. The Board shall have the power to affirm, modify, or reverse a final determination of the fiscal intermediary with respect to a cost report and to make any other revisions on matters covered by such cost report (including revisions adverse to the provider of services) even though such matters were not considered by the intermediary in making such final determination.

"(e) The Board shall have full power and authority to make rules and establish procedures, not inconsistent with the provisions of this title or regulations of the Secretary, which are necessary or appropriate to carry out the provisions of this section. In the course of any hearing the Board may administer oaths and affirmations. The provisions of subsections (d), (e), and (f) of section 205 with respect to subpenas shall apply to the

Board to the same extent as they apply to the Secretary with respect to title II.

"(f) Providers and the Secretary shall have the right to obtain judicial review of any final decision of the Board by a civil action commenced within sixty days of the date notice of any such decision is received. Such actions shall be brought in the district court of the United States wherever the provider is located and shall be tried pursuant to the applicable provision of chapter 7 of title 5 of the United States Code, notwithstanding any other provisions of this Act.

"(g) The finding of a fiscal intermediary that no payment may be made under this title for any expenses incurred for items or services furnished to an individual because such items or services are listed in section 1862 shall not be reviewed by the Board, or by any court pursuant to an action brought under subsection (f).

"(h) The Board shall be composed of five members appointed by the Secretary without regard to the provisions of title 5, United States Code, governing appointments in the competitive services. Two of such members shall be representative of providers of services. All of the members of the Board shall be persons knowledgeable in the field of cost reimbursement, and at least one of them shall be a certified public accountant. Members of the Board shall be entitled to receive compensation at rates fixed by the Secretary, but not exceeding the rate specified (at the time the service involved is rendered by such members) for grade GS-18 in section 5332 of title 5, United States Code. The term of office shall be three years, except that the Secretary shall appoint the initial members of the Board for shorter terms to the extent necessary to permit staggered terms of office.

"(i) The Board is authorized to engage such technical assistance as may be required to carry out its functions, and the Secretary shall, in addition, make available to the Board such secretarial, clerical, and other assistance as the Board may require to carry out its functions."

(b) The amendment made by this subsection (a) shall apply with respect to cost reports of providers of services, as defined in title XVIII of the Social Security Act, for all accountng periods concerning which a final determination of the Secretary of Health, Education, and Welfare or a fiscal intermediary has not been made, and accounting periods for which such final determination have been made and reimbursement adjustments thereafter ordered by the Secretary or a fiscal intermediary for any reason.

SEC. 2. Section 1871 of the Social Security Act is amended by adding after the last sentence thereof, the following new sentence: "The exercise of the rulemaking authority conferred upon the Secretary or his agents with respect to such programs by this section, or any other provision of law, shall be done in accordance with the provisions of section 553 (b), (c), (d), and (e) of title 5, United States Code, and shall be subject to judicial review in accordance with the provisions of sections 702 through 706 of such title."

SEC. 3. Title XIX of the Social Security Act is amended by adding at the end thereof the following new section:

"RULEMAKING; JUDICIAL REVIEW

"SEC. 1911. The exercise of any rulemaking authority conferred upon the Secretary or his agents by this title, or any other provision of law, with respect to any program or plan provided for by this title, shall be done in accordance with the provisions of section 553 (b), (c), (d), and (e) of title 5, United States Code, and shall be subject to judicial review in accordance with the provisions of sections 702 through 706 of such title."

SEC. 4. This Act shall take effect upon the date of its enactment.

By Mr. CANNON:

S. 2315. A bill relating to the compensation of employees of Senate committees. Referred to the Committee on Post Office and Civil Service.

MINIMUM SALARY RATES—STANDING COMMITTEES

Mr. CANNON. Mr. President, section 105(e) of the Legislative Branch Appropriations Act, 1968, as amended and as modified by orders of the President pro tempore of the Senate, provides at present that professional staff members of standing committees of the Senate may be paid gross annual compensation ranging from a minimum of $18,496 to varying maximums, and that chief clerks, assistant chief clerks, and clerical assistants may be paid gross annual compensation ranging from minimums of $20,400, $14,144, and $8,160 to varying maximums.

No similar minimum limits the discretion of a Senator in fixing the salaries of members of his personal staff, or of chairmen in fixing the salaries of members of subcommittee or joint committee staffs, or the discretion of officers of the Senate in fixing the salaries of their staffs. In all these cases the salaries may be set on a "not to exceed" basis.

The existence of these minimum limits for standing committees means on occasion that a beginning professional or clerical staff member must be paid more than a comparably qualified beginner would be paid on a Senator's personal staff, a situation which is not only unfair but wasteful of public funds.

As chairman of a standing committee I have come to the conclusion that these minimum limits should be removed from the law, and I am therefore introducing a bill with that objective.

By Mr. PASTORE:

S. 2316. A bill to authorize the disposal of copper from the national stockpile and the supplemental stockpile. Referred to the Committee on Armed Services.

Mr. PASTORE. Mr. President, I introduce a bill to authorize the Administrator of General Services to dispose of 251,600 short tons of copper from the national defense stockpile for use by copper fabricators in Rhode Island and throughout the United States

The shortage of copper has reached crisis proportions. Jobs in the industry are on the line. Plants in Rhode Island are facing massive layoffs.

Mr. President, I ask unanimous consent that several telegrams and letters which I have received from copper fabricators in Rhode Island be printed in the RECORD as a part of my remarks. They were sent to me by Miller Electric Co. of Woonsocket, Carol Cable Co. of Pawtucket, ITT Royal Electric, the New England Union Co., and Victor Electric Wire and Cable Corp.

Each telegram and letter from the management of these companies underscores the urgency of this problem. These companies will be forced to reduce production and lay off employees unless some action is taken immediately to increase the domestic supply of copper.

The situation is particularly serious, Mr. President, in Rhode Island where we received a staggering, stunning blow last April when the Defense Department, with reference to basic closings, eliminated with one stroke 5,000 civilian jobs and approximately 17,000 military personnel as well.

The indirect repercussions of this Defense Department move are unknown, but the loss of civilian jobs may approach 19,000 by the time this plan is executed. The loss of payroll in Rhode Island will amount to approximately a quarter of a billion dollars a year and we are already confronted with an existing unemployment rate of close to 6 percent.

Under the circumstances, we simply cannot afford to put more skilled labor out in the street. There are two steps the Federal Government can take to increase the supply of copper for domestic manufacturers:

First—the Government can ban the exportation of copper scrap at exorbitant prices to foreign competitiors. I have asked the Secretary of Commerce, Mr. DENT, to do this and I trust he will take immediate action.

Second—we can release copper lead in the national Defense stockpile to stabilize the domestic copper supply and the price of copper.

This is the reason why I have introduced this legislation today after conferring with Senator SYMINGTON, the acting chairman of the Senate Armed Services Committee, to which the bill will be referred.

I know Senator SYMINGTON is aware of how serious the problem is. He was gracious enough to chair hearings of the committee last month to investigate the base closings in Rhode Island and he heard testimony with respect to the impact of these closings on our economy. I hope that Senator SYMINGTON and the Armed Services Committee will hold hearings on this bill and report it favorably to the Senate as expeditiously as possible.

The jobs of copper fabricators in Rhode Island and throughout the country are at stake. We simply cannot afford to permit this industry to be destroyed.

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

MILLER ELECTRIC CO.,
Woonsocket, R.I., July 20, 1973.

Senator JOHN O. PASTORE,
Capitol Hill, D.C.:

The present copper situation in our industry is beginning to affect our business and, consequently, our employees and the citizens of Rhode Island. The severe shortage of copper raw material will force a reduction in our operation in the next month or two. This situation has been caused by great demands for copper the world over and by other developments throughout the world which have reduced copper production. We urge you to press the Commerce Department to release copper at once from the Government stockpile. We also request the immediate stoppage of all export copper, copper scrap, and copper concentrates to higher priced world markets. Only your immediate action will prevent unnecessary reduction in production of copper products in our factory.

MANFRED WEIL,
President.

ITT ROYAL ELECTRIC DIVISION,
Pawtucket, R.I., July 18, 1973.

SENATOR JOHN O. PASTORE: Urgently request that copper be separated from bill H.R. 7153 and that part of Government stockpile be released to fabricators. It is further requested that exports of copper concentrate, copper shapes, and copper scrap be temporarily banned.

This action is necessary to avert a dire shortage of copper in U.S. This shortage is caused by two conditions. First, U.S. and world consumption is up 19 percent in first four months of this year. Second, the world price of copper of $0.95 to $1.00 per pound compared to U.S. producer price of $0.60 is resulting in export of copper to European and Canadian markets.

Effect on our Rhode Island operation, if no action is immediately taken, will be a reduction of operations in September with accompanying layoff of personnel.

THOMAS P. HOWLEY,
President.

NEW ENGLAND UNION CO., INC.,
West Warwick, R.I., July 16, 1973.

Senator JOHN O. PASTORE,
Senate of the United States,
Washington, D.C.

DEAR SENATOR PASTORE: I think that it would be advisable to bring to your attention as it was brought to ours by the Non-Ferrous Founders Society and the manufacturers of bronze ingot, that due to the price freeze scrap dealers are either holding on to their scrap or exporting it at higher prices at an alarming rate.

We are quite dependent upon brass and bronze ingot manufacturers to supply our foundry and machine shop. The basic material for the manufacturing of our complete line is bronze ingot.

Should our bronze ingot suppliers not be able to make deliveries to us, our foundry and machine shop will have to shut down. This of course, will cause us to lose much business and will force us to shut the shop and lay off all of our employees.

Your interest in looking into this matter will be greatly appreciated.

Very truly yours,

FRANCIS T. PETIT,
President.

VICTOR ELECTRIC WIRE AND CABLE CORP.
West Warwick, R.I., July 18, 1973.

Senator PASTORE,
New Senate Office Building,
Washington, D.C.:

We are certain that you must be aware of the critical copper situation, which drastically affects many of our Rhode Island industries including Victor Electric, who is a substantial user of copper. Victor Electric is, as you know, a large employer in the State of Rhode Island in the copper and wire industry, and have also added a plant in a distressed labor area in Westerly, Rhode Island. We are now expanding our facilities in Westerly to employ approximately an additional 150 people aside from the 500 presently employed in our west Warwick facility and, unless there is some Government relief on the availability of copper, Victor Electric and the industry will be faced with severe cutbacks in employment.

I would, therefore, seriously recommend two approaches to alleviate or aid the industry:

1. An immediate embargo; similar to what the Government has done to the soybean industry; to prevent the exportation of domestic scrap and refined copper at exorbitant prices to overseas markets; at the price level all domestic manufacturers cannot afford to purchase it.

2. The immediate release of copper from Government strategic stockpile to help alleviate the present critical shortage.

We would appreciate hearing from you at your earliest convenience as to what action can be taken and, if necessary, we can supply you with more detailed information concerning this critical shortage.

Very truly yours,

ABRAHAM R. GROBER,
President.

By Mr. HARTKE:

S. 2317. A bill to provide for a study of the feasibility and desirability of establishing a proposed Ohio River National Parkway in the State of Indiana, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

OHIO RIVER NATIONAL PARKWAY

Mr. HARTKE. Mr. President, today I introduce legislation that would lead to the creation of recreational facilities for millions of people in the Midwest portion of our country. This bill provides for a study of the feasibility and desirability of establishing an Ohio River National Parkway running along the northern side of the Ohio River between Aurora and Troy, Ind.

This legislation has been introduced in previous years by myself and by my distinguished colleague from Indiana, Representative LEE H. HAMILTON. On those occasions, during the 89th, 90th, and 92d Congresses, cutbacks were being made in highway construction funds due to the Vietnam war. With our withdrawal from that tragic endeavor, however, these funds are once again available, and the parkway proposed by this bill deserves renewed consideration.

Currently, there are five national parkways, three of which are in the Washington area. There have been no additions to this group since 1950. The portion of the Ohio River that would be banked by this parkway is one of the most scenic of the river's entire length. The proposed plan would bring these beautiful sights within the reach of 10 million people from Indiana, Kentucky, Ohio, Tennessee, and Missouri. In addition to the esthetic benefits derived from the parkway's location, it would also serve as a connecting link to the Lincoln Trail in Spencer County and, possibly, with the Lincoln Memorial National Parkway.

The Ohio River has played a significant role in the expansion of our country, and the trail history winding along its shores should be made available to more people than the present highway system permits. The bill I offer today will not only enable area residents to enjoy the historical and recreational sites this section of the country has to offer, but it will also make it readily accessible to visitors coming from other parts of the Nation.

Mr. President, I hope that my colleagues will give this proposal the consideration it merits, and I ask unanimous consent that the text of the bill be printed at this point in the RECORD.

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

S. 2317

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior is authorized and directed in consultation with the Secretary of Transportation, to conduct a study of the route of a proposed national parkway beginning at a point at or in close proximity to Aurora, Indiana, and extending generally along the northern banks of the Ohio River to a point ending at, or in close proximity to Mount Vernon, Indiana. Based on the results of such study, the Secretary of the Interior shall submit a report, as to the feasibility and desirability of establishing a proposed Ohio River National Parkway generally along the route referred to herein, to the Congress within two years from the effective date of this Act. Such report shall contain full information relative to the cost of constructing such a parkway, and proposed legislation to carry out any recommendation that such a parkway be authorized.

SEC. 2. There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

By Mr. ERVIN (for himself, Mr. ABOUREZK, Mr. BAKER, Mr. BAYH, Mr. BEALL, Mr. BIBLE, Mr. CANNON, Mr. CASE, Mr. CHURCH, Mr. CRANSTON, Mr. EAGLETON, Mr. FULBRIGHT, Mr. GRAVEL, Mr. HART, Mr. HASKELL, Mr. HATFIELD, Mr. HUGHES, Mr. HUMPHREY, Mr. INOUYE, Mr. JAVITS, Mr. KENNEDY, Mr. MANSFIELD, Mr. MCGEE, Mr. MOSS, Mr. PELL, Mr. PERCY, Mr. RANDOLPH, Mr. RIBICOFF, Mr. ROTH, Mr. STAFFORD, Mr. STEVENSON, Mr. TUNNEY, Mr. WEICKER, and Mr. WILLIAMS):

S. 2318. A bill to enforce the first amendment and fourth amendment to the Constitution, and the constitutional right of privacy by prohibiting any civil or military officer of the United States or the militia of any State from using the Armed Forces of the United States or the militia of any State to exercise surveillance of civilians or to execute the civil laws, and for other purposes. Referred to the Committee on the Judiciary.

FREEDOM FROM SURVEILLANCE ACT OF 1973

Mr. ERVIN. Mr. President, I introduce for appropriate reference a bill to protect the constitutional rights of America citizens by prohibiting the Armed Forces of the United States from collecting information or conducting surveillance upon persons unaffiliated with the Armed Forces. I am pleased to have 34 Senators as cosponsors of this bill, entitled the "Freedom from Surveillance Act of 1973."

The Subcommittee on Constitutional Rights began its investigation of Army surveillance almost three and a half years ago. Extensive hearings were conducted in 1971. The public outcry which ensued forced the military to discontinue its domestic intelligence activities. Surveillance was supposedly ended, and the fruits of prior surveillance destroyed.

The American public, however, was left in a precarious position. Only the regulations of the Defense Department prevent a return to the domestic surveillance of the recent past. These regulations, of course, are subject to change on the order of the Secretary and, furthermore, are enforced by the Secretary. They are clearly not the sort of assurance

the public deserves to be given that military surveillance will not be resumed in the future.

During our hearings in 1971, the Assistant Attorney General Rehnquist tried to assure the subcommittee and the American people that reliance in the self-restraint of the Executive was sufficient protection of the constitutional rights of all citizens.

With the recent revelations relating to special domestic intelligence programs initiated by the executive branch, the possibility that military agents will be called upon to collect intelligence looms larger than ever. If it was ever true, certainly now we know that the good faith of officials of the executive branch is not protection enough. Congress must act now to remove temptation from any governmental official, however well intentioned, to conduct military surveillance.

I introduced late in the second session of the 92d Congress a similar bill, S. 3750. That measure was introduced too late to receive substantial congressional attention. I am now introducing a revised and expanded version of that bill, which basically does four things:

First. It prohibits the use of military personnel to "conduct investigations into, maintain surveillance over, or record and maintain information regarding, the beliefs, associations, or political activities of any person not a member of the Armed Forces, or over civilian organizations." Three limited exceptions to this general prohibition are made. First of all, it permits military authorities to collect and maintain information regarding civilians in order to fulfill the role assigned to them by the Constitution and sections 331, 332, and 333 of title 10, United States Code. Such intelligence gathering is permissible only after the President has publicly and formally assigned military forces to suppress domestic violence under section 334 of title 10. Second, it permits military authorities to investigate criminal conduct committed on a military installation, or involving the destruction, damage, theft, unlawful seizure, or trespass of the property of the United States. Third, it permits the Armed Forces to gather information on civilians to determine their suitability for employment or retention in employment by the Armed Forces.

Second. It provides a criminal sanction for any civil or military officer who violates the general prohibition of the act.

Third. It provides for civil remedies for anyone who is aggrieved by a violation, or threatened by a violation, of the act to recover damages and have the illegal surveillance stopped. This section was added to last year's bill in response to the Supreme Court's decision in the case of *Tatum* v. *Laird* 408 U.S. 1 (1972). In that case, the Court held that the plaintiffs, who were subjects of surveillance, had not alleged sufficient injury to have standing before a court. This new bill grants the necessary procedural authorization for such suits.

Fourth. It amends the Posse Comitatus Act, United States Code 1385, to prohibit the use of all military personnel, and not simply members of the Army and Air Force, to enforce the civil laws. Defense Department regulations already provide such restrictions, and they should be reflected in the governing statute as well. This is also an addition to last year's bill.

Mr. President, I have chosen this date to introduce this legislation because it is also the date that the Subcommittee on Constitutional Rights is announcing the publication of a report entitled "Military Surveillance of Civilian Politics." This report, which is the culmination of over 3½ years of subcommittee work, evidences, perhaps more than any other document, the need for this legislation. Basically, it portrays a military bureaucracy in the late 1960's, acting largely on its own initiatives, careening out of control.

More than 100,000 civilians were subjects of surveillance by military intelligence. At its height, the monitoring was carried out by more than 1,500 agents. Their reports were fed into scores of computers and data banks across the country. No meeting or demonstration was too trivial to note; no detail of one's personal life too irrelevant to record. The documents which the subcommittee examined were, indeed, alarming. Basic rights of free expression and association were ignored. The first amendment took a backseat to the military's insatiable quest for information on political dissent.

The subcommittee's report concedes that it has been unable to fix the blame for these domestic intelligence operations on any particular official or agency. It was not, in fact, the subcommittee's purpose to identify those responsible, but rather to uncover what had taken place. It did determine that high-ranking officials of the Department of Defense and Justice were regular recipients of the reports and analyses prepared in the course of the Army's operations. These officials should have known what was happening. Either they chose to ignore the surveillance or were insensitive to its dangers. In any case, they displayed an intolerable callousness toward the rights of free expression. The first amendment demands greater vigilance.

The past demonstrates that military officials cannot be left to restrain themselves. Too easily are they tempted to sacrifice precious liberties for what they might perceive as operational efficiency. I, for one, cannot assure the American people that it will never happen again. In different times and under different, perhaps more excruciating, pressures, military officials may once again be enticed to undertake this illegal and obnoxious surveillance. All that stands in their way are their own regulations. These are not only subject to change upon order or classified exceptions, but are subject to the interpretation and enforcement of the military itself. The ordinary citizen, under the Supreme Court rationale expressed in the Tatum case, would have no recourse to the courts to have such operations halted.

The country needs this legislation I am introducing today. In a nation which prizes individual rights of expression above all others, in a nation which subordinates its military establishment to civilian control, and in a nation of laws, there is no place for military surveillance of civilians. Congress has the obligation to insure that it will never happen again.

Mr. President, as I mentioned earlier, the Subcommittee on Constitutional Rights has carried on an investigation of military surveillance for the past 3½ years. While I realize that the bill prohibits the misuse of military forces, its primary purpose is to insure that basic constitutional rights of expression are not infringed upon. It is for this reason that I hope this bill is referred to the Judiciary Committee. The Subcommittee on Constitutional Rights is prepared to act expeditiously upon it.

Accompanying the bill is a section-by-section analysis which provides additional explanation of its provisions. I ask unanimous consent that this analysis be printed in the RECORD together wth the text of the bill. I also ask unanimous consent that the summary of findings and conclusion from the subcommittee report also be printed in the body of the RECORD.

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

S. 2318

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

SECTION 1. This Act may be cited as the "Freedom from Surveillance Act of 1973."

SEC. 2. (a) Chapter 67 of title 18, United States Code, is amended by adding at the end thereof the following new sections:

"§ 1386. USE OF THE ARMED FORCES FOR SURVEILLANCE PROHIBITED

"(a) Except as provided in subsection (b) of this section, whoever being a civil officer of the United States or an officer of the Armed Forces of the United States employs any part of the Armed Forces of the United States or the militia of any State to conduct investigations into, maintain surveillance over, or record or maintain information regarding, the beliefs, associations, or political activities of any person not a member of the Armed Forces of the United States, or of any civilian organization, shall be fined not more than $10,000, or imprisoned not more than 2 years, or both.

"(b) The provisions of this section shall not apply to the use of the Armed Forces of the United States or the militia of any State:

"(1) when they have been actually and publicly assigned by the President to the task of repelling invasion or suppressing rebellion, insurrection, or domestic violence pursuant to the Constitution or section 331, section 332, or section 333 of title 10 of the United States; or

"(2) to investigate criminal conduct committed on a military installation or involving the destruction, damage, theft, unlawful seizure, or trespass of the property of the United States; or

"(3) to determine the suitability for employment or for retention in employment of any individual actually seeking employment or employed by the Armed Forces of the United States or by the militia of any State, or by a defense facility; or

"(4) whenever the militia of any State is under the command or control of the chief executive of that State or any other appropriate authorities of that State.

"(c) As used in this section, the term—

"(1) 'Armed Forces of the United States' means the Army, Navy, Air Force, Marine Corps, and Coast Guard;

"(2) 'militia' has the same meaning as that

set forth in section 311 of title 10, United States Code;

"(3) 'civil officer of the United States' means any civilian employee of the United States;

"(4) 'surveillance' means any monitoring conducted by means which include but are not limited to wiretapping, electronic eavesdropping, overt and covert infiltration, overt and covert observation, and civilian informants;

"(5) 'defense facility' has the same meaning as that set forth in section 782(7) of title 50, United States Code."

(b) The analysis of chapter 67 of such title is further amended by adding at the end thereof the following new item:

"1386. USE OF ARMED FORCES OF THE UNITED STATES FOR SURVEILLANCE PROHIBITED."

SEC. 3. (a) Title 28, United States Code, is amended by adding after chapter 171 the following new chapter:

"CHAPTER 172.—ILLEGAL SURVEILLANCE

"Sec.
"2691. Civil actions generally; illegal surveillance.
"2692. Special class actions; illegal surveillance.
"2693. Venue.

"§ 2691. CIVIL ACTIONS, GENERALLY ILLEGAL SURVEILLANCE.

"(a) Whenever any person is aggrieved as a result of any act which is prohibited by section 1386 of title 18, United States Code, such a person may bring a civil action for damages irrespective of the actuality or amount of pecuniary injury suffered.

"(b) Whenever any person is threatened with injury as a result of any act which is prohibited by section 1386 of such title, such a person may bring a civil action for such equitable relief as the court determines may be appropriate irrespective of the actuality or amount of pecuniary injury threatened.

"§ 2692. CLASS ACTION; ILLEGAL SURVEILLANCE.

"Whenever any person has reason to believe that a violation of section 1386 of title 18, United States Code, has occurred or is about to occur, such person may bring a civil action on behalf of himself and others similarly situated against any civil officer of the United States or any military officer of the Armed Forces of the United States to enjoin the planning or implementation of any activity in violation of that section.

"§ 2693. VENUE.

"A person may bring a civil action under this chapter in any district court of the United States for the district in which the violation occurs, or in any district court of the United States in which such person resides or conducts business, or has his principal place of business, or in the District Court of the United States for the District of Columbia."

(b) The analysis of part VI of such title 28 is amended by adding immediately after item 171 the following new item:

"172. Illegal Surveillance ---------- 2691."

(c) Section 1343 of title 28, United States Code is amended by redesignating paragraph (4) as paragraph (5) and by inserting immediately after paragraph (3) the following new paragraph:

"(4) To recover damages or to secure equitable or other relief under chapter 172 of this title;"

SEC. 4. The civil actions provided by the amendments to title 28, United States Code, made by this Act shall apply only with respect to violations of section 1386 of title 18, United States Code, as added by this Act, arising on or after the date of enactment of this Act.

SEC. 5. (a) Section 1385 of title 18, United States Code, is amended by striking out "the Army or the Air Force" and inserting in lieu thereof the following: "the Armed Forces of the United States."

(b)(1) The section heading of section 1385 of such title is amended to read as follows:

"§ 1385. USE OF ARMED FORCES OF THE UNITED STATES AS POSSE COMITATUS."

(2) Item 1385 of the analysis of Chapter 67 is amended to read as follows:

"1385. USE OF ARMED FORCES OF THE UNITED STATES AS POSSE COMITATUS."

SECTION-BY-SECTION ANALYSIS

SECTION 1

Sec. 1 contains the title of the Act.

SECTION 2

Sec. 2 contains an amendment to Chapter 67 of Title 18, United States Code, in the form of a new section 1386. Basically, this section contains the general prohibitions against the use of military personnel to conduct surveillance over civilians, exceptions to this general prohibition, and definitions.

Sec. 2(a) provides that with limited exceptions no civil or military officer of the United States may employ a part of the Armed Forces of the United States or the militia of any state to conduct surveillance over civilians and civilian organizations. The word "part" as used here applies to both units and individuals within the Armed Forces or state militia.

All potential aspects of surveillance are prohibited: investigation, monitoring, and the maintenance of records resulting from such investigations and monitoring.

Furthermore, orders to carry out such surveillance need not originate at high command levels. Any civil or military officer, regardless of his rank or position, who orders such surveillance, whether or not by written order, is culpable under the bill. He is subject to imprisonment up to two years, or a $10,000 fine, or both.

Sec. 2(b) specifies the exceptions to this general prohibition. (1) The military is authorized to collect and maintain information necessary to fulfilling their role as assigned under the Constitution and Sections 331, 332, and 333 of Title 10, United States Code. Such intelligence activity would be permissible only after the President had publicly assigned such forces to "suppress domestic violence."

(2) The military is allowed to investigate and collect information in regard to criminal conduct committed on a military installation, or in regard to the destruction, damage, theft, unlawful seizure, or trespass of the property of the United States, whether or not it is physically located on a military installation.

This exception is not intended to allow military investigation or monitoring of civilians or civilian organizations who are suspected by the military of conspiracy to commit crimes on a military installation, or who might be conspiring to destroy property of the United States.

(3) The military is also permitted to investigate and collect information regarding civilians who are actually applying for employment, or for purposes of determining the suitability of a present civilian employee for retention. The bill includes those civilians seeking employment at a "defense facility" in the realization that the military may be legitimately charged with clearing employees for a facility which is not formally subordinate to one of the Armed Forces per se, but is subordinate to the Department of Defense.

(4) The prohibition of the bill does not apply to state militia when they are under the control of the chief executive of the state. It applies only when they are pressed into federal service.

Sec. 2(c) contains five definitions. Except for the definition of surveillance, they need no further explanation. "Surveillance" is defined as "monitoring" by a variety of means which are enumerated in the bill. Implied by the term is the eventual recording of information relating to civilian political activities. Thus, while the bill prohibits even "overt observation" by military personnel, what is contemplated is the observation of civilian political activities in order to make a record of such activities.

SECTION 3

Section 3 contains an amendment to Title 28, United States Code, by adding a new chapter, titled "Illegal Surveillance." The new chapter contains three new sections: one providing for civil actions generally; one for a special class action; and one which provides for venue.

Section 2691 of the new chapter provides that when any person is aggrieved or threatened by a violation of the Act he may bring an action for civil damages and/or equitable relief as may be appropriate, regardless of whether such person can actually prove pecuniary loss or that such pecuniary loss is sufficient to satisfy jurisdictional requirements. This provision recognizes that the injury occasioned by governmental surveillance is often not suffered in pecuniary terms, but is manifest only in the inhibiting effect that such surveillance has upon political expression. This provision is intended to give a person, who can show that he has been aggrieved by such surveillance, the standing to bring a civil action to have it stopped.

Section 2692 of the new chapter provides for a special class action whereby any person who has reason to believe that a violation of the Act has occurred or is about to occur may bring a civil action to enjoin the planning or implementation of such violation. This provision was added to enable a person who learns of planned surveillance to have such plans ended prior to its being put into effect. Under this section, the plaintiff need prove no injury to himself but only the existence of surveillance plans or operations in order to bring suit. The purpose of the section is to allow any citizen, whether or not he is personally affected by planned or operational surveillance, to have it halted in vindication of the First Amendment's guarantee of free expression for all citizens.

Section 2693 provides that such suits shall be brought in the district court of the district where the plaintiff resides, or where the violation occurs, or in the District Court for the District of Columbia.

SECTION 4

Section 4 provides that civil suits arising under this Act shall only apply with respect to violations of the Act arising after the date of its enactment.

SECTION 5

Section 5 amends the *Posse Comitatus* act, 18 U.S.C. 1385, by making it applicable to "the Armed Forces of the United States," rather than only the "Army or the Air Force." The *Posse Comitatus* act, passed in 1878, prohibits the use of certain military personnel to enforce the civil laws, except where expressly authorized by the Constitution or Act of Congress.

SUMMARY OF FINDINGS OF THE REPORT BY THE SUBCOMMITTEE ON CONSTITUTIONAL RIGHTS ENTITLED "MILITARY SURVEILLANCE OF CIVILIAN POLITICS"

Army surveillance of civilians engaging in political activities in the 1960's was both massive and unrestrained. At the height of the monitoring, the Army engaged over 1,500 plainclothes agents to collect information which was placed in scores of data centers around the country. While most of the information collecting consisted of activities such as the clipping of newspaper accounts and attending public events, there were many more serious instances of surveillance in which covert means were used to observe or infiltrate groups. No individual, organization, or activity which expressed "dissident views" was immune from such surveillance and, once identified, no information was too ir-

relevant to place on the Army computer. Apparently, the impetus for the surveillance were the ghetto riots and mass demonstrations which marked the mid-1960's, and which had required the use of Armed Forces. The Army claims these earlier disturbances had indicated the need for more information to predict future riots and disturbances, and to deploy troops and conduct operations when called upon by the President.

The chief subjects of the surveillance were protest groups and demonstrators whose activities the Army attempted to relate to its civil disturbance mission. Little distinction was made between peaceful and non-peaceful groups. Protests and demonstrations of a peaceful, non-violent nature, which have come to be recognized as significant parts of this country's legitimate political process, were all targets for the Army's agents. More traditional forms of political activity were similarly monitored if they involved dissident groups or individuals.

The mushrooming of surveillance has been explained by the sense of panic and crisis felt throughout the government during this period of extremely vocal dissent, large demonstrations, political and campus violence, and what at the time seemed the inauguration of a period of widespread anarchy. While officials testifying before the Subcommittee suggested that these crises justified the surveillance, they failed to recognize that the rights guaranteed by the Constitution are constant and unbending to the temper of the times. As Justice David Davis stated a century ago in the case of *Ex parte Miligan*, 71 U.S. 2, 120–121 (1866):

"The Constitution of the United States is a law for rulers and people, equally in war and in peace, and covers with the shield of its protection all classes of men at all times under all circumstances. No doctrine involving more pernicious consequences was ever invented by the wit of man than that any of its provisions can be suspended during any of the great exigencies of government. Such a doctrine leads directly to anarchy or despotism, but the theory of necessity on which it is based is false, for the Government, within the Constitution, has all the powers granted to it which are necessary to preserve its existence, as has been happily proved by the result of the great effort to throw off its authority."

One of the theories prevalent during the mid-1960's was the theory that the widespread disorders could be traced to a determined effort on the part of a defined group of political activists. This conspiracy theory was manifested not only in testimony before the Congress but in conversations of high government officials meeting on ways to deal with the crisis. The conspiracy theory was one of the underpinnings of the Army surveillance program, as well as the intelligence efforts of other federal and state agencies during the period. Whatever the evidence then thought to support this theory, the presumed existence of a grand conspiracy again does not excuse or justify Army surveillance. The responsibility of collecting evidence or investigating such a theory belongs, if to any governmental agency, to civilian law enforcement and never to the military. It is more than a footnote to history that no evidence has even been found supporting the conspiracy theory.

Despite the explosive climate of the late 1960's, military surveillance of civilian political activities in fact had a much longer history. While there was unquestionably a great upsurge of such activity after 1967, the origins of surveillance can be traced as far back as World War I. Its intensity varied in the ensuing years.

The subcommittee has been unable to conclude what particular official or officials were responsible for ordering the expansion of the surveillance operation in the late 1960's. Senior officials, both civilian and military, in the Departments of Defense and Army should have been aware of these operations. Several comprehensive intelligence-gathering plans were circulated to the upper echelons of both departments. There is no satisfactory explanation why these officials should have remained unaware of the program or, if aware, why they failed in their responsibility to perceive the violations of constitutional law and traditions taking place. The failure of senior civilian officials to know of this program, or if knowing, to halt it, represents one of the most serious breakdowns of civilian control of the military in recent years.

It took over two full years—from the Army's discovery of surveillance excesses late in 1968 and early in 1969 until the creation of DIRC and its inspections beginning in spring of 1971—for the civilian superiors to bring the military under control. Once set in motion, the bureaucratic inertia proved all but impossible to halt, finally requiring as it did congressional hearings, prohibitions by the Secretary of Defense and the President, law suits, reprimands of senior officers and threats of courts-martial, great public outcry, and finally unannounced inspections, before the military, if not the American people, could be assured that the surveillance had been ended.

In any case, it is now apparent that domestic surveillance was undertaken in earnest in 1967 by several Army offices and commands. There was apparently no centralized control—each appeared to proceed on its own initiatives.

Participants in the domestic intelligence collection program were the U.S. Army Intelligence Command (USAINTC) and the Continental Army Command (CONARC). The Office of the Director of Civil Disturbance Planning and Operation (DCDPO), under the Army Chief of Staff, produced intelligence analyses predicting future disturbances. A similar function was performed at Department of Army level by the Counterintelligence Analysis Branch (CIAB) which was under the supervision of the Assistant Chief of Staff for Intelligence.

USAINTC was the principal intelligence-gatherer. It was comprised of 304 stateside offices, manned by over a thousand agents. CONARC, in reality a huge "holding company" of stateside armies, had intelligence units assigned to it, and these also engaged in intelligence gathering. Both commands maintained huge data banks of information obtained from these agents, and from external sources, including the intelligence units of other branches of service and the FBI. DCDPO and CIAB also maintained computerized intelligence files.

The subcommittee takes note that while these agencies did participate in domestic surveillance, they performed other legitimate intelligence functions. What proportion of their energies was devoted to domestic intelligence, the subcommittee cannot precisely ascertain.

The collection plans promulgated by these commands and agencies were vague and overbroad. This lack of definition resulted in collections of irrelevant, incorrect, ambiguous, and ultimately useless information which bore no conceivable connection with the Army's civil disturbance mission.

The methods used in conducting surveillance were also objectionable. While most of the intelligence was gathered by agents at public meetings or from clipping printed publications, there is considerable evidence of the frequent use of undercover agents and other covert means to obtain information. The collection plans provided little restriction on how the intelligence was to be collected.

Army intelligence data was circulated not only to Army commands, but also to other branches of service, and to civilian agencies, in particular, the FBI.

The domestic intelligence was used by the Department of Army to prepare briefings and written analyses for use by the Pentagon. These briefings and analyses appear to be as far removed from the Army's domestic mission as the information from which they were gleaned.

Storage of domestic intelligence was not confined to the computers of USAINTC and CONARC. Substantial files were maintained in virtually every subordinate command and field office across the country.

Despite efforts by certain Department of Army officials to limit the nature and scope of surveillance, it continued largely unabated until public pressure began to build in early 1970.

In March 1970 the Secretary of the Army ordered surveillance of civilian political activity to cease, and the data banks containing the intelligence to be destroyed. An Army directive to this effect, but not without loopholes, followed in June.

The Secretary of Defense issued similar orders in December 1970 which applied to all services. A Defense Department directive appeared in March 1971 reiterating the prior orders and directives. It furthermore provided for a Defense Investigative Review Council (DIRC) to be established to monitor the intelligence activities of the services and insure compliance with the directive.

The experience from early 1970 through the period following the subcommittee's hearings in March 1971 demonstrates the difficulty that the senior civilian faced in trying to impose controls and obedience to their orders in lower echelons. Even during our hearings, a full year after the first attempts by the Secretary of the Army to control the surveillance, the subcommittee was receiving reports of efforts to frustrate higher orders. If one agrees with the Army's contention that it discovered and sought to control surveillance as early as February 1969, then the evidence of disobedience to civilian control is even more striking. In any case, it was only after the creation of the DIRC and the institution of periodic unannounced inspection tours that the Congress and the people could begin to have confidence that the surveillance was in fact being stopped.

Nonetheless, the subcommittee has only the assurance of the Army and the executive branch that the domestic intelligence files have been destroyed. No independent inspection has been permitted, nor can the subcommittee evaluate the adequacy of the assurance it has received. Did the Army verify the destruction of the files by its own inspection? Were they only shifted to other agencies? Were they simply disguised or hidden? While the subcommittee has no concrete evidence to suggest unsatisfactory answers to these questions, our experience during the investigations requires some measure of caution in accepting these assurances.

We also have the assurance that surveillance will not resume, but similarly we cannot evaluate the worth of that assurance. Given the fact that much of the previous intelligence work was done by local agents working on their own initiative, can we be sure that control by the upper echelons will be an effective restraint? In the final analysis, the present policy is one of military self-restraint, self-imposed and self-enforced. In effect, the situation has returned to the "pre-riot" stage, with only the lessons of the recent controversy as a restraint on the reactivation of the surveillance.

There is no question that military surveillance of civilian political activity is illegal, at least in the sense that it was not authorized by law. Finding no explicit sanction in the constitutional mandate to suppress domestic violence, or in the statutes which have been promulgated under it, the subcommittee cannot imply the need for such domestic operations from the military's limited domestic mission. The historical tradi-

tion of limited intervention of the military in civilian affairs and the subordination of the military to civilian control are two reasons for refusing to imply broad powers from the existing constitutional and statutory mandates. The narrowly defined character of the statutes authorizing use of armed forces to suppress domestic violence and the statutes which generally restrict the use of military agents elsewhere in the civilian domain are additional compelling reasons to limit this assertion of authority to intrude in civilian affairs. Finally, the subcommittee feels, such implication should be resisted because there are civilian intelligence agencies which perform precisely the function the military claims is theirs. Practical necessity does not dictate such implied authority which duplicates the activities of civilian agencies in an area so fraught with dangers to constitutional government.

Second, military surveillance inhibits the exercise of constitutionally-guaranteed rights of free speech, free association, and privacy. The Constitution denies government the power to inhibit as well as prohibit the exercise of first amendment rights. The effect of Army surveillance is to cast the pall of official disapproval upon the views and activities of those whom it makes its subjects. Once so identified, these civilians and civilian organizations have more difficulty in making converts or attracting sympathizers because of an implicit fear that some type of official retribution may one day be visited upon those who have been recorded as having espoused views contrary to those of the Government. Furthermore, the outspoken citizens or organizations may themselves be reluctant to continue to express unpopular opinions in the face of official disapproval and diminishing acceptance of their positions. In short, military surveillance infringes upon first amendment rights because it increases the reluctance of citizens to voice their opinions. It is difficult to perceive a more effective method of stifling the public willingness to engage in controversial public debate than by the specter of military surveillance. Congress itself long ago recognized the effect of a military presence in domestic politics by enacting a specific law, 18 U.S.C. 592, which prohibits stationing military forces at polling places.

The infringement of first amendment rights attributed to Army surveillance has been argued before the courts in the context of whether such infringement is alone enough harm to invoke the courts' jurisdiction. The government claimed that some additional harm—for example, loss of employment, a privilege, or a service—must be entailed by the inhibiting governmental activity before the inhibition is unconstitutional. The Supreme Court, by a 5–4 decision concerning the constitutionality of Army surveillance, agreed and dismissed the complaint in *Tatum* v. *Laird*, 408 U.S. 1 (1972).

The subcommittee disagrees with this view. The simple allegation that one's first amendment rights have been infringed by an existing governmental activity should be sufficient to invoke the jurisdiction of the courts. Many past Supreme Court decisions show that government action which, by itself or in conjunction with other social or political factors, can be seen to discourage exercise of free speech, is sufficient to raise an issue of constitutionality under the first amendment. When that government action is unauthorized by law, contrary to explicit criminal prohibitions, unnecessary and irrelevant to a specific government purpose, vaguely defined, and loosely administered, there is no question that under traditional concepts of constitutional law, the Court should have found that military surveillance is a violation of the first amendment.

And, in any case, if, in the Court's view, the necessary elements to present a controversy ripe for decision were not found in the *Tatum* case, this does not prevent or excuse the Congress from determining the issue. Congress is not bound by the technical rules of "justiciability" or "case or controversy" that govern the judicial branch. From our examination of the facts and law, it is the view of the subcommittee that Army surveillance did violate the first amendment.

Third, while the infringement of a first amendment right should be sufficient injury upon which a court could grant relief, courts have held, and the subcommittee agrees, that where the effect of the governmental activity is "incidental" to the attainment of a "compelling" governmental interest, the activity is not rendered unconstitutional. But it should nevertheless be restricted as nearly as possible to avoid infringing upon first amendment rights, while still accomplishing the desired objective.

Military surveillance does not meet this test. There is an alternative to Army surveillance, a less restrictive means of obtaining domestic intelligence in preparation for civil disturbance—namely, to limit this activity to civilian intelligence agencies, which are explicitly authorized by law to perform this function.

In times of civil disturbance military forces are subordinate to civilian authorities and it is these authorities which must decide how and where to deploy military forces. This underscores the desirability and propriety of leaving this intelligence function in civilian hands.

The subcommittee concludes, then, that military surveillance was both unauthorized and in violation of the first amendment.

CONCLUSION TO THE REPORT OF THE SUBCOMMITTEE ON CONSTITUTIONAL RIGHTS ENTITLED "MILITARY SURVEILLANCE OF CIVILIAN POLITICS"

The foregoing has been the result of three and a half years of painstaking investigation and study by the Subcommittee. The impact of the Subcommittee's undertaking has been substantial. As a result of it and the public outrage which it engendered, the military establishment put an end to its surveillance of civilians and civilian organizations. In 1971, the Defense Department promulgated regulations prohibiting future surveillance of civilians and requiring the destruction of the fruits of prior surveillance. Furthermore, it established a high level council, comprised of senior civilian officials, to keep military intelligence-gathering in check.

What had taken place was not so much a conscious effort to subvert the freedoms of speech and association, as it was a classic example of a burgeoning bureaucracy going out of control, with no direction and no limitations. What began as a limited intelligence activity by individual commands responding to the military's limited need for information for use during civil disturbance mushroomed into an elaborate, nationwide system with the potential to monitor any and all political expression. No person or organization was too insignificant to monitor; no activity or incident too irrelevant to record.

How could such a program get out of hand? It is probably because there were too many people with too little to do and yet with vast untapped resources at their disposal. Thousands of Army intelligence agents, trained for surveillance work, but with little opportunity to put it into practice, were loosed by their superiors on the American public. The gauge of success was the quantity of information recorded. And the myriad of Army intelligence computers were more than competent receptacles for all that the agents could transcribe.

It is not a particularly difficult phenomenon to understand. Military intelligence officers whose careers were dependent upon the performance of the intelligence system were naturally disposed to do too much rather than too little. For them, surveillance of civilians was a matter of doing their job—a matter of operational efficiency. Sensitivity to individual liberties was not an operative concern.

Army surveillance has now been curtailed. However, it does not represent a unique case study of bureaucratic insensitivity to individual liberties. The modern bureaucracy quite often places expediency—whether wittingly or not—above any concern for individual liberties. Even those segments of the bureaucracy which do have a valid justification for collecting personal information regarding the citizenry, are prone to go beyond their legitimate needs for information. Computerization has made such excess particularly tempting.

The Subcommittee has encountered this phenomenon in case after case, and, despite what might be the legitimate objectives of the bureaucrat, we cannot but feel that in his collecting, cataloguing, and storing of personal information, there are the seeds of repression.

The Orwellian nightmare of a government always watching, and, armed with the knowledge of its citizens' thoughts and ambitions, silencing their adverse views with real or presumed threats of reprisals, is a vision which has haunted twentieth-century Americans since it was conceived. Yet those charged with the operation of government continue to ignore the warning. Army intelligence collected the most personal of information for preservation in its computers. It was not unusual to find in the Army files details of one's memberships, associates, remarks, published statements, attendance at meetings, personal finances, sexual activities, arrests, and personality quirks preserved in everlasting perpetuity. Such excesses cannot be tolerated.

The collection and computerizing of information by government must be tempered with an appreciation of the basic rights of the individual, of his right to privacy, to express himself freely and associate with whom he chooses. After all, the loss of anonymity, occasioned by having an opinion or an association recorded, creates a climate of subtle coercion. No longer could a man march with a sign down Pennsylvania Avenue and return to his hometown, his identity forgotten, if not his cause. No longer would the memory of the author of a political article fade as the pages of his rhetoric yellow and crumble with time. No longer would the flamboyant words exchanged in debate lose their relevance with the issue of the moment that prompted them.

The effect would be to make it impossible for a man to start over again. In fact, he may be more inclined never to begin at all. The lower road of silence, unproductive but less fraught with danger, may become the more appealing alternative. It is a prospect that must be shunned.

Mr. ERVIN. Mr. President, I would also bring to the Senate's attention a recently published report of the Civil Rights Committee of the Association of the Bar of the city of New York entitled "Military Surveillance of Civilian Political Activities." This 24-page report is an excellent summary of the military surveillance operation and contains a useful discussion of its legality. It furthermore recommends legislation along the lines of that which I am proposing today. I ask unanimous consent that the text of this enlightening report be published in the body of the RECORD.

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

[The Association of the Bar of the City of New York]

MILITARY SURVEILLANCE OF CIVILIAN POLITICAL ACTIVITIES: REPORT AND RECOMMENDATIONS FOR CONGRESSIONAL ACTION

(By The Committee on Civil Rights)

INTRODUCTION

Domestic intelligence operations conducted by elements of the United States armed forces have raised serious problems involving rights of privacy, speech and association. Such problems have long been of concern to lawyers [1] and to members of this Association in particular.[2]

In January 1970, charges were made that the United States Army was engaged in widespread surveillance within the United States of the political activities of civilians.[3] Publication of the charges received considerable coverage in the press, and provoked inquiries from a number of Senators and Congressmen about the scope of the Army's domestic intelligence operations. During 1971, the Senate's Subcommittee on Constitutional Rights held hearings on the subject,[4] and since that time a number of bills aimed at limiting the scope of military surveillance have been introduced in Congress. To date, however, none of the bills has been reported out of committee.

High Defense Department officials have acknowledged that the charges of widespread domestic intelligence data gathering and storage were indeed accurate,[5] and the Department has issued detailed regulations which sharply limit the scope of such operations.[6] Significant legal and practical questions remain, however, for the official Department of Defense position appears to be that the widespread information collection activities undertaken during the 1967–70 period, even if not "appropriate," were nonetheless "lawful." [7] Manifestly, implicit in this position is a reservation by the Department of Defense of its alleged right to resume these activities whenever the Department deems it "appropriate" to do so.*

The purpose of this report is threefold: (1) to review the historical background and current status of the controversy regarding military surveillance of civilian political activities; (2) to outline the principal legal considerations involved; and (3) to set forth our views with respect to possible Congressional action. Our principal conclusion is that Congress should enact legislation to prohibit all military surveillance of civilian political activities, except perhaps in certain well-defined circumstances where limited data-gathering may be justifiable.

I. THE NATURE AND EXTENT OF THE PROBLEM

A. Military surveillance prior to 1967

Although military surveillance of civilian political activities reached a peak during the three years following the riots in Newark and Detroit in 1967, such surveillance is by no means a recent phenomenon. The modern origins of the problem can be found in the expansion of military intelligence work at the outbreak of World War I, in response to German efforts at espionage and propaganda within the United States. By the end of the war, military intelligence had established a nationwide network of agents and civilian informers, who reported to the Army not only on suspected German spies and sympathizers, but also on pacifists, labor organizers, socialists, communists, and other "radicals." [8] The network remained in existence for several years after World War I, continuing to infiltrate civilian groups, monitor the activities of labor unions, racial groups and "left wing" political organizations, and occasionally harassing persons regarded as "potential troublemakers." [9] It was finally disbanded in 1924, and until the outbreak of World War II the military's domestic intelligences activities were conducted on a much reduced basis.[10]

The Federal Bureau of Investigation was the principal agency involved in domestic intelligence operations during the period between 1924 and 1940. With the outbreak of World War II, military intelligence operations were, of course, greatly expanded. Some elements of military intelligence again became involved in reporting on civilian political activities, mainly in an effort to counter suspected Axis "fifth column" attempts at subversion and sabotage.[11] The monitoring continued, on a much reduced scale and in a rather haphazard and sporadic fashion, during the Cold War period of the 1940's and 1950's. The primary domestic responsibility of military intelligence units during this period was the conduct of loyalty and security investigations involving persons working in the defense establishment, but the carrying out of these responsibilities sometimes spilled over into fairly extensive surveillance of civilians.[12]

During the early 1960's, the scope of domestic intelligence operations by the armed forces gradually began to expand. A number of factors were responsible for the expansion, including the general build-up of the defense establishment as the United States became increasingly involved in the war in Vietnam, the beginnings of the anti-war movement at home, repeated crises over desegregation (which actually led to the deployment of troops in Alabama and Mississippi in 1962 and 1963), and instances of protest against racial discrimination in cities in both the North and the South. Officials charged with responsibility for deployment of federal troops during these years expressed a need for better knowledge of the problems that might have to be faced.[13] Thus, for example, following the crisis in Birmingham, Alabama in May 1963, then Maj. Gen. Creighton Abrams (now Chairman of the Joint Chiefs of Staff), wrote that:

"We in the Army should launch a major intelligence project without delay, to identify personalities, both black and white, develop analyses of the various civil rights situations in which they may become involved, and establish a civil rights intelligence center to operate on a continuing basis and keep abreast of the current situation throughout the United States, directing collecting activities and collating and evaluating the product. Based upon this Army intelligence effort, the Army can more precisely determine the organization and forces and operations techniques ideal for each." [14]

The extent of the actual collection of information on individuals and groups during the early and mid-1960's seems to have varied considerably from one military unit to another, depending upon how broadly the unit commanders interpreted vague directives to keep track of "subversive activities." [15] It was not until 1967, after large-scale riots had taken place in ghetto areas of Newark and Detroit, that truly extensive, systematic, domestic intelligence operations independent of the loyalty-security programs began to get underway.

B. Formulation of the 1967–70 surveillance program

In July of 1967, Federal troops were alerted for possible duty in connection with the riots which broke out in Newark and were actually committed to action in helping to quell the Detroit riots. In September, 1967, Cyrus Vance, who had been a special representative of the President in Detroit at the time of the riots there, filed an extensive "after-action report." Mr. Vance's report recounted the events which had taken place and summarized his conclusions with respect to planning for situations of domestic violence requiring the use of Federal troops which might arise in the future. Among other things, he recommended the reconnoitering of major American cities in order to prepare folders listing bivouac sites, possible headquarters locations, and similar items of information needed for optimum deployment of Federal troops when committed.[16] He particularly noted the utility of police department logs of incidents requiring police action, as indicators for determining whether a riot situation was beyond the control of local and state law enforcement agencies, and suggested that it would be helpful to develop a "normal incident level" curve as a base of reference. He also thought it would be useful to assemble and analyze data showing activity patterns during the riots in places such as Watts, Newark, and Detroit, in order to ascertain whether there were any typical "indicator" incidents or patterns of spread.[17] The Vance report did not suggest that the Army should collect data on personalities or organizations, but that is nevertheless what Army intelligence proceeded to do.

Extensive plans for expanding the Army's domestic intelligence operations and computerizing many of the files on civilian political activity were formulated during the fall and winter of 1967–68. A comprehensive Army civil disturbance plan was distributed to Army units in January, 1968, and was followed the next month by issuance of an "intelligence annex" to the plan which contained a list of elements of information to be collected and reported to the U.S. Army Intelligence Command. The annex singled out "civil rights movements" and "anti-Vietnam/anti-draft movements" as "dissident elements," and authorized military intelligence units to collect a far wider range of information than had been recommended in the Vance report of the preceding September.[18]

In May, 1968, following the riots touched off in a number of cities by the assassination of Dr. Martin Luther King, the Army issued an even broader "Civil Disturbance Information Collection Plan." The Plan described this mission of Army Intelligence in very broad terms:

"To procure, evaluate, interpret and disseminate as expeditiously as possible information and intelligence relating to any actual, potential or planned demonstration or other activities related to civil disturbances, within the Continental United States (CONUS) which threaten civil order or military security or which may adversely affect the capability of the Department of the Army to perform its mission." [19]

The Plan contained a detailed listing of various kinds of information to be obtained and accorded different priorities to particular kinds of information. Some examples of kinds of information on "predisturbance activities" in local communities given high priority by the Plan are the following:

Presence of "militant outside agitators"

Increase in charges of police brutality, resentment of law enforcement

Known leaders, overt and behind the scenes

Plans, activities, and organization prepared by leaders

Friends and sympathizers of participants, including newspapers, radio, television stations, and prominent leaders

Efforts by minority groups to upset balance of power and political system

Purposes and objectives of dissident groups (including estimates of plans and objectives, capabilities, resources to be employed, coordination with other minority groups and dissident organizations)

Source and extent of funds, how funds are distributed, and general purposes for which funds are used

Organization of dissident groups (including location of functions and responsibilities, lines of authority, organization charts, and rosters of key personnel, for both the "high command" and the "subordinate elements" of the groups)

Footnotes at end of article.

Personnel (including the number of active members, a breakdown of membership by ethnic groups, age, economic status, and criminal record, and biographic data on key members).[20]

C. The scope of the data collection, 1967–70

Assistant Secretary of Defense for Administration Robert Froehlke later testified that the requirements of the civil disturbance information collection plan issued in May, 1968, reflected an "all-encompassing and uninhibited demand for information" which the Army was expected to meet.[21] As he pointed out, it was "highly improbable" that many of the requirements listed could be obtained by other than covert collection means.[22]

The Army's May 1968 plan was distributed to numerous Federal agencies and to top officials in each State government.[23] The Army itself, through its Intelligence Command, vigorously sought to implement the plan. The massive sweep of its surveillance activities has been extensively documented [24] and need not be reviewed in detail here. However, some particularly salient features may be noted to help illustrate the nature and extent of the program:

1. A great number of widely disparate groups were subject to Army surveillance. They covered the full range of the political spectrum and included, for example:

The American Civil Liberties Union
The American Nazi Party
The John Birch Society
The Socialist Workers Party
CORE
The NAACP
The National Urban League
The Southern Christian Leadership Conference
The Mississippi Freedom Democratic Party
The Revolutionary Action Movement
Women's Strike for Peace
The League of Women Voters
Students for a Democratic Society.[25]

2. Files were also kept on a large number of private citizens and public officials. These dossiers often included data on the private and personal affairs of citizens as well as on their activities in connection with political organizations. Computer print-outs and other publications generated by the Army in the course of the 1968–70 operations included, among other things, comments about the financial affairs, sex lives, and psychiatric histories of many persons wholly unaffiliated with the armed forces.[26] Much of the information appears to have been unverified, sometimes consisting of nothing more than rumor or gossip.[27]

3. Most of the data collected on groups and organizations consisted of matters of public record—a great deal of it simply clipped from newspapers. However, information also was obtained from private institutions and, in some cases, through covert operations. Thus, for example, former members of Army intelligence testified at the 1971 Senate hearings that the Army's domestic intelligence activities had included:

Infiltration of undercover agents into Resurrection City during the Poor People's Campaign in 1968.[28]

Having agents pose as press photographers, newspaper reporters and television newsmen, sometimes with bogus press credentials, during the 1968 Democratic National Convention in Chicago.[29]

Sending agents, enrolled as students, to monitor classes in the Black Studies program at New York University.[30]

Keeping card files, dossiers, and photographs on students and faculty at the University of Minnesota.[31]

Infiltrating a coalition of church youth groups in Colorado Springs, Colorado.[32]

4. An enormous amount of information was collected and stored. Some of it dated to as far back as World War I but most of it was collected during the 1967–70 period. The Army appears to have had more than 350 separate research storage centers containing files on civilian political activities.[33] One such center, the Fourth Army Headquarters at Fort Sam Houston, Texas, reported the equivalent of over 120,000 file cards on "personalities of interest." [34] Considerable duplication of files on individuals doubtless existed, but the staff of the Senate Subcommittee on Constitutional Rights is probably conservative in estimating that in 1970 Army intelligence had reasonably current files on the political activities of at least 100,000 individuals unaffiliated with the armed forces.[35]

5. At least two of the Army's data banks had the capacity for cross-reference among "organizational," "incident" and "personality" files.[36] The system thus had the technical capacity to produce correlations among persons, organizations and activities—*e.g.*, lists of citizens by name, address, ideology and political affiliation—virtually instantaneously.

6. The surveillance program seems to have developed a bureaucratic momentum of its own, and to have rapidly expanded without the knowledge or approval of civilian officials in the Department of Defense. Senator Ervin has cogently described the process:

"In the midst of crisis, Pentagon civilians issued vague, mission-type orders which essentially gave intelligence officers a free hand in collecting whatever information they deemed necessary to the efficient conduct of civil disturbance operations. Subsequently, neither the Pentagon's civilian hierarchy nor the Congress had any routine means by which to review the appropriateness of those decisions until former agents came forward and blew the whistle in 1970.

"Meanwhile, the surveillance grew, as most governmental programs grow, by the quiet processes of bureaucratic accretion . . . [E]ach subordinate element in the chain of command expanded on the orders it received from above, while the traditional secrecy we have granted our intelligence agencies immunized each echelon from effective review by its superiors." [37]

D. Efforts to curb surveillance activities, 1970–present

The existence of a large-scale military domestic intelligence progam first received widespread public attention early in 1970, with the publication of an article on the subject by former Army intelligence officer Christopher H. Pyle in the *Washington Monthly*.[38] In the three years that have passed since then, the scope of the program has, by all accounts, been greatly reduced. Serious issues remain, however, and to understand them it may be helpful to review the principal developments that have taken place in the three major arenas—the courts, the Congress, and the Department of Defense itself—in which the controversy has been conducted.

(1) Litigation: *Laird* v. *Tatum* and *ACLU* v. *Laird*

The lawfulness of the military surveillance was challenged in two lawsuits filed shortly after the initial disclosures were made in 1970. The principal case is *Laird* v. *Tatum*, 408 U.S. 1 (1972). The plaintiffs in that case were a number of citizens and organizations, most of which had been identified in intelligence reports quoted in Captain Pyle's *Washington Monthly* article as having been subjects of Army monitoring activities. They alleged that the Army's domestic intelligence operations were unauthorized and overbroad, deterred political expression and dissent, and inhibited other persons from associating with them. They sought a declaratory judgment that the surveillance activity was unconstitutional or otherwise illegal, and asked for an injunction forbidding such activity in the future and requiring the destruction of all information acquired as a result of the monitoring.

The District Court for the District of Columbia dismissed the complaint in *Tatum* on the merits, without holding an evidentiary hearing.[39] The Court of Appeals reversed 2–1, holding that the plaintiffs' allegations presented a justiciable case under the "chilling effect" doctrine.[40] Judge Wilkey's opinion for the majority in the Court of Appeals noted particularly the combination of factors alleged to inhibit First Amendment rights, including the carrying on of activities beyond the statutory authority of the Army, the intrusive and inhibiting effects of such activities, and the fact that the Army—an immensely powerful institution—was the governmental agency involved in the activities.

The Supreme Court, in a 5–4 decision, reversed the Court of Appeals, accepting the Government's contention that the plaintiffs' claims of First Amendment violations did not present a justiciable controversy because plaintiffs failed to allege specific present objective injury or threat of specific future injury to themselves. Chief Justice Burger's opinion for the majority held that the plaintiffs' claims were barred by the—

"established principle that to entitle a private individual to invoke the judicial power to determine the validity of executive or legislative action he must show that he has sustained or is immediately in danger of sustaining a direct injury as a result of that action." [41]

The majority opinion in *Tatum* did not review the allegations of the complaint in any detail, nor did it address the plaintiffs' contention that they could prove the injuries to themselves which they alleged if given an opportunity to do so at an evidentiary hearing. The Court also apparently accepted at face value the Government's contention that the surveillance operations had been greatly cut back, although there was evidence in the papers before the Court that the effect of the cut-backs was open to considerable question.[42]

Justice Douglas, in an opinion which Justice Marshall joined, vigorously dissented, observing that:

"The act of turning the military loose on civilians even if sanctioned by an Act of Congress, which it has not been, would raise serious and profound constitutional questions. Standing as it does only on brute power and Pentagon policy, it must be repudiated as a usurpation dangerous to the civil liberties on which free men are dependent. For, as Senator Sam Ervin has said, 'this claim of an inherent executive branch power of investigation and surveillance on the basis of people's beliefs and attitudes may be more of a threat to our internal security than any enemies beyond our borders.' * * *

"This case is a cancer in our body politic. It is a measure of the disease which afflicts us. Army surveillance, like Army regimentation, is at war with the principles of the First Amendment. Those who already walk submissively will say there is no cause for alarm. But submissiveness is not our heritage. The First Amendment was designed to allow rebellion to remain as our heritage. The Constitution was designed to keep government off the backs of the people. The Bill of Rights was added to keep the precincts of belief and expression, of the press, of political and social activities free from surveillance. The Bill of Rights was designed to keep agents of government and official eavesdroppers away from assemblies of people. The aim was to allow men to be free and independent and to assert their rights against government. There can be no influence more paralyzing of that objective than Army surveillance. When an intelligence officer looks over every nonconformist's shoulder in the library or walks invisibly by his side in a picket line or infiltrates his club, the

Footnotes at end of article.

America once extolled as the voice of liberty heard around the world no longer is cast in the image which Jefferson and Madison designed, but more in the Russian image. . . ." [43]

Justices Brennan and Stewart also dissented, basically adopting the position previously taken by the Court of Appeals on the justiciability question.[44]

Subsequent to deciding *Laird* v. *Tatum* in June, 1972, the Supreme Court has denied petitions to rehear the case and to disqualify Mr. Justice Rehnquist *nunc pro tunc* from participating in the case, on the ground that he had previously testified before the Senate Subcommittee on Constitutional Rights concerning the legality of the Army's surveillance activities.[45] The Court has also denied a petition for certiorari in *ACLU* v. *Laird* (formerly *ACLU* v. *Westmoreland*), a case which raised similar questions but had a somewhat more fully developed trial court record, thus allowing the dismissal of a complaint similar to the *Tatum* complaint to stand.[46]

The upshot of the Supreme Court decisions appears to be that the judiciary will not in the foreseeable future undertake any review of the scope of military surveillance operations in the absence of very specific allegations of imminent injury to particular plaintiffs. Even the majority in *Tatum* recognized, however, that the subject was one which warranted the concern of both the legislative and the executive branches of the Government.[47] As a practical matter, if recurrences of the 1967–70 surveillance program are to be prevented, it is in those branches that corrective actions will have to be undertaken. Some headway has already been made in both branches.

(2) Congressional action: Hearings and proposed legislation

In February and March of 1971, the Subcommittee on Constitutional Rights of the Senate Committee on the Judiciary held several days of hearings on the Army's monitoring activities. Chaired by Senator Sam Ervin of North Carolina, the subcommittee developed an extensive record consisting of testimony from high Defense Department officials, former Army intelligence agents, various individuals who had been subjects of monitoring activities, and academic analysts, and supplemented by extensive correspondence and documentary material.

Some of the factual data developed by the subcommittee on the extent of the domestic intelligence operations has previously been noted in this report.[48] In addition to eliciting this factual data, the hearings also helped to illuminate the constitutional and statutory problems raised by the surveillance activities—problems which had been addressed only tangentially in the court proceedings because the focus there was on questions of standing and justiciability.

The principal spokesmen for the Department of Defense were Robert F. Froehlke, then Assistant Secretary of Defense for Administration, and J. Fred Buzhardt, then General Counsel of the Department. Their position, as stated at the hearings, was that many of the monitoring activities had been "inappropriate" from a policy standpoint, but that they had not been "illegal." [49] Mr. Froehlke explained the Defense Department's position on the legal issues involved as follows:

"Basic authority for the use of the Armed Forces in connection with civil disturbances is Article II, Section 4 of the Constitution and Section 331, 332 and 333 of Title 10 of the United States Code.

"The civil disturbance information collection activities of the military services were all integrally connected to use or potential use of Federal troops under this authority. This information collection was obviously considered necessary and essential to the effective use of Federal military forces in connection with the widespread riots and domestic disorders occurring during this period . . .

"In order to carry out the President's order and protect persons and property in an area of civil disturbance with the greatest effectiveness, military commanders must know all that can be learned about that area and its inhabitants. Such a task obviously cannot be performed between the time the President issues his order and the time the military is expected to be on the scene. Information gathering on persons or incidents which may give rise to a civil disturbance and thus commitment of federal troops must necessarily be on a continuing basis. Such is required by Section 331, 332 and 333 of Title 10 of the United States Code, since Congress certainly did not intend that the President utilize an ineffective Federal force." [50]

Mr. Froehlke maintained that none of the monitoring activities were prohibited by Federal or State law, arguing that:

"Since no use of civil disturbance information was made or intended to be made that would result in any action to the prejudice of any individual or organization, it is difficult to perceive how the constitutional rights or even the right of privacy could be impaired by the collection of such information. Even were the rights of some individuals indirectly affected, however, the Supreme Court has repeatedly held that such rights of individuals are not absolute but are under certain circumstances subject to incidental limitations upon their exercise." [51]

The Defense Department's broad interpretation of the constitutional and statutory provisions relied upon as authority for the monitoring activities was vigorously challenged by Senator Ervin and others at the hearings, as was the assertion that no individual rights were infringed by the monitoring. Thus, for example, Rep. Abner Mikva (D.-Ill.), who had himself been a subject of some military surveillance activities, testified that:

"The existence of arbitrary, widespread military surveillance of civilians—or even the popular belief that it exists—has a chilling effect on free speech. It discourages the kind of full, free and unrestrained exchange of ideas and viewpoints on which American democracy is based. More than any other, our guaranteed right to freely criticize our government and elected officials is what distinguishes us as a nation. It has long been a hallmark of totalitarian societies that only 'approved' persons could participate and that only 'acceptable' ideas could be heard. Military surveillance of civilian parties raises the spectre of such official 'approval' and 'acceptability' as some day being a requirement of American politics, as it has long been in the Communist countries we condemn * * *

"It would probably be going too far to say that the wide acceptance of military programs by the Congress has been influenced by the fear of covert military surveillance. But who can say that in future months or future Congresses there will be none who will have second thoughts about a vote on military affairs? Who can be certain that his judgment will not be swayed, perhaps even unconsciously, by the belief that he is being watched? Even the possibility of surveillance raises the spectre of subtle political interference. After all, who wants to be represented by a man who is so disreputable that the Army feels that the national security requires that his activities be monitored." [52]

In addition to holding hearings, the Subcommittee on Constitutional Rights has released a documentary analysis of a portion of the Army's files on civilian political activities [53] and is in the process of completing work on a detailed report on the surveillance operations. The subcommittee has thus contributed significantly to establishing a public record on the details of the program and the policy issues involved. Several Senators and Congressmen have also introduced bills aiming at halting or limiting military surveillance activities.[54]

(3) Action by the executive branch of the Government: Issuance of new regulations by the Department of Defense

Although the initial reactions of the Defense Department to the disclosure of the domestic intelligence operations were somewhat equivocal,[55] by March of 1971, the Department had issued a series of directives aimed at greatly reducing the scope of the data gathering and storage activities. The principal document, DoD directive 5200.27 [56] states that Department policy "prohibits collecting, reporting, processing, or storing information on individuals or organizations not affiliated with the Department of Defense except in those limited circumstances where such information is essential to the accomplishment of the Department of Defense missions outlined [in the directive]." [57] Exceptions to the general prohibition were made for the gathering of specified types of information for three missions: (1) protection of DoD functions and property; (2) investigations of armed forces personnel and persons applying for DoD positions or seeking access to "official information"; and (3) assisting in carrying out operations dealing with civil disturbances.

Certain kinds of activities were sharply limited or prohibited altogether by the directive. For example, one section of it provides, *inter alia*, that:

"A. The acquisition of information on individuals or organizations not affiliated with the Department of Defense will be restricted to that which is essential to the accomplishment of assigned Department of Defense missions under this Directive.

"B. No information shall be acquired about a person or organization solely because of lawful advocacy of measures in opposition to Government policy.

"C. There shall be no physical or electronic surveillance of Federal, state, or local officials or of candidates for such offices.

"D. There shall be no electronic surveillance of any individual or organization except as authorized by law.

"E. There shall be no covert or otherwise deceptive surveillance or penetration of civilian organizations unless specifically authorized by the Secretary of Defense or his designee.

"F. No DoD personnel will be assigned to attend public or private meetings, demonstrations, or other similar activities for the purpose of acquiring information, the collection of which is authorized by this Directive, without specific prior approval by the Secretary of Defense or his designee. An exception to this policy may be made by the local commander concerned, or higher authority, when, in his judgment, the threat is direct and immediate and time precludes obtaining prior approval. In each such case a report will be made immediately to the Secretary of Defense or his designee.

"G. No computerized data banks shall be maintained relating to individuals or organizations not affiliated with the Department of Defense, unless authorized by the Secretary of Defense or his designee." [58]

The DoD directive—while clearly designed to limit substantially the scope of domestic intelligence under the May, 1968 "civil disturbance information collection plan"—has nevertheless been sharply criticized for being much too broad in terms of the surveillance it purports to authorize. It has been pointed out, for example, that the directive permits infiltration of civilian organizations and observation of private meetings, though such surveillance now requires specific prior approval by the Secretary of Defense or his designee except in "emergencies." Moreover, it apparently permits surveillance of indi-

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viduals, and of groups which do not constitute an "organization," to be undertaken even without prior approval of the Secretary or his designee, in furtherance of the missions to protect "DoD functions and property" and ensure "personnel security." [59]

Even the Defense Department's critics agree that the recent directives are a step in the right direction. However, in addition to criticizing the directives as being over-broad in terms of the leeway they leave for surveillance and data-keeping operations, they note the new directives can be changed or rescinded at any time. Moreover, while the new directives are not classified, there is nothing which would ensure that future directives dealing with the scope of domestic intelligence operations would be unclassified. If the Defense Department's regulations do not provide sufficient protection against unwarranted intrusions into personal privacy and inhibitions upon freedom of speech and association, then legislation is needed. Before turning to that subject, however, we think it useful to outline the principal legal considerations which seem relevant to the problem.

II. THE STATE OF THE LAW

Legal considerations are, of course, not the only ones which must be taken into account in determining what sort of action, if any, Congress ought to take with respect to military surveillance of civilian political activities. Even if military surveillance of the sort described above could be regarded as entirely lawful, the fundamental policy question—to what extent, if at all, such activities should be permitted in the future—would remain to be resolved. However, points of law and the values they reflect are highly relevant to a consideration of that basic policy issue.

In reviewing the state of existing law in the area, the Committee has focused on three questions:

A. To what extent, if at all, is military surveillance of civilian political activities authorized under existing law?

B. What constitutional rights have been—or might in the future be—infringed or jeopardized by military surveillance operations?

C. Insofar as military surveillance operations may infringe constitutional rights or be otherwise unlawful, what remedies presently exist?

A. *The question of authority for surveillance operations*

Defense Department officials and other administration spokesmen have taken the position that the military surveillance operations conducted during the 1967–70 period were fully authorized by the Constitution and by statutory law.[60] Clearly, however, neither the constitutional provisions nor the statutes cited by these officials explicitly authorize surveillance of civilian political activities. Recognizing this, defenders of the military surveillance operations have argued that such operations are implicitly "necessary," or at least "appropriate," if the armed forces are to be aware of the possibility of domestic violence occurring at a particular place or time, and thus prepared to respond effectively to a Presidential directive issued pursuant to the constitutional and statutory provisions which authorize the use of troops in circumstances involving domestic violence.[61]

In addition, proponents of the surveillance operations have also maintained that such operations are necessary so that the armed forces can carry out their missions once they are dispatched by the President. Thus, the Justice Department has argued that the armed forces must have an ongoing intelligence gathering and analysis operation in order to enable it to act as a kind of "super police force" anywhere in the country:

"When the National Guard or the U.S. Army moves in to restore order, their function is unquestionably in the role of a policeman; they simply accomplish what the police lack in number of men to do. They patrol streets, make arrests, regulate traffic, and try to calm down angry crowds just as local policemen would do. In performing those duties, they necessarily require some of the same tools as a police force, both to quell the disturbances and to perform an equally important function, the prevention of further disturbances.

"In order to carry out these duties as efficiently as possible, both the Army and the police must have an awareness of group tensions, what forces exist, the nature and size of discordant groups, and they must be capable of estimating the explosive possibilities of colliding philosophies.

"Clearly, the only way this information can be made available to the Executive Branch and the Army or the National Guard in time for it to be used effectively when those components are called upon to exercise their police responsibilities is for the information to be gathered and placed under current analysis ahead of time. And it must be gathered by the force which will ultimately use it, for there is never sufficient time between the disorder and the subsequent Presidential order sending the armed forces to the troubled areas for the police to transmit the information to the armed forces and the armed forces then to disseminate the information to the local commanders." [62]

The foregoing arguments in support of a putative authority for the armed forces to conduct wide-ranging domestic intelligence operations, while not without some pragmatic force, must be examined in the light of constitutional and statutory provisions which impose constraints on the activities of the armed forces and in the light of the existing case law. When thus scrutinized, it seems apparent that the scope of legitimate authority for the undertaking of such operations is not nearly as broad as Administration officials have claimed. Three points seem particularly relevant:

1. Federal statutes dealing with the role of the armed forces in domestic affairs indicate that Congress—consistent with the clear intent of the Framers of the Constitution [63]—has mandated that that role be a very limited one. The only statutes which explicitly authorize the use of armed forces in connection with domestic violence (10 U.S.C. §§ 331–333) clearly contemplate their use only as a backup force in specific situations where illegal overt acts amounting to "insurrection" have already taken place and civilian authorities have failed to restore order. Indeed, these statutes are part of a chapter in Title 10 of the United States Code which is entitled "Insurrection," and are accompanied by a statutory requirement (in 10 U.S.C. § 334) that the President, whenever he considers it necessary to use armed forces under the chapter, must "by proclamation, immediately order the insurgents to disperse and retire peaceably to their abodes within a limited time." Read in context, the provisions of 10 U.S.C. §§ 331–333 clearly provide no basis for inferring authority for sweeping domestic intelligence operations by the armed forces or for their use as any kind of "super police force." On the contrary, those provisions indicate that the use of the armed forces in domestic affairs is a "last resort" measure to be employed only by Presidential directive, only for the limited purpose of restoring order when state and local authorities have been unable to do so, and only when certain specified conditions have been met.

2. Other federal statutes reflect the same policy. Perhaps the most noteworthy is the "Posse Comitatus Act" (18 U.S.C. § 1385), which in its present form provides as follows:

"Whoever, except in cases and under circumstances expressly authorized by the Constitution or Act of Congress, willfully uses any part of the Army or the Air Force as a posse comitatus or otherwise to execute the laws shall be fined not more than $10,000 or imprisoned not more than two years, or both."

Originally enacted in 1878, the Posse Comitatus Act was aimed at precluding the armed forces from assisting local law enforcement officers—*e.g.*, U.S. Marshals and local sheriffs—in carrying out their duties. The statute has been amended slightly over the years (*e.g.*, to include the Air Force as well as the Army), but its main thrust has remained constant. As Judge Dooling has observed, the Posse Comitatus Act may be regarded as expressing "the inherited antipathy of the American to the use of troops for civil purposes," and is "absolute in its commands and explicit in its exceptions." [64] Its import would seem to be that federal troops can be used in connection with civil disorders only pursuant to the provision of 10 U.S.C. § 331–333, and then only when the President has issued the proclamation required by 10 U.S.C. § 334.

3. While the extent of the President's constitutional powers to act in the national security area may be greater than those expressly delegated to him by statute, the range of these powers is a matter of considerable dispute and is clearly not unlimited. This area of law is a murky one, but the few Supreme Court cases dealing with the scope of the President's authority as Chief Executive and Commander-in-Chief make it clear that such authority is subject to both constitutional and statutory restraints. In what is perhaps the leading case, *Youngstown Sheet and Tube Co.* v. *Sawyer*,[65] the Supreme Court in 1952 emphatically rejected the Government's claim that the President's Article II powers authorized seizure of the nation's steel mills—even to avert a crippling steel strike that the President feared would jeopardize the national defense effort during the Korean War—in the absence of statutory authority for such a seizure. More recently, in *United States* v. *United States District Court*,[66] the Supreme Court in 1972 rejected a Government contention that warrantless electronic surveillance of individuals suspected by the Attorney General of engaging in subversive activities could be regarded as a lawful exercise of the President's power to protect the national security. Mr. Justice Powell's opinion for the Court, after noting that national security cases often reflected "a convergence of First and Fourth Amendment values not present in cases of 'ordinary' crime," held that domestic security surveillance was subject to "the customary Fourth Amendment requirement of judicial approval prior to initiation of a search or surveillance." [67]

In sum, claims of broad executive authority for domestic surveillance operations by the armed forces would appear to be in conflict with statutes prescribing a limited domestic role for the armed forces and with constitutional doctrine limiting the scope of executive authority in the national security area. Thus, even apart from the problems posed by possible infringement of the constitutionally guaranteed rights of individuals, there remains a substantial question as to whether, as a matter of law, the armed forces have any authority at all to monitor the political activities of civilians.

B. The rights at stake

Defenders of past military surveillance operations, while sometimes questioning whether individual rights were actually infringed by such operations, have tended to stress the right of society to protect itself from insurrection and domestic violence. They have argued, in essence, that a compelling governmental interest in preventing, or being able rapidly to quell, domestic violence, justified any "incidental" infringement of constitutional rights which may have occurred.[68] There are at least two major difficulties with this argument.

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First, even assuming that some "domestic intelligence" information is essential in order to enable the armed forces to respond rapidly and effectively in a situation where they are called upon to do so, it is not essential that broad intelligence operations be carried on by the military. Where information on individuals or organizations involved in a particular riot is necessary to performance of the armed forces' limited "back up" function, it can be quickly transmitted to the appropriate commanders by civilian officials.

To the extent that intelligence operations must be carried on at all, it is more appropriate that they be carried on by a civilian agency, and that the agency's activities be clearly authorized by law and subject to continuing Congressional scrutiny. If surveillance activities of any sort are justifiable and necessary, it is likely that a civilian agency will be able to conduct them more efficiently, less intrusively, less threateningly, and at less cost to the taxpayer, than military intelligence, Judge Wilkey observed in *Tatum* that:

"The compilation of data by a civilian investigative agency is thus not the threat to civil liberties or the deterrent on the exercise of the constitutional right of free speech that such action by the military is, because a civil investigative agency has no inherent power to act against an individual, that power always being subject to the well-defined restrictions of law and the approval of the courts. The military have no such restrictions; they have their own force (of incomparable power), they have their own commanders trained as soldiers not lawyers, the military's vast size may make civilian control of individual or small unit actions more theoretical than actual, and the military is not accustomed to operating within the restrictions of law and the processes of courts." [69]

Second, the argument of "compelling governmental interest" does not address the question of what constitutes only an "incidental" infringement of constitutional rights. The question is one of degree, of course, but there are strong empirical and legal arguments to be made for the proposition that the sort of surveillance operations conducted by the Army during the 1967–70 period seriously infringed the rights of free speech and association, the right to petition the Government for redress of grievances, and the right of privacy.

Several points bear particular mention:

1. The right to privacy is one which has been accorded increasing recognition, in society at large as well as in the courts, in recent years. Although a right to privacy is not explicitly mentioned in the Constitution, it is clear that the fundamental interest embraced in the concept of such a right—an interest in freedom from unwarranted governmental intrusion into the personal lives of individuals—is reflected in numerous constitutional provisions. As Mr. Justice Blackmun recently noted, the Supreme Court or individual justices have found at least the roots of the right in the First, Fourth, Fifth and Ninth Amendments, and in the concept of liberty guaranteed by the first section of the fourteenth Amendment.[70] In a long line of decisions, the Court has recognized that a right of privacy—or, phrased differently, a guarantee of certain zones of privacy—exists under the Constitution.[71] The concept of the right to privacy covers a wide range of situations, and by the same token military surveillance activities of the sort described above may invade privacy in a variety of ways. To the extent that electronic surveillance or physical searches might be undertaken, for example, it is clear that Fourth Amendment questions are raised. To the extent that dossiers containing information about an individual's financial affairs, sex life and psychiatric history are compiled without his knowledge and consent, it seems plain that a "zone of privacy" emanating from several constitutional guarantees has been breached. To the extent that membership lists of organizations and communications between individual members or particular groups are made the subject of agent reports and files, it is apparent that what the late Justice Harlan referred to as "the vital relationship between freedom to associate and privacy in one's associations," [72] grounded in the First Amendment, has been infringed.

2. The incursions into individual and associational privacy which inevitably result from widespread surveillance operations are particularly relevant to consideration of the First Amendment implication of such surveillance. As the Supreme Court has observed, First Amendment freedoms need "breathing space" to survive.[73] They are in danger of being stifled when the government attempts systematically to keep track of persons seeking to exercise First Amendment rights in unpopular or unorthodox ways. In cases arising in different contexts and involving a wide variety of different kinds of governmental activities—most of them far less instrusive or sweeping in scope than the military surveillance activities described above—the Court has held that the activities questioned are impermissible under the First Amendment because of the anxiety they are likely to generate among the citizenry and the inhibiting effect they are thus likely to have on the exercise of rights to free expression.[74]

3. As an empirical matter, there is a substantial body of social science data which indicates that government surveillance activities do in fact have seriously inhibiting effects upon the exercise of the First Amendment rights and liberties which are at the base of our nation's heritage.[75] This "chilling effect" on the activities of people is a product of several factors, including the power or authority of the agents conducting the surveillance, the anxiety which normally occurs in persons whose behavior is (or may be) being evaluated, the uncertainty or ambiguity of a surveillance situation, and fear of a loss of relative anonymity. A person who feels that he might be the subject of surveillance can be expected to be anxious about possible consequences of the surveillance, to become apprehensive about engaging in activities which he feels would be disapproved, and perhaps to re-define his own political views because of the stigma which is attached to persons or organizations which are under surveillance because of their distinctive opinions.[76] Obviously, the greater the potential power of the surveillance agent and the more massive the surveillance operations, the more extensive and the more severe will be the chill. When the surveillance agent is the United States Army—or, indeed, any branch of the defense establishment—the power is great, the capacity for surveillance is enormous, and the danger of a chill is very substantial.

C. The question of remedies

At the 1971 Senate hearings, then Assistant Attorney General William H. Rehnquist expressed the view that "self-discipline on the part of the executive branch" would provide an answer "to virtually all of the legitimate complaints against excesses of information gathering." [77]

Unfortunately, there is abundant evidence that the self-discipline of the executive branch in the area of surveillance activities has not been great. The problem is not simply one of venality on the part of high Administration officials. Even when top officials in a government agency wish to place a tight rein on surveillance activities and conscientiously take steps to do so, they may not succeed. Indeed, the difficulty in doing so is illustrated by the problems which senior Defense Department officials encountered in seeking to curtail the Army's domestic intelligence activities following the initial disclosures about them early in 1970. They had great difficulty in ascertaining the full extent of the operations, and apparently were misled by lower echelon commanders with respect to both the details of the domestic intelligence program and the actual steps taken to destroy information which had been gathered and stored.[78]

In its decision in *Laird* v. *Tatum*, the Supreme Court rejected the idea that self-discipline on the part of the Executive Branch was a wholly adequate answer to complaints of overbroad military surveillance activities.[79] At the same time, however, by delineating a very narrow view of the issues of standing and justiciability, the opinion of the majority makes it exceedingly difficult for lawless surveillance activities to be effectively controlled. Under the majority's holding, a person can challenge such activities in court only if he can show direct injury or the threat of imminent injury.[80]

The net effect of the holding in *Laird* v. *Tatum* appears to be that persons subjected to military surveillance are placed in a classic "Catch-22" dilemma: if they are truly intimidated in the exercise of their constitutional rights, they can invoke their rights and seek the aid of the court, but if they are in fact intimidated, then they are not likely to invoke their rights. Moreover, the decision wholly fails to address the problem of sanctions against lawless surveillance activities by members of the armed forces. Even if such activities do not actually violate the constitutional rights of individuals, they are *ultra vires* acts for which at present there appears to be no meaningful remedy.

III. CONCLUSIONS

1. Surveillance and data collection activities of the armed forces, of the kind disclosed at the 1971 Senate hearings and described above in the body of this report, seriously infringe the constitutional rights of individuals and endanger the health of the body politic. Such activities invade the privacy of individuals and groups, inhibit free expression of beliefs and ideas, and in general exert a "chilling effect" upon the political activities of a free people. We believe that such activities exceed the constitutional and statutory authority of the armed forces, violate or seriously jeopardize rights guaranteed by the First, Fourth, and Ninth Amendments of the Constitution, and cannot be justified on the basis of any compelling governmental interest.

2. Even assuming, *arguendo*, that such activities are not unconstitutional, they are clearly undesirable as a matter of policy. Such activities would be difficult to justify no matter what governmental agency might conduct them, because of their intrusions into individual privacy and the chilling effect which they exert upon political activities. They are especially repugnant to American ideals and traditions when undertaken by the armed services. It is contrary to our nation's long tradition of civilian control of the government for the military to be involved in such activities, as both the majority and the dissenters in *Laird* v. *Tatum* recognized. To the extent that such surveillance activities must be carried on at all, it is far more appropriate that they be undertaken by a civilian arm of the government. In this respect we agree with Judge Wilkey, who observed in his opinion for the Court of Appeals in the *Tatum* case that:

"It is highly important for the safety of the country that to the extent consonant with the performance of the military's mission a separation of sensitive information and military power be maintained, as a separation of match and powder. In an emergency or anticipation of an emergency the military power can be supplied the necessary information from civilian investigating agencies; these two ingredients, potentially

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dangerous when combined, can be put together by a responsible President and his Cabinet officers as the emergency demands. But to permit the military to exercise a totally unrestricted investigative function in regard to civilians, divorced from the normal restrictions of legal process and the courts, and necessarily coupling sensitive information with military power, could create a dangerous situation in the Republic." [81]

3. The restrictions on such activities, which have been imposed by the armed services themselves, following disclosures about the operations in 1970 and 1971, do not resolve the problem. Although these restrictions (principally, the provisions of DoD Directive 5200.27) are laudable steps in the right direction, they still leave room for an unjustifiably wide range of monitoring activities to be conducted by military personnel. Moreover, the terms of the restrictive regulations (or the enthusiasm with which they are enforced) may change at any time. The incumbent administration or a future administration could find it convenient to again adopt a domestic intelligence program and simply rescind or modify DoD Directive 5200.27—conceivably even by a classified exception to it. Even if departmental regulations were narrowly drawn and not subject to classified exceptions, however, statutory sanctions would be preferable. There would seem to be less likelihood that the military personnel would conduct unauthorized surveillance that is proscribed by a statute with teeth in it than that they would violate a mere departmental regulation.

4. The area is one which is appropriate for Congressional legislation. Although we believe that existing law should be read as prohibiting broad surveillance and data collection activities of the sort described above, Administration spokesmen have taken a contrary view. As long as the narrow concept of standing delineated in *Laird* v. *Tatum* remains a guiding principle, litigation is not likely to be effective in curtailing such activities in the future. In the absence of an explicit statutory mandate to desist, there will as a practical matter be no obstacle to the resumption of the kind of activities which were undertaken during the 1967–70 period other than the "self-discipline" of the Executive Branch.

5. The Committee recommends that Congress enact legislation generally prohibiting all military surveillance of civilian political activities and proscribing all collection or storage of information on the political or private affairs of individuals and organizations not directly affiliated with the armed forces. The basic principles which the Committee believes should be incorporated in federal legislation are the following:

(a) The statute should, in broadly inclusive terms, bar members of the armed forces or persons employed by the armed forces from conducting surveillance whether overt or covert, of civilians. It should be carefully drawn to prohibit the compilation of dossiers and data banks, while at the same time permitting the kind of logistical reconnaissance recommended by Cyrus Vance in his September 1967 report on the Detroit riots.

(b) The statute should provide for criminal penalties for violations, and should, in addition, include provisions for injunctive relief and for damages (including punitive damages and counsel fees).

(c) The statute should confer standing to sue upon any person or organization which has been the subject of the proscribed activities.

(d) The statute might well include a carefully drawn provision excepting from its proscriptions the collection of tactical information on the location, size and actions of groups engaged in violent activities in areas to which federal troops have been ordered by the President pursuant to 10 U.S.C. §§ 331–333. If so, it should also provide that any such activities should cease with the cessation of the violence and withdrawal of the troops and should in no event extend beyond 60 days without explicit Congressional approval.

COMMITTEE ON CIVIL RIGHTS

Maria L. Marcus, *Chairman*; Ann Thatcher Anderson, Eastman Birkett, Paul H. Blaustein, Raymond S. Calamaro, Seymour Chalif, Porter R. Chandler, Robert J. Egan, John R. Fernbach, Benjamin Ira Gertz, William S. Greenawalt.

Eric L. Hirschhorn, John J. Kirby, Jr., Alfred J. Law, Joseph H. Levie, Barry Mahoney, Donald D. Shack, William Sterling, Jr., Donald J. Sullivan (Hon.), Susan F. Teich, Franklin E. White, Milton L. Williams.

FOOTNOTES

* It should be noted that according to documents made public subsequent to compilation of the body of this report, secret plans for extensive monitoring of civilian political activities were apparently formulated at top levels of the executive branch of the government during the spring and summer of 1970. The techniques to be employed included electronic surveillance, mail coverage, and surreptitious entry. While referring to retention of restrictions on the use of military undercover agents, the plans apparently anticipated eventual participation of the military. A permanent committee consisting of the F.B.I., C.I.A., N.S.A., D.I.A. [Defense Intelligence Agency] and the military counter intelligence agencies was to evaluate information and "carry out the other objectives specified in the report." See "Text of Documents Relating to Domestic Intelligence Gathering Plans in 1970," *New York Times*, June 7, 1973, p. 36. The documents were subsequently made a part of the record at the hearings before the Senate Select Committee on Presidential Campaign Activities, in June, 1973.

[1] See, *e.g.* the seminal article by Samuel D. Warren and Louis D. Brandeis, "The Right of Privacy," 4 Harvard Law Review 193 (1890).

[2] A decade ago, the Association of the Bar's Special Committee on Science and Law, with the support of the Carnegie Corporation of New York, undertook a major inquiry into the impact of modern technology upon individual privacy. That inquiry, headed by Professor Alan F. Westin, contributed significantly to greater understanding of the nature and historical roots of the interest in privacy, the development of relevant legal principles, and the complexity of the problems involved in protecting individual privacy in an era of rapid technological change. The results of the research appear in Westin, *Privacy and Freedom* (New York: Atheneum, 1967).

[3] The charges were initially made by Christopher H. Pyle, a law school graduate and former captain in Army Intelligence. Pyle, "CONUS Intelligence: The Army Watches Civilian Politics," *Washington Monthly*, January 1970, pp. 4–16.

[4] U.S. Congress, Senate, "Federal Data Banks, Computers, and the Bill of Rights." Hearings Before the Subcommittee on Constitutional Rights of the Committee on the Judiciary, 92d Congress, 1st Session, Parts I and II (February 25-March 17, 1971) (hereinafter cited as *"Senate Hearings"*).

[5] See, *e.g.*, testimony of Assistant Secretary of Defense for Administration Robert H. Froehlke, *Senate Hearings*, pp. 378–390.

[6] See Department of Defense Directive 5200.27, issued March 1, 1971, and subsequent Army, Navy and Air Force regulations implementing that directive. The directive and regulations are reproduced in *Senate Hearings*, pp. 1239–1264.

[7] See, *e.g.*, testimony of Assistant Secretary Froehlke and Defense Department General Counsel J. Fred Buzhardt, *Senate Hearings*, pp. 384–385, 410–419, discussed *infra*.

[8] Joan M. Jensen, *The Price of Vigilance* (Chicago: Rand McNally & Co., 1968); pp. 122ff.: also *Senate Hearings* p. 160 (testimony of Christopher H. Pyle), pp. 344–345 (testimony of Prof. Morris Janowitz).

[9] Jensen, *op. cit.*, pp. 219–286; *Senate Hearings*, pp. 345–346 (Janowitz testimony).

[10] *Senate Hearings*, p. 160 (Pyle testimony), 346 (Janowitz testimony). There is some evidence that many of the files on individuals opened during the 1917–1924 period were retained by the one-time Chief of Army Intelligence, Gen. Ralph Van Deman, after he retired from active service in the 1920's and were used by him in connection with some political activities in California. See *Note: Judicial Review of Military Surveillance of Civilians*, 72 Columbia Law Review 1009, 1036 n. 190.

[11] *Senate Hearings*, p. 346 (Janowitz testimony).

[12] *Ibid.*

[13] *Senate Hearings*, p. 377 (Froehlke testimony).

[14] Quoted in Paul J. Scheips, *The Role of the Army in the Oxford, Mississippi Incident, 1962–1963*, Office of the Chief of Military History, Monograph No. 73 M (Washington, D.C.: Department of the Army, 1965), p. 284.

[15] Examples of apparent instances of surveillance activities by individual Military Intelligence units during this period include the keeping of files on civilians and civilian organizations in the Minneapolis area, photographing and opening of files on anti-war pickets near a Federal courthouse in Oklahoma City, and the monitoring of the activities of several state legislators, ACLU attorneys and anti-war activists in Texas. See *Senate Hearings*, p. 189 (Pyle testimony), pp. 337–339 (testimony of Texas State Representative Curtis Graves).

[16] *Final Report of Cyrus R. Vance, Special Assistant to the Secretary of Defense, Concerning the Detroit Riots, July 23 through August 2, 1967.* Department of Defense News Release No. 856–67, September 12, 1967, p. 59.

[17] *Ibid.*, pp. 49–50.

[18] *Senate Hearings* pp. 382–383 (Froehlke testimony), pp. 1119–1122 ("Annex B [Intelligence] to Department of the Army Civil Disturbance Plan, February 1, 1968"). Whereas the Vance Report's recommendations were aimed at collecting physical reconnaissance information, the February 1968 Intelligence Annex called for collection of data on politically active individuals and organizations as well.

[19] *Senate Hearings*, p. 1124. The entire plan is reproduced at pp. 1122–1137.

[20] *Senate Hearings* pp. 1134–1135.

[21] *Senate Hearings*, p. 384.

[22] *Ibid.*

[23] *Ibid.*

[24] *Senate Hearings, passim;* see also "Army Surveillance of Civilians: A Documentary Analysis by the Staff of the Subcommittee on Constitutional Rights," Committee Print, 92d Congress, 2d Session (Washington, D.C.: U.S. Government Printing Office, 1972) hereinafter referred to as *"Subcommittee Staff Report"*.

[25] *Subcommittee Staff Report*, pp. 12–14, 39–40.

[26] *Subcommittee Staff Report*, p. 96.

[27] *Subcommittee Staff Report, passim.*

[28] *Senate Hearings*, pp. 197–198 (Pyle testimony); 272–273 (statement of Ralph M. Stein).

[29] *Senate Hearings*, pp. 185, 200–201 (Pyle testimony).

[30] *Senate Hearings*, pp. 290, 296 (testimony of Joseph J. Levin, Jr.)

[31] *Senate Hearings*, p. 155 (Pyle testimony), 531–566 (testimony of Malcolm Moos, President of the University of Minnesota).

[32] *Senate Hearings*, pp. 306, 310–312 (testimony of Oliver A. Pierce).

[33] *Subcommittee Staff Report*, p. 96.

[34] *Subcommittee Staff Report*, pp. 69, 96.

[35] *Subcommittee Staff Report*, p. 96.

[36] *Subcommittee Staff Report*, p. 97.

[37] *Subcommittee Staff Report*, Preface, p. vi.

[38] See note 3, *supra*.

[39] *Tatum* v. *Laird*, U.S. District Court, District of Columbia, Civil Action Docket No. 459–70 (order dated April 22, 1970, not officially reported) (Hart, J.).

[40] *Tatum* v. *Laird*, 444 F. 2d 947 (D.C. Cir., 1971).

[41] 408 U.S. 1, 13 (citing *Ex parte Levitt*, 302 U.S. 633, 634 [1937]).

[42] The Court noted that directives issued by the Army and the Department of Defense since the time the lawsuit was filed "indicate that the Army's review of the needs of its domestic intelligence activities has indeed been a continuing one and that those activities have since been significantly reduced" (408 U.S. 1 at 8), but did not respond to the plaintiffs' contention (Br. pp. 88–91) that the evidentiary question of whether the directives had in fact produced a sufficient curtailment of surveillance activity remained to be resolved.

[43] 408 U.S. 1 at 24, 28–29.

[44] 408 U.S. 1, 38–40. Justice Marshall also joined in this dissent.

[45] 409 U.S. 824.

[46] *ACLU* v. *Westmoreland*, 323 F. Supp. 1153 (N.D. Ill. 1970), *aff'd sub nom ACLU* v. *Laird*, 463 F. 2d 499 (7th Cir. 1972), *cert. denied* —— U.S. ——, 34 L. Ed. 2d 699 (Jan. 8, 1973).

[47] 408 U.S. 1 at 15–16.

[48] See notes 18–37 and accompanying text, *supra*.

[49] *Senate Hearings*, pp. 385, 431–432. Similar testimony was presented by then Assistant Attorney General William H. Rehnquist, at pp. 598–603.

[50] *Senate Hearings*, pp. 384–385.

[51] *Ibid.*

[52] *Senate Hearings*, pp. 136–37.

[53] See note 24, *supra*.

[54] In the 92d Congress, bills were introduced by Sen. Ervin (S. 3750), Rep. Mikva (H.R. 5640, 5641, and 5761) and Rep. Abzug (H.R. 15823). In the current (93d) Congress, only Rep. Abzug has introduced a bill (H.R. 1967) though it is expected that Sen. Ervin will again introduce such a measure.

[55] Senator Ervin has observed, for example, that although extensive use was made of computers in the Army's domestic surveillance program, the Constitutional Rights Subcommittee "was first told informally that there were no computers; then, that there was one, but that it had been disconnected for this program; then, that there were a few more computers that the Department had forgotten about or not known about" (*Senate Hearings*, p. 1558). The history of the Army's public response to the disclosure is detailed in Captain Pyle's testimony before the Subcommittee (*Senate Hearings*, pp. 206–220).

[56] Reprinted in *Senate Hearings*, pp. 1253–1255.

[57] DOD Directive 5200.27, Section III. This provision also states that information gathering activities are to be subject to "overall civilian control, a high level of general supervision and frequent inspections at the field level," and that mere collection activities are authorized to meet "an essential requirement for information," maximum reliance is to be placed upon civilian investigative agencies.

[58] DOD Directive 6200.27, Section V.

[59] See *e.g.*, George C. Christie, "Government Surveillance and Individual Freedom: A Proposed Statutory Response to *Laird* v. *Tatum* and the Broader Problem of Government Surveillance of the Individual," 47 N.Y.U. L. Rev. 871, 879–883 (November, 1972).

[60] See, *e.g.*, testimony of Messrs Froehlke, Buzhardt and Rehnquist, *supra*, notes 49–51 and accompanying text; Justice Department briefs in *Laird* v. *Tatum*, *passim*. The following provisions have been chiefly relied upon in support of this position:

(1) The provisions of Article II of the Constitution which say that "The executive power shall be vested in a President . . .", that the President is "the Commander-in-chief of the Army and Navy of the United States," and that "he shall take Care that the laws be faithfully executed";

(2) Article IV, Section 4 of the Constitution which provides that "The United States shall guarantee to every State in their Union a Republican form of Government, and shall protect each of them against Invasion; and on Application of the Legislature, or of the Executive (when the Legislature cannot be convened) against domestic violence.

(3) The provisions of 10 U.S.C. §§ 331–333, which in essence implement the Article IV power by authorizing the President to use armed forces to supress "insurrection" or "domestic violence" within a state; and

(4) (with respect to surveillance operations conducted by the Army, which is the only branch of the armed forces which has to date been publicly charged with overreaching) 10 U.S.C. § 3012, which authorizes the Secretary of the Army to conduct all affairs of the Department of the Army including "functions necessary or appropriate for the training, operation, logistical support and maintenance, welfare, preparedness and effectiveness of the Army, including research and development."

[61] *Senate Hearings*, pp. 384–385 (Froehlke testimony), 598–599 (Rehnquist testimony).

[62] Brief for Appellees in *Tatum* v. *Laird*, 444 F. 2d 947 (D.C. Cir. 1971, Docket No. 24203). This argument, it should be noted, was not made by the Justice Department in the Supreme Court in the *Tatum* case.

[63] For a discussion of the debates at the Constitutional Convention and during the struggle over ratification by the States regarding the role of the military and the limited function which the Framers contemplated that a standing army could be expected to perform, see Leon Friedman, "Conscription and the Constitution—The Original Understanding," 67 Mich. L. Rev. 1493, 1512–1541 (1969).

[64] *Wrynn* v. *United States*, 200 F. Supp. 457, 465 (E.D.N.Y. 1961).

[65] 343 U.S. 579 (1952).

[66] 407 U.S. 297 (1972).

[67] 407 U.S. 297 at 313, 321. The opinion also observed, *inter alia*, that:

"History abundantly documents the tendency of Government—however benevolent and benign its motives—to view with suspicion those who most fervently dispute its policies. Fourth Amendment protections become the more necessary when the targets of official surveillance may be those suspected of unorthodoxy in their political beliefs. The danger to political dissent is acute where the Government attempts to act under so vague a concept as the power to protect "domestic security." Given the difficulty of defining the domestic security interest, the danger of abuse in acting to protect that interest becomes apparent. . . . The price of lawful public dissent must not be a dread of subjection to an unchecked surveillance power. Nor must the fear of unauthorized official eavesdropping deter vigorous citizen dissent and discussion of Government action in private conversation. For private dissent, no less than open public discourse, is essential to our free society. * * *

Official surveillance, whether its purpose be criminal investigation or ongoing intelligence gathering, risks infringement of constitutionally protected privacy of speech. Security surveillances are especially sensitive because of the inherent vagueness of the domestic security concept, the necessarily broad and continuing nature of intelligence gathering, and the temptation to utilize such surveillances to oversee political dissent. We recognize, as we have before, the constitutional basis of the President's domestic security role, but we think it must be exercised in a manner compatible with the Fourth Amendment. In this case we hold that this requires an appropriate prior warrant procedure."

Id. at 314, 320.

[68] See testimony cited at notes 49–51, *supra*, and accompanying text.

[69] 444 F. 2d 947 at 957–958. With respect to the question of the utilization of the military's vast resources of personnel and material, there was a considerable amount of testimony at the Senate hearings about the resources devoted to surveillance operations. For example, one former agent testified that an anti-war rally in Colorado attended by a total of 119 persons, "close to half the people there were from one intelligence command or another, including Naval Intelligence individuals who came from the west coast to see how to monitor a rally correctly." He added that some agents were assigned to tape the speeches of anti-war activists at the rally, but were unable to do so because of the noise produced by Army helicopters flying directly overhead. *Senate Hearings*, pp. 314–315, 330 (testimony of Laurence F. Lane).

[70] *Roe* v. *Wade*, 410 U.S. 113 (1973).

[71] See, *e.g.*, *Boyd* v. *United States*, 116 U.S. 616 (1886); *Weeks* v. *United States*, 232 U.S. 383 (1914); *Mapp* v. *Ohio*, 361 U.S. 643, 654–657 (1961); *Griswold* v. *Connecticut*, 381 U.S. 479, 484 (1965); *Katz* v. *United States*, 389 U.S. 347, 350 (1967); *Stanley* v. *Georgia*, 394 U.S. 557 (1969); *Eisenstadt* v. *Baird*, 405 U.S. 438, 453–454; *Roe* v. *Wade*, *supra*.

[72] Opinion for the Court in *NAACP v. Alabama*, 359 U.S. 449 at 462 (1958).

[73] See, *e.g.*, *NAACP* v. *Button*, 371 U.S. 415, 432–433 (1963).

[74] See *e.g.*, *Baird* v. *State Bar of Arizona*, 401 U.S. 1 (1971) (inquiries into past political associations by bar admission committees); *NAACP* v. *Louisiana*, *supra*, and *Bates* v. *City of Little Rock*, 361 U.S. 516, 523 (attempts to require disclosure of membership lists of organizations engaged in disseminating controversial ideas); *Talley* v. *California*, 362 U.S. 60 (1960) (attempt to require author of a political handbill to identify himself); *Lamont* v. *Postmaster General*, 381 U.S. 301 (1965) (attempt to require persons desiring to receive certain kinds of political literature to register that desire with the postal authorities). Chief Justice Burger's opinion for the majority in *Laird* v. *Tatum* sought to distinguish some of these cases on the grounds that they involved an exercise of governmental power which was "regulatory, proscriptive, or compulsory in nature" and that the complainants in them were "either presently or prospectively subject to the regulations, proscriptions or compulsions."

[75] See, for discussions of many of the principal studies, Frank Askin, "Surveillance: The Social Science Perspective," 4 Colum. Human Rights L. Rev. 59–88; see also Alan F. Westin, *Privacy and Freedom*, *op cit supra* note 2; Arthur Miller, *The Assault on Privacy* (Ann Arbor: University of Michigan Press, 1971).

[76] Askin, loc. cit. *supra*, at 64–68, and sources cited therein.

[77] *Senate Hearings*, p. 603.

[78] See note 55, *supra*.

[79] The closing paragraph of the majority opinion stated, in fact that:

"Indeed, when presented with claims of judicially cognizable injury, resulting from military intrusion into the civilian sector, federal courts are fully empowered to consider claims of those asserting injury; there is nothing in our Nation's history or in this Court's decided cases including our holding today, that can properly be seen as giving any indication that actual or threatened injury by reason of unlawful activities of the military would go unnoticed or unremedied."

[80] Although the complaint clearly could have been construed—as plaintiffs argued that it should have been—to allege continuing injury to reputation, invasion of privacy, and infringement of rights to free association, the Court declined to do so. On the

contrary, it took particular note of a remark made by one of the plaintiffs' counsel, at the oral argument in the Court of Appeals, that the plaintiffs themselves "are not, obviously, people who are cowed and chilled." 408 U.S. at 1, 13–14 n. 7.

[81] 444 F.2d 947 at 958.

Mr. HRUSKA. Mr. President, today the Constitutional Rights Subcommittee of the Judiciary Committee released a report entitled "Military Surveillance of Civilian Politics." This report is a by-product of the hearings held on this subject matter during the 92d Congress.

I share the concern expressed in the report of the potential threat to the individual's right to privacy posed by the Government's quest for information. No one believes more strongly than I that the preservation of the right of free expression and association must remain as one of our paramount objectives.

While I applaud the efforts of the subcommittee and its staff to bring to light many of the repugnant aspects of surveillance occurring during the mid to late 1960's, I find that I cannot subscribe to certain of the overblown and sweeping conclusions contained in this report.

There is little doubt that Army intelligence was guilty of mistakes, ineptitude, and blunders of professional judgment in carrying out its mission of collecting information relative to civil disturbances. It should be noted that it soon became apparent to the military that massive attempts to gather such material was largely a waste of time and money. I am willing to believe that the military is capable of stupidity at times, but not that it is a way of life, as the report seems to imply.

Particularly, I am troubled by the report's failure to properly recognize the fundamental and effective corrective measures that have been implemented by the Defense Department to insure against recurrence of the prior offensive activities by the subject intelligence gathering agencies. Because of this failing, the report, to my mind, is unfairly balanced and thereby lacks essential credibility.

Additionally, I find that I cannot agree with the report's legal conclusions. Rather, I am in accord with the decision of the Supreme Court in Laird v. Tatum which deals precisely with the question of military surveillance.

Several other members of the subcommittee have found that they have similar misgivings concerning this report. I ask unanimous consent that the additional views which were prepared for the report be printed in the RECORD.

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

ADDITIONAL VIEWS OF HONORABLE ROMAN HRUSKA, HIRAM FONG, HUGH SCOTT,* AND STROM THURMOND

As members of the Subcommittee on Constitutional Rights, Committee on the Judiciary, we have participated in and followed closely the extensive hearings and investigation held over the past three years relating to the subject of military surveillances of civilian groups and individuals. The lengthy report of the Subcommittee contains much valuable information relating to the period of the late 1960's during which military intelligence was engaged in gathering a large volume of data on civilian organizations and individuals who, for one reason or another, were thought to present some potential for being involved in civil disturbances. We believe the extensive hearings held by the Subcommittee served a very valuable purpose in bringing out in fine detail facts relating to this period in our history, and in highlighting mistakes which unquestionably were made both by the military intelligence organizations and by the civilian political leadership which caused the military to be involved in such activities.

We fully concur with the underlying theme of the Subcommittee Report that the right of the individual to express his views must remain unfettered. This nation must indeed be ever vigilant in maintaining the delicate balance between personal liberty and an orderly society. No one recognizes more than we the great errors in judgment made during the course of the subject intelligence gathering nor finds repugnant certain practices outlined in the Subcommittee Report. It was, however, this unfortunate state of affairs which prompted positive corrective measures beginning in early 1969.

It is our belief that the report reaches several broad conclusions which are not warranted by the facts nor sustained by our judgment on the Constitutional and public policy issues involved. Hence, we regret that we cannot unqualifiedly endorse either the overly-broad assertions of historical happenings nor subscribe to the legal conclusions of what our hindsight judgment tells us was both ill-advised and unnecessary.

We do have some objections to the report's essay on the legal issues presented, but we do agree with the major thrust of the report and Subcommittee inquiry which was intended to identify and correct what we saw as an unwarranted departure from traditional relationships of military forces in our civilian communities. We agree with the candid and forthright statement to this Subcommittee by an Assistant Secretary of Defense that the past history of military involvement was replete with excesses, errors of judgment, and much wasteful and inappropriate effort to no avail.

We likewise agree with the majority of the Supreme Court which held in the case of *Laird* v. *Tatum* that no specific harm to any individuals has been alleged or proved (at least thus far) which would create a justifiable issue for judicial relief. In passing, we should also like to point out that the District Court for the Northern District of Illinois, as affirmed by the Court of Appeals for the 7th Circuit, in *ACLU* v. *Laird*, after a four-day hearing, found that no one in a group of individuals alleged to be the subject of military surveillance had been inhibited from exercising his Constitutional rights and dismissed the complaint. We do not believe the lengthy "brief" rearguing the issue which is incorporated in our Subcommittee's report sheds any new or additional light on an issue already decided by the Judiciary.

The Subcommittee Report, we believe, is additionally remiss in failing to properly recognize the comprehensive corrective actions that have been implemented in the past several years by civilian authorities. We feel that it is worthwhile to also point out that it is apparent that a painful lesson has been learned most particularly by the military intelligence organizations themselves. We believe it fairest to accept the judgment of the Defense Department official who testified to this Subcommittee, in a manner corroborating other witnesses, to the effect that the massive effort to gather civil disturbance data were largely futile. It did not aid them in predicting civil riots, and it was largely irrelevant when a disturbance did occur. The practical lesson learned by the military was that the measures they undertook were a waste of time and money.

Profound and effective steps have been taken to bring the responsible intelligence gathering agencies back into line. Stringent safeguards have been imposed to preclude any recurrence of prior offensive activities. The Subcommittee has been furnished sworn testimony and numerous documents which set forth the measures taken by the Secretary of Defense, and implemented by each Service Secretary, to assure that this particular chapter in our history is not repeated.

We view with gratification the creation of a top-level policy advisory group in the Defense Department named the Defense Investigative Review Council (DIRC) and its supporting administrative staff, with personal responsibilities assigned to Service Under Secretaries of each military department. We believe that it is a mechanism which will assure continued compliance with the corrective actions taken. We were advised that the Secretary of Defense for the first time is asserting policy control and management of investigative organizations within the individual military departments.

Clear prohibitions against surveillances of political figures and others not affiliated with the military are contained in Defense regulations. The offending data banks on civilians have been destroyed and future creation of such data banks are broadly and firmly prohibited. The record before us shows the results of these measures. The program of internal inspections and unannounced inspections from the Washington level, initiated during the hearings—all of which the Subcommittee Report seems to discount—appear to be well-designed to correct the excesses of the past.

The abuses of the mid to late 1960's may perhaps be understood, although not justified, in light of the crisis charged atmosphere of those years. Given the mission to assist in quelling the grievous and massive civilian disorders which unfortunately afflicted some of our major population centers during that period in our history, the military overreacted in some aspects in its related intelligence gathering duties. As with many newly-implemented programs, the mistakes and excesses became apparent and have been dealt with.

We support efforts of this Subcommittee to continue to monitor the performance of military intelligence units to assure that actions which gave rise to our original inquiry do not again raise their head. In view of the strong corrective measures taken by the Department of Defense and the lack of any recurrence of prohibited activities, however, we believe that the situation described in the report has been properly brought under control.

* Subcommittee member until January 31, 1973.

By Mr. DOMINICK:

S. 2319. A bill to amend the Wild and Scenic Rivers Act by designating segments of certain rivers in the State of Colorado for study as potential components of the national wild and scenic rivers systems. Referred to the Committee on Interior and Insular Affairs.

Mr. DOMINICK. Mr. President, in 1968 the Congress passed the Wild and Scenic Rivers Act. As stated in the act:

Certain selected rivers of the Nation . . . possess outstandingly remarkable scenic, recreational, geologic, fish and wildlife, historic, cultural, or other similar values . . .

In recognition of this fact, the United States established the Wild and Scenic Rivers Act, which embodies a system designed to enhance, protect, and preserve rivers throughout the country. In enacting this legislation the Congress also considered the fact that there exists

a national policy of dam and other construction at appropriate sections of the rivers of the United States which should be complemented by a policy that would preserve rivers and river sections in their free-flowing condition. Another important consideration in deciding to pass this act was the problem of the increasing pollution in our beautiful rivers, particularly during the last several years, so that a great many of them are no longer fit for human contact and, indeed, cannot even sustain the fish and wildlife which once lived in and around many of our rivers.

Presently, there are eight rivers or river segments which are permanent components of the national wild and scenic rivers system and 27 rivers or segments of rivers which are presently being studied for future inclusion in that system. However, it is quite distressing and almost inconceivable that not one river or river segment from the State of Colorado is either a present or potential component of the system established under the Wild and Scenic Rivers Act. Colorado has 231 rivers, traveling a total of 14,400 miles in the State. The Bureau of Outdoor Recreation has pointed out that over 90 Colorado rivers, 3,400 miles of river, have been identified as having significant free-flowing values, yet not one river in the State has been given protection under the act. Many of these 90 streams and rivers are under constant threat of having their flows impeded in one way or another, by diversion or impoundment and are under the threat of having their scenic values impaired or destroyed along with this diversion or impoundment. Demands on the State's rivers are numerous including those for flood control, power development, industrial, municipal, and irrigation use and nearby subdivisions. Thus, decisions must be made now as to which rivers or sections of rivers should be included in and protected by the Wild and Scenic Rivers Act.

When the act was passed it would have been impossible, of course, to include all the Nation's rivers which at that time were worthy of being a part of the National Wild and Scenic Rivers System. Many of them had not been studied at any great length in order to determine their qualities and even with the several that are now proposed additions to the system, the Departments of Interior and Agriculture have difficulty in finding the time and the manpower to conduct the necessary studies.

Yet it is still hard to believe that not one river in Colorado is now a part of the national system. Six major rivers in the Western part of the United States have their sources in the mountains of Colorado. They are the Colorado, Rio Grande, Arkansas, North and South Platte Rivers, and the Republican River. The waters of these rivers leave Colorado and spread out through 18 neighboring States. This fact alone indicates the vital importance of Colorado's rivers not only to the State itself, but to the entire Nation. There is no question that a serious error has been made in omitting from the act and not including up to this time many of the Colorado rivers which are important tributaries to the rivers mentioned above or are valuable for various other reasons.

The Wild and Scenic Rivers Act requires that, for a river to become a component of the National Wild and Scenic Rivers System, it must be proposed by the Congress so that the Interior Department or the Agriculture Department can study the river and classify all or parts of it into one or more of the three categories provided for in the act.

The act states that eligible rivers or segments of eligible rivers will be classified, designated and administered as a wild river, scenic river, or recreational river or as a combination of those categories depending on the character of the segments of the eligible rivers. To be classified as "wild," the river or segment must be free of impoundments and generally inaccessible except by trail, with watersheds or shorelines essentially primitive and waters unpolluted. These represent vestiges of primitive America. The definition of "scenic river areas" is those that are free of impoundments, with shorelines or watersheds still largely primitive and shorelines largely undeveloped, but accessible in places by roads. The third category is "recreational river areas" and those are rivers or river segments that may have some development along their shorelines and may have undergone some impoundment or diversion in the past.

Today, August 1, was until recently Colorado Day, a State holiday, and is an appropriate day to introduce a bill which has as its purpose the inclusion of a number of rivers in the State of Colorado in the national wild and scenic rivers system. Opinions will, of course, vary as to which rivers should be included under which classification in the act. This depends upon the individual's needs and interests. Some people enjoy the recreational values of a river on which there exists calm water behind a dam, while others pursue the challenge of white water canoeing. Over the past several months, in order to ascertain what Colorado rivers should be studied for inclusion in the national system, I have had extensive contact with individuals in the Bureau of Land Management, the Bureau of Reclamation, the Bureau of Outdoor Recreation, the Agriculture Department, the Denver water board, the Colorado Department of Natural Resources, and several environmental groups, and the wilderness society in particular. In addition, I have discussed this bill with and received a large amount of mail on the subject from such groups as Trout Unlimited, the American Canoe Association, the Colorado Rivers Council, the Wilderness Workshop of the Colorado Open Space Council, the Sierra Club, Colorado White Water Association, and the Colorado University wilderness group.

On the basis of the volumes of information supplied to me by these groups, I have determined that 14 rivers or river segments in the State of Colorado should be studied by the Interior Department, or where appropriate, the Agriculture Department, for future inclusion into the national wild and scenic rivers system. It must be remembered that this bill sets up the study phase of the river system and that it will be up to the Interior and Agriculture Departments to determine exactly into which of the three classifications that I mentioned earlier each river or segment will fall. Also, one river may have segments which fall into all three categories.

Out of the 14 rivers I am proposing there is a vast cross-section of characteristics involved, including differences in geographic location, physical dimensions, and potential use. The following descriptions of the 14 rivers in my bill point this out:

Dolores River, the entire segments of the West Dolores and the Dolores, beginning at their sources and continuing to the Utah border. Starting at Cahone, Colo., the area surrounding the Dolores River is characterized by dense forests of pine. These upper reaches provide sparkling and clear water. As the Dolores meanders downstream, beautiful red sandstone walls and pinon pine characterize the transition from a subalpine to a desert-like river.

The upper reaches offer good-to-excellent fishing, and the Dolores provides a good opportunity for boatmen to experience a wild river. The river receives extensive use by people canoeing, floating, and kayaking during peak water.

It is my feeling that the Dolores project, which will include the building of the McPhee Dam, can be reconciled with the inclusion of the Dolores River under the Wild and Scenic Rivers Act. I have included a provision in this bill to insure that the two endeavors are achieved in a manner compatible with each other.

North Platte River, the segment from its source to the Colorado-Wyoming State line. This river segment which includes a portion in the Mount Zirkel Wilderness Area may qualify as a "wild" river. It is characterized by a wide, meandering riverbed and pinon pine in the surrounding area. Whitetail deer, mule deer, elk, bald eagle, and other wildlife are found there as well as excellent rainbow and brown trout fishing.

Green River, the segment which flows through the State of Colorado. The character of this body of water is that of a beautiful desert river with medium-to-wide stretches bounded by sandstone cliffs. The upper stream portion is an excellent natural fishery. Great numbers of people from metropolitan Denver fish the Green River on a regular basis, and it is used heavily for floating, canoeing, and kayaking.

Yampa River, the segment from Sunbeam, Colo., to the confluence with the Green River. It has high canyon walls, cactus in bloom and pinon pine characterizing the surrounding area. In addition, the Yampa is one of the few rivers in Colorado which is free flowing throughout its entire length.

Gunnison River, the segment from the confluence with the North Fork through the Black Canyon of Gunnison National Monument. This portion of the Gunnison provides rugged and beautiful scenery. Several rare flora species are present. Wintering grounds for a large migrating duck population and nesting grounds for peregrine falcons, eagles, and other birds

are found in the Black Canyon. This portion may qualify as wild. The Gunnison has long enjoyed a reputation as a trout fishery and possesses excellent water for expert boaters.

Big Thompson River, the segment in Forest Canyon, Rocky Mountain National Park. Originating in the high glaciers of Rocky Mountain National Park and running downstream through Forest Canyon 8 to 10 miles into Lake Estes, this portion of the Big Thompson River supports heavy recreational use. Some boating and good fishing are available in this stretch which qualifies for wild and scenic status.

Poudre River, the segment from the sources of both forks to the border of Roosevelt National Forest. This is one of the best white water rivers in the State. It accommodates a wide range of boating skills. Beginner and intermediate boating capabilities are suitable for the lower reaches. Further upstream is the site of the 1972 Olympic qualifying slalom course where, for the past 4 years, the Poudre wildwater and slalom race has been sponsored by the Colorado White Water Association.

An excellent natural spawning stream for trout, a great deal of fishery research is conducted on the Poudre by Colorado State University and the Colorado Division of Wildlife.

Los Pinos River, the segment from the source to the point at which the river enters the northern boundary of the Granite Peak Ranch. From its source in the proposed Weminuche Wilderness to about 10 miles north of the Vallecito Reservoir the river may qualify as wild. A high altitude river in its upper reaches, the Los Pinos—or Pine—flows through very scenic mountain terrain and provides excellent wilderness trout fishing.

Conejos River, the segment from its source to the first junction with State Highway 17. The Conejos begins high in the wild South San Juan country. This entire portion may qualify for wild and scenic designation. The portion of the Conejos from Platoro Reservoir to the Forest Service boundary might be considered for scenic status. Large herds of elk and deer inhabit the river area. The Conejos supports a moderate amount of boating and excellent fishing. Used not only by Coloradans, many people from New Mexico and Texas enjoy its many recreational opportunities.

Elk River, the segment from its source to Clark, Colo. A beautiful stream, bordered by conifers and narrow canyons, the Elk possesses a medium flow of quality water. It offers excellent fishing for rainbow trout and enjoyable boating through fairly continuous rapids.

Laramie River, from its source to the Colorado-Wyoming border. The significant characteristic of this river is that it is rated the best small-to-medium fly fishery in Colorado.

Michigan River, from all of its sources to Gould, Colo. This river is similar in its appearance and character to the North Platte River and meanders through grasslands and pine forests. In addition, the trout fishing is excellent.

Piedra River, the segment from the source to the junction with State Highway 160. The upper stretches of this high altitude alpine river flowing from the proposed Weminuche Wilderness support rafting and kayaking. Downstream, the river flows through scenic box canyons and mountain meadows. Not only do elk, deer, and bear abound in the area, but the Piedra contains outstanding natural spawning areas and provides excellent fishing for rainbow and brown trout.

Encampment River, the segment from the source to the Wyoming border. This river consists of several small branches reaching out from the main branch. The branches originate in the snow-crested peaks of the Mount Zirkel Wilderness. They then gently wander through the heavily forested, undeveloped Federal lands toward Wyoming.

This is a truly wild area and flows through high quality wilderness in one of Colorado's priority roadless areas. The entire roadless area amounts to over 94,000 acres of potential wilderness. Out of this, 16,000 acres were selected by the Forest Service for wilderness study. The remaining acreage, including the Encampment watershed, was excluded by the Forest Service. I am concerned about this area as such activities as timbering could eliminate critical elk calving grounds along the West Fork of the Encampment River where over 250 cow elk are known to calve in season. Also, excessive runoff and siltation caused by roads and timbering could ruin the rainbow and brown trout fisheries.

There will undoubtedly be many questions regarding the effect which this bill will have on both water rights and private land ownership rights in the State of Colorado. I want to emphasize that there is nothing in the Wild and Scenic Rivers Act which would adversely effect the water rights allocated under the State water laws. In addition, since this bill would place these rivers under the act only as potential additions to be studied for inclusion in the system, there is absolutely no impact on private land ownership. Further, in the event these rivers are recommended and do become permanent components of the national wild and scenic rivers system, the act carefully limits the authority of the Departments of Interior and Agriculture to acquire privately owned land bordering on the rivers which I am proposing today. The emphasis is on the area closely bordering on the rivers. In line with this approach, the act states that—

> The Secretary of the Interior and the Secretary of Agriculture . . . shall not acquire fee title to an average of more than 100 acres per mile on both sides of the river.

If one looks at a map he will see that the large majority of the rivers I am proposing are already located within federally owned parks, forests or monuments. Therefore, by this bill there will be little if any effect on individuals who own land bordering on the rivers in this bill, yet at the same time hundreds of miles of beautiful Colorado rivers will receive maximum attention and protection which is available only under the Wild and Scenic Rivers Act.

Earlier this year, on January 18, when I proposed a portion of the Colorado River for study under this act, I mentioned that I was reviewing other stretches of rivers for possible inclusion under the Wild and Scenic Rivers Act, and that I intended to introduce additional legislation when that review is completed. This bill which I am introducing today is the product of that review and of much thought and investigation. I hope, therefore, that the appropriate committee in the Senate will soon convene hearings so as to provide the Colorado rivers, and the millions of people in this country who have seen and enjoyed their beauty and recreational value, the long overdue protection which they deserve. I would also like to encourage the public to respond to this bill and in so doing perhaps the necessary hearings will begin that much sooner.

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

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

S. 2319

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 "Colorado Rivers Preservation Act of 1973".

SEC. 2. Section 5(a) of the Wild and Scenic Rivers Act (82 Stat. 907; 16 U.S.C. 1274(a)) is amended by adding at the end thereof the following:

"(28) (A) Dolores River, Colorado—The entire segments of the West Dolores and the Dolores, beginning at their sources and continuing to the Utah border: *Provided,* (i) That with respect to the segment between the proposed McPhee Dam and the town of Bedrock, the Secretary of the Interior shall submit his report, as required under this section of the Act, within six months after enactment; and (ii) that, notwithstanding sections 6 and 7 of this Act, such study and proposal shall include a determination of the classification of the river so as not to inhibit any development or project planned at the time of enactment, proposed or conducted by the State of Colorado or the Federal Government.

"(B) North Platte River, segment from source to Colorado-Wyoming State line;

"(C) Green River, the segment which flows through the State of Colorado;

"(D) Yampa River, the segment from Sunbeam, Colorado, to confluence with Green River;

"(E) Gunnison River, from confluence with North Fork through the Black Canyon of Gunnison National Monument;

"(F) Big Thompson River, the segment in Forest Canyon, Rocky Mountain National Park;

"(G) Poudre River, the segment from sources of both forks to border of Roosevelt National Forest;

"(H) Los Pinos River, the segment from source to the point at which the river enters the northern boundary of the Granite Peak Ranch;

"(I) Conejos River, the segment from source to first junction with State Highway 17;

"(J) Elk River, the segment from source to Clark, Colorado;

"(K) Laramie, the segment from source to Colorado-Wyoming border;

"(L) Michigan River, the segment from all sources to Gould, Colorado;

"(M) Piedra River, the segment from source to State Highway 160;

"(N) Encampment River, the segment from source to Wyoming State border."

SEC. 3. There are hereby authorized to be appropriated such sums as may be necessary

to carry out the purposes of this Act, but not to exceed $2,250,000.

By Mr. GRAVEL:

S. 2320. A bill to amend the Davis-Bacon Act to provide that reports required under that act be public information, and for other purposes. Referred to the Committee on Labor and Public Welfare.

A BILL TO AMEND THE DAVIS-BACON ACT

Mr. GRAVEL. Mr. President, I am today introducing legislation which will require contractors obtaining Federal contracts to make the wage reports they submit to the Federal contracting agency available to the public. The Davis-Bacon Act specifies that a contractor must pay his employees in accordance to the prevailing wage determinations of the Secretary of Labor. Periodically, the contractor must deliver a wage report to the Federal contracting agency as evidence that he is complying with this law. This amendment to the Davis-Bacon Act will only require that these reports be made public knowledge. I have been prompted to take this action because of an instance that I have witnessed in Alaska where the contractor's obligation to pay this wage determination has not been met. This stemmed both from the performance of the contractor, and the Federal agency awarding the contract. By approving this amendment, and thereby holding the wage agreement between the contractor and the Federal agency up to public scrutiny, the Congress can prevent other violations of the Davis-Bacon Act.

At present the Davis-Bacon Act states that the contractor is obligated to pay what the Federal Government determines to be the prevailing wage rates. I do not doubt that in a majority of the cases this condition is met by the contractor. Yet when the contractor tenders his bid for a contract, he deals only with the Federal agency which has asked for bids on a project. Since the contractor's purpose is to realize the greatest possible profit, he will naturally submit the lowest feasible bid at which he can win the contract, and still make a reasonable profit. Perhaps the most simple method of gaining this objective is expending as little as possible for wages. Currently, the law states that wage reports shall be submitted periodically to the Federal contracting agency to insure that a contractor meets the requirements of the Davis-Bacon Act.

A case has come to my attention in which the Federal agency did not meet their obligation. The Department of Housing and Urban Development asked for bids on a project and understandably, accepted the lowest one. However, HUD was not diligent in its effort to see that the contractor complied with the wage specifications of the Davis-Bacon Act, and allowed wage payments which were less than the Federal local wage determination. The wage earner was not aware that there was a violation of this law, or that he was underpaid, because he was not informed of this important provision of the contract. Since the wage reports were not available to the public, persons who knew the law were also not aware of the violation, and could not move to remedy the situation. The covert nature of this wage agreement resulted in what I regard as a fundamental breakdown in a system designed to protect the wage earner.

Under present law these wage reports may be made public at the Federal agency's discretion. There has been little recourse for the wage earner who senses wrongdoing on the part of the contractor, except to complain to the Department of Labor. In the case I cited, it is only because of complaints to the Department of Labor that this problem is being rectified. The Labor Department has instituted their own independent investigation. As a result of this investigation, they have asked HUD to withhold partial payment to the contractor in insure that the worker will receive full salary.

In this case there has been a solution and I do not doubt that the Department of Labor will continue to be effective in correcting future grievances of a similar nature. However, in my judgment the best way to deal with this problem is to alter the system. My amendment will simply require that the contractor's wage reports will be made public. This bill would require no additional reporting by the contractor. The Congress can avert other failures by the contractor and the Federal agency to fulfill their mutual obligations by voting in favor of this amendment.

By Mr. PROXMIRE:

S.J. Res. 143. Joint resolution to provide for a temporary extension of the authority of the Secretary of Housing and Urban Development with respect to the insurance of loans and mortgages, and for other purposes. Referred to the Committee on Banking, Housing and Urban Affairs.

Mr. PROXMIRE. Mr. President, I introduce a joint resolution to extend our FHA housing programs until September 15, 1973. The authority to operate these programs has expired on July 1 and some immediate action by the Congress is necessary to relieve hardships which have developed.

The FHA programs have already been extended until June 30, 1974, in House Joint Resolution 512 which has been reported by a House-Senate conference committee on Monday. However, House Joint Resolution 512 also contains two provisions which are vehemently opposed by the Nixon administration. One provision would terminate the illegal and unconstitutional moratorium on our low and moderate income housing programs which has been in effect since January 7. The second provision would compensate home buyers for structural defects in housing purchased under the FHA program. The President has threatened to veto House Joint Resolution 512 if these two provisions are included in the bill.

During the House-Senate conference committee the threat of a Presidential veto was used as an argument for dropping these two provisions from the bill. In my opinion, we would have been guilty of an abject cave-in if we had succumbed to these pressures. I am happy to report that the Senate conferees stood firm and upheld the Senate position. The House conferees finally agreed and the two provisions in question are included in the joint conference report. We hear a lot about Congress reasserting its constitutional authority. Now is the time to start exercising it.

Although the Senate position prevailed in conference, I have received indications that the President might pocket veto the conference report if it were sent to him during the August recess. If this were to occur, we would have no opportunity to override his veto. We also would have to start all over again with new legislation when we return in September. In the meantime, there would be no authority for the FHA programs.

In order to prevent a further disruption of the FHA program, I believe we need to pass a temporary extension of the FHA program and deal with the conference report on House Joint Resolution 512 just as soon as we return from the August recess. If, at that time, the President vetoes House Joint Resolution 512 we will have a chance to override the veto or pass new legislation if the motion to override fails.

Mr. President, I feel strongly that we should settle this matter one way or the other as soon as possible after the August recess. We should not permit the uncertainty over the future of the FHA program to linger through the fall session. The FHA program has already been disrupted due to the expiration of the program on July 1, and we should not add to the confusion by delaying an ultimate decision.

For these reasons, I am proposing a temporary extension only until September 15. This will keep our feet on the fire and force us to deal promptly with the problem when we return.

A similar resolution has been introduced extending the FHA programs until October 15. However, an October 15 extension will only continue the uncertainty and confusion for another 30 days. The housing industry and the homebuying public are entitled to a prompt decision from their Government. There is no reason why we cannot have this matter resolved, one way or the other, by September 15. If we provide an October 15 date I guarantee the problem will not be settled until that date and perhaps it will never be settled. The longer we debate this matter, the more difficult it will be to resolve the issue.

Let us keep the pressure on ourselves and the President to resolve this problem. Let us avoid further delay in continuing the FHA program by agreeing to a September 15 temporary extension. The longer we put off facing up to the basic issues, the harder it will be to come to a decision.

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 316

At the request of Mr. JACKSON, the Senator from Colorado (Mr. HASKELL) was added as a cosponsor of S. 316, the eastern wilderness bill.

S. 1017

At the request of Mr. JACKSON, the Senator from New Mexico (Mr. MONTOYA) was added as a cosponsor of S. 1017, the Indian Self-Determination and Educational Reform Act of 1973.

S. 1541

At the request of Mr. ROTH, his name was added as a cosponsor of S. 1541, the Federal act to control expenditures and establish national priorities.

S. 1914

At the request of Mr. PERCY, the Senator from Maryland (Mr. BEALL) was added as a consponsor of S. 1914, to provide for the establishment of the Board for International Broadcasting and to authorize the continuation of assistance to Radio Free Europe and Radio Liberty.

S. 2081

At the request of Mr. NUNN, the Senator from New Mexico (Mr. DOMENICI), and the Senator from North Carolina (Mr. HELMS) were added as cosponsors of S. 2081, to amend title IV of the Social Security Act to provide a method of enforcing the support obligations of parents of children who are receiving assistance under such title, and for other purposes.

S. 2147

At the request of Mr. DOMENICI, the Senator from North Dakota (Mr. YOUNG) was added as a cosponsor of S. 2147, to conduct a study relating to the procurement and use by the Federal Government of products manufactured from recycled materials.

S. 2241

At the request of Mr. HUMPHREY, the Senator from Washington (Mr. JACKSON) was added as a cosponsor of S. 2241, to provide famine and disaster relief and recovery assistance to the countries of the African Sahel.

FORESTS FOR THE FUTURE

Mr. HUMPHREY. Mr. President, in connection with my introduction of S. 2296, the National Forest Environmental Management Act of 1973, on July 31, I inadvertently left off the name of the senior Senator from Wyoming (Mr. MCGEE) as a cosponsor and the Senator from Wisconsin (Mr. NELSON). This I sincerely regret and I ask unanimous consent that these names be added as a cosponsor.

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

Mr. HUMPHREY. Mr. President, as an aid to those who will be studying this bill I also ask unanimous consent that there be printed in the RECORD a section-by-section analysis of the bill and a document prepared for the use of the Committee on Agriculture and Forestry which is a background paper on National Forest Issues.

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

S. 2296, PROPOSED NATIONAL FOREST ENVIRONMENTAL MANAGEMENT ACT OF 1973—SECTION-BY-SECTION ANALYSIS

INTRODUCTION

This bill has three titles. The first three sections include the name of the Act, findings, and definition of terms. Title II rounds out management authorities, strengthens inventory and land use planning efforts and provides for a Balanced Resource Budget for all resources and uses on the 187,000,000 acres in the National Forest System.

Title III modernizes the authority to sell forest products to assure a high level of utilization, sets priorities for road and trail construction to improve the quality of roads, strengthens environmental management, reduces the drain from timber purchaser construction on payments in lieu of taxes and the adverse effect on rural counties, sets standards for the location or relocation of field and supervisory offices, and provides reporting requirements.

TITLE I

Sec. 1. Titles the Act, "The National Forest Environmental Development Act of 1973.

Sec. 2. Findings.

Twelve findings are made which demonstrate the need to enact the legislation. The air, soil, water, plants and animals are finite, renewable resources and the minerals are nonrenewable resources. An ecologically healthy, economically functioning conservation of the environment is needed. The National Forests are a vital national asset. Comprehensive planning is vitally needed, backed up by proper levels of investment. The use or preservation of National Forest resources are to be in accord with the Act's goals. The rate of use of renewable resources should match the ability and commitment to renew those resources. The variation in the diversity of the lands in the National Forest System and the differing relations of these lands in various national regions must be recognized. An essential element of organization is service built from the ground up, articulated to meet local, regional and national goals. The modernization of the laws relating to the National Forests will aid in attaining national goals.

In the face of growing demands upon the National Forests to supply resources and services to a growing, more mobile and more urban population, the level of funding and employment on the National Forest System has been declining. On a constant dollar basis the funds available have declined. Employment levels have dropped by about ⅓ in the past four years, yet all measures of demand have risen. Major program shifts are planned, drastic organizational changes have Executive approval. Long range resource plans developed in the Eisenhower Administration and updated in two subsequent administrations have not been kept up. The National Environmental Policy Act has placed new and substantial requirements on resources managers. Public interest and concern, manifested in many ways, from litigation to confrontation, have added to the complexity of resource management. National Land Use Planning legislation is receiving serious concern. All of these, and other factors, make it desirable to provide the Forest Service with the full kit of authorities needed to meet these legitimate and burgeoning demands.

Sec. 3. Definitions.

The Multiple Use Act of 1960 defined only two terms, "multiple use" and "sustained yield." This bill adds as definitions: "Forest land", "Forest Trees", "Forage", "Rangeland", "Recreational Land" and "Other Natural Resources Land". Forest and Range land are subdivided into three categories, Commercial, Reserved Commercial, and Non-commercial. In subesquent inventory, land use planning, investment strategy and management decisions these will permit differentiation of levels and intensity of program. Recreation land is divided into two categories for the same purpose, Intensive and Extensive. In addition, this will permit the delineation of specific areas such as campgrounds where the use by people is heavy and other activities would produce a direct conflict. "Areas of critical environmental concern" and "National Forest System" are defined.

TITLE II—GENERAL MANAGEMENT AUTHORITY

Sec. 101. Management.

Stating the relation to Acts already described, authorities are stated in broad terms: (a) to regulate use, occupancy and development via permits, licenses, leases or other instruments; (b) to require bonds to assure conformance to conditions of use; and (c) to insert in all such permissions revocation procedures for violation of any Act applicable to the national forests or any applicable State or Federal air or water quality standard and implementation plans. This proviso would apply only to those applicable to the National Forest lands and not to other secondary activities. Finally (d) requires the prompt development of regulations for the protection of areas in the National Forest System of critical environmental concern.

Sec. 102. Inventory.

This section would require the maintenance on a continuing basis of an inventory of all National Forest lands, and their tangible and intangible resources. While the Forest Service has maintained inventories these have not always been current and they have not always been comprehensive enough to meet the growing and changing needs. In addition, direction is given to cooperate with other elements of government in such activities to aid in planning, coordinating and regulating other uses according to the authorities that other elements of government may have for non-Federal lands.

Sec. 103. Land Use Plans.

Subsection (a) requires the use of public participation to develop, maintain and revise land use plans and sets forth the other authorities that must be observed in the process. (b) sets seven criteria to be applied in the development and maintenance of land use plans. These include use of a systematic interdisciplinary approach, priority to critical areas, use of existing inventories when proper, consideration of present and potential uses, consideration of the relative scarcity of the values involved and the availability of alternative means, materials, techniques (including recycling) and sites for the realization of values, weighing long-term public benefits against short-term local or individual benefits, and consideration of applicable pollution control laws, Federal and State.

Sec. 104. Long Range Plan.

This would require the development on a more comprehensive basis of the *Program for the National Forests* that was first developed in 1959. Three categories of analysis and data are set forth: (1) resources, including their condition, productivity and potential: (2) uses, present and potential, commodity and noncommodity; and (3) all relevant facts on environmental, ecological, biologic and economic aspects of management and use, present and future.

Sec. 105. Balanced Resource Budget.

This section contains five parts. It provides the machinery whereby the Executive and the Congress cooperate in enacting into law a "Physical Natural Resources Budget" which defines needs in terms of the quantity and quality of the effort required to reach an agreed upon set of goals by a certain time. This "Physical Natural Resources Budget" does not have dollar signs attached to it. It is an estimate of the things that have to be done if goals are to be attained. This "budget" would be enacted at the beginning of each decade, except that the first budget would be for the 1975–1980 period. It would be subject to amendment every biennium should the Executive or the Congress perceive the need. Upon enactment it becomes the guide that the President uses in formulating the annual fiscal budget for the National Forest System. The annual budget submission contains a number of requirements. The President can

not ask for more funds than are needed to accomplish the goals in the physical budget. If he asks for less he must justify his action. The Congress is limited in its appropriation to no more than is required to accomplish the goal in the physical budget, but it need appropriate no more than the President has asked for and it may appropriate less. However, whatever is appropriated, up to and including the lawfully created program levels in the physical budget, can only be impounded by the President when he finds a condition subsequent which shows conclusively that such expenditure would fail to assist in achieving such a lawful program goal.

There are several additional requirements. The annual fiscal budget for the management and utilization of lands in the national forests must request a level of funding sufficient to assure a high level of resource growth and production under high environmental standards that will enable the lands to meet the needs of the American people. Further, and significantly, this is to be measured as proportional to the ability of the National Forest lands to produce such products and services, which sets the standard on what these lands can do rather than on what other lands are or are not doing.

A minimum requirement recognizes that there are approximately five million acres of National Forest lands in need of reforestation. Thus each budget shall request funds sufficient to provide timber stand improvement on an area also equal to 110% of the land cut in the preceding fiscal year. This is a minimum and Sec. 105(e)(4) further targets the year 2000 as the one by which the optimum level of management shall be secured and maintained, not only for timber management but also for all other resources and uses. The bill sets three criteria that may be used to reduce the reforestation and stand improvement effort: (1) elimination of the backlog of areas that will benefit by such treatment, (2) the cost of treating the balance exceeds the economic and environmental benefits to be secured from such treatment, and (3) the total timber supplies are found to be adequate to meet the future needs of the American people with forest products at reasonable prices in an environmentally sound manner.

Another requirement deals with timber cutting levels. The Secretary shall determine an environmentally sound timber harvest level for the rotation period for each management unit and the projected harvest levels for the five years ahead, decade ahead and sustained yield rotation period. In doing this he shall consider the present condition of the forest, level and type of present and future uses, opportunities to realize the benefits under the Act, the present potential of the various sites to grow trees and the optimum level of growth that can be secured under environmentally sound systems of management. He shall then express the actual harvest level in terms of the sustained output of the forest based on the actual growth of timber being secured and the potential harvest level in terms of the potential on the actual condition of the forest, while the Congress would constantly have before it the information on the extent to which additional harvesting could be realized in the future as management improvements took hold.

In addition, for other programs such as grazing, soil, water, recreation and wildlife management, environmentally sound levels of management would have to be stated and projected levels of harvest or use determined in a similar manner using criteria applicable for these elements.

The overall result would also be to change the consideration of the budget from relating programs to last year's funding level to one that measured where the budget would take the Nation as to the future. Since long term considerations make dollar estimates for the future highly unreliable, the Executive would not be required to develop such cost estimates and have these used as measures of performance or non-performance. Instead, the Nation would have before it a set of long term goals such as providing a certain growth and harvest level for forest products, meeting the need for outdoor recreation opportunities and facilities, maintaining desired levels of wildlife, providing opportunities for needed levels of livestock grazing and the other program and supporting services activities. The tests would be achieving the goals rather than a specific dollar amount and the budget would be a performance oriented budget.

TITLE III—OTHER ACTS AMENDED

Sec. 201. Sale of Timber.

The Statute relating to the sale of timber dates from 1897 and contains much outdated language which, in fact, does not reflect long standing practices in the sale of timber. For example, its first sentence says, "For the purpose of preserving the living and growing timber and promoting the younger growth on the National Forests, the Secretary . . . may cause to be designated and appraised so much of the dead, matured or large growth of trees . . . as may be compatible . . ."

The entire section is repealed and re-enacted preserving those concepts that have stood the test of time, eliminating outmoded language and adding modernizing language. The purpose for which timber may be sold is restated as "achieving and maintaining an environmentally sound forest . . . now and in the future. The concepts of advertisement and sale at fair market value are retained with general authority to sell timber without advertisement under extraordinary conditions or in small quantities. The present limit on small unadvertised sales is fixed at $2,000 and, due to national variations in tree size and conditions, there is a wide variation in the volume that can be sold. Under the power of the Secretary to take such action by rules and regulations, he would be able to make adjustments from time to time in his rules and regulations as necessary. The language that requires payment "to the receiver of the local land office of the district wherein said timber may be sold" is eliminated as archaic. The existing requirement that the marking and designation, the supervision of cutting and removal, and the measurement of forest products shall be conducted by persons employed by the Secretary, not interested in the purchase and removal of such timber nor directly or indirectly in the employment of the purchaser thereof, is retained.

The Secretary is required for each sale to select the method of sale and timber measurement which in his judgment is designed to encourage a high level of use of the trees to be harvested. He is also, as measured over the sustained yield period applicable to the site and species, to use the silvicultural harvesting systems which in his judgment best influence and promote a high level of environmental quality and economic benefits from the national forest resources. Thus the guide is not just timber production but all of the resources.

Over the past few years there has been considerable debate over cutting systems and tree utilization. Various efforts have been made to develop statutory language that is precise. However, such language is also restrictive. Given the wide range of conditions across the Nation, the even wider range of species and forest situations and the need to encourage the use of new knowledge in a field where much is still to be learned, an organic authority approach is used which gives the professionally trained forester the flexibility that is required in natural resources management based on principles of multiple use and sustained yield.

Sec. 202. Roads and Trails System.

In 1964 Congress enacted Public Law 88-657 which was a broad set of guides for Forest Roads and Trails dealing especially with the issue of appropriated road construction versus securing construction by reducing the appraised price of timber to be sold by an amount equal to the estimate of the cost (and profit and risk) for a timber purchaser to construct the road. The Act, however, did not contain guides as to when appropriated funds would be used and when revenue reduction and timber purchaser construction would be used. Concurrently, the Congress provided larger authorizations in the biennial Highway Act plus instructions in reports directing that greater use be made of the authorization and less roads secured via the revenue reduction—timber purchaser device. This year there have been substantial impoundments of Forest Road and Trail funds and a shift to revenue reduction—timber purchaser construction.

This section would set clear standards.

The Secretary would be required to maintain a long term, decade ahead and an annual transportation plan for the National Forests, setting forth the permanent multiple resource and use roads and trails considered essential for sound environmental and economic management. The annual budget would be required to contain a request for sufficient appropriations to accomplish (A) the construction of needed new roads, trails and bridges, (B) the reconstruction of needed roads, trails and bridges, and (C) the cooperative financing with other public and private agencies for needed facilities.

The Secretary would be directed to minimize the number of permanent roads constructed for incorporation in the system under the revenue reduction-timber purchaser device. The amounts provided in the biennial Highway Act authorization would be only for construction or extraordinary maintenance and the funds needed for regular annual maintenance would be requested as a part of the forest protection and utilization budget.

The Highway Act requires that contracts for road construction in excess of $15,000 per mile must be advertised. The device of revenue-reduction timber purchaser construction, when roads are estimated to cost over $15,000 per mile, may be used only if:

(A) the road is planned only for the removal of the timber on that one sale and is not for incorporation in the forest development road network. This would permit continuation of the use of this revenue reduction device on any roads where the estimated cost is less than $15,000 per mile and any road that was temporary and the cost is greater.

(B) provides the standard that would permit continued but less use of the revenue reduction system for permanent network roads. Three conditions would have to be met: (i) the standard of the proposed road meets environmental and management standards for permanent roads, (ii) the appropriated funds are insufficient to secure needed construction and (iii) the aggregate estimated cost for the miles of such permanent roads planned to be constructed by timber purchasers during that fiscal year on National Forest lands will not substantially impair timber revenues received and payments in lieu of taxes to the counties within that National Forest.

In summary, revenue-reduction timber sales can be used to construct *any* spur road. A permanent road costing less than $15,000 a mile could also be secured. For a permanent road costing over $15,000 per mile, a determination would have to be made that the appropriated funds are not adequate and that the aggregate planned revenue reduction type of road construction would not to substantially impair payments to counties on that National Forest. This last point

would require an equitable spreading of the use of the revenue reduction method.

Finally there is included an instruction as to public input on planned roads and trails.

SEC. 203. Organization.

This provides that field offices, such as District Rangers and Forest Supervisors, and Regional Offices shall be so situated as to provide the optimum level of convenient, useful service to the public, with first priority to the maintenance and location of facilities in rural areas and towns within and adjacent to the National Forests being supervised. The standards of Sec. 901(b) of the Act of November 30, 1970 (84 Stat. 1383) as amended are set as the guide. This will permit the Forest Service to make orderly adjustments in the assignment of lands to a particular management unit such as a Ranger District and to adjust local field offices when these improve the service. It also would set a standard that would have to be observed in possible realignments of Regional Offices.

SEC. 204. Reports

This requires a national plan to achieve the purposes of the Act by June 30, 1974. It also requires an annual report to be issued each fiscal year thereafter, not more than 120 days after the close of the fiscal year. There is not currently available a "National Plan for the National Forests." In addition, as of June 1, 1973, the annual report for the fiscal year ending June 30, 1972, had not been issued. In fact, the last "Annual Report" of the Chief of the Forest Service embraces the years 1970 and 1971 and was issued in April 1972. Current, timely annual reports would help measurably in keeping the public informed on the condition and needs of their National Forests.

THE NATIONAL FOREST: BACKGROUND AND ISSUES

(By Robert E. Wolf, Assistant Chief, Environmental Policy Division, June 21, 1973)

The prevailing national attitude until almost the opening of the 20th century was that the forests were an unlimited resource and often a hindrance to converting land to its highest and best use, settlement and agriculture.

In less than a century, attitudes have shifted and the debate has widened. The horizon of scientific knowledge has broadened and social and economic concerns have taken a new tack as circumstances have changed.

It is recognized that much land once in agriculture is in fact better suited to growing trees rather than agricultural crops. In substantial portions of the country settled earlier much land formerly in agriculture has reverted to forest cover.

Concepts of forest ecology have been developed as plant and animal associations have become better understood. Silviculture has been developed and, while not yet as refined as agriculture and animal husbandry or even horticulture, it rests on the same principles and is constantly being validated and expanded.

The concept of multiple values and uses has evolved. Our change from a less mobile urban society has shifted attitudes toward the forest. We have sharpened our understanding that the forest is a woodshed, a watershed, an environmental conditioner, and a recreational haven. The resulting conflict over arranging these uses has been heightened by the growth of our population and the more rapid expansion in our demand for the resources and services the forest contains.

The other issue was national expansion—not where but how. Inherent in our Constitution was the central North America territory of our new Nation. The horizon kept moving West. The Maryland compromise at the 1787 Convention set the stage. All "territory" west of the original States became "Federal." The Hamilton influence decreed its sale for revenue. The Jefferson influence decreed its orderly survey and disposal. The consensus was to support immigration, migration and development. The South supported small farms and wide ownership, the North wholesale disposal to developers. Jefferson helped accommodate both views. Federal policy granted land for towns and lands to be sold to finance creation of a common school. The idea of retaining lands for conservation was nearly a century away but shortly after 1800 there was a policy in retaining forests as Federal for naval stores, masts and ship timbers.

The concept of conservation of either public or private resources ranked low for land was a surplus commodity. The key phrase was development and land was the currency.

The concern about whether our forest resources were endless became national in the post Civil War era. The American Association for the Advancement of Science, followed by the American Forestry Association which was organized in 1876 led the public effort. Secretary of the Interior Carl Schurz in Interior and the Division of Forestry (later Bureau) in the Department of Agriculture began to cite concerns over the heavy cutting of timber, denuded watersheds, flooding, land waste, wild fire, timber mining, and speculation. House Doc. Vol. 71, #181, USDA Report on Forestry Investigations 1877–1898, estimated 1893 forest land conditions as follows:

[In millions]

	Acres
U.S. total land	1,900
Original forest	1,350
Forest cleared for agriculture	250
Former forest in waste and brush	600
Total	850
Remaining forest	500

The framework of concern about our forest resources and their future can be gauged by an estimate made by B. E. Fernow, then Chief of the Bureau of Forestry that, between 1870 and 1890 over 150 forestry bills were introduced in the Congress.

Many of these bills authorized studies while others were forerunners of the 1891 legislation that would create a system of forest reserves.

The 1872 reservation of the Yellowstone area, in then undeveloped Wyoming, Idaho and Montana, as a Park was more a recognition of its unique phenomena than a plan to protect the forest resource or meet the needs of a teeming horde of campers.

The National Park concept thus was keyed to unique areas rather than a broad recreation base. The Forest Service recognition in the early 1930's of the need for wilderness was a new dimension of concern. It recognized that solitude in space met a human need.

The role of the Nation's park system, the National Forests and other federal lands in meeting most recreation needs has changed. Trails, roads, campgrounds and a host of related public facilities have been developed to meet the needs of a society whose leisure time has expanded and whose means of using it has broadened. In less than 100 years the 300 horsepower mobile home with a family of campers has displaced the 2 horse drawn agricultural migrant trekking westward.

Seemingly unlimited natural surface water and springs supplanted by hand operated 50 foot deep wells have been replaced by vast water storage and delivery systems and 1,000 foot deep wells.

As the Nation moved west into the arid, lower rainfall regions, water conservation became a principal concern. The green clad mountains importance as a water source became more significant to many than their wood potential. Where railroad construction and mining were active there was, for a period, extensive local cutting. However, timber production in the main gravitated toward the higher rainfall, wetter forests of the Pacific Northwest and Inland Empire.

The role of the forest on water and the role of the watershed is now in a better focus. Changes in vegetation affect both surface and subsurface water quality and quantity. Thus forest cutting systems and methods of log harvest have measurable impacts.

Perhaps no area has been subject to a greater change than wood supply and demand. In less than two centuries huge natural stands of hardwood and softwood forests have been unsystematically utilized so that today, except for a relatively few acres, every forest region has been heavily impacted. The unique aspect of central North America was its vast reservoir of natural forest and grasslands barely affected by a small resident stone age society which lacked the mobility the horse and sail boat gave to the European. The native American population did not have the wheel, and its tools were stone or bone. Agriculture, when practiced was extremely rudimentary. Homes were of limited durability and many of the tribes were migrant within a territory. Thus the forest, range, agricultural water and mineral resources were affected much more by natural forces than the existing civilization.

Yet even at the outset the new civilization, which came just as the industrial revolution exploded, made only a small impact on a vast territory. The great surplus of forest was at first simply cleared for settlement and agriculture. The principal tool was fire and the principal use of wood was for fuel. Wood products were hewn or hand sawed, and production was limited.

Until the mid-1800's most sawmills were water powered and logs were often floated to a nearby mill. Wood was not used for paper until then when the ground wood paper mill was developed in Germany. Plywood was not manufactured until the 1900's. Thus only with the development of power and transportation did this new Nation severely impact the forest resource. Thus this last century and a quarter marked a new era of heavy forest use.

In the 1800's and even today, much timber cutting is exploitative. Despite a declining per capita consumption, total wood use has risen with one growing population. Even more significant the mix of species and quality has changed and declined. Of special significance is the fact that we are now in the era when cutting is affected by the rate of growth. Past cutting simply liquidated the multi-century-old natural forest at a rate based upon demands. Current consumption levels require growing and cutting the forest at an age that is one-fifth of its naturally mature age.

In agriculture the main challenge was to devise ways to improve the yield of the fruit of stem of *annual* plants.

In silviculture the challenge is to devise ways to improve the growth of *perennial* plants where the object is to harvest the bole of the tree.

It would serve little purpose at this juncture to debate the virtues of silviculture based upon growing a 200 year old Southern Pine, a 300 year old White Oak, a 400 year old Douglas Fir or a 1,000 year old Redwood tree.

But it is a fact that much of the interest revolves around the concern that silviculture is predicated for most species on a plan of management based upon a tree life cycle of 75 years and the attendant economic and ecologic impacts.

This sharpens the clash between the "naturalist" and the "economist" concepts of silviculture.

Finally there is the fact that the United

States has become a net importer of forest products. The period when we had a real net surplus of wood is gone. It is unlikely to ever return unless our style and level of consumption are drastically altered.

The concomitant public action that occurred as our posture as a wood and forest surplus nation was disappearing was the creation of a public forest system.

The decision was more of an intuitive view by people who convinced the Nation's leaders to act rather than the result of a hard analysis. Other nations backed into the same decisions.

For example three-fourths of Sweden's forests are private, about the same as ours. Yet over 200 years ago a system of public and private forest regulation was designed mainly to meet the need for wood as fuel for her iron industry. Today, Sweden is a net exporter of forest products and wood is not the fuel for the iron industry.

In the case of the United States the impetus for forestry came much later. While it was in response to regional liquidation of timber, overall there was no shortage of supply. The main concerns were the forest as a watershed and the public forest as a reserve for the coming settler rather than as a national timber enterprise.

Obviously a more detailed treatise would set forth other issues and fully explain relationships, but where we were and how we got there is subsidiary to the issue of where are we going.

Public forests exist, having been lawfully created. Most public forests are Federal and the Forest Service manages the bulk of them. However 70% of the Nation's commercial forest land is privately owned. The public forests are dedicated in the main to a concept of several activities—"Multiple Use" and to a resource use that sustains the output of goods and services—"Sustained Yield."

There are several Federal agencies that manage public forest lands where the mission is oriented toward a major activity; National Parks have substantial forest land, some of commercial cutting calibre but timber cutting is often forbidden by law; wildlife refuges likewise have considerable forest land but timber cutting is subordinated to wildlife management. The Bureau of Land Management is the major Federal land agency but has very little commercial forest land—about 3 million highly productive acres, largely located in Western Oregon—out of an 11 Western States total of 180,000,000 acres. Range land dominates the Bureau's holdings and the multiple-use concept prevails.

The 187,000,000 acres of National Forest contain only 97 million acres of commercial forest land. Some 50% of the National Forests are not forest—some is woodland and alpine shrubs but most of the balance, about 90 million acres, is range land.

Alaska has 21 million acres of National Forest, 12 Western States about 141 million acres and 31 other States have about 25 million acres. In fact 6 Western States contain almost 60% of the National Forest land or 108 million acres while 18 Eastern and Southern States with less than 8 million acres account for barely 4% of the system. Twenty other States account for 71 million acres or ¼ of the system.

The National Forest system contains other wide variations which make it impossible to consider these parts as similar to the whole.

The bulk of the lands, 160 million acres, have always been Federal public lands. In 13 Western States, 93% of the National Forest land is original public domain. The other 27 million acres is acquired land. There are 31 States where 90% of the National Forest land is acquired and the total National Forest holdings in these States are modest. Of course in the original 13 States none of the National Forest is public domain.

In 1891 Congress authorized the creation of Forest Reserves and in that year one Reserve with about one million acres was designated. Twenty-eight additional forests totalling 60 million acres were created but no provision was made for their management by the Department of the Interior until 1897. By 1905 when their management was transferred to Agriculture and the Forest Service created there were 83 National Forests with 75 million acres of federal land. By 1909 the number of forests grew to 150 with 172 million acres. However commencing in 1898 there were also eliminations to re-open land for agriculture. By 1919 the actual acreage had declined to 154 million acres, despite substantial additions and acquisitions under the Weeks Law as modifications occurred due to exclusions, land grants, checker boarding, conversion of National Forests to parks and the freezing of forest boundaries by Congress in several Western States.

The 1911 Weeks Law provided for the acquisition of the Eastern National Forests. In some of the Lake States and Southern States a nucleus of remaining public domain found the base but in the main cutover private timberland and depleted mountain farm land were purchased to develop this part of the system.

The depression era produced a major impetus for purchase as range land and forest land were acquired both under the Weeks Law and the Bankhead-Jones Act authorities. While substantial portions of the latter lands were transferred to States for park purposes in the 1950's, some four million acres of Bankhead-Jones Act lands are in the system.

In addition, under exchange authority substantial inholdings were acquired, much up until 1954, by trading timber on the National Forest for cut-over timberland.

From a forest resource standpoint the National Forest System is widely varied. The western forests contain the bulk of the remaining original natural stands. The pattern of initial selection for the National Forests in the Rocky Mountain States and the lack of a major interest by private parties in timber land ownership in that region resulted in the Forest Service being the major owner of Ponderosa Pine.

The pattern of selection embraced much woodland, range land and high mountain country. Virtually every major western river starts on a National Forest. The character and location of the land makes these forests extremely attractive for all forms of outdoor recreation. Also almost every major mountain peak is in a National Forest and those that are not are in a National Park surrounded by National Forest.

In the Pacific Northwest Douglas Fir region there was heavy competition among private owners to secure timber land under the public land laws. As a result these National Forests, while they are substantial and significant softwood forest resources, largely lie in the less productive mid and higher elevations. This in turn enhances their demand for watershed and recreational use.

The National Forests of the deep South are pine and bottom land hard woods, most of which were acquired after being cut over or farmed to exhaustion. These lands are highly productive forest but in need of intensive forest restoration to overcome the effects of past cutting.

The Southern Appalachian National Forests, like those in New England were acquired mainly via the Weeks Law. They embrace the back bone of this long mountain chain and most had been subject to severe cutting and significant alteration of their natural forest species composition and tree quality. They possess high watershed significance and have long been an integral part of the outdoor recreation pattern of the populous East.

The Lake States forests are a softwood-hardwood mixture of mainly acquired lands, except for Minnesota which is 50–50 public domain.

In the main these forests were heavily cut over and often burned thus in vital need of restoration.

Most analysts of public forest policy have described three eras:

(1) Reservation
(2) Custodial or protective
(3) Management

An apt example of change is the fact that extensive debate and hearings in Congress occurred in the early 1920's over the propriety of a forest officer soliciting competition for a large timber sale which had been put on the market at an applicant's request. For almost five decades, until the housing boom at the end of World War II the major forestry activities on the National Forest were protective, competitive interest in purchasing timber was limited, and the volume sold was a small part of national production. A substantial school of thought was that federal timber should not be sold if it would affect private timber marketing. David T. Mason in "Forest for the Future" outlined an economic concept of "sustained yield" in the 1930's. The goal was to *limit* production, control the number of mills, thus prevent overproduction and the ruination of the timber industry where timber bonds issues were being defaulted, land was being let go for taxes and production was depressing prices to unprofitable levels. The result would be sustained yield on an economic basis and hopefully "good" forestry would be secured.

At the turn of the 20th century however Ferrow and Pinchot and others warned of a future timber famine. Localized shortage continued as mills cut out timber within an economic radius of the mill. Closures and moves continued. Some species began to be extirpated and quality decline began to be noticed. Exchange cutting was used by the Forest Service to extend the life of some mills and help others to shift to a stable, continuous production. Under this approach the Forest Service would acquire the cut over private land and the mill would become more dependent on adjacent public timber. In other cases the Forest Service simply acquired land from extinguishing operations as well as mostly forested farms.

The third element of emerging forest policy was the concept of regulation. In the late 1930's and early 1940's there was considerable debate over the wisdom and necessity for such an approach. A number of States enacted mild statutes built around stronger fire protection and leaving a natural seed source but no significant action was taken on regulation. A few efforts were also made after 1944 when the "Sustained-Yield" Act was passed (16 USC 583), to activate the concept David Mason outlined. Only pooling of National Forest and private timber land occurred in a Sustained Yield Unit with the Simpson Timber Co. at Shelton, Washington. It still exists. Predominately old growth National Forest and cut over and second growth Simpson holdings were pooled on a regulated "sustained yield" harvest. The company obtains the Forest Service timber at the appraised price without competition. This feature caused efforts to establish other such units between 1948 and 1954 to founder in controversy. Every place a proposal came up the other existing mills objected to being cut out of the supply.

A second approach was to designate an area as a Sustained Yield Unit. The Forest Service set up five such units. Four of these units, at the time were relatively isolated geographically from a timber transportation standpoint and one was to the west of the Simpson unit in Washington and also relatively isolated. These units did not sustain the total forest output in any event, they merely limited the supply to mills located within the unit. No others could bid. Interiors BLM had a different but essentially sim-

lar version. It set up five large marketing areas in western Oregon. These were abandoned in the mid 1950's. The Forest Service timber was greater in sales volume and unrestricted and the private timber was unrestricted.

By the mid-fifties the focus of timber industry had changed. Timber and timber land values had risen, market demand was generally strong. Tariff barriers had previously discouraged lumber and plywood imports. The lumber tariff wasn't high enough to keep out Canadian softwood lumber (but the 20% tariff on plywood still keeps that product out). Increased U.S. investments in Canadian Northwest mills, an increase in their production and gradual reduction in the lumber tariff resulted in greater imports of softwood lumber. In 1962, in a down market situation, a segment of the forest products industry made a substantial effort to amend the Trade Act and persuade the Tariff Commission to curb Canadian lumber imports. The Trade Act was not amended and the effort before the Commission didn't secure one of the six members' votes. Since then, but for other reasons, Canadian softwood lumber imports have consistently climbed.

In this same era Northwest firms began to sell logs to Japan. In 1968 Congress set a limit on the export of federal logs at 350 million board feet a year based on estimates that this was the approximately one-third of volume of logs going abroad.

It was anticipated that log exports would level off at 1 billion board feet and the control of federal logs would cause the private sector to respond without regulation. Log exports are now at about 3.1 billion board feet and only about 275 million board feet are from federal forests.

The National Forests did not grow in importance as a source of wood so much because 70 years of forest management had enhanced timber growth, but rather the extirpation of private timber in various areas and the cumulative effect of old forest liquidation. For example half of the National Forest commercial timber land contains over 5,000 board feet per acre of saw timber, compared to 27% of industry lands and 13% of farm and other private lands.

The policy of sustained yield implied more than cutting at a rate not to exceed the rate of growth. It also implies a commitment to manage at a high level of growth. The level of funding for such basic long term growth benefiting activities as reforestation and stand improvement on the National Forests has been well below the level needed to secure optimum growth. Today there are still in excess of three million acres alone in need of reforestation.

The surge of the past few decades in expecting more timber to be sold from the National Forests has been met by a positive response. The sales level has risen markedly and is now bumping against the constraint that cutting should not exceed current growth. In fact some allege that in areas this constraint is being exceeded. Certainly one facet of the debate over cutting methods on the National Forests is the sheer increase in cutting activity. Now it is fourteen times greater than it was in 1920 and over three times greater than it was in 1950. Yet timber cutting standards on the National Forests have always been at a much higher silvicultural level than those normally found on non-Federal lands. In fact it wasn't so many years ago that Federal foresters were described by some in the forest products industry as unmindful of the needs of industry and castigated for not practicing what was euphemistically called "practical forestry."

The National Forest System however has long been used by the people for a wide range of purposes. Any quick reading of history shows not only the uses but the conflicts. Even though our population was much less in the earlier days of the National Forests in its time each situation produce a conflict that loomed large. However, it has only been recently that the conflicts between uses has so severely escalated.

In the early National Forest period the inclusion of land that was viewed as having agricultural potential led to protest. Substantial areas were cut out of National Forests much of which later came back since their long-time agricultural potential was low.

Early efforts to regulate previously unrestricted grazing led to protests from livestock grazers. The issues were fees and regulations and the debate continued for years. Efforts to reduce use on soil and range conservation grounds were not generated so much from the public as from Forest Service awareness that the open range methods inflicted damage on the land to the detriment of the users.

At the outset there was much public support for fire protection and similar protective activities and this has continued. In fact every user, no matter what his view of the Forest Service's attitude toward his use, or conflicts with other uses, gave strong united support to protection. The result is evident for in the public mind the Forest Ranger is still viewed, first and foremost, as a man who protects the forest.

Water users, especially in the West where the arid climate controls outlook, viewed the National Forest in two ways. Since they often engaged in grazing their concern was for adequate grass with minimum regulation while as farmers they were concerned about dependable irrigation water. As agriculture become more specialized the water users took a greater interest in watershed values.

In the East there was concern for forest restoration. The 1911 Weeks Law culminated a long and hard struggle to create authority to acquire National Forests for flood protection as well as forest restoration. There was strong local government support for acquisition as played out mountain land entered cycles of tax delinquency. In fact New York State which embarked on its own State forest acquisition program in the 1880's, was in part a counter to tax delinquency. In that era the State's lands were being "sold", cut and returned to the State without payment being made and only a few cents in "taxes" being derived. This, plus watershed concerns and the exodus of the timber industry led to creation of the Eastern National Forests.

Recreation came in two forms. With a relative abundance of land, less leisure and poor transportation, the public forests were of limited use for recreation that involved travel. Hunting and fishing did not require a long journey. Thus at first the National Forests were used more locally than regionally and nationally. Beginning about 1925 as the auto and the road began to dominate, and with increasing urbanization and leisure time, outdoor recreation began to grow. National and regional use grew by leaps and bounds. The Highway Act soon included provisions for 2 classes of roads, Forest Highways, to be a 100% federally financed part of the federal aid system and Forest Development Roads and Trails to be an intra-forest network. Systems of campgrounds were actively developed and the concept of leasing summer home sites grew. The most popular areas were those in the forest especially along streams and lakes. Early timber cutting on the National Forests relied heavily on logging railroads. Thus timber cutting and recreational use seldom conflicted, especially since the levels of cutting and recreation were low. The shift to truck logging was viewed, at first as a boon because again the level of activity was low, the trucks were small and the woods helped open new areas along streams.

In the 1950's serious conflicts began to emerge between recreational users of all types and other users, principally timber. To be sure there were other conflicts, such as the armed confrontation in the 1960's of seismic oil and gas exploration crews by ranchers in Wyoming. But the prevailing tension was between timber and recreation. As more people flew they could see the spreading patch quilt of cutting. More and more as people drove on the new forest roads logging impinged on the vista and even that undeveloped site that was the old hunting camps. The 10-year debate over whether to lawfully designate wilderness areas that had long been administratively set aside added to the functions. The fact that the timber industry led the fight against this bill aggravated the tensions.

But the main cause was that more and more people were in the forest and more and more timber was being cut. Each party viewed himself as the public interest plaintiff and a defender of true conservation—the others were intervenors or less.

Measured against the past the close of each decade has shown marked progress when compared to its beginning. However, when viewed against the growing needs or measured against what the future requires progress is less than satisfactory. The 190 million recreation visits, 10.4 billion board feet of timber cut, 3,200,000 livestock grazed give a glimpse of the more visible demands upon the National Forest System.

At this junction a need exists to improve the machinery of program in order that policies can be better articulated and effectuated.

In recognition of this need Congress and the Executive have taken certain fundamental steps. The 1969 National Environmental Policy Act is one. The creation of an Environmental Protection Agency and authority in this is another. This list is long. To suggest that just one more step is needed would be far from accurate, thus whatever is done reflects an effort which only time will ratify as to its utility.

The Land Use Planning legislation now under consideration will likewise help in better identifying resource goals.

The Forest Service, under its basic charter, has been a leader in sensing what the future will require.

Recognition of the need for just good land management led to the creation of the Service. Just good land management led to its grazing programs. Just good land management led to acquiring run down forest and range lands and programs of restoration.

Well before the need for designated wilderness was appreciated, the Forest Service had acted on a national scale.

Its network of planned roads and trails was conceived years ago, planned first to provide a protection network and later expanded to meet resource development needs.

Recreation has always been part of the forest activities despite no mention of it in the basic legislation until 1960.

In the early era—and still today, there is a substantial public feeling that the public lands are always open to the public whenever and however that public comes.

It was, however, the basic concern about our future timber supply and watersheds that led to the creation of these public forests. Therefore it is not surprising that events involving forests and waters continue to trigger active concern.

CURRENT CONCERNS

The current concerns are not new concerns but rather are ones of long standing in different dimensions and aspects.

One involves whether policies are provided and implemented in a way that assures a high level of environmentally applied economically effective resource management. The second is whether short and long term funding is targeted to meet essential short and long term goals.

Most of the issues have been cast in terms of an immediate problem of a specific nature. They have been reviewed from time to time

in committees which do not have the basic legislative charter for revising the laws relating to forestry on the National Forests.

1. *Organization.*—The pattern of Federal natural resource land ownership; forest, range, swamp and mountain top results from some planning and much chance.

Because no land has really one use even lands lawfully dedicated to wildlife management or parks in the two agencies created for these major purposes do not rank proportionately more effective than the much larger National Forest of Bureau of Land Management holdings in supplying wildlife and recreation.

The subject of a Department of Natural Resources was seemingly met in 1905 when Congress created the National Forest System. The public lands of Interior were still thought to be destined for disposal and the concept of parks and wildlife refuges had not taken shape.

What has been submerged in the several efforts since the mid-1930's to create such a Department is how to reassemble *on the* ground the jig saw pattern of often similar and always related federal lands into a more rational pattern of management.

Every DNR proposal has stopped at outlining its agency components while avoiding both whether and how improved on-the-ground management will be attained.

The concept of 10 Standard Federal Regions and a Federal Council of agencies in each Region is one where the benefits to resource management supervision is not readily visible. Since the concept permits combinations as well as permutations of regions no Standard Federal Region is emerging from a conservation agency standpoint.

Thus if the 10 Regions are to produce 10 mini-cabinets each will supervise agencies with different "regional" domains.

2. *Authority.*—The laws governing the various conservation agencies have never been comprehensively considered for synchronization where the agencies have similar missions. This in turn requires that certain categories of land be kept "separate" even when agencies managed the same lands. For example, the Forest Service manages some valuable Oregon and California Revested Railroad Great Lands in Oregon which produce substantial timber revenues. These are segregated. The Bureau of Land Management manages some Bankhead-Jones Act lands which likewise must be segregated.

3. *Inventory.*—There is no standard for inventorying the resources on the federal lands, although the greatest effort has been made on forested lands.

4. *Long Range Plans and Goals for Federal Lands.*—Despite the long existence of the ability of the Executive to coordinate a more unified approach, there are no long range goals or plans for the federal lands. As a result there is no comprehensive federal position on defining the opportunities and measuring needs.

5. *Financing.*—Admittedly there are complex over-riding considerations that affect the budget process. However, the lack of national resource goals makes it difficult to measure whether the mix of operating and investment levels, or the choice of intensity of activity moves the national effort on public natural resources toward a defined target.

As a result neither the public nor the Congress can assess for example:

Whether the level of reforestation will enable the forest to meet a future need for wood on a timely basis.

Whether the investments in recreation facilities will meet demands at a future date.

Whether the level of timber sale funding permits meeting current wood needs, regionally or nationally.

Whether the funding for protection will hold losses to acceptable levels.

Whether transportation facilities will assure rational resource management.

Whether levels of road, trail and facility maintenance will prevent deterioration.

Whether programs are balanced on any scale and what that "balance" produces.

And across agency lines there is no way to assess whether:

The various recreation programs are integrated.

The various timber sale programs are effecting regional needs.

The watershed activities on one agency's lands are articulated with another's.

6. *Basic Issues.*—The absence of these broader insights causes crisis reaction and management.

The quest for "wilderness" is viewed as a move to cut back timber production even though most of the lands are in areas of low inherent productivity, remote and costly to develop for commercial production.

The demand for forest products is translated into a stepped up level of sales. Under financing of comprehensive timber sale and wood programs causes the use of means that discredit a justifiable end. The necessity of relying on reducing sale processing cost by increasing sale to amortize needed roads produces an assault on patch cutting. The debate is over whether the silvicultural method is wise rather than whether fiscal conditions caused sales that subverted a basically sound silvicultural process.

There is a pattern to forest products prices related to housing and a substantial net importation of lumber. A rapid growth in log exports from private forests to wood deficient Japan develops. The business is profitable to domestic private forest owners and there are local shortages of logs for domestic mills. Lumber imports rise as do log exports. In 1968 a restriction is placed on the export of logs from Federal Forests and the exportation of logs rises 1 billion board feet and lumber imports rise 3.2 billion board feet. Over the decade 1963–1972 lumber imports rose 4 billion board feet and log and lumber exports rose 3.6 billion board feet.

In the face of a growing demand for resources and services the personnel of the Forest Service is cut one-eighth in three years, its budget reduced, funds are impounded and priorities rearranged. A proposal is made to eliminate three of the nine agency Regional offices contending the result will be to strengthen on-the-ground management and improve federal coordination. With a growing workload, less people and money are to do more.

Each crisis is treated as an isolated issue. The ameliorative results of each interim treatment is short-lived because the growing population of our high consumption society engenders a growing demand for resources and services.

SENATE JOINT RESOLUTION 84

At the request of Mr. SCHWEIKER, the Senator from Hawaii (Mr. FONG) was added as a cosponsor of Senate Joint Resolution 84, the school prayer amendment.

SENATE RESOLUTION 152—SUBMISSION OF A RESOLUTION TO CREATE A SELECT COMMITTEE OF THE SENATE ON FOREIGN INTELLIGENCE

(Referred to the Committee on Rules and Administration.)

Mr. CRANSTON submitted a resolution (S. Res. 152) to create a Select Committee of the Senate on Foreign Intelligence.

(The resolution is printed in full at a later point in the RECORD.)

SENATE RESOLUTION 153—ORIGINAL RESOLUTION REPORTED TO PAY A GRATUITY TO ROOSEVELT ANDERSON

(Placed on the calendar.)

Mr. CANNON, from the Committee on Rules and Administration, reported the following resolution:

SENATE RESOLUTION 153

Resolved, That the Secretary of the Senate hereby is authorized and directed to pay, from the contingent fund of the Senate, to Roosevelt Anderson, widower of Ada R. Anderson, an employee of the Architect of the Capitol assigned to duty in the Senate Office Buildings at the time of her death, a sum equal to six months' compensation at the rate she was receiving by law at the time of her death, said sum to be considered inclusive of funeral expenses and all other allowances.

ADDITIONAL COSPONSOR OF AN AMENDMENT

AMENDMENT NO. 451 TO H.R. 5777

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at the request of the distinguished Senator from Washington (Mr. JACKSON), that the name of the Senator from Idaho (Mr. CHURCH) be added as a cosponsor of amendment No. 451 to H.R. 5777.

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

NOTICE OF CANCELLATION OF MARKUP SESSION ON S. 425

Mr. JACKSON. Mr. President, I would like to announce that the markup session scheduled for tomorrow, August 2, Thursday, at 2 p.m. on S.425, the surface mining bill, has been cancelled by the Senate Committee on Interior and Insular Affairs. This is due to the press of business as Congress nears its summer recess.

The committee, however, will resume marking up the bill on September 6 in open executive session.

ADDITIONAL STATEMENTS

TWENTIETH ANNIVERSARY OF USIA

Mr. SCOTT of Pennsylvania. Mr. President, today we commemorate the 20th anniversary of the U.S. Information Agency. During these two decades the USIA has strived to communicate to other nations the ideals and goals of the United States. Its job has been monumental, its accomplishments great.

I ask unanimous consent that a press release from the U.S. Information Agency, including President Nixon's message congratulating the USIA, be printed in the RECORD.

There being no objection, the press release and message were ordered to be printed in the RECORD, as follows:

PRESIDENT NIXON OBSERVES USIA 20TH ANNIVERSARY

WASHINGTON.—In a message marking the United States Information Agency's 20th anniversary on August 1, President Nixon has noted that "in a new and challenging period of negotiation, USIA's efforts take on new importance."

Congratulating USIA's staff at home and abroad for "a job well done," the President pointed out that "in a climate of lessened tensions and increased negotiations, international relationships are more complex and the issues more complicated."

"As we have moved from an era of confrontation to a new and challenging period of negotiation, USIA's efforts take on new importance," he added.

The President said that "to succeed, our policies must be understood, our motives made clear and our ideals articulated."

"Truly, there is a need today for a communications effort in support of our diplomatic initiatives to build a durable structure of peace in which those who would influence others will do so by the strength of their ideas, not by the force of their arms," the President said.

It was on August 1, 1953, that the late President Eisenhower signed the executive order establishing USIA as an independent agency.

The peacetime role of government international information activities was outlined five years earlier in the Smith-Mundt Act of 1948 as increasing "mutual understanding between the people of the United States and the people of other countries."

The Executive Order of 1953 made the Director of USIA responsible directly to the President for overseas information activities previously under the Department of State and the Mutual Security Agency.

The U.S. Information Agency operates 169 posts in 100 countries.

The Agency seeks to communicate United States policies and to portray the American society through a variety of means, including motion pictures, television, exhibits, personal contact, lectures and seminars, information centers, libraries, English-language instruction, magazines and other publications, and book translation and distribution.

The Voice of America, USIA's broadcasting arm, produces and broadcasts radio programs in 36 languages, broadcasting 858 hours per week. Reliable and authoritative news is the VOA's mainsaty with 250 newscasts broadcast daily.

USIA officers abroad also carry out the overseas functions of the Department of State's educational and cultural exchange programs.

In the United States, USIA provides assistance to foreign journalists covering public affairs and developments in this country.

Theodore C. Streibert served as USIA's first Director. He was followed by Arthur Larson, George V. Allen, Edward R. Murrow, Carl T. Rowan, Leonard H. Marks, Frank J. Shakespeare and the Agency's present director, James Keogh.

In an anniversary letter to USIA employees, Mr. Keogh noted that "USIA enters its third decade facing new challenges and opportunities to support and promote our nation's foreign policy."

Referring to the momentous events of the past two years and the growing complexity of international relationships, Mr. Keogh noted a corresponding increase in "the factors upon which public opinion is based and the chances for misunderstanding and misjudgment."

The Director added: "The unique expertise of the U.S. Information Agency in communicating our ideas, our policies and our institutions to diverse overseas audiences is vital to the success of our nation's diplomatic efforts . . . toward building a lasting structure of world peace based on genuine understanding and good will."

Following is the text of President Nixon's message on the 20th anniversary of the U.S. Information Agency:

THE WHITE HOUSE,
Washington, D.C., July 26, 1973.

Twenty years ago, President Eisenhower signed the reorganization plan which established a separate United States Information Agency to communicate the objectives and policies of the United States to the people of other nations and to increase mutual understanding between the people of the United States and other peoples of the world.

For two decades, the USIA has presented to the world reliable information about our people, our culture, our aspirations and our policies. As the relationships among nations have changed and as we have moved from an era of confrontation to a new and challenging period of negotiation, USIA's efforts take on new importance. In a climate of lessened tensions and increased negotiations, international relationships are more complex and the issues more complicated. To succeed, our policies must be understood, our motives made clear and our ideals articulated. Truly there is a need today for a communications effort in support of our diplomatic initiative to build a durable structure of peace in which those who would influence others will do so by the strength of their ideas, not by the force of their arms.

On this twentieth anniversary year of the United States Information Agency, I extend to its staff serving at home and abroad congratulations for a job well done and my best wishes for the future.

RICHARD NIXON.

FOOD PRICES AND PHASE IV

Mr. HUMPHREY. Mr. President, it is a fact, but it is also an ironic and sad fact, that the Nixon administration has at last made an accurate economic forecast.

Last week, in announcing phase IV, President Nixon, Secretary Shultz, and Cost of Living Director Dr. Dunlop all predicted that the new economic controls would bring us higher food prices. They were right.

Actually, they predicted a "bulge" in prices which consumers would gradually begin to see during August and September.

Well, if prices get much higher than they are right now, then we may be in very serious difficulty indeed.

Let us remind ourselves that we are now in phase IV—the fourth major effort by this administration to deal with the cost of living. Phase I was instituted, in part, as a freeze on prices in August 1971. This will not be any news to food shoppers, but as I look at the trend of retail food prices since August 1971, I find that prices have not been held in check at all. In fact, prices are bounding upward, and we have not yet even reached the "crunch"—when retail food prices will reflect the cost-increases permitted by phase IV.

My staff on July 29 sampled prices at a Washington, D.C., branch of a national food chain store, and compared them with the level of prices which prompted Mr. Nixon to impose a price freeze in August 1971. The shocking result is that we are now—even before the larger price bulge expected in September—experiencing very substantially higher food prices than those which brought on phase I.

For example, eggs have gone from 55 cents to 99 cents a dozen; ground beef in bulk from 59 cents to 89 cents a pound; tomatoes from about 33 cents to almost 60 cents a pound. And this after more freezes and phases than any administration has concocted in living memory.

Here is a glimpse of the sad story, in price increases from August 8, 1971, to July 28, 1973:

Sliced bacon, 69 cents per pound to $1.25 per pound.

Fryer parts, 39 cents per pound to 69 cents per pound.

Round steak (boneless), $1.29 per pound to $2.15 per pound.

Roast round (boneless), $1.29 per pound to $1.89 per pound.

Ground beef, 5-pound package $2.95 to 5-pound package $4.45.

Beef steak, 99 cents per pound to $1.89 per pound.

Beef roast, 95 cents per pound to $1.59 per pound.

Boneless chuck roast, 95 cents per pound to $1.49 per pound.

Pork roast (½) rib, 69 cents per pound to $1.03 per pound.

Pork roast (½) loin, 79 cents per pound to $1.13 per pound.

Sliced lunch meats, 98 cents per pound to $1.63 per pound.

Cucumbers, 3 for 29 cents to 2 for 35 cents.

Tomatoes, 3 pounds, $1.00 to 3 pounds, $1.78.

Potatoes, 10 pounds, 79 cents to 10 pounds, $2.18.

Eggs, grade A, large, 55 cents a dozen to 89 cents a dozen.

Milk, 98 cents per gallon to $1.27 per gallon.

If it is any consolation, the price of bleach in our survey has remained steady at 39 cents a gallon. But bleach does not make much of a meal.

My concern, as I have said before, Mr. President, is that it does not appear to me that this administration has the competence to deal with the domestic economy.

At a Joint Economic Committee hearing on phase II, in April of last year, Dr. Stein, Chairman of Mr. Nixon's Council of Economic Advisers, made this statement about food prices and phase II:

> Food prices will fluctuate, as they always do, but the worst of the rise in behind us.

That forecast, like innumerable others which could be cited, has proved completely inaccurate. The problem remains that, for all the hope each of us has that phase IV will work to slow inflation, the administration has shown itself inept.

I was shocked to learn some of the grotesque effects of these rising prices. I have had a sickening report of some elderly persons in Florida so desperate already that they were pilfering food and vitamins from local stores. Low income families, the retired and the elderly on fixed incomes are going to suffer very seriously. And there is a moral as well as an economic and political obligation on this administration to ease the burden on the least fortunate in our economy.

We may sympathize with the average housewife stocking up on poultry products in anticipation of still higher prices, Mr. President, and some people may be inconvenienced at a shortage of beef at popular restaurants, but we cannot and must not forget the deplorable fact that for thousands of Americans rising food prices can mean the difference between a decent meal and gnawing hunger, between health and malnutrition.

When milk and eggs and meat and vegetables rise beyond the reach of our poorer citizens, and their diet and that of their children begins to deteriorate, we have a shocking and intolerable situation in our country.

And food prices are only part of the problem. Interest rates in the last month have shot up wildly. Average mortgage rates today are at about 8.5 percent. There are forecasts that the prime rate, now 8.5 to 8.75 percent at major banks could hit 10 percent. This means no mortgage money for home buyers, and holds the prospect of a disruptive credit squeeze of the type we had in 1969.

We still have hope, Mr. President, that Mr. Nixon and his economic advisers will deal effectively with the economy. But we look in vain for some reason for faith that this administration possesses the ability to do so.

THE ALASKA PIPELINE

Mr. STEVENS. Mr. President, at the 53d annual meeting of the U.S. Jaycees on June 22–29 a resolution favoring immediate construction of the trans-Alaska pipeline was adopted by 6,300 voting delegates.

This resolution was given emergency priority because of the importance of the subject. On Thursday, June 28, during the corporate business session, the resolution was presented and by rollcall vote of all 51 Jaycee states, passed unanimously. This convention was attend by approximately 10,000 Jaycees—delegates, alternates and others.

I request unanimous consent that this resolution urging the Congress of the United States to enact legislation authorizing the construction of the trans-Alaska pipeline be printed in the RECORD.

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

Whereas, our nation is currently experiencing a serious shortage of energy fuels, with future prospects appearing to worsen; and

Whereas, only one oil field on the North Slope of Alaska contains at least 25% of our domestic reserves and could provide a significant amount of the fuel to alleviate the said energy crisis in a relatively brief period of time; and

Whereas, such natural resource development would create a significant number of new employment opportunities in pipeline construction and in domestic U.S. tanker construction; and

Whereas, moving domestic oil through a trans-Alaska pipeline would ease foreign pressure on the U.S. dollar and would possibly alleviate international political pressure on the United States in the mid-East crisis; Now, therefore,

Be it resolved that the United States Jaycees do hereby urge the Congress of the United States to enact legislation the construction of the trans-Alaska pipeline at the earliest possible time consistent with strict environmental stipulations to insure its safe construction and operation.

INTERNATIONAL SPACE HALL OF FAME, ALAMOGORDO, N. MEX.

Mr. MONTOYA. Mr. President, I am honored to join with the citizens of Alamogordo, N. Mex., in announcing the creation of the International Space Hall of Fame.

There, in the Tularosa Basin, where the father of U.S. rocketry, Dr. Robert Hutchings Goddard, ushered in the space age by demonstrating that space exploration was indeed possible through the use of liquid fuel propelled rockets, the International Space Hall of Fame will honor the scientists and astronauts who idealistically and unselfishly gave of their time and ingenuity to make the conquest of space a reality.

The area's pivotal role in nuclear research plus the ongoing scientific achievement at White Sands Missile Range and Holloman Air Force Base make Alamogordo a fitting site for an international shrine of space history.

I congratulate the Alamogordo City Commission, the Alamogordo Chamber of Commerce, Gov. Bruce King, of New Mexico, and Dr. Charles Stark Draper, president of the International Academy of Astronautics which will serve as consultant, for their tireless and excellent efforts to establish the International Space Hall of Fame.

I ask unanimous consent that the text of the telegram announcing the International Space Hall of Fame be printed in the RECORD.

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

JULY 27, 1973.

Senator JOSEPH MONTOYA,
Dirksen Senate Office Building,
Capitol Hill, D.C.:

The city of Alamogordo announced to the world today that it will establish an international space hall of fame, with an appropriate shrine to be supported by a historic foundation in this city.

The charter for this international space hall of fame was announced by resolution of the Alamogordo city commission. And a proclamation by Governor Bruce King of New Mexico. At an early future date the plan will be entered in the CONGRESSIONAL RECORD by all of the New Mexico congressional delegation.

Dr. Charles Stark Draper, president of the International Academy of Astronautics, has been consulted and offered the services of the academy in selecting the nominees for the international space hall of fame.

Dr. Draper is best known as the inventor of inertial test guidance systems for navagation of space vehicles.

The international space hall of fame plans will be presented at the next meeting of the academy at Baku, Russia in October by Dr. Draper and by Dr. Ernst Steinhoff, a delegate from Alamogordo, New Mexico. The academy was founded by distinguished pioneers of space research in 1961 for promotion of international cooperation and communication among space scientists of all nations.

A symposium of international space laboratories was held, under the auspices of the academy, in nearby Cloudcroft, N. Mex., in the fall of 1969.

The meeting coincided with the year of the dedication of the new Sacramento peak observatory telescope. Outstanding scientists from all over the world, attending the conference, were conducted on tours of facilities of the Tularosa Basin. The international space hall of fame with associated history, exhibits and models will be a major tourist attraction in the Tularosa Basin.

The contributions of Holloman Air Force Base, White Sands Missile Range, the NASA Apollo Site and their early history of Wehrner Von Braun and associates leading to the first successful American orbital experiment and many other pioneer space contributions of the Tularosa Basin will be commemorated in this international shrine of space history. Alamogordo is located on U.S. 54–70, between El Paso, Texas and Albuquerque, New Mexico.

Historically, Alamogordo was located on the old Santa Fe trail and today is near Trinity site, location of the first atomic fission explosion in July 1945. Alamogordo is a thriving, bustling city of 25,000 people. Located nearby is the White Sands National Monument, the Lincoln National Forest and the Sacramento mountains, the home of numerous mountain resorts.

ALAMOGORDO CHAMBER OF COMMERCE.

PERSPECTIVE ON THE CRIME ISSUE

Mr. HUMPHREY. Mr. President, on May 24, 1973, Prof. James Q. Wilson delivered a highly-informed presentation on crime before the Coalition for a Democratic Majority. Professor Wilson offers a unique perspective on the crime issue, based on his extensive study of such sociological problems. Professor Wilson's views are at times controversial, but his extensive background in this field suggests that his opinion deserves careful consideration.

This presentation is one in a series of such seminars sponsored by the Coalition for a Democratic Majority. I feel that all of my colleagues can benefit from this discussion, since it deals with an issue important to all Americans.

Mr. President, I ask unanimous consent that Prof. James Q. Wilson's presentation be printed in the RECORD.

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

VIOLENT CRIME: THE OUTLOOK FOR THE 1970's

(A presentation by Professor James Q. Wilson for the coalition for a democratic majority May 24, 1973)

BEN WATTENBERG. We are very pleased to welcome so distinguished a group of those who think and write about the problems of Democratic politics to the first of this series of seminars sponsored by the Coalition for a Democratic Majority. It is our hope that these discussions will contribute new ideas and new perspectives on some of the most troublesome issues which progressive Democrats are facing in this period. We believe that the "progressive center" has not been heard from enough in the political discussions of the last few years, and that we can redress that failing somewhat through programs such as this.

Our speaker today is Professor James Q. Wilson, the Chairman of the Department of Government at Harvard University. He is the former Director of the Joint Center for Urban Studies at MIT and at Harvard. He is the former Chairman of President Johnson's White House Task Force on Crime the former Chairman of Vice President Humphrey's Task Force on Order and Justice, a Member of the Commission of Presidential Scholars, and a Member of the Science Advisory Committee of the President's Commission on Law Enforcement and the Administration of Justice. His topic today is "Violent Crime: Responses for the '70's."

Professor WILSON. I'd like to address three questions with respect to violent or "street" crime: where have we been, where are we going, and what ought we to do in the next 10 years in order to have a more rational policy than we have had in the past 10 years?

First, where have we been? We should realize that it has been difficult to get people

in public positions to speak very sensibly about the crime problem. I have followed the statements of some Democratic candidates for public office on this matter, and I recall that in 1962 and 1963, and even as late as 1967 and 1968, many were denying the fact that there had been a crime increase. It was, they pointed out, all a figment of the FBI's imagination. Today, when there are hints of a decrease in the crime rate in some American cities, many of these same persons are denying that the crime rate is going down. I think they were wrong in the first instance, and I suspect they are wrong in the second. We did, in fact, have a substantial crime increase in the '60's, something that was patently obvious to virtualy every American. But we may now be approaching a period where the crime rate in some cities is beginning to decline, and over the course of the next 10 years I think we will see some substantial decreases in the crime rate.

I think it's important to understand why we had the crime rate increase and also why we may have the decrease. We should avoid falsely belaboring ourselves for having committed certain moral failures in the '60's and falsely congratulating ourselves on having accomplished some policy breakthroughs in the '70's.

To make this clearer, let me propose that we perform the following imaginary experiment. We are going to try to find out under what circumstances the rates of common crimes—burglaries, robberies, larcenies and the like—in an imaginary country will increase. Suppose we significantly increase that portion of that country's population between the ages of 15 and 24. Suppose, in fact, we double the size of that age population. Suppose while doing that we decrease the number of jobs available for persons in that age group, and at the same time we decrease the cost of engaging in criminal activity by arresting fewer criminals, convicting fewer, and sentencing fewer to prison terms.

Suppose while doing this we also say that crime cannot increase under these circumstances and in fact is not increasing, and that whatever else ought to be celebrated about such a society, youthful abandon and personal liberation ought to be celebrated above all else. It seems to me that if we thought about performing such an experiment to see if we could artificially induce a crime increase in this imaginary country, none of us would be surprised to learn that we had succeeded. Crime would go up. If the benefits of legitimate opportunities are curtailed, if the costs of illegitimate activities are decreased, if the virtues of youthful liberation are celebrated, and if the number of young persons in the population is increased, we would naturally expect crime to rise. In fact, we performed exactly that experiment in this country in the early part of the last decade. We did not realize we were doing it at the time. But having performed this experiment, none of us should be surprised that crime in fact went up in the '60's.

The number of young people in the population increased dramatically in the past decade: between 1960 and 1970 there were 13 million more persons between the ages of 14 and 24 added to the population than had been added in the preceding decade.

Professor Norman Ryder, a demographer at Princeton University, has described this by suggesting that we should imagine society as being composed of two armies, a "defending army" (all those between 25 and 64) and an "invading army" (all those between 14 and 24). The issue these armies are fighting over is whether or not the young can be socialized into the existing mores, habits of thought, occupations and professions of society. Up until 1960 the size of the defending army was three times as great as the size of the invading army. Under those circumstances the socialization task—never easy, as any person in the room who is a parent will testify—was nonetheless manageable. But by 1970 the size of the defending army was only twice the size of the invading army. I don't know what a military strategist would say about that shift in odds, but it was a very dramatic shift and produced what Professor Ryder calls a "dramatic discontinuity" in our society. Our capacity to handle the normal socialization process was impaired: we had such an enormous increase in the numbers of persons at the crime-prone years that even if the rest of us foreswore crime altogether we would still have had a significant crime increase.

Secondly, in 1960 we began to decrease, relatively speaking, the number of jobs available to young persons in the labor force. Before 1957, teenage and young adult unemployment ran on the average about 8 to 10 per cent. By the middle of the '60's the average for teenagers had increased to 16 or 17 per cent—at a time when adult unemployment was going down. We did, indeed, become two societies during the '60's, but the cleavage was not simply the often-mentioned "generation gap" of ideas, dress, and fashion, although that surely was important. We became two societies in a more fundamental sense, at least if you believe economics is more fundamental than dress. For the adult segment of the population there was unparalleled prosperity, resulting in a sharp decline in the unemployment rate for persons over 25 and a sharp increase in median family income for blacks and whites in the adult group. But at the same time persons under the age of 25, and especially under the age of 21, faced increasing job shortages. These were more acute for blacks than for whites—at one point in the mid-'60's teenage black unemployment rate hit ⅓ of the teenage black labor force—but nevertheless they were acute for all.

Thirdly, during the decade of the '60's we noticed that the number of crimes cleared by arrest went down. Although the number of persons being arrested by the police went up, the increase was not as rapid as the increase in reported crimes. Furthermore, in many jurisdictions there was a decrease in the imposition of criminal sanctions for certain kinds of behavior. There was, I observed from my own studies, a decrease in the proclivity of courts to sentence heroin dealers to jail. But I think there was also a general decrease in the proclivity to sentence a number of persons to prison for a variety of offenses. Those of you who would like to see greater detail on this might look at the series of articles run recently in the Philadelphia Inquirer based on a large study done there. Studies have also been done of the courts in Pittsburgh, Minneapolis, Boston, and New York City.

Indeed, in many states the prison population during the '60's either stabilized or went down at a time of rising crime rates. This occurred for a variety of reasons. Some people believed that prisons are wrong. Other people began to use jails instead of prisons. There was a shift to probation. There was a view that certain kinds of crime were not really crimes at all, such as drunkenness and the like. But even after having made all these allowances, I think a fair summary of the '60's would be that just at the time when the relative availability of legitimate jobs for persons under the age of 24 was decreasing, so also were the penalties for criminal activity decreasing. Now many things can be said about young persons, but that they are collectively irrational is not one of them. A person living in a large city and coming of age during this time could arrive at only one conclusion: the benefits of crime were increasing at a time when the costs of crime were decreasing. Simultaneously, he would have heard public figures say that a youthful lifestyle is appropriate, that personal liberation is desirable, that the elimination of middle-class "hangups" is an objective to be sought by all. Finally he would have noticed the enormous increase in the abundance of consumer goods that he might want to have. If he could not afford to buy them, he might want to steal them.

An appropriate study on this last point has not yet been done for the '60's. I can report on an analogous study for the '30's and '40's, however, which I am sure if repeated now would have the same results. Someone once tried to see if he could predict the crime rate in the '30's and '40's in this country, not from knowing anything about criminals, but from knowing how many things there were to steal. He took two examples: the number of registered automobile vehicles, and the amount of currency and coins on deposit in banks. He found that with respect to the first, the number of registered vehicles predicted 95 per cent of the auto theft rate on a year-by-year basis, and the amount of curency in cash and coin deposited in banks predicted 85 per cent of the bank robberies on a year-by-year basis. I suspect that such an analysis might well be true for the '60's, although, as I say, this has not been established.

Now let me emphasize that this large experiment held in the '60's was not only tried in the United States. This experiment was tried in many parts of the world, communist as well as capitalist, and the results were essentially the same. The crime rates for most of these countries began to show steep increases during the very early '60's, and even more radical increases in the late '60's. The baby boom, post-war consumer society, and a reconsideration of the purpose of the criminal justice system apparently hit all of these countries at once.

Some might suggest that there was one factor in the crime rise which was special to the United States: the heroin epidemic that broke out in this country in about 1963 or 1964 and reached its peak in about 1969 or 1970. But I want to emphasize that the data as yet do not permit the conclusion that the increased use of heroin led in and of itself to a comparable increase in crime. I know the assumption is usually made—I have made it myself in the past—that persons who are addicted to heroin must steal to support their habit. Clearly, many do. But not all do. We do not yet have a reliable measure of the extent to which heroin addiction in and of itself contributed to the crime increase. It contributed somewhat, but it was certainly not the major cause. Indeed, if we were to eliminate heroin addiction we could see some decrease in the crime rate, but it would probably not be as dramatic as many have supposed. The proportion of persons who are heroin addicts in various treatment centers around the country who are also criminals, or who have active criminal records, turns out to be much smaller than most people would guess. The results aren't all in, but substantially fewer than half of all addicts have active criminal records. Almost half, in fact, are employed at the time they are addicts. In Great Britain, where one does not have to steal in order to get heroin, roughly the same proportion of British as American heroin addicts have criminal records—about 40 per cent.

The second question I want to address is: where are we going in the decade ahead? Now, if the not-to-imaginary experiment I've described is a true account of how a society can produce a phenomenal increase in its crime rate, then perhaps you can see that there are reasons for believing that our crime rate may begin to decline. Clearly, we will have the aging of the population born during the baby boom. Persons born in '45, '46, and '47 who were at the crime-prone years in '63, '64 and '65 will soon be past those years. So far as I know, no one has been able to

give a satisfactory explanation why most juvenile delinquents stop committing crime when they reach a certain age—but they do. There is a maturing process that occurs in the middle and late '20's. Most juvenile delinquents, by far the majority, cease being delinquents at about the time they cease being juveniles. The size of the juvenile population is becoming smaller. The change will not be dramatic and it will not be noticed at once. But by the end of the decade, and certainly by the beginning of the '80's, we will probably notice a significant decrease in the reported crime rates from a change in the age composition of the population alone—unless, of course, we continue to improve our capacity to report crimes. If we report crimes more accurately than we have in the past we may notice an increase despite the change in the age population.

Secondly, and related to this, the number of young persons seeking employment in the teenage employment market will no longer greatly exceed the number of jobs that are available. That is of course, a supposition. It depends crucially on how effectively we manage the aggregate level of demand in our economy, on how we manage the distribution of jobs, on what our international balance of payments is, and on many other factors in our economic and fiscal policy. But if all these were held constant—an impossibility, of course—the supply of jobs relative to the number of job-seekers would increase to the point where more people would see more legitimate opportunities available, relatively speaking, than they saw in the '60's.

I leave it to you to speculate on whether or not in the decade ahead we'll continue to celebrate the supremacy of the virtue of personal liberation. My guess is that we will not. There has been a strong element of fashion and fad in that celebration, and the novelty is wearing off. If anything, a reaction may be setting in.

One additional point may interest you. The heroin epidemic on the East Coast has probably passed its peak. The number of new addicts being recruited has begun to fall off, and the number of addicts not now in treatment programs has begun to decline. I think this is true probably in New York and in Washington, although it is not yet the case on the West Coast. In any event, the evidence as to whether it's true anywhere is still quite conjectural, and no one should make any bold assertions. But on the basis of an apparent decline in overdose deaths, in the incidence of heroin use among prisoners being processed through jails, and in the number of applicants to treatment facilities in certain East Coast cities, I think that one can say that we are seeing an epidemic that has passed its crest.

If we are indeed heading toward a decrease in the crime rate, what should we do to have a more or less rational crime policy in the future? One thing we must do is to realize the fact that while crime rates may decline, this is no cause for celebration. Problems for us seem either to exist at the level of crisis, or not to exist at all. It will be tempting for many people to say five years from now that the crime problem is solved because instead of 500 murders a year in Detroit, which is the current figure, we are down to 300 murders a year. That happens to be triple the 1960 figure, and far higher than the number of murders Detroit ought to have. We will also be inclined to say that if the heroin epidemic should pass its crest, we no longer have a heroin problem. This would dismiss the fact that we will probably have a half a million heroin addicts who are a continuing public responsibility, and for whom we have devised no long-term remedy. While avoiding hysteria may become much easier in the decade ahead, avoiding complacency will become much harder.

The second thing I think we have to realize is that during this process the question of how we deploy the police is probably going to make less difference in the crime rate or in the safety of the average citizen than almost any other change we could make in the criminal justice system. Now I happen to believe that the police have been seriously undermanned in many cities. The number of calls on their services has increased faster than the number of police officers. Police officers today are working harder than they have in the past, and as a result in cities such as New York, many calls have to be placed, in effect, on hold.

This is partly the result of the encouragement that citizens have been given to call the police about all manner of things. It's also partly because there are more legitimate demands on police services than they can keep up with. But even assuming that the police are adequately manned and that calls per police officer today are no higher than calls per police officer in 1960, there is as yet no evidence that the strategy of deployment—foot patrol, car patrol, decoys, non-decoys, community control, non-community control, centralization, decentralization—has a significant effect on the overall crime rate. It may, however, have an effect on certain specific kinds of crimes. The police, by careful deployment, can perhaps decrease the number of taxicab holdups if enough police officers are willing to pose as cab drivers.

But the overall crime rate is not likely to be decreased through such tactics, basically because most police services are devoted to non-criminal matters and most of the people that the police arrest for criminal matters have been arrested before. The police are in effect a processing agency, processing complaints from citizens and processing arrestees the majority of whom have prior records.

This brings us to the third point: what ought we to do to have a more effective policy on crime?

First, what ought the courts, the prosecutors and the defense counsels to do about their problems? If there is any area in the criminal justice system that has made little progress and that deserves public criticism it is this area. The court system is backward, poorly managed, and often produces most questionable decisions. In keeping with the concept of individualized justice (making the penalty fit the criminal and not the crime) and in the interest of what is now a discredited theory of criminal rehabilitation (that penalties can be devised which will change criminals into non-criminals) we have created a system in which the range of discretion is so great and the overload on its capacities is so monstrous that we are not getting individualized justice or even mass-produced justice. We are simply not getting justice at all. Nor are we getting rehabilitation. Through our efforts to attain personalized justice we have reintroduced forms of discrimination. In giving the court system wide discretionary authority over criminals, unconstrained by standards, and unmanaged by any central authority that is concerned about the effective protection of society or of the accused, we are giving judges the opportunity to apply their own personal standards to the cases that come before them. The result is that they not only exercise an incredible and philosophically unjustifiable range of choices, but a range of choices most of which are not suited to the offense or to the protection of society. In many places, blacks may be treated more severely than whites, persons with long hair more severely than persons with short hair, young persons sometimes more severely than older persons—there are even communities in which blacks are treated less severely than whites. There are communities in which a majority of persons with prior records for aggravated assault who are convicted a second time for aggravated assault are merely placed on probation. The judge may feel sorry for them, or may believe that the jails will not rehabilitate them. He may believe that they deserve another chance, or he may not wish to penalize their families. Whatever his reasoning it does contribute to any of the attainable objectives of the criminal justice system.

We need to take a fresh look at this, and fresh look at its institutional basis. Do we wish to pay the price of a wholly independent judiciary in the criminal justice system? Do we wish to depend upon a combination of the private criminal bar and on under-financed legal aid or on public defender's offices to manage the defense? Do we wish to continue with so many jurisdictions, which may require the elaborate processing of defendants through grand juries, preliminary hearings, arraignments and endless appeals? I think we have to take the hardest look at these issues in the decade ahead. This does not mean that we should consider abandoning civil libertarian protections for the accused. At the present time, the United States is already ahead of virtually every other country in the world in granting civil liberties to persons accused of crimes. The present system, it seems to me, is not increasing protection for the accused—it simply is reducing further protection for society.

We also must seriously reexamine our correctional system. On the basis of almost every piece of reliable evidence that has been gathered so far, the present system is not rehabilitating criminals in large numbers. This should not surprise us. It was an act of hubris to suppose that we could devise an institution staffed by mediocre men and women in which persons who have been engaged in repeated criminal acts and who are now well past the age of consent can under unpleasant circumstances somehow be talked out of it. Or that by exposing convicted criminals to handicrafts, to making license plates, or to weaving mattresses we can rehabilitate them. Please don't misunderstand me. Many people come out of prisons and don't commit crimes again. A middle-class male who has murdered his wife will come out of jail and in the great majority of cases will not murder his wife again, even if he marries again. He has usually done it in the first place because she was absolutely insufferable, and the next time around he will be more careful. On the other hand, a person engaging in burglaries who has been doing it since the age of 8, who is a drop-out from school, and who has a record of dope addiction is not likely to be rehabilitated by any process.

We should decide, I believe, that the correctional system has only two legitimate functions: that of protecting society by segregating certain people for certain periods of time and, secondly, that of creating a penalty so that at least some persons will think that the costs of criminal activity outweigh the gains. Such a result can be achieved without requiring longer criminal sentences. But I think it will require more certain sentences, if not necessarily more severe ones.

We also have to be more concerned about employment opportunities for all persons, but especially for young persons. No one should be able to say, "I stole because I could not get a job." Or, if he should say that, society ought to have a basis for rejecting that remark. Now, this will require a number of policies which I am not well suited to describe, because I'm not an expert on labor economics. It seems to me that if the Bureau of Labor Statistics is to be believed, we will probably have to stop pricing teenagers out of the labor market by creating a minimum wage which applies to them as well as adults, and therefore helps make them unemployable. That a proportion of teenage unemployment can be attributed to high minimum wage levels is now, I think, established to

the satisfaction of most economists who have studied it.

We have to stop requiring higher education and ever-higher numbers of degrees for persons who are performing ordinary jobs. The school drop-out should not necessarily be stigmatized; he should be regarded as a person who is seeking early entry into the work force. We should instead insure that we have the kinds of apprenticeship programs or training programs in the work force—not segregated in schools—which help people enter and rise in the work force with maximum ease.

Government has to consider whether it wishes in some sense to become the employer of last resort. I don't know how many people it might be asked to employ because they are unemployable elsewhere. I don't know whether it would have to employ any. But in comparing direct job creation and indirect, job creation, the former, other things being equal, is preferable to the latter, especially since the objective is to employ teenagers or unemployed persons, not to raise the salaries of social workers and community organizers.

And finally, it seems to me we have to devise a detection and early intervention system that will permit us to detect and deal with drug abuse more promptly and effectively. We should not have to wait for five or six years to go by as we did in the '60's before we become aware that we have a horrendous problem.

The time to catch the problem is when a person is experimenting with heroin or the dangerous drugs as a novice user being turned on by his friends. We must be able to identify users then and to have strategies to deal with them that do not necessarily involve the criminal justice system or elaborate in-patient hospital systems. We must somehow involve their own peer groups in their own school settings in getting them out of that culture before experimentation gives away—as it does in such a large number of cases—to confirmed addiction.

Let me now pause and ask you which aspect of this issue you'd like to discuss.

Q. What kind of crime do you consider the key issue—street crime and violent crime, or what collar, corporate or political crime, like Watergate?

A. Street crime or violent crime is, in the average citizen's mind, by far the more serious kind of crime—and I believe rightly so. If we had to rank the different kinds of crime—and I'm not sure why we do, because I see no reason why we can't deal with all forms of criminal activity simultaneously—I would say that violent crime which threatens citizens near where they live and work is at present the most destructive form of crime.

Q. What is your evaluation of the legislation on narcotic sales that has been enacted in New York State?

A. Governor Rockefeller first proposed mandatory life sentences for heroin dealers. I was opposed to that and most narcotics officers with whom I am familiar were opposed to it. One reason is that it eliminates the possibility of plea bargaining, which is one of the chief sources of information in intelligence about criminal activities. And it so increases the value of corrupting judges and police officers or murdering police officers that it would probably be counter-productive. The State Legislature in New York was probably wise to change Rockefeller's formula and enact a schedule of penalties that distinguished between the dealer who is an addict and the dealer who is not an addict, between a first offender and a second offender, and between a person who is selling less than an eighth of an ounce of heroin and a person who is selling more than an eighth of an ounce. Now the law at least distinguishes among these six categories. We could argue over what the mandatory minimums should be for each one of these categories. But it seems to me that there ought to be some mandatory minimum for each of these categories, because we have seen the chaotic results of a completely discretionary system. For the pure user of heroin or the dealer/user of heroin there ought to be a mandatory minimum, but the minimum ought to be used in a way that places that person in a treatment program, rather than in a correctional program—or in both.

Now I think the New York State bill goes a good distance in that direction. I don't know whether I would regard it as an optimal bill—that depends on how it's going to be enforced. It's very hard to predict how the judges are going to react, because they only sentence cases that police and prosecutors bring before them.

The police and prosecutors can, in effect, select which categories to put persons in by deciding what to charge them with. But while I opposed Governor Rockefeller's initial proposal I think his general strategy of providing some fairly firm norms is a step in the right direction.

Q: Are you certain that there are no reforms we could make in our correctional system which would lower the rates of recidivism?

A: I suspect there may be. We haven't really explored the full range of possibilities so we can't know whether something might work if it were tried. The present range of experience is too narrow. It seems to me that there are some general policies which ought to be followed in prison reform. First, offenders should be carefully classified so according to the seriousness of their crimes, their likely degree of recidivism, and the like. Secondly, we ought probably to have a substantial increase in minimum security, long-term facilities. The most interesting question is to what extent should we try to develop community-based correctional institutions—halfway houses and work release programs. The statistical evidence seems fairly clear that halfway houses are no better in producing rehabilitation than conventional prisons. On the other hand, they have two other advantages—they're cheaper, and they're more humane. Now if the neighborhoods around such facilities can be protected so that we're not increasing the jeopardy to communities in which these facilities are placed, then I'm by no means opposed to them.

Q: Many opinion polls indicate that the American people believe that neither party can handle the crime issue, and that there isn't much the government can do about it. When you're working with practical political situations and you have to make a statement about crime, what would you suggest a person in politics say?

A: Your question is one that I really can't answer. I think your description of the present state of affairs is accurate. Many people are easily affected by emotionally charged, symbolic appeals that have no basis in reality—such as calls for draconian penalties, the death penalty, minimum life sentences and the like. The support for Governor Rockefeller on these kinds of matters was quite strong. Many segments of the population in New York, including many segments of the black population, are thoroughly fed up with the heroin traffic in their neighborhoods. But stiffer penalties are not really a solution.

If you put more constructive proposals to the voters—will you allow us to spend more money on minimum security correctional facilities—they will say, yes, provided you don't locate them in our neighborhoods or in our county. Will you allow us to create more judgeships? No, because they are probably just a boondoggle for politicians. If you ask, should we reorganize the judicial system so that it performs its real function—its sentencing function—more fairly and realistically, and thereby reduces the independence that judges now enjoy, the voters would probably be puzzled. They would probably be swayed by the argument that to tamper at all with the independence of the judiciary will threaten our Constitutional liberties. (I don't think this is true, but that argument would prevail.) In short, I'm giving you all the reasons why I think this is a very difficult problem to address constructively.

But I also think that many voters could be impressed by people who talk seriously about crime and talk about it with an apparent degree of sense. Voters react to the tone and posture of a political leader as much as to his specific proposals. He might say that crime is an urgent issue, but that we needn't get hysterical about it; there are things that we can do that we haven't done which will help, but will not fully solve the problem. One can propose to do some of the things have been discussed today and not simply promise more police officers on the street corners or more death penalties. I think over time the average voter will be impressed by a sensible and serious degree of concern for this. And that, I suppose, is about the best we can hope for in politics.

Q. Some of the dominant intellectual trends of the 1960's would seem to have contributed to our crime problem. One was the tendency to glorify crime and violence because the system is corrupt. Another was the assumption that the rights of the accused or the criminals are more important than the rights of the victims. What are your responses to these views?

A. Well, I can't do justice to both those questions. With respect to the first: the argument that we can do nothing until we deal with the causes of crime is simply a counsel of despair. We've been struggling in various ways to deal with the causes of crime for many decades. It is not as though we have not spent money on cities, on training programs, on educational programs. We've spent that money in abundance, and at the very time when prosperity was increasing and these programs were proliferating, crime rates were going up. I think this is true in most countries. I think that we should try to eliminate poverty and injustice because it is morally right, not because we need to decrease crime. In the first place, we can't eliminate these social problems over the short term; and, second, if we could, crime would probably show a short term increase because of the unsettling effects on society through the rise in peoples' expectations, etc. In the long term, of course, it seems to me that it probably would lead to a drop in crime. But we still have to deal with the symptoms of our social problems and protect our citizens from the immediate injustices of crime while also trying to contend with deeper injustices that help make criminals.

With respect to balancing the rights of the victim and the accused: the best way I can answer that is to focus on one issue—the so-called exclusionary rule. The exclusionary rule is that rule which currently excludes illegally-obtained evidence from introduction into a criminal prosecution. The reason for this rule is to deprive the police the fruits of an illegal search or an illegal confession, and so to remove the incentive for committing an illegal search or extracting an illegal confession. But it has not had that result. I believe that the police need to be improved in their discipline, training, and leadership with respect both to taking evidence and to obtaining confessions. But achieving this by means of the exclusionary rule has not been successful, and has had the disadvantage of making the victims of crime bear the costs of police misconduct. I think the police should bear the costs of police misconduct.

Legal scholars owe it to the country to search for better alternatives to the exclu-

sionary rule as a way of dealing with police misconduct. Perhaps a simplified Federal tort proceeding could be applied to such misconduct, perhaps police officers who introduce illegally gathered evidence should be cited for contempt of court, perhaps various forms of disciplinary systems or complaint systems within the police department should be strengthened. But I think it's unfair to allow the victims of crimes to bear these costs. In Great Britain, as you know, evidence illegally obtained is admitted if it's germane to the innocence or guilt of the accused. But the police officer is punished for having gathered it. That seems to me a much more rational system. The police officer then has to decide, of course, how important the conviction is, but the judge also has an opportunity to decide how weighty the evidence is. At the present time he can't make that judgment, and as a result judges or their law clerks are spinning out ever-greater refinements of the exclusionary rule. This is making the possibilities of carrying out a valid search or a valid seizure at the present time far smaller than I think most persons who drafted the Bill of Rights would have wanted.

Q. Are you willing to state flatly that on the basis of current evidence the apparent cause of the decrease in the crime rate has been the decrease in our youth population?

A. I cannot assert that the reason for the apparent decline in crime rates in 50 or 60 cities that have been reported is the changing demographic pattern. Indeed, the data are not yet reliable enough to permit any generalization. I'm only saying that on the basis of having visited a number of these cities I am convinced that the decrease that is reported is not politically inspired, but is actually taking place.

But we also have to keep in mind that there are many different factors none of which has yet been given thorough and scientific study. In Washington, D.C., there's been a very dramatic increase in the police presence in the city. In other cities there have been changes in sentencing procedures. In other cities located in certain regions there have been dramatic changes in how warm or cold the winter was. In the short-term at least, this affects annual crime rates. I am involved with a group that commissioned a study to try to isolate the decisive cause for fluctuations in the crime rate. After squeezing the data as hard as possible, it found it could not give a clear and single explanation of this matter.

Q: Would you elaborate on your proposals for changes in the judiciary system, and make some comment as to the impact that your proposals, if implemented, might have had on the remarkable display of judicial independence we just had in the sentencing of one of the Watergate conspirators?

A: I do not want to decrease in any way the capacity of judges to behave as Judge Sirica did, nor do I believe it's necessary. It seems to me that we have to recognize that the judiciary performs a number of functions. For some of these functions, it is appropriate that the judge be fully robed, completely independent, and have the freedom of a Harvard professor—that is, free to say anything he wants. It seems to me for other functions we want the judges to operate in a collegial way—groups of judges discussing and coming to common decisions about sentencing norms and behavior, rather than leaving decisions simply to unfettered individual discretion. For still other purposes, we would like the judiciary to function as a bureaucratic organization that is involved in the careful and fair processing of criminal defendants from the time of arraignment to the time of final appeal. Now, the question is, can we make one judiciary perform all of these functions simultaneously? I don't know. I suspect that we are asking one institution to do some very different things that it's not well equipped to do. I think we've already recognized that in the area of automobile tort liability we were asking the judiciary to handle the problem of compensating victims of automobile accidents in a way that led to the escalation of insurance premiums and the discriminatory and unpredictable awarding of fantastic sums after long litigation.

In New York City, there have been efforts to specialize the judiciary. They have created courts which specialize in narcotics cases. These courts recognize that many persons in narcotics cases are addicts themselves, and that they must be diverted into treatment programs. They recognize that others are important dealers and must be held without bond, because the probability of their jumping bail is very high. Unfortunately, the seven or eight narcotics courts in New York City are inadequate to handle the enormous load of cases. That number probably ought to be tripled or quintupled. But if we can work toward designing a specialized organizational format appropriate to each judicial function, I think we can solve many problems without destroying the capacity of part of what we now call the judiciary to have independence from the Executive branch. It can then hear charges against the Executive branch, and it can still retain the capacity for deciding guilt or innocence in those few cases where guilt or innocence has to be fought out in an adversary proceeding.

Q: I fail to understand if you are saying that we have virtually no control over the crime rate because it depends on factors over which we can exercise little control, or whether by conscious measures we *can* influence it, even if only marginally.

A: Well, that is the crucial question. Again, I cannot answer it decisively. I do believe that at a minimum we can change the crime rate marginally, because I believe that we have done a number of foolish things that we should not repeat. But I also believe that the underlying population dynamics are extremely powerful—it is very difficult to get kids to do what you want them to do, especially if you're outnumbered by them. The nub of the question is, how big a gain in crime reduction would be needed to justify the expenditure of substantial resources on policies designed to achieve that reduction?

To me, even a fairly small reduction of street robberies and muggings—say, 10 per cent—would warrant a fairly substantial expenditure, because the victims of those crimes are very seriously victimized. I don't know whether I would feel the same if the reduction only fell to 2 per cent, or whether I'm so optimistic as to believe that the reduction could be as high as 30 to 40 per cent. One of the reasons is that there's no historical data from which to predict what's going to happen. The only way to find out is to try. I'd like to see a different set of policies that would at least make a serious and realistic effort at reducing crime.

Q. Were you saying that rehabilitation is not a worthwhile objective for us to seek through our penal system?

A. I have seen studies of correctional institutions in this country that range from halfway houses, minimum security programs in California, or experimental juvenile delinquency probation programs in Sacramento all the way to maximum security institutions. These studies—especially the better and more rigorous of these studies—suggest that none of these different systems makes a significant difference in recidivism or rehabilitation. Now, this is not to say that no criminal ever gets rehabilitated. Many do—just as many children who go to our public schools often learn something, even though we cannot measure the effect of public schools in the aggregate in contributing to this. Those who benefit do so either because of chance or because of their own personal characteristics. Also, the number who do is so small that it has been difficult to draw any serious conclusions from it. In any case, there is no reliable evidence that I am aware of—and believe me, I have looked hard for it because I wanted to find it—that any form of correctional institution in this country which we have experimented with to date and have evaluated independently and objectively will produce a significant and measurable difference in the rate of recidivism. Therefore we must ask the question whether rehabilitation ought to be the objective of the system and if we ought to spend resources and arouse aspirations foolishly in the hope of achieving it?

Q. Is there any data on which one can base a policy on capital punishment? This is becoming a significant political issue in some areas.

A. I am writing an article on the subject now and am ransacking the literature. I won't bore you with details. The answer depends on what grounds capital punishment is to be argued for or against. There is no evidence on which a clear case can be based that the use of capital punishment has a deterrent effect on criminals—or that prohibitions against capital punishment have a humanizing effect on criminals. The case against capital punishment must rest on moral and ethical grounds, not on any evidence from criminology.

Q. It seems that you've said external circumstances are primarily responsible for crime, but there are some other subjective and genetic factors which may also play a part. Could you comment on those?

A. You're quite right in saying that the argument between nature and nurture, between environment and genetics, takes place over crime as it does over intelligence and all other matters. The only difference is, that with respect to intelligence, the evidence is much more compelling and systematic than it is with respect to crime. There are genetic and early childhood sources of criminality that are, without any doubt, independent of environment. But no one has been able to estimate how big a fraction of criminal activity is accounted for by those factors. There have been studies done in prison populations which try to measure some of these factors. They go back to the time of Lombroso, who measured forehead size, and whether an individual's eyes were closely set or not. There are still studies under way on the XXY chromosome problem and the Alpha brain-wave disturbance problem. Nobody has made any estimates as to how powerful a contributor that is. My argument is that these genetic and uncontrollable factors can be assumed to account for a steady amount of crime. But when we're trying to explain rapid increases in the crime rate we have to assume that there has not been a sudden rapid increase in chromosomal imbalance, or a sudden rapid increase in Alpha wave disturbances, but rather that other factors of an environmental nature have changed. The problem is how we should respond to changes in the crime rate, not how do you eliminate crime completely. If we insisted in trying to eliminate it completely we would have to delve very deeply into the human body and soul—in ways that I wouldn't approve of if the government tried them.

BEN WATTENBERG. Thank you all for a very useful and stimulating discussion.

SENATOR HUGH SCOTT: DYAU LUNG

Mr. STEVENS. Mr. President, last Monday, the distinguished minority leader (Mr. SCOTT) informed the Republican Members that we were members of the "Kung Hê Tang" Party, as "Republican Party" loosely translates into Chinese. Translated literally "Kung Hê Tang" means the party that "pulls together peacefully." This is surely a beau-

tiful phrase and one I hope we will keep in mind, especially as this hectic week winds on.

That translation, however, calls to mind another Chinese idiom, also apropos. The Chinese translation for "debater" is "Dyau Lung," or literally "dragon carver." Apparently, in Chinese parlance a "debater" was the equivalent of a warrior. In particular, I would like to salute the Senate's unrivaled sinologist, the senior Senator from Pennsylvania (Mr. SCOTT), as Dyau Lung par excellence, one who has often taken on the task of carving dragons—a truly "great warrior."

EXECUTIVE PRIVILEGE CLAIM OVERRULED

Mr. MUSKIE. Mr. President, it is extremely difficult for Members of the Senate—as it is for the public at large—to keep abreast of every development in the testimony and argument being presented before the Select Committee on Presidential Campaign Activities. Even though the hearings are being televised and extensively reported in the printed press, it is possible for significant events to go unnoticed or be imperfectly understood.

One such event occurred 2 days ago when the Senator from North Carolina (Mr. ERVIN) as chairman of the committee, overruled a Presidential invocation of the much-disputed doctrine of executive privilege. To the best of my knowledge, his action on behalf of the committee is the first instance in our history of a congressional committee's using its power to compel testimony which a President specifically refused to make available. In the long and increasingly important discussions of executive privilege, Chairman ERVIN's ruling is a precedent of great weight. I believe the Senate should take note of its occurrence as a matter of historical fact and as a guide to the future implementation of the power of Congress to exercise compulsory process in carrying out its investigative authority.

In the course of his testimony on the afternoon of July 30, Mr. H. R. Haldeman disclosed that, at the President's request, he had listened to two tape recordings of meetings in the White House and had heard passages of conversation between the President and Mr. John W. Dean which took place on March 21, 1973, before Mr. Haldeman joined their meeting. Mr. John Wilson, Mr. Haldeman's counsel, presented a letter he had received that day from Mr. J. Fred Buzhardt, Special Counsel to the President, affirming a Presidential instruction to Mr. Haldeman not to divulge the substance of that portion of the conversation which Mr. Haldeman had heard on the tape but not actually participated in.

The relevant portion of that letter, which Mr. Wilson transmitted to the committee, said—

> The President has requested that you inform the committee that Mr. Haldeman has been instructed by the President to decline to testify to such matters, and that the President, in so instructing Mr. Haldeman, is doing so pursuant to the constitutional doctrine of separation of powers.

Before presenting that letter to the committee, Mr. Haldeman indicated that he was seeking its judgment on the Presidential instruction to him which the letter formalized. He said—

> I shall obey the decision of the committee and its ruling thereon.

In response Senator ERVIN noted his view "that the matters which this committee is authorized by Senate resolution No. 60 to investigate are not covered by executive privilege of any kind." Inviting any member of the committee to disagree with him, the chairman then said—

> But as far as I am concerned I overrule the claim of executive privilege interposed in the last paragraph of Mr. Buzhardt's letter.

The Senator from Tennessee (Mr. BAKER), the vice chairman of the committee, noted his concurrence in the chairman's ruling. Mr. Haldeman asked what that ruling was. And Senator ERVIN repeated:

> The ruling is that the claim of executive privilege is not valid in the view of the Committee . . . that you can tell us what the tapes said or your version of it. . . .

It is my view that those few words, that brief exchange, marked a moment of great significance in our constitutional history. The ruling of the committee and Mr. Haldeman's subsequent obedience to that ruling clearly established the right of Congress to obtain information despite a Presidential instruction that such information be withheld.

The whole issue of executive privilege can be presented as the question of who is to decide the validity of a claim of privilege, whether or not the President of the United States, in asserting a claim in a given instance, can be challenged and overruled by another branch of government. In presenting the view that the President has absolute and unreviewable discretion to make such claims and make them stick, then Attorney General Richard G. Kleindienst told me in public hearings on April 10, 1973—

> Your power to get what the President knows is in the President's hands.

The committee's ruling of July 30 deflates that sweeping assertion. On two previous occasions Senate committees have upheld Presidential refusals to provide them information, once concerning the testimony of Gen. Omar Bradley about the dismissal of Gen. Douglas MacArthur in 1951 and once relating to Secretary of Defense Robert McNamara's testimony on military speech review policies in 1962. In both instances, privilege was claimed, and the claim, upon review, was upheld. Two days ago, the claim was made and rejected.

I applaud the ruling of Senator ERVIN, and I note that it conforms in many respects to the procedure set forth in Senate Concurrent Resolution 30, which he and I introduced June 8 as a measure setting forth the power of committees of Congress to rule on Presidential instructions that information be withheld from Congress. I hope the Senate will take note of the significance of the committee ruling and will be reminded, as the committee moves forward in litigating another related claim of privilege, that we do have the power to compel the production of information we require. It is only important that we exercise that power wisely.

THE CONGRESSIONAL FELLOWSHIP PROGRAM

Mr. SCOTT of Pennsylvania. Mr. President, I would like to take this opportunity to call attention to the recent anniversary of a program which I, and I am sure many of my colleagues agree, is one of tremendous value and significance. For 20 years the congressional fellowship program of the American Political Science Association has provided outstanding individuals with opportunities to participate in the legislative process. Those of us who have seen this program and its fine work wish to extend our commendation and best wishes to all those who have taken part in it.

Over these 20 years, 571 interns were carefully chosen from among the ranks of political scientists, journalists, civil servants, law professors, and foreign individuals. They have contributed to their respective sponsors the vitality, imagination, and specialized talents which are such valuable commodities in our profession.

Even more importantly, these people have gone back to their own occupations with an increased understanding of their government. We here in Congress have long recognized the necessity of an informed public sector. In working toward that goal, we are always anxious to cooperate in programs like this one and the summer intern program, which gives similar opportunities to students and young people.

The congressional fellowship program has earned the recognition and gratitude of all of us who are interested in the governmental process. We sincerely hope for the continued prosperity of the program and its sponsor, the American Political Science Association.

INCREASING INTEREST RATES

Mr. HUMPHREY. Mr. President, the recently announced increase in the discount rate by the Federal Reserve Board and the subsequent rise in the prime lending rate by commercial banks reflect a typical response by Republican administrations to economic problems. An editorial entitled "A Pattern Repeated" in the July 6, 1973, Minneapolis Star, suggests the shortcomings in such a policy.

A credit squeeze is designed to curtail the supply of money in an inflated economy, yet one should examine the actual effects of such a policy. As the editorial points out, one immediate repercussion can be felt in the housing industry. High interest rates preclude investments by low- and middle-income individuals anxious to enter the housing market.

Moreover, a credit crunch, by reducing overall investment, cuts back on the number of new jobs. This slowdown, as noted in the editorial, may nudge the economy toward a recession.

This policy of disregard for the plight of the average American will never be acceptable as a solution to the Nation's economic ills. Nor will the exercise of half an economic policy—monetary policy—produce a stable economy. What is needed is a coordinated policy against the inequities in the American economy, accompanied by a combination of the fiscal and monetary tools at the disposal of the administration.

I would also like to call the attention of my colleagues to an article, "Brimmer Sees Higher Rates," which appeared in the July 24, 1973, New York Times. Andrew Brimmer, a member of the Federal Reserve Board, indicates that the recent increases in the interest rates can be expected to continue. He reiterates the fact that commercial banks can be expected to tighten their lending policies, making it increasingly more difficult for the small borrower to acquire credit.

Yet the moderate income individual will not be the only person adversely affected by this rate increase. Not only is the availability of mortgage credit already diminished, but even business borrowers can expect to encounter problems in obtaining the funds they desire.

A policy of turning its back on the average consumer is hardly an unusual economic stance for this administration. But, I must admit that economic policies which hamper sizable business interests do some as something of a surprise. This means that the administration has mishandled the economy to such proportions that it must infringe on the interests of even its close political allies.

This entire situation attests to the gross mismanagement of the economy by an administration which apparently has no clear picture of its economic goals.

Mr. President, I ask unanimous consent that both the editorial and the article be printed in the RECORD.

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

[Editorial from the Minneapolis Star, July 6, 1973]

A PATTERN REPEATED

Is it 1969–70 all over again? Those with even short memories will recall the credit crunch of that period, when interest rates reached for the ceiling and money—especially for business loans—was hard to find.

Indications that the same pattern is being repeated came last week, with two actions by the Federal Reserve Board, and quick follow-ups by the big commercial banks. The Federal Reserve moved twice to brake down the rapid growth in bank lending: It raised its discount rate (the rate at which member banks of the system can borrow from it) from 6.5 to 7 percent, and it froze about $800 million of bank funds by increasing the amounts member banks must keep on reserve.

The discount rate, now at the highest level in 52 years, is important only as a signal to commercial banks, to tighten or loosen their lending habits. The signal was obvious last week, and the big banks quickly responded by raising their prime lending rate (the rate for their biggest and best corporate customers) from 7.75 to 8 percent.

The Federal Reserve acted because the supply of money was growing too rapidly, threatening new inflationary problems and weakening further the already weak position of the dollar abroad. The repercussions, as expected and intended, were quick and widespread. Interest rates rose rapidly throughout the money market, creating problems for some borrowers, particularly in the housing industry. A flow of funds out of thrift institutions can be expected, as savers withdraw their money for higher interest rates elsewhere. This, in turn, will mean a shortage of money for home builders, who look to these institutions for their funds. Thursday's actions permitting slightly higher returns for savings is only a gesture toward stemming the flow. Even more serious could be a hastier end to the business boom and a strong nudging of the economy toward a recession.

The credit squeeze will not disappear quickly, as Arthur Burns, chairman of the Federal Reserve Board, indicated. "I cannot encourage the thought of lower interest rates in the immediate future," he said last week. The problem is that the monetary authorities are being asked to contain inflation almost single-handed. Fiscal measures, particularly the holding down of federal spending, aren't working, and the administration is reluctant to ask for a tax increase. With a downturn in the making, at any rate, it is too late to try to push an inflation-curbing tax increase through Congress.

The nation appears destined, then, to repeat the unhappy economic history of recent years. The lesson which apparently has not been learned is that fiscal and monetary tools must be applied together, and that the economy cannot be planned in an uncoordinated, catch-as-catch-can manner.

[From the New York Times, July 24, 1973]

SHORT-TERM INTEREST CLIMBS; BRIMMER SEES HIGHER RATES

(By Edwin L. Dale, Jr.)

WASHINGTON, July 23.—Andrew F. Brimmer, a member of the Federal Reserve Board, suggested today that the recent steep rise in short-term interest rates and the lesser increase in long-term rates might still have some way to go. He also said some borrowers would find it increasingly difficult to obtain credit.

Mr. Brimmer confirmed at the Federal Reserve's "monetary policy became much more restrictive toward the end of June" to slow the "ballooning" growth of the nation's money supply—currency and demand, deposits. And he concluded that "given the tenacity of the continuing inflation in the United States, we ought to be prepared to stick with the policy of monetary restraint as long as it is required."

POLICY ADJUSTMENT INDICATED

Mr. Brimmer's tough views were offered in a speech to the Michigan Savings and Loan League in Mackinac Island, the text of which was made available here.

On the future of interest rates, Mr. Brimmer said:

"The money and capital markets are still adjusting to the recent monetary policy moves to restrict further the availability of money and credit. Both short and long-term interest rates are still responding to those actions, and it may require somewhat more time for the process to be completed."

He said "commercial banks and other financial institutions can be expected to tighten further their lending policies and to make more of the difficult portfolio adjustments—such as liquidating municipal securities—that are required if monetary policy is to be effective in restraining excess demand."

Not only is there already evidence of some tightening in the availability of mortgage credit, he said, but even business borrowers "will probably find it increasingly difficult to obtain accommodations (from banks) for some of their projects."

FLEXIBILITY IS URGED

On an important policy issue for the future, Mrs. Brimmer said he now believed that the Federal Reserve discount rate "should be managed in a much more flexible manner, and it should be kept in much better alignment with money market yields." At the moment, this would mean a discount rate substantially higher than the current 7 per cent, itself a record except for the identical rate in 1920–21.

Mr. Brimmer expressed concern that Federal Reserve member banks, particularly the largest banks, "have lost much of their traditional reluctance to borrow" at the Federal Reserve and that "they seem to be influenced far more by differences in the cost of money than was typically thought to be the case."

ADDITIONAL LENDINGS

Borrowings this year have risen to record levels, as the discount rate—despite six increases this year—has remained consistently below the "Cluster" of other money market rates. Mr. Brimmer said "among the very large banks, the frequency of borrowing has increased, and its timing suggests strongly that these banks are motivated substantially by differences between the discount rate and the cost of funds in the money market."

Heavy member bank borrowings are able to partially frustrate the Federal Reserve's policy of monetary restraint by giving banks an additional source of needed reserves, and hence lending power.

Although he was facing an audience of savings and loan association executives, Mr. Brimmer firmly defended the recent decision of the Federal Reserve and the other financial regulatory agencies to permit higher interest rates to be paid to savers—a decision the savings and loan industry mainly opposed.

He said the industry "is in a position to compete for funds by offering higher rates to depositors" and he said higher rates should "moderate" the outflow of funds from these institutions into the money market—an outflow that threatened the availability of mortgage credit.

SMALL BUSINESS ADMINISTRATION CELEBRATES ITS 20TH BIRTHDAY

Mr. STEVENS. Mr. President, on July 30, the U.S. Small Business Administration was 20 years old. It was established to counsel, assist, and protect, insofar as possible, the interests of small business concerns in order to preserve free competitive enterprise in this country. It has well served its mandate. During these 20 years, the number of businesses which are classified as small has grown from 4 million in 1953 to over 8 million in 1973. Small business currently supplies 37 percent of the gross national product; represents 53 percent of all business jobs; and is the breadwinner for 100 million Americans.

The most pressing needs of small firms at the time the SBA was founded, were, as they are now, competent management, credit on reasonable terms, technical and production counsel, and the opportunity to bid on a fair share of Federal contracts. In the past two decades, a total of over 600,000 loans of all kinds have been made to small firms totaling more than $12 billion. And last year alone, the small business share of Federal procurement amounted to $12.6 billion.

The SBA has been working closely with private financial institutions to make Federal funds for small business go further. Most SBA lending is made in partnership with banks or other lending in-

stitutions. Two-thirds of the Nation's banks now invest with SBA, compared to only 10 percent 4 years ago.

Alaska has particularly benefited from the Small Business Administration. The Anchorage District United States Small Business Administration has become the first SBA district office in the Nation to reach 100-percent bank participation. Every bank and branch in Alaska now has at least one SBA guaranty loan in its portfolio. This has significant impact on the economy of Alaska. In terms of jobs, the firms that have received small business loans in the past 12 months employ 1,117 Alaskans. This is likely to mean a $2.5 million increase in bank deposits, $317 million more in retail sales annually, and over $8 million more in personal income for Alaskan families per year.

In 1972 SBA made 371 business loans in my State for a total dollar value of $15,136,700. This is an increase of 268 percent in number of loans and 355 percent in dollars over 1969. Our villages are benefiting as well as are individuals, especially from community development projects which bring new enterprises, such as Native stores, to the isolated areas of the State. In addition, through the SBA economic opportunity loan program, many of our Native people are being given new opportunities to compete in the business community. We foresee increasing accomplishments by small businessmen, resulting from the combined assistance by established businessmen and the Federal effort. The know-how acquired in the first 20 years of SBA's operations can only serve to improve small business capabilities in the future.

I hope that the support of the SBA by Congress in the next 20 years will assist the SBA to continue to meet the needs of America's small businessmen.

ASSAULT ON THE PRIVACY OF MASSACHUSETTS DRUG ABUSE PATIENTS

Mr. ERVIN. Mr. President, the potentialities for pernicious abuse of governmental data systems containing personal information about individual citizens are illustrated by two recent articles in the Boston Globe which reveal apparent plans for creating a narcotics addict registry in Massachusetts and perhaps elsewhere in the Nation. I ask unanimous consent that the text of these articles be printed in the RECORD following these remarks.

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

(See exhibit 1.)

Mr. ERVIN. Mr. President, the very presence of an individual's name on a list of addicts can deprive that individual of important opportunities, rights and benefits—such as job opportunities, insurance, decent housing—all without due process of law.

Because of my long-standing concern, as chairman of the Subcommittee on Constitutional Rights, about governmental data systems containing personal information about individuals, I wrote early in this year to the Special Action Office for Drug Abuse Prevention—SAODAP—which I understood to be setting up a computerized information system containing extensive personal information on all addicts under treatment in federally funded programs. In April of this year the general counsel of SAO DAP replied to my inquiry concerning any information systems SAODAP might be operating or intending to operate which would contain personal information about individuals:

> The Special Action Office for Drug Abuse Prevention does not operate any governmental programs and neither conducts nor plans any sort of data bank operation pertaining to individuals as such. We are developing a reporting system for treatment programs which is designed to assure that the individuals to which the data they submit relates are not identifiable as such. This system is called CODAP (for "Client Oriented Data Acquisition Process") and is intended to furnish statistical information to serve as the basis for a variety of policy and management determinations at the Federal, State, and local levels. (Letter dated April 10, 1973 from Grasty Crews, II, General Counsel, SAODAP).

I was still not certain about the exact nature of the CODAP system and the claimed safeguards to protect the privacy of the drug abuse patients whose records would be collected by the system. Consequently, I asked the staff of the Subcommittee on Constitutional Rights to investigate further. Counsel for the subcommittee were assured that no addict registry was contemplated by the SAODAP, that the CODAP system was designed so that the identity of any individual under treatment would be absolutely protected and that SAODAP was as concerned as I was about the privacy and confidentiality of drug abuse patient records.

SAODAP's apparent sensitivity to the importance of confidentiality of drug abuse patient records, is evidenced both by formal regulations published in the Federal Register on November 19, 1972 and by SAODAP's role in the case of People against Newman. The Newman case involved a court subpena of the photographs of patients of a drug treatment center in New York. Dr. Newman refused to supply the photographs on the grounds that such records were confidential. The amicus brief submitted by SAODAP was instrumental in persuading the New York Court of Appeals that such drug abuse patient records were indeed confidential and not subject to subpena. I ask unanimous consent that the SAODAP Confidentiality Regulations be printed in the RECORD following these remarks.

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

(See exhibit 2.)

Mr. ERVIN. Mr. President, because of SAODAP's public position in regard to the privacy and confidentiality of drug abuse patient records and the repeated assurances by the Director and general counsel of SAODAP that no addict registry was contemplated, that the CODAP system could not be used for such a purpose, and that SAODAP was doing everything in its power to assure the confidentiality of drug abuse patient records, I was surprised to read in the Boston Globe that the CODAP system was indeed being used to invade the privacy of drug abuse patients in Massachusetts.

I was even more troubled by the Globe's report that "law enforcement officials" claim that the CODAP numbering system—

> Will allow them to learn—within something like 30 seconds—the identity of any person receiving help from a federally funded drug program . . . When cross-checked with the U.S. Census Bureau, Social Security Administration, state Probation Department, or apparently, the Educational Testing Service the CODAP system will produce the child's identity within some 30 seconds.

Once again, I asked the subcommittee staff to contact the Special Action Office for Drug Abuse Prevention. Once again subcommittee counsel were assured that such blatant breaches of confidentiality and patient privacy were not contemplated by SAODAP when it set up the CODAP system, and that SAODAP had no firm information that the CODAP system was being turned into any such highly dangerous addict registry.

Because of the crossfire of allegations and assurances, it is difficult to know exactly what is happening in Massachusetts with regard to the CODAP information system. That is why I have written to the Director of the Special Action Office for Drug Abuse Prevention and asked for a full investigation.

It seems to me entirely possible that the CODAP system, which contains highly personal medical, psychological, family, educational, and even criminal record information, may well have been perverted by some of those running drug treatment programs in Massachusetts. I trust that the SAODAP will investigate fully any such abuses or threats of abuses and put a stop to them. We would do well to heed the wise words of Justice Brandeis when he warned:

> Experience should teach us to be most on our guard to protect liberty when the Government's purposes are beneficent. Men born to freedom are naturally alert to repel invasion of their liberty by evil-minded rulers. The greatest dangers to liberty lurk in insidious encroachment by men of zeal, well-meaning but without understanding.

EXHIBIT 1

LOSS OF RIGHTS IN DRUG LINK-UP

(By Michael Kenney)

Within the next few weeks, probably behind closed doors, a small group of Massachusetts and Boston officials will decide whether or not 1000 local children aged 7 to 17 will be deprived of their civil and constitutional rights.

And funny as it may seem, the preliminary decisions on this deprivation of liberty have been made during the past month or so when we have all been shaking our heads—with an air of superiority—over the Watergate hearings.

The issue is CODAP—quite possibly the first step toward a national registry of drug users—and it is the price the Nixon Administration is demanding for $2 million worth of drug programs for Boston.

CODAP is the "Client Oriented Data Acquisition Process," an innocuous-sounding combination of letters and numbers which law enforcement officials admit will allow them to learn—within something like 30 seconds—the identity of any person receiving help from a federally-funded drug program.

In Boston, the victims will be 1000 children

aged 7 through 17 who are to be referred to a proposed $1.2 million TASC–J (Treatment Alternative to Street Crime—Juvenile) program.

Last week, the Boston City Council, with only an oblique warning from Mayor White, voted to accept a 10 percent down payment for planning.

This all began about a year ago when a state-local-private agency task force began putting together a treatment program for juvenile drug users. Early this year, the city's Coordinating Council on Drug Abuse and the state's Human Services Department approached the sinister-sounding SAODAP (the White House's Special Action Office for Drug Abuse Programs) for funding.

Last month, SAODAP agreed to fund the program—and a $700,000 adult program—which will run 1000 children a year through a diagnostic and evaluation process and then admit about 240 into residential or outpatient treatment. The others, a control group, will receive nothing but a CODAP record.

For all 1000, an Admission and Case Sample Report will be filled out and forwarded to Washington. It will not record the child's name, just the date of birth, race, sex, ethnic group, zip code and the first two letters of mother's given and maiden names as a "unique identifier." This is the CODAP system which, when cross-checked with the US Census Bureau, Social Security Administration, state Probation Department or, apparently, the Educational Testing Service (the College Board folks), will produce the child's identity within some 30 seconds.

Dr. Matthew Dumont, outspoken head of the state's Drug Rehabilitation Department, has denounced the proposal in an angry letter to SAODAP's Richard Jacobsen: "On scientific, clinical and civil libertarian grounds, I consider this proposal deficient and potentially destructive."

"If implemented," Dumont said, "this program would brand as drug users and track the lives of a thousand youngsters."

At this point, Paul Robinson, executive secretary of the city's Drug Abuse agency, admits "we don't know what we can do to get out from under CODAP." He hopes that somehow a new proposal can be drafted without a CODAP clause.

But many of those familiar with the situation feel certain that Washington is gloating at the imminent prospect of getting a tacit endorsement of CODAP from civil liberties-conscious Boston and Massachusetts.

In a kind of rearguard action, Mayor White has been told by the state's Mental Health Department (indirectly pushed by Gov. Sargent) that it will pocket veto the program if it does not win the backing of nine civil libertarian legal groups.

That is where the constitutional rights of 1000 children aged 7 to 17 stand right now and perhaps the worst aspect of the whole business is that with Watergate right out there on TV, all of this has been going on behind closed doors here in Boston, at the State House and City Hall.

PLAN FOR A LIST OF ADDICTS IN UNITED STATES MEET WITH SUSPICION, MISTRUST

(By Viola Osgood)

Trust in government may become the biggest roadblock in Federal attempts to establish a national identity system for drug addicts.

Under guidelines released last December, the US Department of Health, Education and Welfare (HEW) is requiring hospitals and clinics with methodone maintenance and detoxification programs to identify all patients participating in such projects.

According to HEW, the purpose of the identification program is to prevent "drug dependent" persons from enrolling in more than one methadone treatment program. And to prevent such persons from obtaining methadone "either for the purpose of self-administration or illicit marketing."

Under the guidelines, directors of the methadone treatment programs must notify the Food and Drug Administration whether they plan to participate in the identification program. Failure to participate could cause revocation of a facility's license to operate a legal methadone treatment program.

The director of one Boston program, who refuses to be identified, said he has refused to disclose the names of patients participating and will continue to do so.

"With Watergate and all the questions of illegal surveillance in the country now, people are naturally suspicious," the director said. "And as a medical man they expect me to be willing to identify people who come to me for help. I can't do that. It goes against all my ethics and training."

The methadone program director said he feels that addicts who are in trouble with the police would be especially reluctant to come into a center for help because the identification system could serve as a means for helping police catch "criminals."

"If I tell my patients that I have to turn over their names and other identification to the Federal government, they might want to stay away," he said. "I can't take the risk that people who need help might be frightened into not seeking it."

The director said that while he hopes he won't lose his license as a result of his refusal to identify his patients, he is not very hopeful.

"If I am denied permission to continue using methadone treatment, it would be sad," he said. "But, I guess I would just have to use something else. Maybe, I can use acupuncture like the guy in Hong Kong."

Taking the opposite view, Dr. Vernon Patch, director of methadone treatment for the Department of Health and Hospitals, said he feels that some kind of patient registration would be helpful, especially from the standpoint of finding out how many addicts there are in a given area.

Patch said he and other doctors have worked for several years trying to help come up with an identification system that would be acceptable to all segments.

"At the mention of something like an identification system, people run scared, almost to the point of hysteria," Patch said. "You'll find that liberals run scared at the mention of government involvement in any system of this kind."

"A lot of people are extremely suspicious of the US government right now," Patch said. "But, we've got to have a little faith in the system.

"We support it with our taxes. If people are so paranoid about the system, then I would suggest they pack their bags and move to Canada."

Patch said there are lots of ways in which a system can be worked out without violating a patient's confidentiality. He said footprints were suggested at one point.

"People don't commit crimes in their bare feet and the FBI doesn't have a footprint file," he said. "But folks have run away from this also. It would have been simple enough with a national bank of computerized information."

Patch said he has talked with many addicts and found they have no objections to an identification system. He said that the problem seems to be with program directors.

EXHIBIT 2

TITLE 21—FOOD AND DRUGS

CHAPTER III—SPECIAL ACTION OFFICE FOR DRUG ABUSE PREVENTION

(Part 401—Confidentiality of drug abuse patient records)

The Special Action Office for Drug Abuse Prevention has received numerous requests for interpretations of section 408 of the Drug Abuse Office and Treatment Act of 1972 (21 U.S.C. 1175). That section deals with the confidentiality of patient records maintained by treatment organizations. On the basis of the authority conferred by that Act, as well as other provisions of law, the Special Action Office, in consultation with the Department of Justice and the Department of Health, Education, and Welfare, has prepared the accompanying interpretative regulation to deal comprehensively with both substantive and procedural issues arising under section 408.

The rationale underlying the policy of section 408 is simple and compelling. Drug abuse in our society, at least with heroin, inevitably involves unlawful possession of drugs as a minimum criminal complication, and the very high cost of the heroin required to maintain a full-blown habit leads in many instances to a pattern of crimes against property. Socially, there is no more crushing a stigma than to be known as a junkie. If society is to make significant progress in the struggle against drug abuse, it is imperative that all unnecessary impediments to voluntary treatment be removed. There is clear agreement among drug abuse treatment program operators that their ability to assure patients and prospective patients of anonymity is essential to the success of their programs. The identification of a person as a patient of a general practitioner or hospital clinic is not ordinarily of great significance, but the identification of a person as an enrollee in a narcotic treatment program can, in and of itself, have profoundly adverse consequences.

It was in recognition of these considerations, among others, that Congress enacted section 408 of Public Law 92–255 (21 U.S.C. 1175). It must be emphasized that the operation of this section in no way creates a sanctuary for criminals. The enrollment of an addict in a treatment program takes away nothing, immunizes nothing, that would be available to law enforcement authorities if the program did not exist or the addict did not enroll in it. The only effect of his enrollment is to diminish the likelihood of his continued criminal conduct, and if the price of this is to isolate the records generated by the enrollment itself, this is a small price indeed in the light of the social benefits.

A threshold question is the scope of the section in terms of the programs and activities covered. By its terms, section 408 applies to patient records "maintained in connection with the performance of any drug abuse prevention function authorized or assisted under any provision of this Act. * * *" Under section 221 of the Act (21 U.S.C. 1131), the Director is required to provide overall planning and policy for all Federal drug abuse prevention functions, and under section 222 (21 U.S.C. 1132), he is given plenary budgetary authority with respect to all such functions for the express purpose of implementing his authority under section 221. Thus, all drug abuse prevention functions carried on with Federal authorization or support are subject to the Director's authority under section 221, and therefore fall within the scope of section 408. This result appears consistent with the thrust of the Act read as a whole: It is clear from the conference report (H. Rept. No. 92–920, p. 33) that the conferees attached great importance to section 408, and it is entirely reasonable to construe the scope of this section as coextensive with that of section 221. Section 401.01 of the regulation so provides.

While the legislative history of section 408 makes clear the intent of Congress that patient records should not be used to the patients' disadvantage, from the Act read as a whole the intention is equally clear to encourage the social and occupational rehabilitation of drug abusers. Under the regulation, the terms "benefit" and "governmental personnel" are construed in this light.

Although the statute makes no mention of

disclosure to a patient's attorney, either with or without his consent, it is clear that an absolute prohibition on disclosure to counsel would raise grave constitutional questions, as well as be at variance with the remedial purposes of the Act. The constitutionally protected right to counsel, to be meaningful, must necessarily include the concept of informed counsel, and this can only be given on the basis of facts. Section 401.25 interprets the statute in the light of these principles.

Employment is an indispensable element of successful rehabilitation. Gainful employment in the case of a known former addict may be impossible to secure unless the prospective employer has some evidence that the individual either is currently enrolled in a treatment program or has successfully completed one. On the other hand, employers generally neither desire nor are capable of interpreting the raw data in the treatment program records. In recognition of this need, provisions have been included to permit treatment program operators to work with employers who have indicated their willingness to cooperate with drug rehabilitation programs.

Similar reasoning applies in the case of communications with members of a patient's family. In those cases where such information will help the family to aid in the treatment or rehabilitation process, and the patient desires that it be given to them, evaluations or status reports may be furnished to members of a patient's family under that section.

To aid the Director of the Special Action Office for Drug Abuse Prevention in determining whether this regulation should be amended, revoked, or reissued after interested persons have been given an opportunity to participate interested persons are invited to submit written data, views, and arguments. Any such material should be submitted to the General Counsel, Special Action Office for Drug Abuse Prevention, 726 Jackson Place NW., Washington, D.C. 20506, to be received not later than January 15, 1973. Such material will be made available for inspection and copying upon request.

The Special Action Office is informed that litigation is now pending whose outcome could seriously affect treatment programs throughout the country. In addition, uncertainties as to the interpretation and application of section 408 are creating difficulties and hardships for many such programs and their patients. On the one hand, treatment program counsellors are uncertain of the extent to which they can assure patients and prospective patients of the confidentiality of treatment records; on the other hand, efforts to promote occupational rehabilitation by working with actual or prospective employers, with the consent of the patients, are being frustrated in some instances by interpretations which have been placed on section 408.

In view of the foregoing circumstances, it is hereby found that good cause exists to make this regulation effective immediately, and that notice and public procedure thereon prior to its effectiveness are impracticable, unnecessary, and contrary to the public interest, and it is hereby ordered that Title 21 of the Code of Federal Regulations be amended by adding at the end thereof a new chapter, as hereinafter set forth, effective upon publication in the FEDERAL REGISTER (11–17–72).

By order of the Director of the Special Action Office for Drug Abuse Prevention, November 15, 1972.

GRASTY CREWS II,
General Counsel.

PART 400—[RESERVED]

GENERAL PROVISIONS

Sec.
401.01 Definitions.
401.02 Applicability.
401.03 General rules regarding confidentiality.
401.04 Incompetent or deceased patients.
401.05 Security precautions.
401.06 Extent of disclosure.

DISCLOSURES WITHOUT COURT AUTHORIZATION AND WITH CONSENT OF PATIENT

401.21 Form of consent.
401.22 Disclosure to medical personnel.
401.23 Disclosure to governmental personnel for purpose of obtaining benefits.
401.24 Disclosure in connection with parole, probation, or suspension of prosecution.
401.25 Disclosure to legal counsel.
401.26 Evaluations in connection with rehabilitation.
401.41 Disclosure without consent in general.
401.42 Medical emergency.
401.43 Records maintained in connection with chemotherapeutic treatment.
401.44 Research, audits, and program evaluation.

CRIMINAL PENALTIES

401.51 Penalty for unauthorized disclosure.

INTERPRETATION OF SECTION 408(b)(2)(C) IN RELATION TO OTHER LAWS

401.61 Relationship of section 408(b)(2)(C) to other provisions of section 408 and to other legislation generally.
401.62 Scope of orders; relationship to confidentiality provisions of Public Law 91–513.

INTERPRETATIVE GUIDELINES FOR APPLICATIONS AND ORDERS UNDER SECTION 408(b)(2)(C)

401.71 Applications for orders should be restricted to records of specified patients.
401.72 Information which should be furnished in support of application.
401.73 Suggested safeguards against unnecessary disclosures.

AUTHORITY: The provisions of this Part 401 are authorized under sections 213, 221, 222, and 408 of the Drug Abuse Office and Treatment Act of 1972 (Public Law 92–255; 21 U.S.C. 1122, 1131, 1132, and 1175), and other relevant provisions of law.

GENERAL PROVISIONS

§ 401.01 Definitions.

For the purposes of this part, the following words shall have the meanings indicated:

(a) The term "Act" means the Drug Abuse Office and Treatment Act of 1972 (Public Law 92–255) including such amendments thereto as may be in effect at the time the provision referring to it is applied.

(b) The term "Director" means the Director of the Special Action Office for Drug Abuse Prevention.

(c) The term "drug abuse prevention function" means any program or activity relating to drug abuse education, training, treatment, rehabilitation, or research, and includes any such function even when performed by an organization whose primary mission is in the field of drug traffic prevention functions (as defined in 21 U.S.C. 1103(c)), or is unrelated to drugs.

(d) The term "drug abuse prevention function authorized or assisted under any provision of the Act or any act amended by the Act" means any drug abuse prevention function—

(1) Which is conducted in whole or in part by any department, agency, or instrumentality of the United States, or

(2) For the lawful conduct of which in whole or part any license, permit, or other authorization is required to be granted by any department or agency of the United States.

(e) The term "patient" means any person who is or has been interviewed, examined, diagnosed, treated, or rehabilitated in connection with any drug abuse prevention function.

(f) The term "governmental personnel" means those persons who are employed by the U.S. Government, by any State government, or by any agency or political subdivision of either, and includes Veterans Administration personnel as described in § 401.23(b).

(g) The term "medical personnel" includes physicians, nurses, psychologists, counselors, and supporting clerical and technical personnel.

§ 401.02 Applicability.

(a) Except as provided in pargaraph (b) of this section, this part applies to records or any part thereof made on or after March 21, 1972, of the identity, diagnosis, prognosis, or treatment of any patient which are maintained in connection with the performance of any drug abuse prevention function authorized or assisted under the Act or any act amended by the Act.

(b) The provisions of section 408 of the Act (21 U.S.C. 1175) and the remaining provisions of this part do not apply to any interchange of records entirely within the Armed Forces, within those components of the Veterans Administration furnishing health care to veterans, or between such components and the Armed Forces, but otherwise such section and this part apply to any communication to or from any person outside the Armed Forces or such components of the Veterans Administration.

§ 401.03 General rules regarding confidentiality.

Records of the identity, diagnosis, prognosis, or treatment of any patient which are maintained in connection with the performance of any drug abuse prevention function shall be confidential, may be disclosed only as authorized by this part, and may not otherwise be divulged in any civil, criminal, administrative, or legislative proceeding conducted by any Federal, State, or local authority, whether such proceeding is commenced before or after the effective date of this part.

§ 401.04 Incompetent or deceased patients.

In any case in which disclosure is authorized with the consent of the patient, such consent may be given by a guardian, conservator, or other court-appointed designee in the case of an incompetent patient, and by an executor, administrator, or other personal representative in the case of a deceased patient.

§ 401.05 Security precautions.

(a) Appropriate precautions should be taken for the security of records to which this part applies. The succeeding paragraphs of this section set forth examples of such precautions, but these should be added to or may be modified in the light of individual circumstances.

(b) The file of each patient maintained in connection with the performance of any drug abuse prevention function should be marked "Confidential Patient Information," as should any record identifying an individual as a drug abuse patient, including photographs, fingerprints, reports of skin abrasions indicating drug use, or other documentation of patient identification.

(c) Each file drawer, cabinet, or other container in which such files are kept should be conspicuously labeled with a cautionary statement such as the following:

CONFIDENTIAL PATIENT INFORMATION

Any unauthorized disclosure
is a Federal offense

§ 401.06 Extent of disclosure.

Any disclosure made under this part, whether with or without the patient's consent, shall be limited to information necessary in the light of the need or purpose for the disclosure.

DISCLOSURES WITHOUT COURT AUTHORIZATION AND WITH CONSENT OF PATIENT

§ 401.21 Form of consent.

(a) Where disclosure is authorized with the consent of the patient, such consent

must, except as otherwise provided, be in writing and signed by the patient. Such consent must state—

(1) The name of the person or organization to whom disclosure is to be made,

(2) The specific type of information to be disclosed, and

(3) The purpose or need for such disclosure.

§ 401.22 Disclosure to medical personnel.

With the patient's consent, disclosure to medical personnel is authorized for the purposes of diagnosis or treatment. The consent must be in writing and in the form prescribed in § 401.21. All medical personnel to whom disclosure is made shall be subject to all of the rules on confidentiality as set forth in this part.

§ 401.23 Disclosure to governmental personnel for purpose of obtaining benefits.

(a) With the written consent of a patient, disclosure is authorized to governmental personnel for the purpose of obtaining benefits to which the patient is entitled. For the purposes of this section, benefits to which a patient is entitled include, but are not limited to, any welfare, medicare, or other public financial assistance authorized by Federal, State, or local law, the suspension of prosecution, the granting of probation or parole, public pension or retirement benefits, and any other benefit conferred by lawful authority.

(b) Disclosure may be made to Veterans Administration personnel for the purpose of determining a patient's eligibility for hospitalization, pension, or other veterans' benefits. For the purpose of this section, Veterans Administration personnel includes any personnel (whether or not employed or compensated by the Veterans Administration) authorized by the Veterans Administration to assist patients in the preparation and submission of their claims.

(c) Where treatment for drug abuse has been made a condition to the granting or continuation of a welfare or other public benefit, disclosure is authorized to governmental personnel responsible for the administration or determination of such benefits.

§ 401.24 Disclosure in connection with parole, probation, or suspension of prosecution.

(a) In the case of a drug abuser charged with a criminal offense or who is subject to parole or other probationary action and who has agreed to participate in a drug abuse prevention treatment program as a condition of release from confinement or as a condition to the dropping, deferral, or suspension of charges or judgment, disclosure of such person's treatment records in connection with such program is authorized if the patient consents in writing to participate in such program and consents to disclosure in accordance with § 401.21.

(b) Disclosure pursuant to this section shall be limited to the patient's attorney and to governmental personnel having responsibility with respect to the prosecution of the patient or for supervising his probation or parole.

§ 401.25 Disclosure to legal counsel.

(a) In any situation in which disclosure is permitted with the patient's consent for one or more of the authorized purposes as stated in this part and the patient has secured the advice of legal counsel, disclosure may be made to the patient's attorney upon the written application of the patient endorsed by the attorney.

(b) In any situation in which a patient seeks the advice of legal counsel on the question of waiving confidentiality, disclosure is authorized to the extent necessary to render such advice, if written application for such disclosure is made by the patient and endorsed by the attorney.

§ 401.26 Evaluations in connection with rehabilitation.

(a) Whenever a patient or former patient has been employed or been accepted for employment conditioned upon his progress or status in a treatment program, an evaluation of such progress or status by a qualified physician or counselor may be furnished to the employer subject to all of the following conditions and requirements:

(1) The request for such an evaluation must be in writing and signed by the patient.

(2) The request must identify the employer (or official therein) cooperating in the patient's rehabilitation program.

(3) The treatment organization must verify the authenticity of the request by telephone or other means of communication and ascertain the extent that the information is needed to verify the patient's treatment status.

(4) The information shall be limited to that reasonably necessary in view of the type of employment involved.

(5) No information may be furnished by a treatment organization unless the organization is satisfied on the basis of past experience or other credible information (which may in appropriate cases consist of a written statement by the employer) that such information will be used for the purpose of assisting in the rehabilitation of the patient and not for the purpose of identifying the individual as a patient in order to deny him employment or advancement because of his history of drug abuse.

(b) Information in the nature of a general evaluation of a patient's present or past status in a treatment program may be furnished to members of the patient's family if, in the judgment of a qualified physician or counsellor, such information would be helpful in treatment or rehabilitation of the patient and the patient makes a written request for such information to be furnished.

DISCLOSURES WITHOUT COURT AUTHORIZATION AND WITHOUT CONSENT OF PATIENT

§ 401.41 Disclosure without consent in general.

(a) Disclosure of a patient's records may be made without the consent of the patient and without authority of a court order as follows:

(1) To medical personnel to meet a medical emergency; and

(2) To qualified personnel for purposes of research, audits, or program evaluation.

§ 401.42 Medical emergency.

Disclosure to medical personnel, either private or governmental, is authorized without the consent of a patient only when necessary to meet a bona fide medical emergency and only to the extent necessary to meet such emergency. For the purposes of this section a bona fide emergency may be considered to exist whenever competent medical authority has determined that the life or health of the patient involved may be impaired and medical treatment without the record could be detrimental to the patient's health. Where, for example, a person is incarcerated and claims to be a patient in a methadone treatment program, this claim may be verified by inquiry to the treatment center administering the program or to a registry such as is referred to in § 401.43 in order to avoid overdose on the one hand, or the danger of untreated withdrawal on the other.

§ 401.43 Records maintained in connection with chemotherapeutic treatment.

The communication of information relating to patient identity and dosage between or among programs approved by the Commissioner of Food and Drugs pursuant to § 130.44 of this title, or between such programs and a registry serving them, shall not be considered as a disclosure in violation of section 408(a) of the Act (21 U.S.C. 1175(a)), but any such information received by any such registry shall be fully subject to section 408 of the Act and to the provisions of this part.

§ 401.44 Research, audits, and program evaluation.

(a) Disclosure without consent is authorized to qualified personnel for the purpose of conducting scientific research, management, or financial audits, or program evaluation, but such personnel may not identify, directly or indirectly, any individual patient in any report of such research, audit, or evaluation, or otherwise disclose patient identities in any manner. Information so obtained may be used in enforcing lawful requirements imposed with respect to the operation of treatment programs employing controlled substances, but section 408(c) of the Act (21 U.S.C. 1175(c)) specifically prohibits the use of patient records to initiate or substantiate any criminal charges against a patient or to conduct any investigation of a patient, except as authorized under a court order granted under section 408(b)(2)(C) (21 U.S.C. 1175(b)(2)(C)).

CRIMINAL PENALTIES

§ 401.51 Penalty for unauthorized disclosure.

Subsection (e) of section 408 of the Act (21 U.S.C. 1175) provides that except as authorized under subsection (b) of that section, any person who discloses the contents of any record referred to in subsection (a) of that section shall be fined not more than $500 in the case of a first offense, and not more than $5,000 in the case of each subsequent offense.

INTERPRETATION OF SECTION 408(b)(2)(C) IN RELATION TO OTHER LAWS

§ 401.61 Relationship of section 408(b)(2)(C) to other provisions of section 408 and to other legislation generally.

Section 408(b)(2)(C) of the Act (21 U.S.C. 1175(b)(2)(C)) empowers the courts, in appropriate circumstances, to authorize disclosures which would otherwise be prohibited by section 408(a). Both the positioning of this authority in the bill as initially passed by the Senate and the explicit crossreference in section 408(a) of the final Act make clear the congressional intent that section 408(b)(2)(C) operate as a mechanism for the relief of the 408(a) strictures and not as an affirmative grant of jurisdiction to authorize disclosures prohibited by other provisions of law, whether Federal or State. By the same token, it should be noted that the authority which section 408(b)(2)(C) of the Act (21 U.S.C. 1175(b)(2)(C)) confers on courts to issue orders authorizing the disclosure of records applies only to records referred to in section 408(a) (21 U.S.C. 1175(a))—that is, the records maintained by operating treatment or research programs, and not to secondary records generated by the disclosure of the 408(a) records to researchers, auditors, or evaluators pursuant to section 408(b)(2)(B).

§ 401.62 Scope of orders: relationship to confidentiality provisions of Public Law 91–513.

(a) It is abundantly clear that section 408(b)(2)(C) was not intended to confer jurisdiction on any court to compel disclosure of any information, but solely to authorize such disclosure. An order or provision of an order based on some other authority, or a subpena, or other appropriate legal process, is required to compel disclosure. To illustrate, if a person who maintains records subject to section 408(a) of the Act is merely requested, or is even served with a subpena, to disclose information contained therein which is a type whose disclosure is not authorized under section 408 of the Act or any of the foregoing provisions of this part, he must refuse such a request unless, and until, an order is issued under section 408(b)(2)(C). Such an order could authorize, but could not, of its own force, require disclosure. If there were no subpena or other compulsory process, the custodian of the records would have the discretion as to whether to disclose the information sought unless and until disclosure were ordered by means of appropriate legal process, the authority for which would have to be found in some source other than sec-

tion 408 of the Act. This result is compelled by the language of section 408(b)(2) itself. The words used, "the content of such record may be disclosed * * * if authorized by an appropriate order" are too explicit and too well established as words of art to be interpreted as meaning "the content of such record shall be disclosed if required by an appropriate order."

(b)(1) This interpretation of the permissible scope of a 408(b)(2)(C) order is not only appropriate in the light of the purposes, language, and legislative history of the Act in which it appears, but also is necessary in order to harmonize that section with other legislation dealing with a narrower aspect of the same subject matter. By sections 3(a) and 502(c) of the Comprehensive Drug Abuse Control and Treatment Act of 1970 (42 U.S.C. 242a(a); 21 U.S.C. 872(c)), Congress conferred on the Secretary of Health, Education, and Welfare and on the Attorney General, respectively, power to authorize persons engaged in drug research to withhold names and other identifying characteristics of persons who are the subject of such research, and expressly provided that when such authority has been obtained, its holder may not be compelled to disclose identifying information "in any Federal, State, or local civil, criminal, administrative, legislative, or other proceedings * * *"

(2) If section 408 of the 1972 Act were to be interpreted as an independent grant of authority to compel testimony, it would obviously be in direct conflict with the provisions of the 1970 Act discussed above. This becomes significant, for example, in the case of methadone, which for the purpose of treating opiate addiction on a longer-range basis is classified as an experimental drug which may not be administered except in connection with research. Nothing in either the language or the legislative history of the Act indicates any intent on the part of Congress to amend the provisions of the 1970 Act or to reduce the protection which can be afforded under them. Since the language of section 408 permits, if it does not require, a construction which harmonizes with the 1970 Act, it clearly should not be construed to authorize a court order in derogation of any exercise of the authority of the Secretary of Health, Education, and Welfare under section 242a(a) of title 42, United States Code, or the Attorney General under section 872(c) of title 21, United States Code.

INTERPRETATIVE GUIDELINES FOR APPLICATIONS AND ORDERS UNDER SECTION 408(b)(2)(C)

§ 401.71 Applications for orders should be restricted to records of specified patients.

Section 408(b)(2)(C) empowers courts of competent jurisdiction to authorize disclosure only on a showing of good cause. That section expressly provides that in assessing whether good cause exists, the court must weight the public interest and the need for disclosure against the injury (a) to the patient, (b) to the physician-patient relationship, and (c) to the treatment services. Because these factors can only be weighted with respect to the particular patient involved, any application for such an order should relate only to the records (or a part thereof) of a specific patient and should include an identification of the patient and an indication whether the application is being made with or without his consent. This conclusion is buttressed by the form of section 408, which appears to have been deliberately cast in terms of the individual patient, e.g. section 408(b)(1), "If the patient * * * gives his written consent * * *." and 408(b)(2), "If the patient * * * does not give his written consent * * *", suggesting an intention that the disclosure order be limited to the records of a particular patient who either did or did not consent to the disclosure.

§ 401.72. Information which should be furnished in support of application.

In those cases in which an application is not made by or with the consent of the patient, or is not joined in or consented to by the person or organization responsible for the records to which it relates, the Act implicitly requires that such application be supported by adequate information to enable the court to make the following findings:

(a) The nature of the public interest that would be served by granting the application;

(b) Any actual or potential injury, either economic or social, that could result to the patient or to the relationship of the patient to his physician;

(c) The effect that an order of disclosure would have on the administration of the drug-abuse prevention program; and

(d) A clear showing that the interests of the public are substantial in relation to possible injury to the patient or to the patient-physician relationship.

§ 401.73. Suggested safeguards against unnecessary disclosures.

Section 408(b)(2)(C) implicitly negatives any court order requiring unlimited disclosure when limited disclosure would serve the purpose. It states that "in determining the extent to which any disclosure of all or any part of any record is necessary," the court is required to impose appropriate safeguards against unauthorized disclosure. To facilitate compliance with this requirement, it would be within the intent and spirit of this provision of section 408 that any such court order:

(a) Limit disclosure to those parts of the patient's record deemed essential to fulfill the objective for which the order was granted;

(b) Limit disclosure to those persons whose need for the information is the basis for the order;

(c) Require, where appropriate, that all information disclosed be held in camera; and

(d) Include any other appropriate measures to keep disclosure to a minimum, consistent with the protection of the patient, the physician-patient relationship and the administration of the drug-abuse prevention program.

[FR Doc. 72-19925 Filed 11-16-72; 8:54 am]

ENVIRONMENTAL PROTECTION AGENCY DIRECTOR

Mr. FANNIN. Mr. President, our Nation is about to get a new director for the Environmental Protection Agency. It has been my good fortune to know and work with Russell Train for several years. He most certainly has outstanding credentials, and is clearly qualified to be administrator of this very important agency.

His record has been outstanding in whatever he has undertaken. He has served not only in the executive, legislative and judicial branches of government, but he has been an outstanding lawyer, a national and international leader in the conservation movement, and a dedicated military officer during World War II.

During the past 3 years he has been Chairman of the Council on Environmental Quality. Prior to that he was the Under Secretary of the Interior.

Early in his career he was an attorney for the Joint Congressional Committee on Internal Revenue Taxation and on the staff of the House Ways and Means Committee. He gained further experience in legislation as head of the Treasury Department's tax legislative staff.

President Eisenhower appointed Mr. Train to the Tax Court of the United States in 1957, and he served there until 1965 when he resigned to become president of the Conservation Foundation.

Mr. Train also has served on the National Water Commission.

Mr. President, this is a marvelous record of public service. But my purpose today is not simply to praise Mr. Train, although I most certainly do.

It is my purpose to state for the record my hopes that Mr. Train will be able to employ his vast experience to provide a new equilibrium for the environmental activity of Government and of the entire Nation.

During the past several months it has become abundantly clear that our environmental protection goals are out of kilter with our national interest.

We find that unwise Federal policies, most of them dictated by the Congress or bureaucracy set up by Congress, have brought us a serious fuel shortage. This shortage will become a crisis if we are forced to import huge quantities of fuels from other nations.

The Senate acted wisely 2 weeks ago in voting to build the Alaskan pipeline. We have taken the first step in rectifying some of the mistakes which were made by the Congress in recent years.

Further review and revision of our environmental protection laws is urgently needed.

This has been dramatically illustrated in Arizona and 20 other States where the EPA has laid down unrealistic requirements to control automobile and motorcycle traffic.

In States like Arizona and California, the EPA edict, if implemented, will be a severe blow to the economy.

We may end up with cleaner air, but with no means for our people to earn a living.

Examples of EPA's proposed program for Arizona would include a 20 percent reduction of public parking facilities and a prohibition against further construction of new parking facilities, creation of mass transit lanes for downtown streets, car pooling and rationing of gasoline sales to prevent Arizona citizens from driving their cars.

These measures are about as appropriate for the Arizona economy as would be a plan calling for the leveling of all buildings in Manhattan to create a national wildlife preserve.

Governor Rampton of Utah in commenting on the EPA proposal for Salt Lake City had this to say:

I and representatives of the Attorney General for the State of Utah have searched the law books in vain for any previous attempt by a federal agency to use the threat of criminal prosecution to compel affirmative action by state or local officials, even though such state or local officials might feel that such action is in violation of their duty to their constituents and to their oaths of office.

I submit (1) that the proposed regulations are in violation of the 10th Amendment to the Constitution of the United States; (2) that they are not supported by a grant of power to the EPA in the Clean Air Act of 1970, and (3) that if such a grant of power were to be claimed by inference from the language of

the Clean Air Act of 1970, such a grant of power would be an unconstitutional delegation of the legislative authority under the decision of the U.S. Supreme Court in the landmark case of *Schecter Poultry Corporation* v. *U.S.* 295 U.S. 495, decided some 40 years ago.

I do not like controversy between public officials or between various levels of government, particularly when we are all attempting to solve a serious social problem. However, if cooperation is to exist, it must be mutual cooperation and not a dictatorial posture by EPA. If the EPA will recognize our rights as state and local governments to move in our proper areas of authority, we will welcome their help and advice. In the hope that such may be the attitude of the EPA in the future, as it has not been in the past, let us now turn to an examination of the details of the proposed regulations.

Mr. President, Governor Rampton raised some interesting and I believe very valid questions about the legality and constitutionality of the EPA regulations.

He also made some interesting observations on the impracticability of the EPA plan. Here is just a small portion of what he had to say about one of the regulations regarding car pools:

The provision contained in the proposed regulations for the creation of bus and car pool lanes is sound in theory, but contains certain details which, in my opinion, would increase, not reduce traffic congestion and thus increase and not reduce motor vehicle pollution.

The proposed regulation would provide that special bus and car pool lanes should be provided on roads and highways where there were more than two lanes in each direction. If there were four lanes, one lane would be for bus and car pools at all hours while an additional lane would be for bus and car pools at the period of high traffic. If there were three lanes in one direction, there would be no lane for constant use of bus and car pools, but one lane would be devoted to bus and car pools during peak traffic periods.

A practical problem arises in permitting the use of the bus lanes by car pools. It takes more than the mere enactment of a law or a regulation to govern the conduct of the general public. We have learned through experience in this country that people will not observe a law which the majority of our citizens regard as unfair, arbitrary, or just plain silly. The regulations would define a car pool as any car carrying three or more persons. While the average motorist with one or two persons in his car might regard the regulation permitting buses and not private passenger cars to use a special lane, I believe that they would not regard an arbitrary cutoff between two and three passengers, between three and four passengers or between four and five passengers as being a logical criterion on which to base the use of the highway. If a motorist riding alone or with one other passenger in his car saw a faster moving lane of traffic being used by other passenger vehicles, even though they might have three or four occupants, he himself would use that lane of traffic to take advantage of the faster speed; and no reasonable number of highway patrolmen, city police or county sheriffs could prevent the motorist from so doing. Furthermore, the uncertainty that would exist in such quasi law observance might well create greater congestion than now exists in all lanes, including the bus lanes.

Mr. President, in recent weeks I have inserted in the RECORD numerous stories and editorials from newspapers detailing the problems the EPA regulations would cause for Arizona.

I would hope that Mr. Train will review the EPA regulations very carefully, determine whether they really are in keeping with the law, and if they are, then recommend changes in the law to Congress.

It is not my intention to revoke our commitment to environmental protection. It is my belief that by revising our laws, and making our goals and regulations more realistic, we will not only maintain our economy but will enhance our chances of improving the environment.

Mr. Train with his vast experience not only in environmental matters but in economic issues, should be ideal for this task.

Mr. President, I believe it would be of great benefit for Members of Congress to read Governor Rampton's statement, which I cited earlier, in its entirety. Therefore, I ask unanimous consent that it be printed in the RECORD in full.

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

STATE PLAN FOR AIR QUALITY CONTROL

(Testimony of the Honorable Calvin L. Rampton)

Section 67-1-1, U.C.A. 1953 provides that the Governor "is the sole organ of communication between the government of this state . . . and the United States." Therefore, this statement represents the official position of the State of Utah in regard to the proposed regulations of the Environmental Protection Agency regarding transportation restrictions in the Wasatch Front region of Utah. Other officers or employees of the State of Utah, however are not precluded from presenting their own points of view as individuals. This they may do freely and without fear of reprisal. Representatives of local government will, of course, make their own statements.

Before discussing the specific proposals, I would like to comment on what I regard as being the proper roles of the state government and of the government of the United States in achieving satisfactory ambient air quality. I regret that the State of Utah and the Environmental Protection Agency appear to be in conflict in this matter, because I am sure that our objectives are the same. The concern of the state with clean air predates the concern of the federal government, as indicated by the date of applicable statutory authority. Utah's Air Conservation Act was passed in the spring of 1967—three years before the Federal Clean Air Act of 1970.

Before the Environmental Protection Agency had begun operation, we had already completed an inventory of air pollution sources, and had determined that 57% of the pollutants in the air came from mobile sources, mostly from automobiles. This has concerned us deeply. We feel we have moved responsibly to meet this problem. Although it is probable that the hazard to health from motor vehicle pollution was somewhat overstated by Mr. Green of the EPA on a local newscast approximately 3 weeks ago, we are aware that if this situation is allowed to go unchecked, carbon monoxide and nitrogen oxide pollution could become a definite threat to the health of our people. We do not want the situation to even approach, let alone reach, that level, and we are determined that it will not.

Furthermore, we have been very much aware of the aesthetics of the situation. We have watched with dismay the dirty brown cloud that on still days seems to rise spontaneously from the floor of the valley, increasing in thickness and density until it hides the mountains and dims the sun. Therefore, we have been deeply concerned, and somewhat resentful when actions of the Environmental Protection Agency have not only not contributed to a solution of the problem, but have often delayed the solution.

Utah has attempted to develop a valid transportation plan consistent with the needs of the state and in harmony with the requirements of EPA. The process has been hampered by many complications and changes in direction, including

(1) A change in the base year for ambient data,

(2) Addition of Provo and Ogden to the initial area (Salt Lake City) requiring control,

(3) Imposition of an altitude correction after the control plan was prepared,

(4) Late submission of EPA guidelines and

(5) Extending the date for compliance with standards by the automotive industry without warning only one week before we submitted our State Plans to the EPA when the Administrator knew or should have known that assumptions based upon its previous order were essential to the State Plan.

Present efforts to refine the plan are further hampered by lack of availability of the EPA technical support document purported to be the basis for proposed amendments to Part 52 of Chapter 1, Title 40 of the Code of Federal Regulations, as published in the Federal Register of July 16, 1973.

On April 13, 1973, in compliance with the requirement of the Clean Air Act of 1970, the State of Utah submitted to the Environmental Protection Agency a Transportation Control Plan. EPA has taken the position this plan is insufficient to meet the problem. With this we are not in agreement. In fact, as will appear later, many of the things which were contained in the Utah Plan are picked up by the EPA in the proposed regulations which are the subject of this hearing. I have had prepared a document analyzing the EPA Evaluation Report of the Utah Transportation Control Plan. (Attachment #1) I will not read this document in full, but ask that it be included in the record of this hearing.

It has been most difficult for the state Bureau of Environmental Health to deal with the Environmental Protection Agency because of the manner in which the EPA uses its regional office in Denver. In the case of most governmental agencies, the regional offices have considerable decision making power and are able to cooperate with the state government on joint programs on a man-to-man basis. Such is not the case with the EPA. People from the Denver office appear to be no more than conduits, transmitting ultimata from somewhere on high. In seeking cooperation on joint state-federal anti-pollution programs, the state officers are empowered to make final decisions. The regional people from Denver are not. The decision-making power on the federal level is vested in individuals whose names we do not know, whom we have never seen, and with whom we are not even sure we are communicating.

Inherent in the general language of the Clean Air Act of 1970 is the assumption that cleaning up the air is a partnership project to be jointly entered into by federal, state and local governments. The role of the federal government as set down in the act is to control pollution at its source in urban areas which "often extend into two or more states;" to conduct research and work with the automotive industry to secure the production of automobiles as nearly pollution free as possible, and to promote the development of devices which will reduce pollution when installed on older automobiles. Obviously, these functions cannot be performed

by a single state and are properly in the province of the federal government. However, the act clearly states in Sec. 101(3) that:

"the prevention and control of air pollution at its source is the primary responsibility of States and local governments."

Sec. 116 of the act provides as follows:

"Except as otherwise provided in sections 209, 211(c)(4), and 233 (preempting certain State regulation of moving sources) nothing in this Act shall preclude or deny the right of any State or political subdivision thereof to adopt or enforce (1) any standard or limitation respecting emissions of air pollutants or (2) any requirement respecting control or abatement of air pollution; except that if an emission standard or limitation is in effect under an applicable implementation plan or under section 111 or 112, such State or political subdivision may not adopt or enforce any emission standard or limitation which is less stringent than the standard or limitation under such plan or section."

The sections referred to as being exempt from the state power all have to do with the standards of production of automobiles, automotive equipment, and automotive fuel, and not with such matters as are dealt with in these proposed regulations. The Act does state, Sec. 101(4) that:

"Federal financial assistance and leadership is essential for the development of cooperative Federal, State, regional and local programs to prevent and control air pollution."

Section 102 of the Act further states:

"(a) The Administrator shall encourage cooperative activities by the States and local governments for the prevention and control of air pollution; encourage the enactment of improved, and so far as practicable in the light of varying conditions and needs, uniform State and local laws relating to the prevention and control of air pollution; and encourage the making of agreements and compacts between States for the prevention and control of air pollution."

I suppose threatening governors and mayors with criminal prosecution resulting in $25,000 per day fines and a year's imprisonment could be construed by some as encouragement, but I doubt it is the kind of encouragement Congress had in mind.

I wonder if the people who prepared the proposed order have fully considered how they would use the criminal law to force state and local governments into this proposed bureaucratic strait-jacket. I assume their position would be that if a governor or mayor refused to take steps to place the plan into effect he would be guilty of a criminal violation. But suppose the governor or the mayor does take such steps, but does not pursue them diligently so they are not effective. Would he still be guilty? And what of the legislature? The proposed regulations themselve require the enactment of certain legislation for implementation. Suppose the legislature defeats such legislation. Are all members of the legislature guilty—or merely those who voted against the enactment? On the other hand, suppose the legislature passes the required legislation by a majority vote, are the legislators who voted in the negative guilty of an attempted violation of the EPA mandate? The complications that could arise from an attempt to extend the criminal process to coercing action on the part of state and local officials are so confusing and frightening that they would open up a whole new field of criminal law.

The criminal law and the contempt power have in the past been used to prevent state and local officers from interfering with federal officers in carrying out federal programs where such programs are within the area of federal jurisdiction as defined by Article 1, Section VIII of the Constitution of the United States as interpreted by the federal court. However, I and representatives of the Attorney General for the State of Utah have searched the law books in vain for any previous attempt by a federal agency to use the threat of criminal prosecution to compel affirmative action by state or local officials, even though such state or local officials might feel that such action is in violation of their duty to their constituents and to their oaths of office.

I submit (1) that the proposed regulations are in violation of the 10th Amendment to the Constitution of the United States; (2) that they are not supported by a grant of power to the EPA in the Clean Air Act of 1970, and (3) that if such a grant of power were to be claimed by inference from the language of the Clean Air Act of 1970, such a grant of power would be an unconstitutional delegation of the legislative authority under the decision of the U.S. Supreme Court in the landmark case of *Schecter Poultry Corporation* v. *U.S.* 295 U.S. 495, decided some 40 years ago.

I do not like controversy between public officials or between various levels of government, particularly when we are all attempting to solve a serious social problem. However, if cooperation is to exist, it must be mutual cooperation and not a dictatorial posture by EPA. If the EPA will recognize our rights as state and local governments to move in our proper areas of authority, we will welcome their help and advice. In the hope that such may be the attitude of the EPA in the future, as it has not been in the past, let us now turn to an examination of the details of the proposed regulations.

THE PROPOSED REGULATIONS

I would like first to discuss a matter that is common to seven of the eight proposals. Seven of the proposed regulations provide that the state or local governments shall submit, no later than October 1, 1973, a detailed compliance schedule showing steps that will be taken to establish and implement the proposed regulations. I think it is evident that this deadline cannot, under any circumstances, be met. It is now July 27, 1973. Furthermore, I understand that this record will be kept open for 30 days for further hearing or filing of statements. Presumably it will take some time for the Administrator, or his representative to review the record and to determine whether or not, on the basis of statements made here, modifications should be made. It is difficult to see how this work could be done in less than a period of weeks, particularly if, as is stated on page 17 of the background statement "the Administrator's final promulgation of the transportation controls for the Wasatch Front will be influenced by the comments and testimony he receives."

In my opinion a lead period of 90 days would be required between final promulgation of the regulations and the submission of state or local compliance schedules. Substantial detail is required in these compliance schedules, including the actual preparation of bills to be presented to the legislature to effectuate the schedules. This work, in my opinion, could not be performed in less than 60 days if it were done conscientiously. Thereafter, it would be necessary for the State Air Conservation Committee to hold hearings on such proposed compliance schedules if we are not to violate the state law and the existing regulations of the EPA. Such hearings would require 30 days notice under established law and regulation. For this reason the Administrator in promulgating final regulations should certainly include in such regulations a more realistic deadline within which state and local governments could submit their compliance schedules.

Sec. 52.2337—Inspection and maintenance program

The State plan included a once per year engine tune-up maintenance and inspection of the installed pollution control devices. The EPA plan would require semi-annual inspections using an idle-mode test. Such vehicle evaluations require special training and the use of special equipment. A new program of enforcement, including spot checks of both inspection stations and vehicles, would be required.

This is a reasonable program, a good program, and one which the state does intend to adopt. Whether inspection shall be by state employees, as in the case of our driver examination program, or by authorized commercial garages and service stations, as is the case with our mechanal inspection program, is a policy matter for legislative determination.

I would prefer that the matter be handled by licensed commercial establishments, if in fact it is determined after a sufficient survey that enough commercial establishments will be willing to install the necessary, rather expensive equipment which will be required to adequately perform the more than one million inspections each year. It is quite evident that if the state is to perform the inspections it will require the employment and training of several hundred state employees, the purchase of a great amount of equipment, and the installation of a substantial number of testing stations. Whether or not the legislature would be willing to provide the rather extensive budget that would be required for this purpose, I cannot, of course, know. However, I am in agreement that whether it be done by commercial establishments, or by the state, an effective inspection program to check automobile emissions and to keep them within allowable tolerances is an absolutely essential part of any control strategy, whether it be established pursuant to the state air pollution control program or pursuant to a mandate from the federal government.

There is one provision, however, that I feel should be deleted from any regulation regarding inspection. This is the proposed section (c)(2) which provides that any program for inspection shall include "provisions for inspection failure criteria consistent with the emission reductions claimed in the plan for the strategy. These criteria shall include failure of 50 percent of the vehicles in the first inspection cycle."

Presumably this requirement for failure of at least 50 percent of the vehicles would apply even though more than 50 percent of the vehicles met the standards. This is similar to giving a policeman a quota for issuing of tickets, or making arrests within a given period regardless of how many violations he observes—a long ago discredited and discarded method of law enforcement administration.

Sec. 52.2338—Air bleed to intake manifold retrofit

Sec. 52.2339—Regulation for high-altitude efficiency modification

I will discuss these two proposed regulations together, as the comments I will make are applicable to both. I am in agreement that all motor vehicles operating on the roads of the state of Utah should be required to be fitted with necessary mechanical devices to bring emissions within tolerable limits as quickly as is practicable after such devices are tested and are available on the market.

The performance of research and the encouragement of manufacturers to produce such devices is part of the specific charge of the EPA under the Clean Air Act of 1970. I am advised, however, that such devices are still in an experimental stage, and that the EPA currently has pilot programs underway to test the efficiency of devices that are in production.

I am informed that the cost of fitting automobiles with these devices is quite substantial—up to $110 for automobiles of model

years prior to 1968 on which both the air bleed device and the high altitude efficiency modification would be required, and approximately $40 for vehicles of model year 1968 to 1974 which would require only the high altitude modification. This would obviously require an investment of somewhere in excess of $40,000,000 by the citizens of the state of Utah in the modification of their automobiles. This amount would not be too great an investment to be required if in fact the installation of the devices will make a material contribution to the reduction of automobile exhaust pollutants. If on the other hand, the devices would make no contribution toward, or only a minimal contribution toward pollution control, people of the state would quite properly resent being required to make this investment. The state of Utah can and will adopt regulations requiring the installation of adequate pollution control devices as quickly as such devices are proved effective and are available on the market. For the state, however, at the present time to place into effect a regulation that vehicles shall be fitted with such devices on or before July 1, 1976 would merely be a sham compliance with the EPA regulations. It is not the desire of the state government to regulations merely to achieve technical compliance with an order from the EPA, if it appears that the standards may not be met.

Sec. 52.2340—Bus/Car Pool Lanes

The Legislature of the State of Utah has committed itself to the strengthening of the mass transit system along the Wasatch Front. It has long been apparent here, as well as in other areas of the United States, that mass transit systems cannot operate solely on the fares generated by the riders—they must have a public subsidy. The legislature in 1971 provided for the establishment of mass transit districts because it was properly felt that individual units of local government did not have sufficiently large geographical jurisdiction to take care of this problem. Although there has been some controversy among our citizens and among members of the Legislature as to whether a mass transit system should be a no-fare or a low-fare system, there is general agreement that government must subsidize the operation of the buses or other type of transit operation. Accordingly the legislature in 1973 authorized the distribution of $1 million in state funds for the subsidization of mass transit systems, and also authorized local mass transit districts, upon approval of the citizens in a local referendum, to levy up to 2 mills on the property tax.

Improvement of mass transit is beginning to show in the habits of the riding public in this area. After a record of yearly decline for three decades the mass transit system in the metropolitan Salt Lake area appears to have turned a corner and shows a significant increase in partonage during the year just ended.

The proposal to strengthen mass transit along the Wasatch Front was part of the state strategy for reduction of motor vehicle pollution as submitted on April 13, 1973. We estimated in our proposal that the increased use of mass transit alone would reduce motor vehicle pollution in the Salt Lake City area by 2 percent. The background paper submitted with the proposed rules by the EPA places the estimate at only 1 percent. However, regardless of which estimate is right, we are committed to strengthening mass transit not only for the purpose of controlling pollution, but for other reasons related to the economy and the society of this area.

The provision contained in the proposed regulations for the creation of bus and car pool lanes is sound in theory, but contains certain details which, in my opinion, would increase, not reduce traffic congestion and thus increase and not reduce motor vehicle pollution.

The proposed regulation would provide that special bus and car pool lanes should be provided on roads and highways where there were more than two lanes in each direction. If there were four lanes, one lane would be for bus and car pools at all hours while an additional lane would be for bus and car pools at the period of high traffic. If there were three lanes in one direction, there would be no lane for constant use of bus and car pools, but one lane would be devoted to bus and car pools during peak traffic periods.

A practical problem arises in permitting the use of the bus lanes by car pools. It takes more than the mere enactment of a law or a regulation to govern the conduct of the general public. We have learned through experience in this country that people will not observe a law which the majority of our citizens regard as unfair, arbitrary, or just plain silly. The regulations would define a car pool as any car carrying three or more persons. While the average motorist with one or two persons in his car might regard the regulation permitting buses and not private passenger cars to use a special lane, I believe that they would not regard an arbitrary cutoff between two and three passengers, between three and four passengers or between four and five passengers as being a logical criterion on which to base the use of the highway. If a motorist riding alone or with one other passenger in his car saw a faster moving lane of traffic being used by other passenger vehicles, even though they might have three or four occupants, he himself would use that lane of traffic to take advantage of the faster speed; and no reasonable number of highway patrolmen, city police or county sheriffs could prevent the motorist from so doing. Furthermore, the uncertainty that would exist in such quasi law observance might well create greater congestion than now exists in all lanes, including the bus lanes.

While I am in agreement that bus lanes could and should be established at appropriate hours in areas where traffic is usually congested, it would be inadvisable to establish such bus lanes on those roads where traffic at all times, or substantially at all times, moves at a reasonably rapid rate of speed. For example, the interstate highways which run through and around the Salt Lake City metropolitan area carry a substantial portion of the traffic into and out of downtown Salt Lake City. Except for a few trouble spots where at certain hours of the day we are experiencing congestion for short periods of time, traffic on these interstate highways generally moves at the posted speed limit. Therefore, a bus would gain no appreciable advantage in point of time required to traverse the highway if it had a special lane. On the other hand, making available a special lane of traffic for the very low utilization it would receive from bus traffic would crowd the remaining traffic into fewer lanes, and could very well create points of congestion where none now exist. The highest degree of automobile pollution occurs in the case of stop and go traffic such as is incident to congestion on streets and highways. Furthermore, when there is congestion, uncertainty exists among the motorists, and changing lanes frequently results in traffic backups in all lanes. Therefore, establishing bus lanes under these situations might well result in a substantial increase rather than a decrease in carbon monoxide pollution.

I am cognizant of the fact that the proposed regulation would provide that certain streets or highways could be exempt from the requirements of the special bus lane if permission for the exemption is obtained from the Administrator. This, however, appears to be an unreasonable intrusion of the federal government upon the power of the state and local governments. The confusion and red tape required when an officer in Washington undertakes to regulate such matters as traffic on city streets, including such details as where buses may make left hand turns, where directional signs must be installed, and how the lines on streets shall be painted, is plainly evident. Officials of local government not only have more knowledge of the situation, but they also have deeper concern with the solution of the problem, and are in a position to react much more rapidly to changing situations that may occur in traffic patterns. Predetermination of such details is impossible; therefore, local officials must have latitude to react to situations as they occur. This would be a costly exercise in futility, the cost of required signs and interchanges alone is estimated at $20,000,000.

Sec. 52.2341—Management of parking supply

The proposed regulations would provide that no new parking facilities or modification or enlargement of existing facilities could be constructed in Davis, Salt Lake, Weber or Utah counties, without permission of the Administrator of the EPA.

The state in its plan which was submitted on April 13, 1973 proposed the limitation of on-street parking during certain hours in downtown Salt Lake City. This proposal was not made to harass the motorist by making it difficult for him to find a place to park, but for the purpose of opening up additional lanes which would move traffic more readily in the downtown area, and thus reduce the excessive use of gasoline incident to stop and go driving. However, if we are to reduce the number of parking spaces available on the streets in downtown Salt Lake, it is essential that we compensate by increasing the available off-street parking facilities. Therefore, this proposed regulation appears to be in direct contravention of good planning.

No doubt the limitation on off-street parking is being proposed for the purpose of making it more difficult for the motorist to find a parking place under the theory that the ultimate result will be to force him to make fewer trips or to ride public transportation. Perhaps there would be some effect in this regard, and to the extent that it did reduce travel, it would reduce gasoline consumption. On the other hand, it would have an adverse effect, which in my opinion would cause the consumption of a great deal more gasoline than the minor reduction of vehicles on the downtown streets would save.

If people have an automobile and can afford to drive it, many are going to drive because of the greater convenience as compared with public transportation. People who can't readily find a parking place on the street or in a parking lot are going to cruise the area until they can find a parking place. Therefore, a limitation of parking places off-street is going to occasion a substantial increase in the stop and go driving incident to the casual cruising around the downtown area. This meandering type of driver would tend to negate the benefit that would be obtained from opening up additional traffic lanes in the downtown area. It would result in substantial extra stop and go driving by the parking place seeker. The best thing to do, so far as air pollution control is concerned, is to get the car off the street into a parking place and get the motor turned off as expeditiously as possible. If severe restrictions are placed on parking in the central business district, many of the businessmen would be chauffeured to and from work by their wives, thus doubling the vehicle miles travelled for this group. This, therefore, is a regulation which I would have to oppose with all legal means available to me.

I am cognizant of the fact that the proposed regulation provides that the Administrator may grant permits if he sees fit. Here again, however, we have an unreasonable intrusion into local governmental affairs. A person desiring to construct a park-

ing lot or expand a parking lot incident to his place of business would not be able to go to the city or county licensing office as he now may, or even to the more readily accessible state capitol, but would have to obtain permission either from, or under terms dictated by, an administrator in Washington, who knows little of local conditions.

Furthermore, I would like to point out that it is practically impossible to build and operate a commercial establishment of any kind without providing parking, both for employees and customers. The motel, the hotel, the super-market, the office building, the variety store; all must have available parking if they are to exist. Therefore, for the Administrator to assume control over the granting of licenses for the construction of parking facilities in the four counties containing 78 percent of Utah's population would give the Administrator dictatorial control over future commercial and economic development of this state.

Sec. 52.2342—Regulations for limitation of on-street parking in Salt Lake

It is difficult to determine why this regulation is being proposed. It is part of the state's air pollution control strategy submitted by the state on April 13, 1973. To again propose it in this form can have no other effect than to convey to the public the impression that the state has refused to take this action, and that the federal government had to step in. This impression is false and misleading.

Sec. 52.2343—Regulation of on-street parking in Provo

This proposed regulation covers an area not within the state plan which has been presented. I assume that a representative of the City Commission of Provo, Utah will discuss this proposed regulation, and I will, therefore, refrain from comment.

Sec. 52.2344—Gasoline limitations

The proposed regulation in this regard would require the state to limit annual gasoline sales in Davis, Salt Lake, Utah and Weber counties for the indefinite future to the volume experienced during the 12 months ending June 30, 1973. The regulation would further require the State of Utah to set up procedures to implement such rationing.

I feel that consistent with my oath of office to the people of the State of Utah, I would have to oppose this regulation with all legal means available to me. This proposed regulation represents an unconscionable intrusion of the federal power into state and local government. It would be ruinous of a major section of Utah's economy. Furthermore, it is so poorly conceived that it might increase rather than decrease motor vehicle pollution in the area.

I should point out first that the test period itself is a period of depressed gasoline consumption because of shortages of gasoline that began to develop in May and June of this year. I also point out that the devices which are being placed upon automobiles to control pollution, including those which are going to be installed on older vehicles, while they may reduce pollution substantially, will increase consumption of gasoline. What we are being asked to do, therefore, is to limit all future consumption to a depressed base period notwithstanding the fact that more, not less, consumption of gasoline will be required in driving any given mileage as a result of the operation of pollution control equipment.

Although only approximately 6 percent of the vehicle miles driven in the Wasatch Front area are driven by tourists, this relatively small segment of traffic has a major impact on the economy of the region. 34 percent of the persons employed along the Wasatch Front are employed in the service and trade categories, to which employment tourism is a major contributing factor. That the imposition of gasoline restriction in the Wasatch Front would inhibit tourism cannot be doubted. The fact of such rationing would be a matter of common knowledge throughout the country, and tourists planning their trips, fearing an inability to get a sufficient supply of gasoline in the Wasatch Front area, would plan their vacations to avoid the area.

Even a reduction in tourist travel by 30 percent, and I think that is a conservative estimate of the reduction that would occur, would deal a severe blow to motels, hotels, service stations and grocery stores, and in fact to the whole economy. The tourist dollar, although coming from what is technically a second industry, represents new money and turns over in the community generally as rapidly as money generated in primary industry.

On the other hand, the rationing program within the limited geographical area would, in my opinion, not reduce the consumption incident to the 94 percent of the mileage driven by local driver. In fact it would actually increase the consumption among residents, probably more than enough to make up for any reduction in gasoline consumption by tourists. As the rationing would apply only in the four counties, any resident finding a shortage of gas at his local service station could, by a drive of 15 or 20 miles into Box Elder County, Tooele County, Juab County, Summit County or Morgan County, fill up at an unrationed service station. Therefore, to the burning of the gasoline incident to his ordinary travels within the rationed area, would be added the additional consumption resulting from his travel to a service station outside the rationed area. Furthermore, rationing within a restricted area would inevitably give rise to the very dangerous practice of home storage of gasoline by those who want to cut down the frequency of their trips to service stations beyond the border of the rational area.

Nor would it do any good to expand the geographic area of the limitation. It would merely move the boundary out a few miles. Gasoline rationing cannot be successful if it is done on the basis of a geographical region with artificial boundary lines across which the motorist can go to buy and transport gasoline without restriction. If gasoline rationing is to have any chance of being successful in reducing consumption, it will have to be nationwide.

CONCLUSION

On May 31, 1972 the Administrator of the EPA determined that there was no reasonable way to meet the 1975 deadline for achieving the ambient CO levels. On this basis he, on his own authority, extended the deadline to 1977 for several states, including Utah. Subsequently, resulting from action brought against EPA by the Natural Resources Defense Council, the United States Court of Appeals for the District of Columbia rendered a decision ordering a revocation of the extension by the Administrator, but at the same time providing that "the Administrator shall not grant any state an extension for attainment of the primary standard unless he first complies with the procedures established in Section 110(e) . . ."

Following this court order, Utah complied with each of the five requirements of the Clean Air Act:

1. We presented a plan for attainment of the standard by 1975.

2. I, as Governor, submitted valid reasons why the sources are unable to comply with the requirements by 1975.

3. The State considered and applied as part of its plan reasonably available alternate procedures.

4. The State plan applied to all sources significantly contributing to CO levels the regions under question.

5. The State plan included all measures, interim or otherwise "as are reasonable under the circumstances."

As of this date EPA has disapproved Utah's valid request for an extension to 1977, and this list of unreasonable, impractical and unworkable restrictions are proposed, apparently as "reasonable interim measures" to be imposed on the citizens of Utah.

Utah's plan which is already well under way, is more than adequate to meet requirements, and untold costs in time and money unnecessarily spent without commensurate benefit can be avoided by approving an extension to 1977.

On page 13 of the background paper the effects of transportation controls are summarized. The paper states that the reductions required by 1976 are 54 percent in Salt Lake City, 46 percent in Ogden and 51 percent in Provo. The schedule contained in the background paper further points out that the strategies already proposed by the State of Utah plus those contained in the proposed regulations would result in a reduction in carbon monoxide pollution—over and above the federal motor vehicle control program—of 65 percent in Salt Lake City, 11 percent more than is required; 53 percent in Ogden, 7 percent more than is required; and 59 percent in Provo, 8 percent more than is required.

An examination of the schedule indicates that the required reductions would be met by the controls already proposed in the State plan heretofore submitted, plus those which I have in this statement indicated we are willing to implement as quickly as is practicable. The two proposals to which I object most strenuously, and which I have indicated I will resist by court action, namely, the control of parking facilities and the limitation of gasoline supplies, are not even necessary.

If the Environmental Protection Agency will revoke the two highly objectionable proposals, modify the retrofit, inspection and maintenance, and bus/car pool lane strategies to be mutually satisfactory to EPA and the State of Utah, and invest the representatives in the Denver office with authority to work with us cooperatively rather than dictatorily in an effort to implement the other proposals, I am certain that this problem can be met and solved.

ATTACHMENT NO. 1 BY GOV. CALVIN L. RAMPTON

EPA EVALUATION REPORT FOR THE UTAH TRANSPORTATION CONTROL PLAN 6/21/73

Section 51.14—Control strategy carbon monoxide

I. "The strategy does not provide for attainment and maintenance of 8-hour standard in Salt Lake City and does not discuss Provo and Ogden."

Comment.—The Utah State Air Implementation Plan was based, as instructed by EPA, on the base year data of 1970. Those data indicated no problem in either Provo or Ogden.

Although in 1972, when the transportation plan was being written, EPA suggested the State use 1971 data for a base because calculations using that year's data required less control to achieve the standard, the staff opted to retain 1970 as the base year since measured yearly ambient levels can vary both up and down from year to year because of meteorological parameters beyond control. It, therefore, is logical to fix a reference year and stick to it at least until a plan is written and tried out. 1972 data for Ogden and Provo show some short periods which exceeded the standard, but insufficient data are available to indicate a trend. As a matter of fact, 8-hour averages above the standard are apparently associated to a large extent with inversion conditions.

It is emphasized that all calculations for determining the amount of CO emission re-

duction to be obtained are based upon assumptions. None of the control procedures proposed by EPA or anyone else have been tried out. No one knows even approximately what results will actually be obtained.

1. Salt Lake City

"(a) . . . Although this reduction (25% reduction claimed in Utah's plan for the effect of federal controls on new vehicles) would have been correct at sea-level prior to the extension granted by the Administration for control of new vehicles, the number must be modified for Salt Lake City's high altitude and the effect of the extension."

Comment.—(a) If the Administrator has determined that the Federal date of achievement is impossible, it is unrealistic to require the states to impose more unreasonable requirements to take up the slack.

(b) It was recognized that high altitude operation of a gasoline engine tuned to operate at sea level could increase CO output, however, no definitive information was available at the time the plan was written for an estimation of the extent. This information is still not available. A study conducted by Colorado State and EPA is now in progress to determine how much if any effect actually results. The tentative results will be available in December 1973. (Private communication with Colorado State.)

"(b) The Plan claims a 15% reduction in carbon monoxide from the State's Inspection and Maintenance program. Assuming the State institutes an idle inspection system, the maximum reduction per vehicle would be 10%."

Comment.—The GCA (EPA's own consultant) report on the study of Salt Lake City state that 10–25% reduction in emissions could be expected from an inspection-maintenance program (not including retrofit devices). EPA now chooses to accept another estimate. In a game of estimates, the man with the final review can always over-rule any applicant.

(c) *Emission Reduction from Traffic Flow Improvements and Vehicle Restraints:*

"The plan indicates that the proposed combination of computerized traffic signals and prohibition of curb parking during peak traffic periods will increase average vehicle speed from 15 to 22 m.p.h. in the central business district of Salt Lake City, resulting in a 30-percent reduction in carbon monoxide emissions. The plan also indicates that traffic volume will increase 15 percent by 1975, with a corresponding increase in emissions. Subtracting this traffic increase from the estimated 30-percent reduction in emissions leaves a net reduction of 15 percent. Since the plan takes credit for a 9-percent reduction in carbon monoxide emissions from the computerized traffic system, only a 6-percent reduction can be credited to the parking restrictions, instead of the 8.5 percent claimed by the State."

Comment.—The staff did not make a calculation error as implied. Since GCA (EPA's contractor) had made an in-depth study of Salt Lake City's problem and had arrived in their calculations at a figure of 8.5% (which is in the same range as the state's 6%) it was concluded that of the two figures, GCA's was most likely to be correct. This is so stated in Utah's plan.

(d) *Calculation of Overall Reduction:*

"The Plan erroneously applies all of the individual reductions to the same base value, the total 1970 emissions of carbon monoxide in Salt Lake County (226,110 tons), whereas only vehicular emissions will be reduced by the control strategies. In addition, applying the FMVCP to the vehicular emissions leaves a substantially lower number to which the next strategy may be applied (See attachment 3).

Comment.—a. Utah's calculations for reduction strategies for the Core Area of Salt Lake City were *not* based on the tons of emissions of CO in Salt Lake County. Such a calculation obviously would be erroneous, since it would include CO from fixed sources whereas the control strategies apply only to mobile sources. Actually, calculations for Utah's Plan were based upon ambient levels measured in the Core Area, i.e., parts of CO per million parts of air and percentages.

No attempt was made to correct for CO from fixed sources in the State's calculations for three reasons: (a) the most significant fixed sources of CO in Salt Lake County are situated such that their emissions cannot affect CO levels in the Core Area. (b) Measured data indicate that the CO levels in the Core Area are almost entirely due to vehicular traffic. (c) The estimates and assumptions made in assigning a given degree of achieved control from any of the available strategies involve probably errors which did not and still to this date do not warrant such small adjustment. EPA calculations are not valid since they use emissions data from every source in the whole county to determine the extent of control in the small core area of the city. In like manner, the EPA proposal to require controls on the bulk of the vehicles in the State to effect ambient CO reductions in three very small core areas is completely illogical. (d) EPA's contention that Utah erred by calculating the reduction to be achieved from each phase of its strategy on the basis of the total rather than on the remainder after each incremental reduction is based on false assumptions for several reasons: (1) The incremental procedure assumes that each phase of the strategy will be applied individually in some predetermined order; actually, in both Utah's plan and EPA's proposal, all strategies are applied simultaneously. (2) If the incremental procedure (as illustrated by EPA) is applied in which the tonnage reduction is calculated from the percent reduction anticipated from each strategy, the final result differs depending on the order in which the strategies are assumed to be applied. (3) The probable errors associated with the assumptions on which all of these calculations are based are far greater than the small differences which result from mathematical manipulations. In this regard it is pointed out that on page 5, item 4 of EPA's table illustrating Utah's "error" in calculation uses the same "erroneous" procedure, i.e., adds up the percent reduction for several strategies, then applies this to the previous base.

2. Ogden and Provo

"Ogden According to data obtained from the Utah State Division of Health by GCA Corporation, the second highest 8-hour concentration of carbon monoxide in Ogden was 17 ppm. This concentration, which occurred in 1971, requires a reduction of 47 percent from the 1971 emission levels of carbon monoxide in Ogden. The State plan presents no strategy to attain and maintain the national 8-hour standard for carbon monoxide in Ogden."

"Provo According to data obtained from the Utah State Division of Health by GCA Corporation, the second highest 8-hour concentration of carbon monoxide in Provo was 20 ppm. This concentration, which occurred in 1971, requires a reduction of 55 percent from the 1971 emission levels of carbon monoxide in Ogden. The State plan presents no strategy to attain and maintain the national 8-hour standard for carbon monoxide in Provo."

It is completely irrational to impose drastic limitations on motor vehicle operation throughout a four-county area (for some strategies proposed, state-wide restrictions would be necessary to make enforcement possible) in order to reduce the CO concentrations in three very small core areas. Up to this point the staff has followed EPA (and its contractor) guidance in preparing a control strategy even though we had grave doubts as to the benefits to be realized and the practicality of application. With the advent of EPA's present completely dogmatic, unreasonable, and unrealistic proposal, it is obvious that the State should alter its course and take time to develop a direct, simple and workable approach to reduce CO concentrations (if this is indeed necessary) in the three areas designated. Since the times that the standard is exceeded occur almost exclusively in the fall and winter months, are associated with adverse meteorological conditions and are of limited duration, the direct approach of limiting or prohibiting vehicular traffic within the core areas on an air episode basis would appear to be the most effective approach yielding the greatest benefits from the least cost.

In both Provo and Salt Lake City, the number of times the standard is exceeded varies widely from year to year. In Salt Lake data have been collected long enough and the number of times per year the value is exceeded indicate that the measured CO concentrations are, in fact, not entirely the result of unusual circumstances. In Provo, the wide variations in the values for the three years it has been monitored raise serious questions as to the existence of an actual problem.

In Ogden the situation is even more tenuous since data have been collected for only two years.

THE DAVIS CUP FINAL

Mr. FULBRIGHT. Mr. President, a major international sports event will take place in Arkansas this weekend. The American Zone final of the Davis Cup, in which the United States will face Chile, will be played at the Burns Park Tennis Center in North Little Rock.

The North Little Rock tennis facilities are among the finest in the Nation and we are proud that Arkansas has been chosen as the site for this important tennis competition. Those associated with this event have been working hard to insure its success.

I am pleased to join in welcoming the Chilean team members to Arkansas, and I am sure they will be treated to traditional Arkansas hospitality during their stay.

Members of the U.S. team are Stan Smith, Dick Stockton, Tom Gorman, Harold Solomon, and Erik Van Dillen. Dennis Ralston is the nonplaying captain.

DAVID E. K. BRUCE HEADS U.S. LIAISON OFFICE IN PEKING

Mr. PERCY. Mr. President, James Pringle, of Reuters, in a dispatch from Peking carried in the New York Times of July 11, 1973, gave an interesting report on the "settling in" of David K. E. Bruce, who heads the U.S. Liaison Office in Peking.

With his customary intelligence, discretion, and vigor, Ambassador Bruce will represent the United States well in Peking. Evangeline Bruce is a magnificent person. The insights in Mr. Pringle's article attest to this, and I recommend the article to the attention of my colleagues. I ask unanimous consent that excerpts from the article be printed in the RECORD.

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

DESPITE LOW U.S. PROFILE, BRUCE'S DIPLOMACY IS MAKING AN IMPACT IN PEKING

(By James Pringle)

PEKING, July 10.—"Now we are in business," said David K. E. Bruce in his easy Virginia drawl.

A tall, spare figure, the longtime American diplomat looked up into the damp, dull early-morning sky over Peking at the Stars and Stripes hanging limp atop a 20-foot flagpole in the compound of the first permanent American mission here since 1949.

As uniformed Marine guards—some wearing Vietnam campaign medals—stood rigidly at attention watched by soldiers of the Chinese People's Liberation Army on duty at the gate, Mr. Bruce's wife, Evangeline, photographed the brief flag-raising ceremony. Then the 75-year-old envoy, a former Ambassador in Paris, Bonn and London, who was called from retirement to undertake this assignment, turned and entered the mission with his two principal aides, Alfred le S. Jenkins and John Holdridge.

In a sense Mr. Bruce had been "in business" from the moment he stepped off a plane on May 14, and the "quiet" diplomacy favored by the soft-spoken Democrat has already made its impact on Peking's cloistered diplomatic community.

CHARM AND DRY WIT

The charm and dry wit of this gifted conversationalist have already had a chance to rub off on two of the hitherto most uncompromising figures in China's leadership, Chiang Ching, wife of Chairman Mao Tse-tung, and Yao Wen-yuan. Mr. Yao, a leftist literary and theatrical critic from Shanghai who is now No. 6 in the leadership line-up, fired the opening volley in the Cultural Revolution in 1965.

In what appeared to observers here as an indication that the left was giving its imprimatur to the new Chinese-American relationship, Miss Chiang and Mr. Yao appeared with Mr. Bruce at a mid-June basketball game between Chinese and American sportsmen in the Capital Stadium, where "Ping Pong diplomacy" had its first manifestations.

It was a table-tennis match here in April, 1971, that led to President Nixon's visit last year and to a later visit by Henry A. Kissinger, Mr. Nixon's adviser, that resulted in the opening of liaison missions in Washington and Peking.

Typically, the Chinese gave the American party only a minute's advance warning that Miss Chiang would be present, and for the first time, at least since the start of the Cultural Revolution, the former Shanghai film actress shed her well-tailored Mao suit for an elegant midlength grey dress with white sandals and matching shoulder bag.

EMBASSIES IN ALL BUT NAME

Their appearance together and the affable conversation were televised nationwide. As a foreign envoy present remarked, "It's going to be hard for Americans to maintain their low profile in China for long."

With diplomatic immunity and the right to send coded messages and issue visas, both liaison offices—China's is headed by Huang Chen, former Ambassador in Paris and a Central Committee member—operate as embassies in all but name, handling trade matters, cultural exchanges and political reporting. Since the two nations do not have formal diplomatic relations, largely because of the Taiwan issue and Washington's continued recognition of the Chinese Nationalist Government, the missions do not have formal status.

Mr. Bruce ordered the downbeat tone to avoid violations of strict protocol. However, Chinese officials are relaxed about this and refer to Mr. Bruce in conversations with foreigners as "Ambassador." There is little doubt that the Chinese hope to see the liaison office's status raised to embassy level once the Taiwan issue is resolved.

The Americans do not attend formal diplomatic receptions or state banquets, missing an opportunity to exchange information—almost the chief rationale of such functions here, where significant news is scarce.

Mr. Bruce has been received by Premier Chou En-lai, an exact contemporary with whom, in terms of breadth of interests and experience, he has much in common. He has also met formally with Foreign Minister Chi Peng-fei and Deputy Foreign Minister Chiao Kuan-hua, a tall, urbane figure who headed Chinas delegation to the United Nations General Assembly last year and who also refers to the American as "Mister Ambassador."

In a sleek black Chrysler flying a small American pennant, Mr. Bruce has also made official calls on the ambassadors of several friendly nations, including France, Britain, West Germany, Canada and Australia, Mr. Jenkins, 50, the State Department's leading China specialist, and Mr. Holdridge, 48, formerly of the National Security Council, both of whom speak Chinese, paid similar calls.

Now that American visitors are arriving more frequently, Mr. Bruce receives them for formal briefings and receptions. The most recent was for a group of legislators and their wives led by Senator Warren G. Magnuson, Democrat of Washington.

An Assistant Foreign Minister, Wang Hai-jung, who is reported to be Chairman Mao's niece, was among the guests. Longtime American residents who work for the Chinese and who were invited stayed away.

On a typical day Mr. Bruce might take a brief stroll in the leafy park across the road from the mission. On hot afternoons he can go for a swim at the spacious pool in the nearby International Club.

A short walk along a covered concrete path takes him from his residence to the mission, where his office is on the second floor of a well-appointed building constructed in record time by about a hundred Chinese.

He catches up on the news in cables from Washington, a daily file of news from the United States Consul General's office in Hong Kong and a digest of the reports of foreign news agencies prepared by the Chinese for embassies.

All the diplomats speak Chinese and have China experience gained either in Hong Kong or in China. "The American mission has instantly become one of the best in town," an envoy said.

Mr. Bruce may then spend the rest of the day calling on colleagues, receiving visitors or reading. He has every recent book on China—their authors often send him copies—and he is rapidly acquiring a broad background.

Mrs. Bruce, a vivacious and active diplomatic wife, who, like her husband, is popular with both Americans and Chinese, is presiding over the decoration of the residence.

Mrs. Bruce has acquired a liking for the straw baskets used by peasants, and on a recent visit to a commune with her husband she bought a dozen, which she is painting and lacquering for decoration.

THE GENOCIDE CONVENTION: PUNISHABLE ACTS AND THEIR PUNISHMENT

Mr. PROXMIRE. Mr. President, article III of the International Convention on the Prevention and Punishment of the Crime of Genocide specifically states which acts are punishable:

(a) Genocide;
(b) Conspiracy to commit genocide;
(c) Direct and public incitement to commit genocide;
(d) Attempt to commit genocide; and
(e) Complicity in genocide.

The major question raised by this passage concerns the effect that the words "direct and public incitement to commit genocide" have on freedom of speech guaranteed in the Constitution. When asked whether constitutional protection in the field of free speech would be adversely affected by this treaty, then Assistant Attorney General William Rehnquist said in 1970:

I am satisfied, first, that they would not be and, second, that they could not be.

Article IV of the convention then explains who may be punished for genocidal acts:

Persons committing genocide or any of the other acts enumerated in article III shall be punished, whether they are constitutionally responsible rulers, public officials or private individuals.

The emphasis here is clearly on individuals, regardless of their position, if any, in Government. There are those who claim that the treaty is weakened, because of the lack of a specific reference to make governments punishable. However, looking at this from a realistic viewpoint, there is nothing that the international community can do to punish government-instigated genocide. Of course, charges may be raised at the International Court at the Hague or at the United Nations, but only moral pressures can be brought by these bodies. Thus the treaty is in reality recognizing that, presently, international law does not provide the means to punish a government in power.

Mr. President, I believe the Genocide Convention to be an outstanding document, and the Senate cannot afford to hesitate any longer in its ratification.

"EQUAL TIME" FOR CBS: ALL THE CONSUMER NEWS THAT IS FIT TO BROADCAST

Mr. PERCY. Mr. President, on June 29, 1973, I made reference to the article "Broadcasters and Consumer News: A Distressing Picture" and asked that it be printed in the CONGRESSIONAL RECORD. The article, appearing in the publication Media & Consumer, was taken from a presentation given at Columbia University's second annual journalism conference by Mr. Arthur Rowse, a widely read and respected columnist.

The central thesis of his presentation projected the consistent neglect that the media has given consumer oriented news. Several statistics relating to the low frequency of consumer news appearing on the major networks were cited, along with reasons why such a condition prevails. These reasons included undue advertiser pressure, internal conflicts of interests among broadcasters, and fear of displeasing the administration in power.

Recently, I received correspondence from Mr. Richard W. Jencks, vice president of the Washington office of the Columbia Broadcasting System, who questions the major charges of Mr. Rowse and terms them "unfair" and "unfounded."

In fairness to the news media, and particularly CBS, I wish to abide by the

"equal time" rule and share Mr. Jencks' views with my colleagues.

I believe my colleagues will concur that the RECORD is more impressive than the aforementioned article would imply. I trust that continuing and expanded interest will be shown in the legitimate concerns of consumers by our news media.

Mr. President, I request unanimous consent that the letter of July 9, 1973, from Mr. Jencks be printed in the RECORD along with selected portions of an attached compendium entitled "CBS/Broadcast Group Coverage of Consumerism."

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

RICHARD W. JENCKS' LETTER

DEAR SENATOR PERCY: I have read with interest your statement printed in the *Congressional Record* of June 29, reprinting a speech by Arthur E. Rowse in which the charge is made that broadcasters in general—and networks in particular—neglect consumer news and that they do so because of advertiser pressure, internal conflicts of interest and fear of displeasing the Administration in power.

Mr. Rowse bases the bulk of his comments on data derived from the January issue of the *Vanderbilt University Television Index*. This index covers only the network evening news broadcasts, completely excluding all other news and public affairs broadcasts and, of course, excluding all local news broadcasts. Even in terms of its limited scope, however, the Vanderbilt Index of consumer broadcast items is very narrowly defined. Many news stories of prime consumer interest are not categorized under its "Consumer Protection" heading, nor cross-indexed there. Thus, while Mr. Rowse found only 10 consumer news stories by CBS News in January, a more careful survey of the index would have revealed additional stories under headings such as Environment, Ecology, Health, Cold Remedies, etc. For example, a five-part series on the energy crisis broadcast on the CBS Evening News with Walter Cronkite on January 23, 24, 25, 26, 30, and on February 2 dealt with a critically important area of consumer news but was indexed under Ecology and Health rather than Consumer Protection. I enclose a transcript of this series for your information. With a more accurate indexing concept, the CBS Evening News with Walter Cronkite would be found to have reported, not ten, but a minimum of 18 consumer news items in January, consuming over 46 minutes, 30 seconds, of broadcast time rather than the 10 minutes cited by Mr. Rowse.

The reasons Mr. Rowse ascribes for our alleged neglect of consumer news are familiar canards, but they do not bear analysis. With respect, for example, to the charge that we neglect consumer news because of advertiser pressure, let me offer the statement of the well-known social scientist Herbert J. Gans, who has written: "Despite the old stereotype that media employees report the news as their owners and advertisers see fit, this is not true of national television and magazines, however true it may be of the local press." Mr. Gans' conclusion is reinforced by the fact that Mr. Rowse's only citations of alleged advertiser pressure are each a testimony to network integrity, viz. that we have reported the news as we saw it despite the displeasure of advertisers. Indeed, Mr. Rowse's litany of neglected news stories: "phosphate pollution, nutritional problems of snack food, tax loopholes for oil, auto safety problems, misleading advertising and deceptive packaging" are among the major stories which CBS News has consistently reported, some over a period of many years. For example, way back in 1966 in the CBS documentary entitled Crash Project: The Search for a Safer Car. CBS News was among the journalistic pioneers in exploring the charges made by Ralph Nader and others. In its review, *Variety* commented in part:

"Of more significance, however, than the arguments pro and con on car design was CBS' lack of inhibition in confronting one of the giants of advertising and letting the chips fall where they may. Thus a direct comparison of two competitive makes was shown with a tester from Consumers Union detailing the faults in one car and extolling the virtues of another while identifying both by name. This is indeed strong stuff and certainly more than most of the newspapers of the country would do under similar circumstances." *Variety* 5/18/66

This CBS tradition of "lack of inhibition in confronting . . . the giants of advertising" continues today. Thus, for example, on April 26 of this year CBS News broadcast a prime time documentary entitled "You and the Commercial" (reviewed by *Broadcasting Magazine* under the title "CBS Commercial Critique Examines the Hand That Feeds It") which examined the advertising campaigns of many of the nation's major television advertisers and which was the subject of a subsequent complaint to the FCC by the American Advertising Federation.

As to conflict of interest, Mr. Rowse contents himself with one isolated example, that involving NBC's Chet Huntley with respect to a story relating to meat inspection. I know of no other instance relating to any network correspondent or reporter, and I doubt that Mr. Rowse does.

Finally, the claim that we neglect consumer news because of "fear of displeasing the Administration in power in Washington" and the conclusion that "[as] a result, the networks have never really examined the important regulatory process which is supposed to protect consumers from economic cheats and unreasonable hazards" is nonsense.

Dan Schorr and other CBS correspondents have been in the forefront of those who have been consistently exposing defects in the regulatory process in Washington and it is common knowledge that neither he nor his colleagues have earned the good will of the Administration for their efforts in that regard.

Although Mr. Rowse accuses us of being vulnerable to government pressure, he closes with the threat that unless our record and that of other networks "improves markedly, and very soon, the prospect of even greater government interference in radio and television news operations will continue to grow." If government interference is the disease Mr. Rowse is complaining about, it is hard to see that "greater government interference" would be a cure.

In sum, we at CBS have devoted a great deal of effort to the coverage of consumer information and we believe Mr. Rowse's charges are both unfair and unfounded. In further support of that statement, I am pleased to send to you herewith a compendium entitled "CBS/Broadcast Group Coverage of Consumerism" which is illustrative of the coverage offered by the CBS Television Network, the CBS Radio Network and the CBS Owned radio and television stations in salient areas of consumer concern.

Sincerely,

RICHARD W. JENKS.

CBS/BROADCAST GROUP COVERAGE OF CONSUMERISM

As we see it, consumerism in its broadest sense embraces activities in every sphere directed at improving the quality of life and the opportunity for each individual to get fair value for his efforts. In this context, consumerism's parameters are broader than the definition offered in the *American Political Dictionary*: ". . . the popular movement in the United States which aims at achieving effective protection for consumers . . . increased safety standards, truthful advertising, proper labeling, full compliance with regulatory laws and rules, control over food additives and dangerous herbicides and pesticides, consumer credit and pricing protection, and regulation of certain practices carried on by the legal and medical professions."

No aspect of consumerism stands alone. Protection for consumers involves not only the items enumerated in the *Dictionary*, but the fundamentals of environmental pollution, urban crime and congestion, hunger and faulty nutrition, health care, business service and government operation. It is in this broad arena that alert and responsible broadcasters conduct their efforts to improve the quality of life—serving the needs of the people for information about the changes and opportunities confronting human existence today.

The following pages are illustrative of the coverage of the CBS/Broadcast Group in salient areas of consumer concern. It is a record of which we are proud, and it is one which grows with every passing day. For the essence of consumerism is that it can never rest on its laurels.

The role of broadcasting as an informational medium in the age of consumerism is one with many facets. CBS News, and CBS Radio and Television Networks and the CBS Owned radio and television stations provide not only coverage of breaking news—intensive though that day-in, day-out job is—but also investigative reporting, discussion and community ombudsman activity. Radio and television today enjoy the attention and confidence of the communities they serve, and the units of the CBS/Broadcast Group regard protection of the public interest as a primary service responsibility. Here is an overview of what CBS has been reporting.

CBS TELEVISION NETWORK

The informational programming of the CBS Television Network is largely the responsibility of CBS News. Hardly a day goes by without coverage of consumer issues on the CBS Morning News With John Hart, the CBS Evening News With Walter Cronkite or the Saturday and Sunday Network news presentations. In addition to spot news coverage of government, product and ecological developments, these CBS News broadcasts have frequently presented special reports and series of reports backgrounding consumer issues. For example, in October 1972, a five-part series on the CBS Morning News reported on the complexities of bringing beef from the range to the table and explained what caused beef prices to be high. Topics on the news have ranged from automobile recalls to food hazards to waste disposal. The question which CBS News daily coverage always seeks to answer is how this or that news development will affect the consumer.

Investigative reports on consumer affairs are also given considerable attention and prominence in the major CBS News series such as CBS Reports and 60 Minutes. On 60 Minutes, for example, "The $10 Billion Overcharge," presented in two parts, graphically demonstrated what can go on in a mechanic's shop to inflate the costs of auto repairs, and explained what consumers can do to protect themselves. 60 Minutes summed up: "Many more people are killed in cars each year than are killed in airplanes, yet auto mechanics are unlicensed, and no one can touch an airplane without approval by Federal authorities."

Another two-part investigative report dealt with "FHA 235," a Federal Housing Administration program to assist low and moderate income families in the purchase of homes, a project which assumed the proportions of a national scandal because of the way these

funds were misused. 60 Minutes has also examined consumer complaints about unscrupulous sales methods and shoddy building practices in the mobile home industry; the contradictions implicit when one part of the government subsidizes the tobacco industry while another supports the claims that cigarettes are a health hazard; and toys which may be physically or psychologically damaging to youngsters.

Without the availability of efficacious medicines and affordable health services to meet the needs of the entire population, the concept of improving the quality of life is reduced to meaninglessness.

In 1970, CBS News placed a national spotlight on the crisis in health care. CBS Reports: "Health in America," broadcast on successive evenings in prime time, examined the problems faced by millions of Americans in finding a doctor and obtaining medical care. The second installment, "Don't Get Sick in America," investigated the reasons for the rapid rise in medical costs and why health insurance is inadequate to meet them. The landmark documentary received an Ohio State Award. It was later adapted to book form with the title *Don't Get Sick in America*, with an introduction by Senator Edward M. Kennedy.

Other aspects of health services have been explored on 60 Minutes, which also investigated alleged inadequacies of the nation's private pension plans, examined expensive but often dangerous cosmetic plastic surgery operations, and looked behind the statistics to the causes of the alarming rise in heart attack victims.

More detailed listings of CBS Television Network broadcasts can be found in the section of this report devoted to the Network.

CBS RADIO NETWORK

On the CBS Radio Network, The Buyer's Scene, Today in Business and many other features threaded throughout the schedule background consumer news from varying perspectives. The Buyer's Scene provides information on how the consumer can more effectively utilize his money. Included on the broadcasts are tips on bargains, information on new products and reports of developments on the consumer action front. Today in Business puts economic news into focus after the close of each day's business activities, explaining how the consumer might be affected. Apart from the heavy volume of consumer news on hourly hard news broadcasts, the CBS Radio Network devoted 361 different programs to consumerism in the first seven months of 1972.

The CBS News opinion series Spectrum—presented three times daily on radio, and also on television as a part of the CBS Morning News With John Hart—frequently offers provocative commentaries on consumerism from articulate spokesmen for conservative, middle-of-the-road and liberal viewpoints. Spectrum's conservative voices have generally opposed increased government regulation in the area of consumer protection as a dangerous solution. M. Stanton Evans spoke of "the bankruptcy of government by regulatory decree," and averred that, "in case after case, the bureaus charged with serving the consumer interests have wound up as agents for a protected segment of industry." Jeffrey St. John declared that "the only protection (that more regulation) will provide is for those who seek to enlarge their own power in an already swollen Federal bureaucracy."

Reflecting a different emphasis, Shana Alexander, representing middle-of-the-road views, endorsed a proposed law making consumer education a part of the high school curriculum. Ms. Alexander states, "Leaving the answers to government, while programing the right questions into the people, is not a bad formula for sanity and survival today." John K. Jessup, also speaking for the middle-of-the-road, offered this view of Ralph Nader: "Nader's attacks on our business system are attempts to reform and police it within the American system of laws and economics. On balance he has probably done that system more good than harm."

Liberal Spectrum commentator Nicholas von Hoffman observed that Nader's charges against large companies result in "a growing distrust of the nationally advertised brands we once had such faith in." On another broadcast, the iconoclastic pundit posed the question "Can we afford to continue to have a General Motors?" and concluded "We can't take these sluggish, expensive, inflationary, initiativeless giants any more. . . ." Another liberal voice, Murray Kempton, criticized the standards of the Food and Drug Administration for purity of foods as "not rules for protection of the buyer but customs of tolerance for the seller."

CBS OWNED TELEVISION STATIONS

The nature of consumer problems provides an important role for the "ombudsman" at the local level. On WCBS–TV New York, for example, the consumer affairs reporter is a trusted voice in the community, regularly assisting viewers with information on where and how to find bargains, how to obtain services for the indigent, and how to contact government agencies to resolve consumer grievances. KNXT Los Angeles features staff specialists covering the field of health and medicine and even advising viewers on how to spend their entertainment dollars. On KNXT's Noontime broadcast, guest experts discuss consumer issues from how to spot misleading advertising to the value of various vitamins. The KNXT environment editor regularly advises Californians on how to enjoy the outdoors—with minimum expense.

Editorials on CBS Owned stations serve to elucidate and spark a dialogue on the principal consumer issues in each community. Frequently, editorials act as catalysts for change in the direction of enhanced consumer protection. For example, in July 1972, a WCBS–TV editorial lamented the fact that the station's consumer affairs correspondent was not able to identify by name New Jersey restaurants which violate the health codes (as she does regularly with regard to New York restaurants) because the list is not available to the press. The editorial stated: "We think that the public has the right to know the names of the offending food retailers. . . ." Subsequently, New Jersey's sanitary code was amended in a manner that not only permitted news media to publicize the names, but required all restaurants to make available to customers the health inspector's report upon request and to post in a conspicuous place the establishment's "rating."

Consumer programming on the CBS Owned television stations embraces a diversity of approaches. WCBS–TV specials have focused on nutrition, including the two-part That's No Way To Eat! and Nutrition: A to Z, a primer in 30 segments delivered by the WCBS–TV News science editor and carried by CBS Owned television stations. That's No Way To Eat! explored widely-held misconceptions about nutrition, and guest experts provided answers to questions about obesity, vitamin intake and nutrition for children and the elderly.

Regular WCBS–TV series demonstrating a heavy concentration on consumer issues have included The Urbanites, Woman! and Caveat Venditor—Seller Beware. The latter series, seen during 1970 and 1971, offered a historical perspective on consumerism, outlined existing and proposed laws to protect the buying public, and profiled Consumers Union and the New York City Department of Consumer Affairs as well as other agencies and individuals active in the movement. WCBS–TV has received requests from more than 75 high schools in the tri-state area interested in screening Caveat Venditor—Seller Beware for their students.

On WCAU–TV Philadelphia, "How Safe Is Your Neighborhood?," an installment of the Tenline series broadcast in June 1972 in prime time, featured a police detective and a reformed burglar answering viewer questions on how to protect homes and private property. On an August Tenline, the food editor of *The New York Times* and a nutritionist were on hand to answer telephone questions on food, diet and vitamins.

WCAU–TV's Bill Bennett Show has been a Sunday morning consumer service since 1956, working on a regular basis with the Pennsylvania Bureau of Consumer Protection. Betty Hughes and Friends, a daily WCAU–TV discussion program, generally devotes at least one program or segment each week to consumer affairs.

Starting in January 1972, WBBM–TV Chicago broadcast a special 13-week educational series on weekday mornings titled It's Worth Knowing About Consumerism. Segments ran the gamut of consumer issues, covering food, advertising, appliances, home furnishings, fashion, drugs, cosmetics, money and credit, installment buying, banking, insurance, borrowing, consumer fraud and consumer protection agencies. WBBM–TV's daily Lee Phillip Show has spotlighted subjects of consumer interest at regular intervals. The weekly series Common Ground has included consumer concerns, such as landlord-tenant relationships and responsibilities.

On KMOX–TV St. Louis, Heads Up, a weekly public affairs broadcast which has generally focused on the problems and aspirations of the black community, broadened its scope in 1972 for a special 16-week series Heads Up Reports: Problems in Family Living, which was also carried by other CBS Owned television stations. Representative segments of the series dealt with the tools and procedures connected with housekeeping, including the factors of health and safety; legal problems, naming the agencies that can help ease the family legal burden; the family budget; taxes; family health; nutrition; shopping and home repairs. KMOX–TV's Ten O'Clock News devotes a nightly segment to dealing with questions sent in by viewers, many of which involve consumer problems.

BERNARD T. CAMPBELL

Mr. FULBRIGHT. Mr. President, after a number of years of outstanding service, Mr. Bernard T. Campbell, superintendent of the Hot Springs National Park, is retiring from the National Park Service.

Bernie Campbell has consistently gone beyond the normal duties of a park superintendent and taken a special interest in Hot Springs and the State of Arkansas.

Besides his work at Hot Springs, he was particularly helpful in aiding in the efforts to establish the Buffalo National River in Arkansas.

I join many appreciative Arkansans in thanking Bernie Campbell for his dedicated service in our State and wish him and his wife, Iva, a pleasant retirement at their home near the Everglades National Park in Florida.

Mr. President, I ask unanimous consent that a column by John Fleming of the Arkansas Gazette about Bernie Campbell be printed in the RECORD:

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

SO LONG, BERNIE, AND GOOD LUCK

(By John Fleming)

There are some folks in this old world that you figure will never grow old and retire. Although I have known for a long time that the day was approaching, it was with

surprise and regret that I found out Bernie Campbell has pulled up stakes and gone off to Florida where the Chamber of Commerce tells you it's warm in winter and cool in summer but never mentions the fungi that grows on your shoes if you leave them in a closet too long.

In the case of Bernard T. Campbell, the National Parks Service's gain was the State Department's loss. Here is a man who would have fitted into the diplomatic service like a tailor-made glove. Who else could have accomplished the feat Bernie performed during the period when the Buffalo National River was a mere gleam in the eye of the National Park Service? He had Sunday dinner at the home of one of the most ardent opponents of this proposition! During the period when it was dangerous for proponents of the National River plan to reveal their identity in the area. Bernie Campbell spent hundreds of off-duty hours wandering through Buffalo River country discussing the pros and cons of the project in that calm, even manner that makes him a pleasure to converse with whether you are in agreement or not.

Although his principal duty was the supervision of Hot Springs National Park, he gave generously of his own time to make the Buffalo National River a reality. In an indirect way, he was responsible for much of the vital strategy planning that went into the long battle that culminated with the enactment of the law establishing the National River.

In the mid-50s, when Bernie was assigned to the Everglades National Park in Florida, he built a home near Homestead looking forward to the day of his retirement. Here is where he and his lovely wife will certainly enjoy some well-earned leisure. It is certainly true, despite the fungi, that, as Bernie puts it, this area is "unique and beautiful in its own way."

Although he has forsaken the rolling hills for the flat sawgrass country, Bernie Campbell has left a mark of his presence in Arkansas that never will be erased. I'm sure his many Arkansas friends wish the best of everything.

AMERICA'S TRADE POLICY

Mr. WEICKER. Mr. President, on May 7, Senator CHARLES PERCY addressed the Connecticut Public Affairs Forum in Bridgeport, Conn. The forum, initiated and coordinated by the Connecticut Business and Industry Association, hosts knowledgeable speakers to discuss economic problems with Connecticut business leaders. In his comments, Senator PERCY spoke vigorously against the Burke-Hartke legislation and for an outward-looking, liberal trade policy. He also recommended the establishment of productivity councils, composed of representatives of labor and management working together to further their mutual goal of increased productivity, and encouraged the businessmen present to make their own suggestions and thoughts known to their elected representatives.

The July issue of Connecticut Business & Industry magazine includes an excellent report on Senator PERCY's appearance before the forum. Mr. President, I commend this article to my colleagues and ask unanimous consent that it be printed in the RECORD.

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

ADJUST TO WHAT IS RIGHT

You arrive late . . . without a ticket . . . taking a calculated risk that the affair isn't sold out or that last-minute cancellations may have returned a few tickets and you can grab one.

You are met with a friendly but firm shake of the head. You must dash down the street for a quick hamburger at Nick's Greasy Griddle but you're welcome to dash back, lean your scapulae against the wall at the rear of the room and hear the distinguished speaker.

Still, you go home saying, "Great!"

Few programs, few speakers can meet so acid a test but it happened May 7 at Bridgeport. The first 1973 Connecticut Public Affair Forum was a success. So was its featured speaker, U.S. Senator Charles H. Percy of Illinois. Every ticket was taken. A few latecomers were good naturedly philosophical, went elsewhere for lunch but came back in time for the meat of this particular program: a hard-hitting speech on a subject of critical importance from one of the nation's most dynamic and knowledgeable Senators.

As was the case with the original Connecticut Public Affairs Forum last year, this was initiated and coordinated by the Connecticut Business & Industry Association. Able assistance came from the co-hosts: the Bridgeport Chamber of Commerce and the Southern Connecticut Manufacturers Association. Most but not all who attended were from Bridgeport or areas surrounding that growing Connecticut city.

Planned as a series of such meetings to be held in various parts of the state, the Forum project is funded by leading CBIA-affiliated companies. Speakers, well above "rookie-of-the-year" ranking, are recognized personalities of national stature. Subjects are not chosen for entertainment value but for their impact on economic problems and progress. The first Forum featured Democratic Senator Thomas J. McIntyre of New Hampshire more than a year ago.

The May 7 speaker is hard to label and impossible to steer in directions he thinks wrong but, to the extent that political labeling is practical, Senator Percy is known as a Republican. He also is known as a notably successful business executive who was elected to the United States Senate in 1966 after retiring—at age 46—as chairman of Bell & Howell.

He was re-elected in 1972 by the largest plurality ever carried by a candidate for the U.S. Senate in Illinois. Senator Percy fills a number of important committee responsibilities but his expertise in foreign trade matters and uncompromising position against so-called Burke/Hartke proposals provided the drawing power which left standing room only (and not very much of that) at his May 7 appearance before the CBIA Forum audience in Bridgeport.

He arrived via a chartered plane, accompanied by Representative Stewart B. McKinney, U.S. Congressman from Connecticut's Fourth District in which Bridgeport is located. Making himself immediately available for a news conference, it became immediately evident that the Senator was in no mood to gloss over unpleasant subjects with bland, meaningless generalities. Soon thereafter, television was making his opinions (and the Connecticut Public Affairs Forum) known to thousands of viewers throughout the state.

THE VITAL ISSUE

His Bridgeport listeners had a distinct impression that the Senator was glad to move from scandal involving a few to economic survival involving millions as he went into his assigned subject: the Burke/Hartke issue. He describes this quite bluntly as having been "drafted by the AFL–CIO".

Foreign trade in general, he concedes with regret, is an emotional issue too often distorted for selfish reasons and too often misunderstood by those who will suffer the consequences of economic isolationism. He could speak from personal experience when his own antiprotectionism business record was brought out, misrepresented by political opponents and used ruthlessly to influence votes by which he was defeated for the Illinois governorship a number of years ago.

He joined the Bell & Howell Co. as a summer employe while still attending the University of Chicago. Comfortably conservative for many years, B&H suffered the slow-acting but eventually adverse consequences until, due in large part to his management decisions, this major manufacturer of photographic equipment reversed its stand and ceased efforts to seek the shelter of protective tariff. That policy decision, far from popular with other firms in their industry at the time, led to substantial growth at Bell & Howell while Senator Percy was still chief executive officer there and, he says, greater growth since he left.

His opposition to the Burke/Hartke concept, then, is far from being reactionary conservatism (a point which die-hard conservatives themselves state with no little heat.) Rather, it is based on experience, thorough knowledge of the subject and strong belief in the principle that we must . . . adjust U.S. trade policies to what is right!

The solid, market-dictated arguments against Burke/Hartke have been stated so often and so well that they need not be repeated in detail here. Senator Percy's comments in that respect parallel the powerful case made by William Pollert, National Association of Manufacturers, in a statement reprinted verbatim in this magazine last month.

Burke/Hartke, if passed, would be "the most disastrous legislation in the history of this country" in the Senator's opinion, and would make the old Smoot-Hawley concept look benign by comparison. The reduction of all imports to arbitrarily-set bases would disrupt markets and push up prices as Americans stand in line to buy the resulting smaller supply at any price.

Swift retaliation from other countries would block our own exports even more than they are blocked now. It would, the Senator pointed out, reverse policies of the last five U.S. presidents while serving no useful national purpose here.

Burke/Hartke, he says, is "filled with the hypocrisy" of labor elements responsible for those proposals. It professes to stop "export of American jobs" in spite of the established fact that its target, multi-national companies as a group, have an established record of increasing their employment here at a much higher rate than firms that are strictly domestic by nature.

"How stupid could we get?" asked Senator Percy. He sees Burke/Hartke as not creating but actually COSTING at least 80,000 jobs the first year. Price rises totalling billions of dollars could only intensify problems of a society Burke-Hartke professes to serve.

BARGAIN OR GO BEGGING

Congress makes the rules, controls the direction in which U.S. trade negotiations must move. At the time of this Public Affairs Forum, authority previously granted to the President to conduct such negotiations had expired. Renewed and specific authority in this area was an important part of legislation urgently requested by President Nixon and evidently favored with little modification by Senator Percy.

But time is short.

Trade negotiations among free world nations are to start next September in Japan. Even with Congressional authorization to bargain, the administration must deal from a position of weakness if only due to what it hopes will be temporary weakness of the U.S. dollar.

At present, non-tariff barriers against U.S. goods are a problem which can be dealt with only by hard, no-nonsense bargaining conducted by trade officials who are both competent and fully supported by Congress and the American people.

Senator Percy spoke of the Japanese atti-

tude which wants freedom to sell unlimited amounts of steel mill products to America but keeps out of Japan our finished consumer products made of that steel. He also minced no words about the desirability of extending "most favored nation" status to Communist countries of eastern Europe. Billions of dollars of quite legitimate business there is being handed to our international competitors by inflexibly short-sighted U.S. policy.

The Senator did make the wry admission that deals arranged by private business tend to be more favorable than those arranged by government bureaucracy, citing recent deals on grain as an example. "When handled by government, we get stuck!" was his blunt comment.

This is among the reasons why he is personally eager to get all possible help and advice from experienced and concerned business executives. His great respect for Connecticut's Senator Lowell P. Weicker was mentioned on a number of occasions. He urged Connecticut business leaders to make their own ideas and suggestions known to him through Senator Weicker's office.

He concedes, too, the certainty that specific companies, industries and entire communities may suffer at least short-term damage by adjusting U.S. trade policy to "what is right". Ways must be found, he feels, to help those particular cases to the extent that they have been adversely affected without, at the same time, handing "relief" to everyone holding his hand out, whether really needed or not.

PERSON-TO-PERSON

The Senator invited his listeners to submit questions from the floor and perhaps the most obvious response was a query as to whether he thought Burke/Hartke stood a reasonable chance of passage soon.

"Practically no chance," was his answer, "at least in its original form." But he warned that a barrage of individual amendments to the President's bill is an ever-present danger. In particular areas, these could have the same ill effect.

Did Senator Percy favor a return to Phase II? Yes; he never approved of Phase III so far as that goes!

Certain things had to happen first before Phase III could work, he says, but they did not.

What impact might Watergate have on the President's foreign trade bill? The Senator is no apologist for those responsible but doubts in a practical sense that the scandal can or should have much adverse effect on the administration bill. Too much is at stake for everyone in the country and Congress is well aware of the fact. Also mentioned was the open support of influential legislators and leaders more disposed to do what is right than to play the politics of expediency.

CALL FOR PRODUCTIVITY

Perhaps the most urgent part of Senator Percy's message to the May 7 Forum audience was his recommendation of Productivity Councils with labor and management sitting on the same side of the table, seeking the same long-term objectives for the nation's and their own benefit.

He sees this as no easily attained victory and agrees that it will take exceptional leadership to pull these traditionally opposed elements together. However, he also sees it as a key to survival in an intensely competitive future.

HEW ADVISORY COMMITTEE REPORT ON "RECORDS, COMPUTERS, AND THE RIGHTS OF CITIZENS"

Mr. ERVIN. Mr. President, I am always pleased when hearings held by the committees and subcommittees of this body bear fruit in terms of thoughtful research into and further analysis of issues raised in such hearings. On July 31, 1973, Caspar W. Weinberger, Secretary of the Department of Health, Education, and Welfare, released a report on "Records, Computers and the Rights of Citizens" which grew out of a discussion I had in 1971 with Attorney General Elliot L. Richardson, then Secretary of Health, Education, and Welfare, during hearings on the subject of "Federal Data Banks, Computers and the Bill of Rights" before the Senate Subcommittee on Constitutional Rights.

The report culminates a year's study of the operations of computerized data banks containing information about individual citizens by a 24-member HEW Advisory Committee representing a cross section of views from experts in law, government, and computer sciences, as well as the general public.

Because I feel that the recommendations contained in the report deserve wide public discussion and careful consideration by my colleagues here in the Senate, I have appended the "Summary and Recommendations," contained in the report, to my remarks.

I found particularly interesting those sections of the report which discuss the historical development of recordkeeping systems. From the ancient wing-bone of an eagle marked to keep track of the phases of the moon to modern computers which keep track of our earnings, credit status, driver's record, and just about every other aspect of our lives, the report chronicles a fascinating account of the development of man's ability to collect and manipulate information about his fellow men, as well as the natural world. The HEW Advisory Committee wisely looked to the lessons of the past, as it began to evaluate the proper uses of personal data systems and the restraints which may be needed to restrain misuses of the information contained in such systems.

ESTABLISHING PERSONAL DATA SYSTEMS

I have long been of the opinion that no information should be collected and stored about individual citizens by Federal agencies, unless and until the Congress enacts legislation expressly authorizing the establishment of such data systems. The Advisory Committee on Automated Personal Data Systems which authored the report was not charged with considering the necessity for express legislative authorization for all personal data systems. But the report does make some useful suggestions in regard to the establishment of such systems:

Each time a new personal data system is proposed (or expansion of an existing system is contemplated) those responsible for the activity the system will serve, as well as those specifically charged with designing and implementing the system, should answer explicitly such questions as:

What purposes will be served by the system and the data to be collected?

How might the same purposes be accomplished without collecting these data?

If the system is an administrative personal data system, are the proposed data items limited to those necessary for making required administrative decisions about individuals *as* individuals?

Is it necessary to store individually identifiable personal data in computer-accessible form, and, if so, how much?

Is the length of time proposed for retaining the data in identifiable form warranted by their anticipated uses?

A careful consideration of questions such as these might avert the establishment of some systems. Even if a proposed system survives a searching examination of the need for it, the very process should at least suggest limitations on the collection and storage of data. (Report, p. 51)

The legislative process is particularly suited to the full consideration of such questions.

In those cases where the Congress has clearly delegated to Federal agencies the authority to set up such data systems, the Advisory Committee makes some equally helpful recommendations:

In our view, any such data collection requirement should be established by regulations adopted after the public has been given an opportunity to comment, rather than by less formal means, such as program guidelines or manuals. Adoption of a regulation also forces a Federal agency to go through a formal process of internal justification and executive review. In the case of Federal data-collection requirements, the notice of any proposed regulation should contain a clear explanation of why each item of data is to be collected and why it must be collected and stored in identifiable form, if such is proposed. (Report, p. 52)

As chairman of the Senate Subcommittee on Constitutional Rights, I have been conducting a survey of the approximately 800 personal data systems controlled by over 50 Federal agencies, all too many of which not only lack express legislative authority, but do not even afford the due process safeguards of formal regulations. I applaud the HEW Advisory Committee's suggestions in regard to some of the considerations which ought to be weighed before such data systems are established.

PROTECTING INDIVIDUAL PRIVACY

The HEW Advisory Committee report begins with an interesting functional definition of privacy:

An individual's personal privacy is directly affected by the kind of disclosure and use made of the identifiable information in it. A record containing information about an individual in identifiable form must, therefore, be governed by procedures that afford the individual a right to participate in deciding what the content of the record will be, and what disclosure and use will be made of the identifiable information in it. Any recording, disclosure, and use of identifiable personal information not governed by such procedures must be proscribed as an unfair information practice unless such recording disclosure or use is specifically authorized by law. (Report, pp. 40–41.)

The Advisory Committee's recommendations for protecting individual privacy against arbitrary or abusive record-keeping practices rest on five basic principles:

There must be no personal data record-keeping systems whose very existence is secret.

There must be a way for an individual to find out what information about him is in a record and how it is used.

There must be a way for an individual to prevent information about him that was obtained for one purpose from being

used or made available for other purposes without his consent.

There must be a way for an individual to correct or amend a record of identifiable information about him.

Any organization creating, maintaining, using, or disseminating records of identifiable personal data must assure the reliability of the data for their intended use and must take precautions to prevent misuse of the data—Report, page 41.

To my mind, these principles provide a sound basis upon which to design safeguards against the misuse of personal data systems.

I am, however, somewhat skeptical about the wisdom of giving legal effect to these basic principles by means of congressional enactment of the Federal Code of Fair Information Practice proposed by the HEW Advisory Committee in the report. The Advisory Committee is careful to note that the safeguards contained in the suggested Code of Fair Information Practice are minimum standards and offer only a least common denominator of acceptable practices in regard to personal data systems—Report, page 53. And yet there is always the danger that once a least common denominator is enacted into law, it will be transformed in practice into the maximum protection actually available to citizens whose lives are affected by the misuse of personal data systems.

In addition, the safeguards embodied in the "Code of Fair Information Practice" have been designed by the HEW Advisory Committee to apply generally to all personal data systems, public and private, State and Federal, large and small. It seems to me that standards specifically tailored for the personal data systems maintained by the Federal Government, interconnected with Federal data systems, or funded by the Federal Government, might be a more effective first step toward restraining abuses of personal data systems.

Nevertheless, the "Code of Fair Information Practice" proposed by the HEW Advisory Committee provides a very interesting proposal which could be explored in legislative hearings. Such hearings would provide all those affected by personal data systems the opportunity to express their views on the efficacy and practicality of these proposed safeguards.

I do not intend to go into an extensive, detailed critique of either the report or the "Code of Fair Information Practice" it proposes. Suffice it to say that, for the most part, the HEW Advisory Committee is on the right track.

SOCIAL SECURITY NUMBER

The committee recommends "that a standard universal identifier—SUI—should not be established in the United States now or in the foreseeable future" and that "constraints should be imposed on use of the social security number"—SSN. The five principles which the HEW Advisory Committee recommends as "Federal policy with respect to the use of the SSN" rest on the view that the social security number should be used only for those purposes expressly authorized by Congress:

First, uses of the SSN should be limited to those necessary for carrying out requirements imposed by the Federal government.

Second, Federal agencies and departments should not require or promote use of the SSN except to the extent that they have a specific legislative mandate from the Congress to do so.

Third, the Congress should be sparing in mandating use of the SSN, and should do so only after full and careful consideration preceded by well advertised hearings that elicit substantial public participation. Such consideration should weigh carefully the pros and cons of any proposed use, and should pay particular attention to whether effective safeguards have been applied to automated personal data systems that would be affected by the proposed use of the SSN. (Ideally, Congress should review all present Federal requirements for use of the SSN and determine whether these existing requirements should be continued, repealed, or modified.)

Fourth, when the SSN is used in instances that do not conform to the three foregoing principles no individual should be coerced into providing his SSN, nor should his SSN be used without his consent.

Fifth, an individual should be fully and fairly informed of his rights and responsibilities relative to uses of the SSN, including the right to disclose his SSN whenever he deems it in his own interest to do so. (Report, pp. 124–125)

Let me digress to say that, while these principles certainly are not objectionable, I am as yet unable to judge whether they are adequate. I would feel much more comfortable about commenting on the HEW Advisory Committee's recommendations in regard to the proper uses of the social security number, if I had the benefit of a response to my November 24, 1970, inquiry about the personal data systems maintained by the Social Security Administration. This inquiry was part of a survey which the subcommittee hopes to have published as soon as possible in order to provide to all citizens basic information about the data banks in the Federal Government which contain information about Americans.

The inquiry to the Department of Health, Education, and Welfare was among the first of dozens which the subcommittee has since sent to almost every agency in the executive branch. While some agencies responded more quickly than others, and some more adequately than others, we have for some time had replies to all of our inquiries—save that from the Social Security Administration. Over the past 2¾ years I have repeatedly requested delivery of information sought by my November 1970 letter. For the past 6 months, the staff of the Senate Subcommittee on Constitutional Rights has made countless telephone calls on my behalf to the Office of the Secretary of Health, Education, and Welfare. When the Secretary's staff responded at all, they assured the subcommittee staff that the information I requested on the Social Security Administration would be forthcoming. I am still waiting for that information.

It seems to me that this kind of nonresponsiveness to a request for information about the personal data systems maintained by an agency signifies the absence of that openness to public scrutiny which the HEW Advisory Committee characterizes as basic to fair information practice. I trust that the Department of Health, Education and Welfare will see fit to abide by its own Advisory Committee's recommendations and supply that information on the nature of the personal data systems maintained by the Social Security Administration at the earliest possible time. In any event, the recommendations of the committee are laudable, as far as they go.

But it seems somewhat strange that, in light of its restrictive view of the proper uses of the social security number, the HEW advisory committee should recommend—

A positive program of issuing SSN's to ninth-grade students in schools. (Report, p. 127.)

To my mind, the proper work of the schools is educating students, not issuing social security numbers to them for the convenience of the Social Security Administration and those who want a numerical peg on which to keep track of the activities of school students in and out of school.

I am opposed to any such "affirmative action program" aimed at enumerating all school students. The proviso that such enumeration should not be coerced does not seem to me to be sufficient insurance that the social security number will not be used as a "student number"—a purpose which is not required by Congress and has nothing to do with the administration of the Social Security System. Second, although the routine issuance of social security numbers to ninth-grade students will be on a theoretically "voluntary" basis, the social pressure on a ninth-grade student not to opt out of such a positive program are such that voluntary consent is impossible to presume, if not impossible altogether. If a ninth-grade student wants to apply for a social security number, he is perfectly free to obtain one from the Social Security Administration, outside of any positive program of enumeration administered by his school.

In conclusion, I would like to commend the former Secretary of HEW, Attorney General Richardson for initiating this important investigation into "Records, Computers and the Rights of Citizens." The present Secretary of HEW, Caspar Weinberger, is deserving of similar praise for his support and assistance in bringing out the report of the committee.

I recommend to all Senators, and to all citizens—and especially to all officials responsible for data collection—the report of the advisory committee. For the benefit of all, I ask unanimous consent to have printed in the RECORD the "Summary and Recommendations" of this report.

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

SUMMARY AND RECOMMENDATIONS

The Secretary's Advisory Committee on Automated Personal Data Systems comprised a cross section of experienced and concerned citizens appointed by the Secretary of Health, Education, and Welfare to analyze the consequences of using computers to keep records about people. The Committee assessed the impact of computer-based record keeping on private and public matters and recommended safeguards against its potentially adverse effects. The Committee paid particular atten-

tion to the dangers implicit in the drift of the Social Security number toward becoming an all-purpose personal identifier and examined the need to insulate statistical-reporting and research data from compulsory legal process.

The Committee's report begins with a brief review of the historical development of records and record keeping, noting the different origins of administrative, statistical, and intelligence records, and the different traditions and practices that have grown up around them. It observes that the application of computers to record keeping has challenged traditional constraints on record-keeping practices. The computer enables organizations to enlarge their data-processing capacity substantially, while greatly facilitating access to recorded data, both within organizations and across boundaries that separate them. In addition, computerization creates a new class of record keepers whose functions are technical and whose contact with the suppliers and users of data are often remote.

The report explores some of the consequences of these changes and assesses their potential for adverse effect on individuals, organizations, and the society as a whole. It concludes that the net effect of computerization is that it is becoming much easier for record-keeping systems to affect people than for people to affect record-keeping systems. Even in non-governmental settings, an individual's control over the use that is made of personal data he gives to an organization, or that an organization obtains about him, is lessening.

Concern about computer-based record keeping usually centers on its implications for personal privacy, and understandably so, if privacy is considered to entail control by an individual over the uses made of information about him. In many circumstances in modern life, an individual must either surrender some of that control or forego the services that an organization provides. Although there is nothing inherently unfair in trading some measure of privacy for a benefit, both parties to the exchange should participate in setting the terms.

Under current law, a person's privacy is poorly protected against arbitrary or abusive record-keeping practices. For this reason, as well as because of the need to establish standards of record-keeping practice appropriate to the computer age, the report recommends the enactment of a Federal "Code of Fair Information Practice" for all automated personal data systems. The Code rests on five basic principles that would be given legal effect as "safeguard requirements" for automated personal data systems.

There must be no personal data record-keeping systems whose very existence is secret.

There must be a way for an individual to find out what information about him is in a record and how it is used.

There must be a way for an individual to prevent information about him that was obtained for one purpose from being used or made available for other purposes without his consent.

There must be a way for an individual to correct or amend a record of identifiable information about him.

Any organization creating, maintaining, using, or disseminating records of identifiable personal data must assure the reliability of the data for their intended use and must take precautions to prevent misuse of the data.

The proposed Code calls for two sets of safeguard requirements; one for administrative automated personal data systems and the other for automated personal data systems used exclusively for statistical reporting and research. Special safeguards are recommended for administrative personal data systems whose statistical-reporting and research applications are used to influence public policy.

The safeguard requirements define minimum standards of fair information practice. Under the proposed Code, violation of any safeguard requirement would constitute "unfair information practice" subject to criminal penalties and civil remedies. The Code would also provide for injunctive relief. Pending legislative enactment of such a code, the report recommends that the safeguard requirements be applied through Federal administrative action.

The report discusses the relationship of existing law to the proposed safeguard requirements. It recommends that laws that do not meet the standards set by the safeguard requirements for administrative personal data systems be amended and that legislation be enacted to protect personal data used for statistical reporting and research from compulsory disclosure in identifiable form.

The report examines the characteristics and implications of a standard universal identifier and opposes the establishment of such an identification scheme at this time. After reviewing the drift toward using the Social Security number (SSN) as a de facto standard universal identifier, the Committee recommends steps to curtail that drift. A persistent source of public concern is that the Social Security number will be used to assemble dossiers on individuals from fragments of data in widely dispersed systems. Although this is a more difficult technical feat than most laymen realize, the increasing use of the Social Security number to distinguish among individuals with the same name, and to match records for statistical-reporting and research purposes, deepens the anxieties of a public already suffused with concern about surveillance. If record-keeping systems and their data subjects were protected by strong safeguards, the danger of inappropriate record linkage would be small; until then there is a strong case to be made for discouraging linkage.

The report recommends that use of the Social Security number be limited to Federal programs that have a specific Federal legislative mandate to use the SSN, and that new legislation be enacted to give an individual the right to refuse to disclose his SSN under all other circumstances. Furthermore, any organization or person required by Federal law to obtain and record the SSN of any individual for some Federal program purpose must be prohibited from making any other use or disclosure of that number without the individual's informed consent.

The report recognizes the need to improve the reliability of the Social Security number as an instrument for strengthening the administration of certain Federally supported programs of public assistance. It also recognizes that issuing Social Security numbers to ninth-grade students in schools is likely to be consistent with the needs and convenience of young people seeking part-time employment and who need a SSN for Social Security and Federal income tax purposes. Accordingly, the Committee endorses the recommendation of the Social Security Task Force that a positive program of issuing SSNs to ninth-grade students in schools be undertaken. It does so, however, on the condition that no school system shall be induced to cooperate in such a program against its will, and that any person shall have a right to refuse to be issued a SSN in connection with such a program. The Committee recommends that there be no positive program of issuing SSNs to childen in schools below the ninth-grade level; and that the 1972 legislation amending the Social Security Act to require enumeration of all persons who benefit from any Federally supported program be interpreted narrowly. Finally, the Committee recommends legislation to prohibit use of the Social Security number for promotional or commercial purposes.

The last chapter of the report contains an agenda of actions to be taken for implementing the Committee's recommendations, which are set forth in full below.

RECOMMENDATIONS: CODE OF FAIR INFORMATION PRACTICE

We recommend the enactment of legislation establishing a Code of Fair Information Practice for all automated personal data systems.

The Code should define "fair information practice" as adherence to specified safeguard requirements.

The Code should prohibit violation of any safeguard requirement as an "unfair information practice."

The Code should provide that an unfair information practice be subject to both civil and criminal penalties.

The Code should provide for injunctions to prevent violation of any safeguard requirement.

The Code should give individuals the right to bring suits for unfair information practices to recover actual, liquidated, and punitive damages, in individual or class actions. It should also provide for recovery of reasonable attorneys' fees and other costs of litigation incurred by individuals who bring successful suits.

Pending the enactment of a code of fair information practice, we recommended that all Federal agencies (i) apply the safeguard requirements, by administrative action, to all Federal systems, and (ii) assure, through formal rule making, that the safeguard requirements are applied to all other systems within reach of the Federal government's authority. Pending the enactment of a code of fair information practice, we urge that State and local governments, the institutions within reach of their authority, and all private organizations adopt the safeguard requirements by whatever means are appropriate.

SAFEGUARDS REQUIREMENTS FOR ADMINISTRATIVE PERSONAL DATA SYSTEMS

I. General requirements

A. Any organization maintaining a record of individually identifiable personal data, which it does not maintain as part of an administrative automated personal data system, shall make no transfer of any such data to another organization, without the prior informed consent of the individual to whom the data pertain, if, as a consequence of the transfer, such data will become part of an administrative automated personal data system that is not subject to these safeguard requirements.

B. Any organization maintaining an administrative automated personal data system shall:

(1) Identify one person immediately responsible for the system, and make any other organizational arrangements that are necessary to assure continuing attention to the fulfillment of the safeguard requirements;

(2) Take affirmative action to inform each of its employees having any responsibility or function in the design, development, operation, or maintenance of the system, or the use of any data contained therein, about all the safeguard requirements and all the rules and procedures of the organization designed to assure compliance with them;

(3) Specify penalties to be applied to any employee who initiates or otherwise contributes to any disciplinary or other punitive action against any individual who brings to the attention of appropriate authorities, the press, or any member of the public, evidence of unfair information practice;

(4) Take reasonable precautions to protect data in the system from any anticipated threats or hazards to the security of the system;

(5) Make no transfer of individually iden-

tifiable personal data to another system without (i) specifying requirements for security of the data, including limitations on access thereto, and (ii) determining that the conditions of the transfer provide substantial assurance that those requirements and limitations will be observed—except in instances when an individual specifically requests that data about him be transferred to another system or organization;

(6) Maintain a complete and accurate record of every access to and use made of any data in the system, including the identity of all persons and organizations to which access has been given;

(7) Maintain data in the system with such accuracy, completeness, timeliness, and pertinence as is necessary to assure accuracy and fairness in any determination relating to an individual's qualifications, character, rights, opportunities, or benefits, that may be made on the basis of such data; and

(8) Eliminate data from computer-accessible files when the data are no longer timely.

II. Public notice requirements

Any organization maintaining an administrative automated personal data system shall give public notice of the existence and character of its system once each year. Any organization maintaining more than one system shall publish such annual notices for all its systems simultaneously. Any organization proposing to establish a new system, or to enlarge an existing system, shall give public notice long enough in advance of the inflation or enlargement of the system to assure individuals who may be affected by its operation a reasonable opportunity to comment. The public notice shall specify:

(1) The name of the system;

(2) The nature and purpose(s) of the system;

(3) The categories and number of persons on whom data are (to be) maintained;

(4) The categories of data (to be) maintained, indicating which categories are (to be) stored in computer-accessible files;

(5) The organization's policies and practices regarding data storage, duration of retention of data, and disposal thereof;

(6) The categories of data sources;

(7) A description of all types of use (to be) made of data, indicating those involving counter-accessible files, and including all classes of users and the organizational relationships among them;

(8) The procedures whereby an individual can (i) be informed if he is the subject of data in the system; (ii) gain access to such data; and (iii) contest their accuracy, completeness, pertinence, and the necessity for retaining them;

(9) The title, name, and address of the person immediately responsible for the system.

III. Rights of individual data subjects

Any organization maintaining an administrative automated personal data system shall:

(1) Inform an individual asked to supply personal data for the system whether he is legally required, or may refuse, to supply the data requested, and also of any specific consequences for him, which are known to the organization, of providing or not providing such data;

(2) Inform an individual, upon his request, whether he is the subject of data in the system, and, if so, make such data fully available to the individual, upon his request, in a form comprehensible to him;

(3) Assure that no use of individually identifiable data is made that is not within the stated purposes of the system as reasonably understood by the individual, unless the informed consent of the individual has been explicitly obtained;

(4) Inform an individual, upon his request, about the uses made of data about him, including the identity of all persons and organizations involved and their relationships with the system;

(5) Assure that no data about an individual are made available from the system in response to a demand for data made by means of compulsory legal process, unless the individual to whom the data pertains has been notified of the demand; and

(6) Maintain procedures that (i) allow an individual who is the subject of data in the system to contest their accuracy, completeness, pertinence, and the necessity for retaining them; (ii) permit data to be corrected or amended when the individual to whom they pertain so requests; and (iii) assure, when there is disagreement with the individual about whether a correction or amendment should be made, that the individual's claim is noted and included in any subsequent disclosure or dissemination of the disputed data.

Existing laws or regulations affording individuals greater protection than the safeguard requirements should be retained, and those providing less protection should be amended to meet the basic standards set by the safeguards. In particular, we recommend:

That the Freedom of Information Act be amended to require an agency to obtain the consent of an individual before disclosing in personally identifiable form exempted-category data about him, unless the disclosure is within the purposes of the system as specifically required by statute.

That pending such amendment of the Act, all Federal agencies provide for obtaining the consent of individuals before disclosing individually identifiable exempted-category data about them under the Freedom of Information Act.

That the Fair Credit Reporting Act be amended to provide for actual, personal inspection by an individual of his record along with the opportunity to copy its contents, or to have copies made; and that the exceptions from disclosure to the individual now authorized by the Fair Credit Reporting Act for medical information and sources of investigative information be omitted.

STATISTICAL-REPORTING AND RESEARCH USES OF ADMINISTRATIVE PERSONAL DATA SYSTEMS

In light of our inquiry into the statistical-reporting and research uses of personal data in administrative record-keeping systems, we recommend that steps be taken to assure that all such uses are carried out in accordance with five principles:

First, when personal data are collected for administrative purposes, individuals should under no circumstances be coerced into providing additional personal data that are to be used exclusively for statistical reporting and research. When application forms or other means of collecting personal data for an administrative data system are designed, the mandatory or voluntary character of an individual's responses should be made clear.

Second, personal data used for making determinations about an individual's character, qualifications, rights, benefits, or opportunities, and personal data collected and used for statistical reporting and research, should be processed and stored separately.

Third, the amount of supplementary statistical-reporting and research data collected and stored in personally identifiable form should be kept to a minimum.

Fourth, proposals to use administrative records for statistical reporting and research should be subjected to careful scrutiny by persons of strong statistical and research competence.

Fifth, any published findings or reports that result from secondary statistical-reporting and research uses of administrative personal data systems should meet the highest standards of error measurement and documentation.

In addition, there are certain safeguards that can be feasibly applied to all administratively personal data systems used for statistical reporting and research. Specifically, we recommend that the following requirements be added to the safeguard requirements for administrative personal data systems:

Under I. General Requirements, add—

C. Any organization maintaining an administrative automated personal data system that publicly disseminates statistical reports or research findings based on personal data drawn from the system, or from systems of other organizations, shall:

(1) Make such data publicly available for independent analysis, on reasonable terms; and

(2) Take reasonable precautions to assure that no data made available for independent analysis will be used in a way that might reasonably be expected to prejudice judgments about any individual data subject's character, qualifications, rights, opportunities, or benefits.

Under the Public Notice Requirement, add—

(8a) The procedures whereby an individual, group, or organization can gain access to data used for statistical reporting or research in order to subject such data to independent analysis.

SYSTEMS USED EXCLUSIVELY FOR STATISTICAL REPORTING AND RESEARCH

All the features of the Code of Fair Information Practice that we recommend for automated personal data systems would apply to systems used exclusively for statistical reporting and research. The safeguard requirements to be included in the Code for such systems are designed to help protect the individual citizen against unintended or unforeseen uses of information that he provides *exclusively* for statistical reporting and research, and to help assure that the uses organizations make of such data are subject to independent expert review and open public discussion. Pending the enactment of a code of fair information practice, we recommend that all Federal agencies (i) apply these safeguard requirements, by administrative action, to all Federal statistical-reporting and research systems, and (ii) assure, through formal rule making, that the safeguard requirements are applied to all systems within reach of the Federal government's authority. Pending the enactment of a code of fair information practice, we also urge that State and local governments, the institutions within reach of their authority, and all private organizations adopt the safeguard requirements by whatever means are appropriate.

SAFEGUARD REQUIREMENTS FOR STATISTICAL-REPORTING AND RESEARCH SYSTEMS

I. General requirements

A. Any organisation maintaining a record of personal data, which it does not maintain as part of an automated personal data system used exclusively for statistical reporting or research, shall make no transfer of any such data to another organization without the prior informed consent of the individual to whom the data pertain, if, as a consequence of the transfer, such data will become part of an automated personal data system that is not subject to these safeguard requirements or the safeguard requirements for administrative personal data systems.

B. Any organization maintaining an automated personal data system used exclusively for statistical reporting or research shall:

(1) Identify one person immediately responsible for the system, and make any other organizational arrangements that are necessary to assure continuing attention to the fulfillment of the safeguard requirements;

(2) Take affirmative action to inform each of its employees having any responsibility or maintenance of the system, or the use of any data contained therein, about all the safeguard requirements and all the rules

and procedures of the organization designed to assure compliance with them;

(3) Specify penalties to be applied to any employee who initiates or otherwise contributes to any disciplinary or other punitive action against any individual who brings to the attention of appropriate authorities, the press, or any member of the public, evidence of unfair information practice;

(4) Take reasonable precautions to protect data in the system from any anticipated threats or hazards to the security of the system;

(5) Make no transfer of individually identifiable personal data to another system without (i) specifying requirements for security of the data, including limitations on access thereto, and (ii) determining that the conditions of the transfer provide substantial assurance that those requirements and limitations will be observed—except in instances when each of the individuals about whom data are to be transferred has given his prior informed consent to the transfer; and

(6) Have the capacity to make fully documented data readily available for independent analysis.

II. Public Notice Requirement

Any organization maintaining an automated personal data system used exclusively for statistical reporting or research shall give public notice of the existence and character of its system once each year. Any organization maintaining more than one such system shall publish annual notices for all its systems simultaneously. Any organization proposing to establish a new system, or to enlarge an existing system, shall give public notice long enough in advance of the initiation or enlargement of the system to assure individuals who may be affected by its operation a reasonable opportunity to comment. The public notice shall specify:

(1) The name of the system;

(2) The nature and purpose(s) of the system;

(3) The categories and number of persons on whom data are (to be) maintained;

(4) The categories of data (to be) maintained, indicating which categories are (to be) stored in computer-accessible files;

(5) The organization's policies and practices regarding data storage, duration of retention of data, and disposal thereof;

(6) The categories of data sources;

(7) A decision of all types of use (to be) made of data, indicating those involving computer-accessible files, and including all classes of users and the organizational relationships among them;

(8) The procedures whereby an individual, group, or organization can gain access to data for independent analysis;

(9) The title, name, and address of the person immediately responsible for the system;

(10) A statement of the system's provisions for data confidentiality and the legal basis for them.

III. Rights of individual data subjects

Any organization maintaining an automated personal data system used exclusively for statistical reporting or research shall:

(1) Inform an individual asked to supply personal data for the system whether he is legally required, or may refuse, to supply the data requested, and also of any specific consequences for him, which are known to the organization, of providing or not providing such data;

(2) Assure that no use of individually identifiable data is made that is not within the stated purposes of the system as reasonably understood by the individual, unless the informed consent of the individual has been explicitly obtained;

(3) Assure that no data about an individual are made available from the system in response to a demand for data made by means of compulsory legal process, unless the individual to whom the data pertain (i) has been notified of the demand and (ii) has been afforded full access to the data before they are made available in response to the demand.

In addition to the foregoing safeguard requirements for all automated personal data systems used exclusively for statistical reporting and research, we recommend that all personal data in such systems be protected by statute from compulsory disclosure in identifiable form. Federal legislation protecting against compulsory disclosure should include the following features:

The data to be protected should be limited to those used exclusively for statistical reporting or research. Thus, the protection would apply to statistical-reporting and research data derived from administrative records, and kept apart from them, but not to the administrative records themselves.

The protection should be limited to data identifiable with, or traceable to, specific individuals. When data are released in statistical form, reasonable precautions to protect against "statistical disclosure" should be considered to fulfill the obligation to disclose data that can be traced to specific individuals.

The protection should be specific enough to qualify for non-disclosure under the Freedom of Information Act exemption for matters "specifically exempted from disclosure by statute." 5 U.S.C. 552(b)(3).

The protection should be available for data in the custody of all statistical-reporting and research systems, whether supported by Federal funds or not.

Either the data custodian or the individual about whom data are sought by legal process should be able to invoke the protection, but only the individual should be able to waive it.

The Federal law should be controlling; no State statute should be taken to interfere with the protection it provides.

USE OF THE SOCIAL SECURITY NUMBER

We take the position that a standard universal identifier (SUI) should not be established in the United States now or in the foreseeable future. By our definition, the Social Security Number (SSN) cannot fully qualify as an SUI; it only approximates one. However, there is an increasing tendency for the Social Security number to be used as if it were an SUI. There are pressures on the Social Security Administration to do things that make the SSN more nearly an SUI.

We believe that any action that would tend to make the SSN more nearly an SUI should be taken only if, after careful deliberation, it appears justifiable and any attendant risks can be avoided. We recommend against the adoption of any nationwide, standard, personal identification format, with or without the SSN, that would enhance the likelihood of arbitrary or uncontrolled linkage of records about people, particularly between government and government-supported automated personal data systems.

We believe that until safeguards against abuse of automated personal data systems have become effective, constraints should be imposed on use of the Social Security number. After that the question of SSN use might properly be reopened.

As a general framework for action on the Social Security number, we recommend that Federal policy with respect to use of the SSN be governed by the following principles:

First, uses of the SSN should be limited to those necessary for carrying out requirements imposed by the Federal government.

Second, Federal agencies and departments should not require or promote use of the SSN except to the extent that they have a specific legislative mandate from the Congress to do so.

Third, the Congress should be sparing in mandating use of the SSN, and should do so only after full and careful consideration preceded by well advertised hearings that elicit substantial public participation. Such consideration should weigh carefully the pros and cons of any proposed use, and should pay particular attention to whether effective safeguards have been applied to automated personal data systems that would be affected by the proposed use of the SSN. (Ideally, Congress should review all present Federal requirements for use of the SSN and determine whether these existing requirements should be continued, repealed, or modified.)

Fourth, when the SSN is used in instances that do not conform to the three foregoing principles, no individual should be coerced into providing his SSN, nor should his SSN be used without his consent.

Fifth, an individual should be fully and fairly informed of his rights and responsibilities relative to uses of the SSN, including the right to disclose his SSN whenever he deems it in his interest to do so.

In accordance with these principles, we recommend specific, preemptive, Federal legislation providing:

(1) That an individual has a legal right to refuse to disclose his SSN to any person or organization that does not have specific authority provided by Federal statute to request it;

(2) That an individual has the right to redress if his lawful refusal to disclose his SSN results in the denial of a benefit, or the threat of denial of a benefit; and that, should an individual under threat of loss of benefits supply his SSN under protest to an unauthorized requestor, he shall not be considered to have forfeited his right to redress; and

(3) That any oral or written request made to an individual for his SSN must be accompanied by a clear statement indicating whether or not compliance with the request is required by Federal statute, and, if so, citing the specific legal requirement.

In addition, we recommend:

(4) That the Social Security Administration undertake a positive program of issuing SSNs to ninth-grade students in schools, provided (a) that no school system be induced to cooperate in such a program contrary to its preference; and (b) that any person shall have the right to refuse to be issued an SSN in connection with such a program, and such right of refusal shall be available both to the student and to his parents or guardians;

(5) There there be *no* positive program of issuing SSNs to children below the ninth-grade level, either at the initiative of the Social Security Administration or in response to requests from schools or other institutions;

(6) That the Secretary limit affirmative measures taken to issue SSNs pursuant to Section 205(c)(2)(B)(i)(II) of the Social Security Act, as amended by Section 137 of Public Law 92–603, to applicants for or recipients of public assistance benefits supported from Federal funds under the Social Security Act; and

(7) That the Secretary do his utmost to assure that any future legislation dealing with the SSN be preceded by full and careful consideration and well advertised hearings that elicit substantial public participation.

With respect to organizations using the SSN, we recommend:

(8) That any organization or person required by Federal law to obtain or record the SSN of any individual be prohibited from making any use or disclosure of the SSN without the informed consent of the individual, except as may be necessary to the Federal purposes for which it was required to be obtained and recorded. This prohibition should be established by a specific and preemptive act of Congress:

(9) That the Social Security Administation provide "SSN services" to aid record keeping only to organizations or persons that are

required by Federal law to obtain or record the SSN, and then only as necessary to fulfill the purposes for which the SSN is required to be obtained or recorded;

(10) That the Social Security Administration provide "SSN services" to aid research activities only when it can assure that the provision of such services will not result in the use ofthe SSN for record-keeping and reporting activities beyond those permitted under recommendation (9), and then only provided that rigid safeguards to protect the confidentiality of personal data, including the SSN, are incorporated into the research design; and

(11) That specific, preemptive Federal legislation be enacted prohibiting use of an SSN, or any number represented as an SSN, for promotional or commercial purposes.

USAF BRINGS FOOD TO TIMBUCTU

Mr. PEARSON. Mr. President, throughout this century and before, the American people have generously responded to the human needs of people affected by disasters. Today, we are supplying grain to six nations in the Sahel region of Africa which have been hit with a severe drought. I believe that we should be quietly proud of our response in this instance and in many others.

In addition to making grain available, we are also supplying U.S. Air Force C–130 Hercules aircraft to airlift commodities within the region. Three American aircraft and their crews are stationed in Bambako, the capital of Mali. These men fly grain from Bambako to airstrips at Timbuctu, Gau, Gundam, Tessalit, and other cities which few Americans have ever heard of. In each place, people would starve to death if the grain were not flown in.

Mr. President, I want to call the attention of the Senate to the work of the officers and enlisted personnel of the 41st and 39th Tactical Air Squadrons, based at Pope Air Force Base, Fayette, N.C. These men have performed their missions under the most difficult of conditions.

More than 3,000 miles from their base, the crews have managed to keep the C–130's flying despite severe problems with ever-present dust and temperatures which have reached 135°. The pilots and flight crews have landed at small fields with few navigational aids in sandstorms to bring the badly needed food to the people of Mali.

Mr. President, I believe that these men on this mission represent the finest this Nation has to offer to people in need. We can be proud of the men and satisfied that we have made a worthwhile contribution to people who badly need our assistance.

HOME HEALTH CARE AND OLDER AMERICANS

Mr. MUSKIE. Mr. President, the Subcommittee on Health of the Elderly, Senate Special Committee on Aging, of which I am Chairman, has continued its study of "Barriers to Health Care for Older Americans" by holding hearings on July 11th and 12th on home health care. These hearings not only demonstrated the value of expanding home health services, but pointed out the need to change existing law to eliminate administrative problems encountered by home health agencies.

These points were first made to the subcommittee last May in testimony from Mr. Richard Hooper, executive director of the Androscoggin Home Health Services in Maine. While Mr. Hooper described his agency's many positive achievements of providing good quality services to the aged, he explained many problems in the day-to-day operation of his agency. Not the least of these problems are those caused by congressional or administration policies which severely restrict home health care under the medicare program. The hearings in July, devoted almost entirely to home health care, amply demonstrated that Mr. Hooper's problems are far from unique.

The witnesses at our hearings all agreed on the tremendous value of home health care. Dr. Charles Weller, representing the American Medical Association, testified that home health care can improve convalescence. There is no better place than his own home to treat the patient who needs continued care, but does not require the facilities of a hospital. It makes sense financially and psychologically because it costs less and because patients respond best to their home environment. Home health services not only cost less than comparable service in a hospital, but from a community-wide perspective, these services can lessen the pressure to build expensive institutional facilities. For instance, the subcommittee received information that in Rochester, N.Y., home health care has been covered by Blue Cross for the last 12 years, and as a result there has been no need to build additional hospital beds. And one of our witnesses, Dr. Henry Smith, director of the Nebraska department of health, felt that using Federal funds to expand home health services would not require additional spending, but merely a redistribution of the funds available.

With little dispute about the value of home health care, most of our witnesses devoted their testimony to describing the problems encountered by home health care agencies. For instance, on the first day of our hearings representatives from operating agencies and from national organizations detailed how home health agencies are relegated to an almost insignificant role under medicare. This is not because their services are not needed, but because restrictive reimbursement policies have limited payments for home services to less than 1 percent of medicare expenditures.

Hadley Hall, executive director of the San Francisco Home Health Services predicted that agencies will be forced to reduce services or go out of business if the present reimbursement policies by the Social Security Administration are continued. He said that those who receive services from his agency have an average age of nearly 75, that three-fourths live alone, and that the remainder usually live with someone equally old and often just as feeble. Unless we provide more basic help in the home, he said, "we will need to build more unnecessary and expensive institutions just to warehouse our elderly who need care."

Mrs. Janet Starr, executive director of the Coalition for Home Health Services in New York State, said that medicare does not cover patients whose conditions are stabilized. Thus, a stroke victim whose condition has stabilized is not eligible for services although clearly in need of such services. Many of these elderly people are being forced into institutional care earlier than necessary because of the lack of supportive home services. Mrs. Starr saw a valid role for medicare to fill in providing occassional nursing and home health aide service to make it possible for a person to remain at home and relatively independent.

One of the primary barriers to the expansion of these services under medicare as the law now stands, and as it is interpreted, is the "skilled" nursing services requirement. This requirement provides that unless a patient needs skilled nursing services, or speech or physical therapy, medicare will not provide coverage. The effect of this requirement is that only a person with an acute condition can receive in-home services under medicare—and patients with stabilized or chronic conditions will be denied home health care coverage.

Dr. Andrew Jessamin, speaking for the American Hospital Association, pointed out that the administration of home health benefits has therefore become so restrictive that few patients can qualify. "Apparently," he stated, "concern over opening the door too wide has kept the door so tightly shut that very little light and air could get in and few home care services could get out."

Mrs. Maxine Thomas testified even more forcefully on this point on behalf of the National League of Nursing, as follows:

> With the enactment of medicare legislation the designation, "skilled" was unfortunately attached to nursing as a reimbursable service provided by home health agencies. The practice of nursing is an art, a science, and a skill as is the practice of medicine, physical therapy or occupational therapy. Fortunately, these later disciplines escaped the "skilled" label and medicare regulations do not refer to skilled medical care, skilled physical therapy, skilled social worker, etc.
>
> This inexpedient labelling of "skilled" nursing has become a major barrier to the delivery of care to the aged as incongruous efforts towards definition and interpretation ensued.
>
> Greatly needed care has been withheld; patients, families, nurses and SSA/BHI personel have suffered immeasurable pain, frustration, expense and wasted effort at horrendous cost without return to taxpayers.

Thus, after the first day of hearings, the testimony we had received was technical, but its message was brutally simple—what should be an important segment of our national health system has been badly crippled by a combination of negative attitudes and shortsighted, sometimes contradictory, Federal policies.

On the second day, we heard from a panel of witnesses who are concerned about the older person as a low-priority patient in our system of medical care. This panel included: Ms. Margaret

Kuhn, leader of the Gray Panthers; Dr. Herbert Shulman, chairman of the National Task Force on Aging, Medical Committee for Human Rights; and Sharon Curtin, R.N., author of "Nobody Ever Died of Old Age."

Ms. Kuhn asserted:

America is the best place in the world to be if you have a rare kidney disease, but you might just as well be in Guatemala when you have arthritis, if you have hypertension, or if you have any other prevalent chronic ailment that the elderly are predisposed to.

The lack of adequate care for other than acute illnesses was also emphasized by the other two witnesses. Sharon Curtin described the built-in inhumanity of a fancy and sanitized nursing home that costs $1,000 a month but only provided depersonalized care that was physically and mentally debilitating. Dr. Shulman stated that medical care for the aged is out of the "mainstream" of American medicine.

On the second day of our hearings the subcommittee also heard from Dr. Charles Edwards, Assistant Secretary of Health in the Department of Health, Education and Welfare. Dr. Edwards made a valuable contribution to the hearing record. But his testimony also demonstrated that the administration could make additional efforts to promote home health care.

Since the need is so enormous, what can be done to improve the delivery of home health services? A twofold approach is, I believe, needed as far as Federal programs are concerned.

First, I urge the administration to reexamine the positive role of in-home services as a provider of health care to the elderly. This should include a critical examination of the administration of reimbursement policies toward home services under the medicare and medicaid programs. Assistant Secretary of Health Edwards endorsed home health services in his statement before the committee as one of the "good parts" in our present medical care system. I urge him to exert leadership in moving health care to the elderly in their own homes.

Second, it is clear from extensive testimony received at our hearings that the medicare law needs to be clarified and expanded. After the experience of some 7 years under medicare, during which time home health care has actually declined, I think that a reexamination of the law is overdue.

Home health care can serve not only to hold down health costs, but also to provide a better way to take care of the chronically ill older person. I hope that the Congress, and the administration, will make a commitment to the expansion of this vital service.

NONPROFIT HOSPITALS AND THE NATIONAL LABOR RELATIONS ACT

Mr. TOWER. Mr. President, the Senate Labor Subcommittee is holding hearings on legislation to remove the existing exemption for nonprofit hospitals under the National Labor Relations Act. Testifying before the subcommittee today was Mr. O. Ray Hurst, president of the Texas Hospital Association. I have known Ray Hurst for a number of years and can vouch for his experience, ability, and dedication to improving our health care system. He succinctly stated why the removal of this exemption without taking into consideration the unique circumstances in the health care area would be detrimental to the best interests of the American people.

I ask unanimous consent that his statement be printed in the RECORD. Since Congress will be considering this matter in the very near future I urge my colleagues to give it their careful consideration.

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

TESTIMONY OF THE TEXAS HOSPITAL ASSOCIATION ON S. 794, A BILL TO AMEND THE NATIONAL LABOR RELATIONS ACT BEFORE THE SUBCOMMITTEE ON LABOR OF THE SENATE COMMITTEE ON LABOR AND PUBLIC WELFARE

Mr. Chairman and members of the committee: I am O. Ray Hurst, President of the Texas Hospital Association, with offices in Austin, Texas. On behalf of the Association, its Board of Trustees, and representing almost 600 hospitals, I come to express opposition to S. 794, a bill designed to remove the present exemption of nonprofit hospitals from the provisions of the National Labor Relations Act. The Texas Hospital Association joins with the American Hospital Association in opposing the removal of the existing exemption for nonprofit hospitals—in the strongest of terms.

The objective of hospitals is to care for the sick and injured citizens. To be fully effective in this role requires hospitals to be in a position where there is little or no interference from outside parties, in the delivery of that care. The removal of the hospital exemption under the Taft-Hartley Act introduces forces that will make it difficult to deliver needed health care.

Since the early days of the Wagner Act, most businesses engaged in interstate commerce, have been subject to rules, procedures, regulations and judicial interpretations, that have helped resolve the labor-management problems. When management and unions have failed to agree, manufacturing firms have stockpiled goods for future distribution to meet the customer needs. When work stoppage occurs the public may be inconvenienced for a period of time, but because alternative sources of goods and services are available, the inconveniences experienced by the public are generally minor.

If a work stoppage occurred in a hospital the results would be different, because the hospital field is different. If a hospital is struck the alternative services are likely to be extremely limited or nonexistent. Especially would this be true outside the metropolitan areas, in a state that is essentially rural in character when distances between hospitals range from 20 miles up to 60 and 70 miles.

Hospital care is not storable. It is essentially an immediate service to sick and injured. There is no stockpile from which to draw, no storage yard, or warehouse backup potential as that found in many business fields. If the health care nurse, radiologic technician, laboratory technologist, electroencephalographic technician, physical therapist, surgical nurse, critical care nurse specialist and many other numerous health care specialists are not at or near the bed side or responsive on call to the need of patients, the hospital ceases to function and the public interest is immediately downgraded and its welfare endangered.

To open the nonprofit hospital to the disruption of unionization drives, and all the activities of union organizations—including strikes—slowdowns—creation of worker unrest—reduces the service capability of the hospital in accomplishing assigned health care role. Unlike other industry there are very few alternative resources for urgently needed care when the hospital is not available.

We can only surmise that since hospitals are different and unlike most other business enterprises, the laws affecting hospitals should be different to meet special needs. Congress recognized this in the present Taft-Hartley Act when hospitals were exempted. Nothing has occurred since that time to change the character of the nonprofit hospitals role. The exemption is just as valid today as it was initially.

In Texas, our 600 hospitals are almost equally divided into three ownership categories: nonprofit nongovernmental, nonprofit governmental, and for-profit. This means that currently, about one third (the for-profit hospitals) are now under the jurisdiction of the National Labor Relations Act, one third (the nonprofit nongovernmental) would be placed under NLRA if S. 794 is passed, and the remaining one third (the nonprofit governmental hospitals) would continue to be exempt from NLRA provisions.

In Texas, hospitals regardless of ownership are rendering care to all patients. The public frequently does not know—and if it knows seldom cares—what the ownership of the facilities might be if the care required is available and given. To simply remove the hospitals exemption from the Taft-Hartley Act, without placing in the law assurances to protect continuity of patient care from resulting union activities and other related union/management matters, is again unthinkable. We see several key matters that need legislative attention should the hospital exemption be removed:

A. FRAGMENTATION

Hospitals utilize trained employees of many skills. It is estimated that upwards of 125 occupational specialities are represented in the hospital, each demanding attention from hospital management. If the usual application of the National Labor Relations Act is followed, hospital management could be inundated with many small employee units followed by multiple contract bargaining probably experienced by no other industry. Many small recognized employee units can result in a small bargaining unit closing down an entire medical center. The American Hospital Association recommendation appears to be reasonable. They suggest 5 groupings.

B. WORK STOPPAGE

We also see serious problems with site picketing and work stoppage of all kinds, both of which are permitted under NLRA. To place pickets at a hospital to which sick and injured are taken, creates in the minds of family, friends and indeed, the general public, a serious question: "Will my father (mother, wife, child, relative, friend) find anyone who can or will properly render good hospital care?" Hospitals need prompt help in picket and work stoppage situations.

C. IMPASSE BARGAINING

Additionally there is the question of impasse in the collective bargaining process, which impasses may lead to strikes and picketing. Impasses must be resolved because strikes in health care institutions are intolerable and, in our opinion, would never be accepted by the public for whose protection, we—as well as you—are dedicated. S. 794 has no provisions for effectively resolving such impasses.

D. COSTS

And still another problem rears its ugly head. That is the matter of costs of union recognition, union contracts for wages and benefits, and their impact on the hospital. Since the advent of Medicare, Medicaid, hos-

pital employee coverage under the Fair Labor Standards Act, the hospitals in our state—have been in an unprecedented accelerating cost spiral. Increase demands for hospital care, with an ever increasing flow of laws, rules and regulations have pushed hospital personnel requirements and costs higher and higher. Today we have the highest "patient day" cost in Texas history, and the end is not in sight. A new minimum wage law will again move the hourly wage rate upwards. Member hospitals of our association have been active in the support of upgrading personnel policies, worker benefits and fair wages. Those now compare favorable with other occupational areas of our economy. We will continue to support and urge the continuation of such upgrading in the hospital field. But we also recognize that union activity always results in even higher wage rates—rates that must be passed on to the user of hospital facilities. In an industry where over 60% of all hospital dollars spent are paid in wages, increase wage costs have great affect in industry generally. Further should one hospital in an area have a union contract other nearby hospitals must of necessity raise their wage levels to be competitive, and the effect is to charge even higher hospital costs to the public.

Somehow, we must visualize the need and to give recognition to the differences between usual businesses engaged in interstate commerce and hospitals which have vastly different operations and problems. We urge the retention of the Taft-Hartley exemption of nonprofit hospitals as now in the law to achieve our primary purpose of providing the hospital care for the sick and injured. It is our firm belief that the patient needs can best be served without the intrusion of third parties.

And now, Gentlemen, in conclusion, please allow me a few generalized comments. Few individuals really have deep concern about hospitals—most of the time. Like fire stations, they are there, hopefully, for the use of the other fellow. Even the rise in hospital costs is of only passing interest to the average citizen, most of the time.

His interest is piqued only when he receives a rate increase in his health insurance coverage or when he or a member of his family requires the services of a hospital.

Think with me for just a moment, if you will, of your own predicament if and when you might need the services of a hospital. Let's imagine that your dearest loved one—wife, daughter, son or grandchild—is suddenly and unexpectedly stricken with an illness or injury. Your physician agrees to meet you and the distressed family member at the hospital.

With a feeling closely akin to helplessness, you rush to the hospital. Your calm is completely shattered and you know, perhaps for the first time in your life, that the welfare of your loved one is completely out of your hands. You must depend on the people who man those posts at the hospital—and your physician—to right your world which has changed so suddenly.

And, as you approach the hospital, your car is stopped by pickets who attempt to tell you the hospital is under strike conditions and that you should not use it. They probably won't physically bar your entry if you insist on proceeding, but the slowdown has taken time—time that may be extremely important in the prognosis of the ill or injured.

After this short interruption, during which you could care less about the real or imaginary grievance of the strikers, you proceed. At the emergency room, the stretcher bearer is slow to respond, but eventually he—or someone else—does.

The doctor examines *your* loved one—with or without the help of nurses who may or may not be in sympathy with the strike. He orders X-rays and lab work which must be performed before an accurate, definitive regimen of treatment may begin. This takes hours, because the technicians of those vital departments are participating in a slowdown. After many hours of anxious—almost frantic waiting, pacing, worrying and, yes, praying—the patient's regimen may be determined and specific treatment begun to alleviate the now specifically defined ailment.

During this time of deep anxiety, the patient could have died or suffered permanent injury which possibly could have been avoided with swift, efficient and effective cooperation of all concerned.

But suppose the admitting hurdle is eventually cleared without major damaging results, and eventually—in what to you seems a lifetime—*your* loved one is in bed on a nursing unit and all appears to have settled into a more peaceful routine. But, you then notice that there are few people dressed in white on the unit and the few who are there are moving too rapidly for efficiency, are harrassed, worried, and definitely not of a demeanor or attitude that could possibly be conducive to the calm, efficient care that *your* family member needs. Then you remember the strikers and the feet-dragging technicians downstairs. Apparently the nurses and their aides who are on the unit are not striking, but their number is far too few for the workload if *your* loved one is to be given adequate attention.

It is at this time that you lose your composure entirely. Regardless of how you have felt about unions in the past, notwithstanding your political beliefs, and with only the singleness of desire that *your* family member be treated and treated well now, you will damn the workers, their union organization, the hospital and the doctor. Why? Because a hospital is a place where the ill and injured—those who cannot help themselves—are supposed to receive people-to-people service which will make them whole, and useful citizens or happy children, again.

Under the conditions described, you would tolerate no third party interference if it meant less than the best of care for *your* loved one.

And, Gentlemen, I am of the firm opinion that your constituents feel the same way.

Thank you.

THE AMA SUPPORTS HOME HEALTH CARE

Mr. MUSKIE. Mr. President, the American Medical Association was among those who testified on home health care before the Subcommittee on Health of the Elderly at a hearing on barriers to health care for older Americans. We asked the AMA to testify because it had prepared a report on home health and had also sponsored a meeting on the same subject at its annual convention in New York City. The AMA discussed its activities in home health, and its testimony before the subcommittee, in an article titled "Value of Home Health Care Services Emphasized," in the July 23 issue of the American Medical News.

At the hearing, Dr. Charles Weller presented the AMA's views, stating:

Effective home health care programs can reduce or eliminate the need for both initial and continued institutional care for many patients. Physicians generally agree that a majority of their patients are likely to prefer being in ther own homes, and that improvement in their convalescence is likely to be more complete and rapid.

Dr. Weller also commented on the restrictions on reimbursement for home health care in Government programs as did many of our witnesses. He said:

We recognize that a home care program without any limitations could get out of bounds. We believe, however, the physicians and other professional personnel who want the best possible care for their patients must be allowed to order and provide preventive, supportive, and rehabilitative services at home as they presently do at other sites. We believe that the range of home services covered by government programs needs reexamination. We urge that the experience of physicians who are participating in home health care programs be utilized in the process of such a reexamination.

Mr. President, I agree with the AMA that the constricted home care services now authorized under medicare and medicaid should be carefully reexamined. The subcommittee hearings on home health have begun just such a review and have received sufficient testimony to document the need for corrective legislative action to develop a proper role for home health services in a coordinated system of health care.

Mr. President, I ask unanimous consent that the American Medical News article be printed in the RECORD.

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

[From the American Medical News, July 23, 1973]

VALUE OF HOME HEALTH CARE SERVICES EMPHASIZED

The value of home health care services is increasingly recognized.

The latest occasion was a hearing before the Subcommittee on Health of the Elderly of the Senate's Special Committee on Aging. Earlier, a Home Health Care Conference sponsored during the American Medical Association's Annual Convention in New York drew a large, interested audience.

The AMA sponsored its conference last month to highlight the importance of home health care as an option in providing care for patients, and to help pinpoint some of the frustrations physicians and others are having in trying to provide home health care.

Last week, the AMA was among those who testified before the Senate Subcommittee's hearings. Charles Weller, MD, of Larchmont, N.Y., a member of association's Committee on Community Health Care, who presented the AMA's views, told the senators:

"The factor of cost is not our most important concern. The factor of patient satisfaction is very important, and the factor of efficiency in utilizing scarce resources of manpower and facilities must also be considered. Effective home health care programs can reduce or eliminate the need for both initial and continued institutional care for many patients. Physicians generally agree that a majority of their patients are likely to prefer being in their own homes, and that improvement in their convalescence is likely to be more complete and rapid."

Emphasizing that the AMA supports the appropriate use of home health care programs, Dr. Weller noted that in 1960, the AMA recommended "that physicians be urged to participate in organized home care programs for any patient who can profit from the program and to promote such programs in their communities." In 1962, the AMA called for additional study and evaluation of existing coordinated home care programs, their proper role in the whole field of medical care, and their proper support by medical care insurance, "with a view toward stimulating development and extension of such programs."

One of the continuing difficulties in the successful development and operation of these programs is the financing of home health care services. These difficulties were among the biggest frustrations discussed at the AMA' conference.

The AMA believes that home health services should be an integral part of any health insurance program and has included them in its national health insurance proposal, Medicredit, now before Congress.

Physicians believe that current and future governmentally financed programs should also contain practical, realistic provisions for reimbursing effective home health care agencies and programs. The AMA has supported the concept that patients should receive needed care in the most appropriate location for their specific conditions and needs. This may be in health care institutions, in physicians' offices, or in their own homes. It is extremely regrettable if there is a good home health program available that is not being used because of financing restrictions in either the private or public sector.

As for government programs, Dr. Weller noted that some now provide for reimbursement of home health services, but there are generally deductibles and some restrictions.

"We recognize," he added, "that a home care program without any limitations could get out of bounds. We believe, however, the physicians and other professional personnel who want the best possible care for their patients must be allowed to order and provide preventive, supportive, and rehabilitative services at home as they presently do at other sites. We believe that the range of home services covered by government programs needs reexamination. We urge that the experience of physicians who are participating in home health care programs should be utilized in the process of such a re-examination."

Hopefully, the increased attention being given the utilization of home health care services will result in an increased awareness of their value by all who are concerned with providing patients with the most comprehensive, satisfactory health care.

CLARIFICATION OF A VOTE

Mr. DOMENICI. Mr. President, I wish to clarify in the RECORD my vote yesterday in support of S. 2263, the Taft substitute measure for tne Emergency Employment Act and my subsequent support for S. 1560 to continue EEA for an additional 2 years.

In my own State of New Mexico, many indivduals and officials have offered their overwhelming support for the Emergency Employment Act as it has worked in our State during the past 2 years. In particular, the mayors and council members of the communities as diverse as Roswell and Las Vegas have been most forceful in their personal testimonies in that regard.

However, the national unemployment rate has been reduced significantly during the past 2 years. In view of that fact, the Taft substitute seemed the most logical approach at this time because it would have directed Federal assistance to sustained chronic unemployment areas. It would have directed the attention and help to those areas suffering the most.

Inasmuch as EEA had worked in the past, I felt local revenue-sharing funds would certainly be used to continue EEA in one form or another, freeing Federal assistance for those areas of greatest need; those less likely to have enough money for extensive emergency employment programs. For this reason, I am sorry that the substitute measure did not pass, but at the same time I simply could not turn my back on the whole concept.

Of all the welfare-oriented programs, not one has received higher praise in New Mexico for usefulness. In fact, if I had my way, I would merge all the different job training programs and many other welfare programs into a State option employment program for States to train, employ, and pay for on-the-job training at good paying positions in the performance of public service projects which would not otherwise be done.

From August 1971 to February 1973, 2,165 New Mexicans were paid on the average of $2.81 per hour for working in such public service positions in law enforcement, education, fire protection, health and hospitals, public works projects, transportation, parks, and recreation—to mention only a few of the categories. In all, New Mexico received during the same period of time $6.8 million, including $663,493 specifically earmarked for use by the All-Indian Pueblo Council. In fact, there were at least 21 different Indian tribes receiving this assistance. This is important assistance in my State and I would not, if I could at all help it, allow the program to be put into abeyance.

So often when public assistance is offered those who are temporarily down, the experience is degrading and undignified. This has not been the case with the past administration of EEA. Testimony has shown that the program was having a favorable impact on participants as well as fulfilling public service needs. Virtually all the participants have been pleased with their jobs, felt they were useful, perceived little discrimination, and wanted to continue in the same occupational field. The program has been drawing on a broad range of the unemployed and the jobs offered useful work, opportunities for advancement, and corresponded in wage and function to regular public sector positions.

And so, Mr. President, it must be obvious I am strongly in support of the emergency employment program as it has been functioning in my State. I just felt that because of its success local communities would be more apt to make this a priority item when distributing general revenue-sharing funds, leaving the Federal revenues free to hit hard at those areas of most severe need—those areas which will need even more moneys than they will receive under the general EEA program. When the substitute failed, I could not let the whole program die. Subsequently, I gave my full support to S. 1560. I am pleased the majority of my colleagues agreed with me and passed this final bill.

DEATH OF THOMAS PORCHER STONEY

Mr. HOLLINGS. Mr. President, on April 21 of this year, one of South Carolina's most distinguished and colorful political careers came to an end. On that day, Thomas Porcher Stoney fell victim to a tragic hit-and-run automobile accident. Tom Stoney was not a young man—he was 83—but he was still active and alert and involved with the betterment of his community.

Mr. Stoney's political career began in 1915, when he was elected solicitor of the Ninth Judicial District—the youngest man ever elected to that office. Eight years later, the young solicitor was elected mayor of Charleston. He served two terms in that post, and as the news stories noted at the time of his death, his terms were marked by significant progress for the city.

Tom Stoney is remembered today as a man of clear and forthright action. He said what he believed and believed what he did. He never minced words. He never hedged. He never tried to cover his tracks.

He is remembered, too, as a spokesman for the underdog and as a representative of the common man, to whom he dedicated his life's work. In these days when people seem no longer to believe in politicians, Tom Stoney held their trust because he believed in the people. Throughout his long life, he responded again and again when the community needed him. He served as a trustee for several schools—he was president of the chamber of commerce—and he headed the Charleston County Bar Association.

Among his many other distinctions, Tom Stoney was a leader in penal reform in our State. For this we are particularly indebted. Three days after I took the oath of office as Governor of South Carolina in 1959, I was admonished that a prison break was imminent because our security system was so defective.

Looking further into the problem, I found a penitentiary defective in most important respects—from administrative practices to the lack of rehabilitation programs to a failure to separate the youthful offenders from the hardened criminals to a place reeking with pep pills, payoffs, and a burial place known as Cuba, 25 feet below ground, where prisoners were left to languish and die.

Being a young Governor, I wanted the wisdom and stability of an older and more experienced hand in penal affairs. I wanted someone who would not be afraid to make the needed changes and who held the respect and confidence of the people. I found that man in Tom Stoney. I appointed him to the board of corrections, and in that post he revamped the board, instituted a program of rehabilitation, built a new camp, brought an education system, and a Jaycee chapter, developed new approaches on youthful offenders, and did dozens of other things. As a result, South Carolina won the respect of other States for its penal procedures, whereas for so many years we were at the very bottom of the list.

Mr. Stoney worked right up to the end, and we are much the poorer for his passing. But he has bequeathed us both concrete programs and a spirit of public service and we can today take pride in the fact that we were the lucky ones who had the benefit of his service.

To his wife, Beverly DuBose Stoney, and to his three sons, Randall, Theodore,

and Laurence, we again offer our profound condolences.

Mr. President, I ask unanimous consent that the accompanying newspaper stories, editorials, and letters be made a part of today's RECORD. And I commend these stories and tributes to the attention of all my colleagues, for they tell of the life of a gifted and dedicated and humane public servant. And for me, they tell the story of a rare and wonderful friend.

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

[From the Charleston (S.C.) Evening Post, Apr. 23, 1973]

STONEY WAS KNOWN AS MAN OF COURAGE

(By Sally Lofton and Jack Leland)

Funeral services for Thomas Porcher Stoney, former mayor of Charleston, were to be held today at St. Philip's Protestant Episcopal Church.

Burial was to be in Strawberry Chapel churchyard in Berkeley County.

Mr. Stoney, 83, was killed in a hit-and-run accident Saturday night as he attempted to cross U.S. Highway 17 in Awendaw.

Flags on city buildings were flown at half staff today, upon order of Mayor Gaillard. City Hall was to be closed during the funeral.

"He was the most colorful and astute politician this city will ever have," Gaillard said. "He never wavered from what he believed to be right and would take on all comers and odds in any fight in the political arena.

"His leadership was recognized throughout the state and his opinions and advice were constantly sought by those with public responsibilities," he continued.

"Few, if any, achieved political success in this area without receiving the benefit of his counsel."

Gaillard said Mr. Stoney's "true greatness" was in his love and devotion to his friends and the city of which he served as mayor from 1923 to 1931.

"Charleston has lost a great man. I have lost a dear friend. And on behalf of all Charlestonians, I extend our heart-felt sympathy to his family."

According to the Charleston County coroner's office, Mr. Stoney was struck by a car headed north on the highway as he tried to cross from his car to a grocery on the other side. Mrs. Stoney was waiting in their vehicle at the time.

An inquest is planned, according to Coroner Kenneth Chue.

Mr. Stoney was a farsighted thinker who predicted most of the political changes that have occurred in the last four decades. He never failed to speak up whenever an issue arose and was known as an aggressive and courageous fighter in all controversies in which he engaged.

He was born at Medway Plantation in Berkeley County Dec. 16, 1889, a son of Samuel Porcher Stoney and Eliza Chaplin Croft Stoney. He attended Catawba Academy at Rock Hill and Porter Military Academy at Charleston.

After two years at the University of the South (Sewanee) he entered the University of South Carolina Law School, graduating in 1911 and beginning law practice that same year. He was an ardent sports fan and played on the Carolina football team from 1909 to 1911.

In 1915, he married Miss Beverly DuBose of Columbia. They had three children, Charleston County Judge Theodore DuBose Stoney; Charleston lawyer Laurence O'Hear Stoney, and Randell Croft Stoney, a Charleston realtor.

Mr. Stoney entered the law firm of J. P. Kennedy Bryan in 1911, shortly after his admission to the South Carolina bar. In 1914–15 he was a member of the firm of Stoney and Cordes. He was elected solicitor for the 9th Judicial District in 1915, the youngest solicitor ever elected, serving until 1923 when he was elected mayor of Charleston.

He was re-elected in 1927 and served until 1931, when he returned to law practice as a member of the firm of Stoney, Pritchard and Crosland. That firm was to gain a reputation as one of the strongest law teams in South Carolina. It was dissolved in 1954. He was in practice with his son at the time of his death.

While mayor of Charleston, Mr. Stoney was instrumental in establishing Charleston's first airport, on James Island, and saw it transferred to its present site in 1929. In 1956, after the city gave the U.S. Air Force several thousand acres of land as a site for its present base. Mr. Stoney charged that the city was not adequately protected in the contract it signed and said: "The Air Force has traded the city out of its breeches."

He was credited with creating the first Johnson Hagood Stadium, and with the establishment of Harmon Field and Moultrie Playground. During his tenure as mayor, the first landfill program was initiated to create two playgrounds and a baseball field, which was named in his honor.

In 1931, when the Federal Farm Board proposed that cotton farmers destroy one third of their growing crops to prevent a cotton surplus, Mayor Stoney rose to defend the farmers. He said: "The proposal . . . is preposterous on its face. Why not propose that manufacturers and merchants destroy one third of their holdings in cotton goods. Prevention of surpluses can only be had by developing new uses for raw materials."

Throughout his life, he was a champion of the underdog. In 1932 reading that a Spartanburg Negro who had the mentality of a nine-year-old child was to be electrocuted for murder, he wrote Gov. Ibra C. Blackwood and requested clemency.

He had misgivings about the Franklin D. Roosevelt administration from the first, although he supported the Democratic Party at the time. He warned the 1932 "lame duck" Congress against trying to institute Roosevelt's announced programs before FDR was inaugurated as President. However, he backed Roosevelt in 1933 and called for united support of the new regime in Washington.

In 1934, he expressed hopes of being named the U.S. district attorney at Charleston, a hope that never was realized. His political opponents later charged him with opposing Roosevelt because of the President's failure to name him to the post, an allegation Mr. Stoney denied.

By 1934, he was moving away from the national Democratic Party, chastising its congressmen for supporting the National Recovery Act (NRA), because it continued high tariffs on Southern raw materials and benefited Eastern manufacturers.

In 1935, Mr. Stoney began speaking out against the growing strength of the federal government under the Roosevelt Fair Deal. He listed 10 powers he said the President had usurped and warned against further centralization of power in Washington.

Mr. Stoney was an early advocate of the tourist trade and made numerous speeches in the late 1930s urging more funds for tourist promotion in Charleston.

His disaffection with the New Deal grew and, in 1936, he said in a speech that "all of this spending is like giving a drunk some drinks in an effort to sober him up."

That same year, he became a candidate for the U.S. Senate against veteran James F. Byrnes, but Byrnes won by a 7–1 margin.

During his campaign, he became more and more critical of the leadership in the National Democratic Party which he said, "deserted its historic principles to follow those of Hot Dog Frankfurter, Little Tuggie Tugwell, Too Damned Dumb Hopkins, Mr. Itches (Ickes) Moley and Cracked Down, now Cracked-Up Hugh Johnson." However, he made it clear he would remain in the party.

By 1939 Mr. Stoney was urging a build-up of the nation's military strength as Adolph Hitler's power grew in Europe. He suggested that American Communist Party Leader Earl Browder be jailed for saying he would side with Russia in event of a war with the Soviets.

During the war, Mr. Stoney headed the Charleston United War Fund Drive but found time to warn Congress against passage of the Wegner-Murray-Dingle Bill, which would have socialized the nation's medical program. He warned that the nation was "drifting toward a socialized state".

In 1947, after Federal Judge J. Waites Waring ordered the Democratic Party primaries open to Negroes, Mr. Stoney thundered: "The Democratic Party is dead as of this date. If we cannot organize politically as a white party, then we are not free men." He staunchly opposed the abandonment of the two-thirds majority vote rule in the national party and warned that it would disenfranchise the South.

His break with the party appeared certain in 1948, when he stumped for the Thurmond-Wright "States Rights" ticket. He said: "You are either for Light-Headed Harry Truman and Dear Alben Barkley, or you are for Thurmond and Wright."

In 1952, he was a delegate to the state Democratic Party convention where he opposed support of the Adlai Stevenson-John Sparkman ticket. In an emotional speech he said: "Vote with your heads instead of your bellies." He described the Stevenson-Sparkman team as "spiritual children of Trumanism". He spoke out for Eisenhower and strongly urged a return to "strict constitutional government to prevent a take-over by any branch of the government".

By 1956, Mr. Stoney was a leader in the South Carolinians for Independent Electors. He told audiences that the only way the people of this state could make their votes count was to vote independently and force the national parties to reckon with them.

In 1964, he supported Barry Goldwater for the presidency as chairman of the "Individuals for Goldwater Committee". At that time he charged the Democratic Party with being "set upon a course that is hell-bent for national socialism".

When it was announced that Highway I–95 was being routed away from Charleston, Mr. Stoney was named chairman of a group which unsuccessfully opposed the routing.

Mr. Stoney had served as president of the Charleston County Bar Association, the Charleston Chamber of Commerce, the University of South Carolina Alumni and other organizations. He had been a trustee of Porter Military Academy, Sewanee and the College of Charleston.

He held memberships in many organizations. Among them were the St. Cecilia Society, Alpha Tau Omega fraternity; Omicron Delta Kappa fraternity, the Huguenot Society, the Elks, the Order of Moose and Knights of Pythias. He was a 32d degree Mason and a member of the Shrine and the Ashley; Rifle Club.

[From the Charleston (S.C.) Evening Post, Apr. 24, 1973]

THOMAS P. STONEY

How many ways Thomas Porcher Stoney is remembered depends on how the memory runs.

He could be remembered as the youngest solicitor ever elected in the Ninth Judicial Circuit, an office he held for eight years.

He could be remembered as an aggressive and artful candidate in the days when political campaigns were rough-and-tumble, with no holds barred and all stops pulled on oratory at the rallies. His race for mayor against incumbent John P. Grace made the summer

of 1923 all the hotter. It sizzled and it was successful.

Twice mayor of Charleston, Mr. Stoney could be remembered for leadership ability and the accomplishments of his administration: establishment of an airport in the infant days of commercial aviation, the creation of playgrounds and athletic fields, the promotion of tourism.

He could be remembered, too, as an eloquent criminal lawyer, with courtroom presence and a flair for the dramatic that helped build an impressive record of tough cases won. Or he could be remembered in later years as a sage adviser whose counsel was sought by many in public office.

In a long and active life Mr. Stoney made several marks, but he should be remembered best as a man who consistently demonstrated the courage of his convictions. He was never afraid to stand up and say what he thought was right. He never backed away from a fight. His outspoken criticism of the Roosevelt administration and national Democratic Party policies in the 1930s and 40s was hardly expedient but it was typical. He firmly believed federal government was getting too big and the nation was being pushed down the path to socialism. At political risks he made no bones about how he felt.

Mr. Stoney's ties with the Lowcountry were deep-rooted. He knew its politics and its people. His unexpected death at 83 saddens a community he loved deeply and served well.

[From the Charleston (S.C.) News & Courier, Apr. 23, 1973]

THOMAS P. STONEY KILLED IN HIT-RUN

Thomas Porcher Stoney, lawyer and former mayor of Charleston, died Saturday night when he was hit by a car on U.S. 17 at Awendaw. He was 83 years old.

Charleston County Policeman Dan Lunsford said Mr. Stoney was struck by an unidentified automobile when he attempted to cross the highway.

Mrs. Stoney was in the family vehicle when the accident occurred, Deputy Coroner William Wood reported.

Wood said Mrs. Stoney had parked on the highway shoulder, headed south, at about 10:30 p.m. 20 miles north of Mount Pleasant.

Mr. Stoney got out and was struck by a car headed north, Wood said, as he walked toward a grocery on the other side of the road.

Charleston Mayor J. Palmer Gaillard ordered flags to be flown at half staff on city buildings until the funeral at 3 p.m. today at St. Philip's Episcopal Church.

Burial will be in Strawberry Chapel cemetery in Berkeley County, directed by Stuhr's.

Mr. Stoney was born Dec. 16, 1889, at Medway Plantation in Berkeley County, a son of S. Porcher Stoney and Mrs. Eliza C. Croft Stoney.

Surviving are: his widow, Mrs. Beverly DuBose Stoney; three sons, Randall C. Stoney, a Charleston Realtor; Charleston County Judge Theodore DuBose Stoney, and Laurence O'Hear Stoney, a Charleston lawyer, and several grandchildren.

Mr. Stoney attended Catawba Academy at Rock Hill and Porter Military Academy at Charleston. After two years at the University of the South in Sewanee, Tenn., he entered the University of South Carolina Law School, graduating in 1911.

He began his law practice the same year with J. P. Kennedy Bryan. In 1916 he was elected solicitor for the 9th Judicial District.

Mr. Stoney served as solicitor until his election in 1923 as mayor. He was re-elected mayor in 1927 and completed his second term in 1931.

As mayor, Mr. Stoney was instrumental in establishing Charleston's first airport, a facility on James Island. It was transferred to the present site in 1929.

Under his administration, a municipal golf course was laid out on James Island; Johnson Hagood Memorial Stadium and Thomas P. Stoney field were built, and the Gen. William Moultrie Memorial Playground opened.

Throughout his life, he was known as a champion of the underdog. In 1931, he lashed out at the Federal Farm Board's proposal that cotton farmers destroy a third of their crops to prevent a surplus, calling the plan "preposterous on its face."

In talks to state and local groups, Mr. Stoney reversed his initial support of Franklin D. Roosevelt's administration and became an ardent supporter of states' rights. He lost a race for the U.S. Senate to James F. Byrnes in 1936.

Mr. Stoney broke philosophical ties with the Democratic Party in 1948 when he stumped for the Thurmond-Wright States Rights ticket.

In 1956, he was named an elector for South Carolinians for Independent Electors. Four years earlier he had traveled some 2,100 miles campaigning for Dwight D. Eisenhower.

He supported Barry Goldwater in 1964, saying that the Democratic Party was "set upon a course that is hell-bent for national socialism."

Mr. Stoney served as president of the Charleston County Bar Assn., the Charleston Chamber of Commerce and the University of South Carolina Alumni Assn. He had been a trustee of Porter Military Academy, Sewanee and the College of Charleston.

He was a 32nd degree Mason, a Shriner, a member of the Charleston Rifle Club, the Huguenot Society, Elks, Moose and Knights of Pythias. He held membership in the St. Cecilia Society, and Alpha Tau Omega and Amicron Delta Kappa fraternities.

Mayor Gillard said in a statement yesterday:

"He was the most colorful and astute politician this city will ever have. He never wavered from what he believed to be right, and would take on all comers and odds in any fight in the political arena.

"His leadership was recognized throughout the state and his opinions and advice were constantly sought by those with public responsibilities.

"Few, if any, achieved political success in this area without receiving the benefit of his counsel.

"The most pleasant experiences of my political life were those occasions when I would discuss with him a particular problem about our city. His understanding of the situation, his sincere desire to be of help and his unique ability to suggest a solution never ceased to amaze me. A conversation with Mr. Stoney was truly an education in itself.

"But his true greatness was in his love and devotion to his friends and his city. The greater part of his life was devoted to helping others with their problems. He was truly the friend of the little man.

"Charleston has lost a great man. I have lost a dear friend. And on behalf of all Charlestonians, I extend our heart felt sympathy to his family."

U.S. Sen. Ernest F. Hollings, as Governor who appointed Mr. Stoney to the State Board of Corrections in 1959, credited him with having done a "tremendous job" in that post.

With Mr. Stoney on the board, Sen. Hollings said, the prison system, gained a new camp, new rehabilitation programs, a new education system and a Jaycee chapter.

"We came from about the bottom of the ladder in reform," said Sen. Hollings. "And a lot of that was due to Mr. Stoney's leadership. He kept it up to the very end."

[From the Charleston (S.C.) News & Courier, Apr. 24, 1973]

THOMAS P. STONEY

Endowed with courage, vigor and a keen mind, Thomas Porcher Stoney was born to leadership. For more than half a century he was prominent, both in and out of political office, in the affairs of Charleston.

Descended from pioneer English and French families, he grew up at Medway Plantation in Berkeley County, went off to school and started practicing law in 1911 at Charleston. Within four years at age 25, he was elected solicitor of the 9th Judiciary Circuit.

As prosecuting attorney, the starting place for many an American politician, Mr. Stoney made an instant public impact. In 1923 he ran for mayor against John P. Grace, for years a dominant political figure in Charleston, and won. He was reelected in 1923. After completing his second term in City Hall, he continued to play an influential role in the political and civic life of this community.

While he had the bearing and assurance of aristocracy, Tom Stoney also had the common touch and an abiding concern for the underdog that brought admiration and support from people in every walk of life. In later years, his deep faith in states rights caused him to leave the Democratic Party, first to support independent tickets and later Republican candidates for President. He retained the respect of citizens of all factions, and his counsel was sought in many circles.

Mr. Stoney's death at age 83 from a hit-and-run automobile is a tragic ending for a useful and distinguished lifetime of public service. Shrewd in business and politics, witty, wise and proud, he was quick to sense an affront, but willing to forgive. Thomas P. Stoney will be remembered with affection, gratitude and esteem in the region of his birth.

[From the Charleston (S.C.) News & Courier, June 7, 1973]

MAN OF INTEGRITY

To the News and Courier:

In commemoration of Thomas P. Stoney, the greatest statesman in South Carolina since John C. Calhoun:

It was ironic and unfortunate that he was not elected to the United States Senate. Had he been, everyone in Washington and the United States would have heard of the gentleman of South Carolina.

He was a man of the highest integrity and not for sale. None of the legal talent of Broad Street relished the idea of debating with him.

He was known as "the silver-tongued orator".

HOWARD A. CALLIS.

AFL–CIO EXECUTIVE COUNCIL STATEMENT ON FAIR LABOR STANDARDS AMENDMENTS

Mr. WILLIAMS. Mr. President, last week House and Senate conferees met and reached an agreement on the minimum wage bill. I am hopeful for its earliest consideration by both Houses and am encouraged to learn that the Secretary of Labor will be recommending that the President sign this long overdue measure.

This morning the AFL–CIO executive council met and issued a statement on this legislation which I believe capsulizes the urgent need for this legislation.

I ask unanimous consent that the text of the council statement be printed in the RECORD.

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

AFL–CIO EXECUTIVE COUNCIL STATEMENT ON FAIR LABOR STANDARDS AMENDMENTS

House and Senate conferees have reached agreement on a minimum wage bill (H.R. 7935) that deserves speedy Congressional and Presidential approval.

While the Conference Report does not make all of the improvements in the FLSA sought by the AFL–CIO, it does represent important gains for millions of America's lowest paid workers.

The AFL–CIO Executive Council urges the Congress to approve this important legislation and send the bill to the President prior to the August recess.

The Counsel urges the President to sign the minimum wage bill without delay. A veto of this critical legislation would be unconscionable. There is no valid argument to support the denial of these long overdue benefits to those at the bottom of the economic ladder.

On the basis of the past history of amendments to the FLSA it is clear that H.R. 7935 will strengthen the economy, not weaken it; that it will provide more employment at better wages, not subminimum rates.

EXTENSION OF FHA'S AUTHORITY TO INSURE HOME LOANS

Mr. TAFT. Mr. President, I am pleased that the House and Senate conferees apparently have been able to agree upon legislation to extend the FHA's authority to insure home loans.

Our Banking, Housing and Urban Affairs Committee reported legislation to extend the FHA considerably before its expiration date of last June 30. Soon after the program was allowed to expire, I called for its immediate reinstatement. Shortly thereafter, I wrote a letter to the chairman of the committee urging him to do what he could to bring the legislation before the Senate for action as soon as possible.

The resolution authorizing an extension of the FHA, House Joint Resolution 512, was not passed expeditiously because controversial amendments were attached to it. Many Senators did not support committee amendments which would end the moratorium on federally subsidized housing and broaden the laws providing compensation for purchasers of defect-ridden FHA homes. I felt strongly at the time, however, that the best way to settle those issues was to bring them before the Senate and allow Senators to act according to their convictions. In my judgment it appeared irresponsible to allow FHA and VA programs to continue to be disrupted, and the intended beneficiaries to the programs deprived, because of legislative failure to resolve the issues in dispute.

I am pleased that action along these lines was finally taken because the amendments to House Joint Resolution 512 are extremely important—particularly the amendment to bring an end to the moratorium, before July of 1974. The Senate was allowed to express itself on these issues and the amendments are now included in the version of House Joint Resolution 512 agreed upon by the conferees.

Nevertheless, we must recognize the continuing danger that we will not have an FHA for some time as a result of the amendments to House Joint Resolution 512, because the President may veto the bill. It is essential that this possibility be averted. Since June 30, no new FHA commitments have been accepted and closings have not been allowed to be completed. As a result, deserving citizens in need of assistance have had to postpone their hopes of owning new homes. In many cases, major inconveniences and even hardships have been created because people have had to change actual moving plans at the last minute.

It would be absolutely irresponsible for us to let this situation continue when we can take action to prevent it.

For that reason, I believe it would be wise at this point for Congress to pass a simple extension of FHA's authority. The extension should remain in effect through the congressional recess and long enough after that so that House Joint Resolution 512 can be disposed of. In other words, we should leave enough time for Congress to decide whether to override a veto if necessary and to shape new legislation containing a further extension of FHA if a veto is sustained. The extension should be no longer than that, however, so that the pressure to resolve the issues raised in House Joint Resolution 512 is retained.

The chairman and ranking member of the Housing and Urban Affairs Subcommittee have now introduced a resolution along the lines I am proposing which extends FHA until October 15, but apparently there is some disagreement on that termination date. This is exactly the kind of situation we had immediately before the July 4 recess, when the FHA authority was allowed to expire.

There is too much at stake here for us to allow this to happen again. The expiration of FHA affects not only the low- and moderate-income citizens who need its assistance, but also those developers, realtors, and mortgage bankers who made it work. Of course, FHA should not be extended solely for their purposes, but by the same token, we should hardly be surprised if they become less eager to invest their time and resources in Government housing programs as a result of this experience.

Regardless of whether the expiration date is to be October 15, October 1, September 20, or some other date, it is imperative that Congress agree upon an FHA extension of some kind before the August recess.

GENERAL AVIATION VICTIMS OF MIDAIR COLLISIONS: HOW MUCH IS ENOUGH?

Mr. MOSS. Mr. President, last Friday we witnessed the latest tally in lives lost from midair collisions. Although it was not widely publicized, three persons lost their lives in a midair collision with a Boeing 727 10 miles west of Wiley Post Airport in Oklahoma City. They are only the latest additions to the tragic list of fatalities we shall witness in this decade—a list that will grow to nearly 1,000 based on past statistics from the NTSB. The victims were aboard a small Cessna aircraft typical of the aircraft flown by many of our private pilots in general aviation.

Mr. President, I am very troubled by the future prospects for our national aviation system and the place general aviation will retain. The midair collision hazard is just one case where general aviation suffers most—and suffers in large measure from the policies and actions of the Federal Aviation Administration.

Recent FAA cost allocation study recommendations would lead to an impossible burden of an estimated $200 million on general aviation, plus another $50 million in charges for FAA services. Just this month I joined with Senator DOMINICK and 18 other Senators in a letter to the chairman of the Subcommittee on Transportation. In this instance, we were concerned by FAA plans to close 30 flight service stations each year; the very stations that provide the bulk of assistance to general aviation pilots. And, finally, there is the FAA's persistent procrastination in seeking an airborne solution to the midair collision problem.

Eighteen Members have joined me in cosponsoring my Mid-Air Collision Avoidance Act, S. 1610. This bill would move the FAA to follow a program to require the airborne collision avoidance systems needed to protect the flying public. For a reasonable cost it would insure the full participation of general aviation in the Nation's airspace and terminal areas. Left to their own devices, the FAA would have us wait for a ground-based solution in the 1980's in spite of the facts that industry is ready, the technology is ready, and the number of lives lost continues to mount. Let me note that in the Oklahoma City collision, the Boeing 727 was being operated by the FAA.

In addition to calling for support for S. 1610, let me also take this opportunity to inform my colleagues of another effort to guarantee general aviation's future and the flying public's safety. At the urging of myself and other concerned Members of Congress, NASA recently established an Office of General Aviation Technology.

Mr. President, I ask unanimous consent to have printed in the RECORD an article from General Aviation News which describes the activities of this new NASA office.

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

[From General Aviation News, June 25, 1973]

NASA DIRECTING MORE EFFORTS TO GENERAL AVIATION AIRCRAFT

WASHINGTON, D.C.—The NASA programs in general aviation are directed at providing the technology for the design of future U.S. aircraft that are safer, more productive, and clearly superior to the rapidly growing foreign competition. The program draws on each of the aeronautical discipline areas within the Agency.

The stall/spin category of accident has been identified by the National Transportation Safety Board as the primary cause factor in 35 per cent of all general aviation fatalities. A comprehensive research effort was initiated in FY 1973 aimed at the elimination of the stall/spin as a significant factor in fatal accidents. Spin tunnel and free-flight radio-controlled models are being used to investigate a wide range of the vehicle characteristics, such as tail geometry, which are significant in stall/spin behavior. Once validated by full-scale flight test, these data will provide an aerodynamic design basis for aircraft with greatly improved stall/spin characteristics.

Flight studies of the use of aerodynamic spoilers on a light single engine aircraft during FY 1972 and 1973 have shown significant potential for easier and more precise landings. Another aircraft incorporates

modern highlift technology in addition to spoilers and will undergo detailed flight testing in FY 1974.

A new area of concentration is on the development of a series of general aviation airfoil shapes. Higher lift-to-drag ratios, more docile stall characteristics and lighter structural weight are possible with these advanced technology airfoils. Wind tunnel tests initiated in FY 1973 will be followed by a flight demonstration in FY 1974.

One of the elements of the NASA propulsion technology program is aimed at the reduction of general aviation's contribution to environmental pollution by concentrating on methods for reducing noise. Propellers and fans in acoustically treated ducts with rotary combustion engines as power sources exhibit high potential for meeting this objective. Modifications are being made to an existing aircraft for proof-of-concept testing. Wind tunnel evaluation will be conducted in FY 1974, with flight demonstration planned for FY 1975.

Jointly with the FAA, a comprehensive study is underway to develop realistic design techniques for crashworthy structures. To provide the necessary research data for this effort, a full-scale crash testing technique has been developed. The Apollo Program Lunar Landing Research Facility at NASA's Langley Research Center is used to support a pendulum that permits precise control of aircraft speed, impact angle, and attitude during a simulated crash. A manufacturer has made available 16 flood-damaged general aviation airframes for testing in this facility during FY 1974.

Piloting procedures in the relatively uncontrolled general aviation environment are a significant factor in safety. This is particularly true in the terminal area, where over half of all accidents occur, including 80 per cent of the mid-air collisions. To provide a realistic data base, the detailed analysis of traffic flow at airports without control towers will continue during FY 1974. This effort is being directed toward providing an analytical model of traffic flow dynamics around such airports and defining the impact of those dynamics on mid-air collisions. The results of these studies will provide a technical basis for the development of improved traffic patterns as well as in defining the criteria for future general aviation collision avoidance and pilot warning systems research.

The avionics program is directed at the development of low cost advanced avionics and flight control technology for general aviation aircraft. The objectives are to provide increased safety and efficiency in utilizing uncontrolled (VFR) airspace, and to make possible increased participation in controlled (IFR) airspace.

The analytical and experimental study of collision avoidance and pilot warning systems is the first of the three elements of this program. The second area is the investigation of techniques for functional integration of avionics required for ATC participation as a means of reducing the "cost of admission" to the present and planned controlled airspace.

The third area concentrates on the development of the technology that will permit economically practical incorporation of advanced control and display capabilities into the broad class of general avitaion aircraft. Previous NASA studies have demonstrated the advantages to be gained from advanced control systems technology in general aviation. In a joint effort with a university and a manufacturer, these results are being used to design and demonstrate an economically practical flight control system for a commuter airline class vehicle.

Special general aviation efforts in Aeronautical Life Sciences are being directed toward two areas. First, pilot training is predicted to become more complex, time consuming, and expensive in the future. The additional training and complexity will result from the increased number and types of aircraft operating in the National Airspace System, advanced computerized navigational aids, positive terminal control areas, wide ranges of airspeeds, and a multitude of aircraft operating modes. A definition of the general aviation pilot training and currency assurance system needed for the 1980's is being explored by NASA, in conjunction with the FAA, during FY 1973 and FY 1974. This system definition study will consider innovative concepts in both computer-aided instruction and simulation technology. The definition phase will culminate in a plan for the research necessary prior to system development.

In the second Life Sciences area, during FY 1971-1972, the NASA Flight Research Center completed a preliminary evaluation of a painted diamond on a runway for visual indication of glideslope. Results indicate that the diamond is an effective aid in establishing glideslope interception and control as well as providing a more readily available runway identification point during VFR conditions. Over half of all general aviation accidents, 2380 out of 4665 in 1968, occur during the approach and landing phase of flight. A more positive indication of the correct final approach angle could significantly reduce this total. In FY 1974 more detailed studies will be made by the NASA Flight Research Center and Ames Research Center, to develop runway and glideslope visual aids. Data developed will be coordinated with FAA requirements and made available to them for possible implementation as a standard marking for general aviation runways.

The programs described that are directed toward improving handling qualities and flight characteristics as well as the controls and displays for reduced pilot workload, all can have significant impact on the safety of general aviation through improved flightworthiness and less demanding pilot requirements. These and more general efforts such as wake turbulence, runway traction, and fire retardant material studies, will also enhance safety.

The economic benefits derived from the commercial use of general aviation aircraft, although diffuse, are believed to be both real and significant. The airplane has become an integral part of the Nation's business machinery with virtually all major corporations utilizing this form of "on-demand" transportation for both people and cargo. Special industrial operations such as fish spotting, automobile traffic surveillance, powerline patrol, and chemical dispersing can be accomplished most effectively through the use of general aviation aircraft. With this broad utilization of some 33,000 aircraft for business and industrial operations, improvements in their safety, efficiency, or productivity will provide benefits across a large segment of the Nation's economy.

Since 1965 the foreign sale of general aviation airframes alone has returned approximately ¾ of a billion dollars to this country. U.S.-manufactured general aviation products dominate the world markets at the present time. However, this advantage is disappearing in the face of a rapidly emerging foreign production capacity. For example, cumulative imports of turbine powered aircraft currently outnumber exports with a deficit in this area of over 200 aircraft and $200 million. The number of under 10,000 pound foreign aircraft currently imported is not large, 132 in 1972, but it is growing.

The general aviation effort within the NASA capitalizes on the technological developments generated for other facets of aviation. Concentration is being placed on efforts to reduce to economically viable levels those technology advances that can benefit general aviation. The use of general aviation equipment for much of the experimental work coupled with the use of existing facilities within the NASA research centers provides a high return of research data for the dollars invested.

ENVIRONMENTAL MANAGEMENT OF THE NATIONAL FORESTS

Mr. METCALF. Mr. President, I am pleased to cosponsor S. 2296, the National Forest Environmental Management Act of 1973. Introduced by Senator HUMPHREY, the most basic reason is that the future of our national forests can no longer be left to chance. There are a host of subsidiary problems, but this central issue is clear.

The concepts this bill would set for our national forest system will aid in:

First, the development of vital basic natural resources data on a continuing basis and its public dissemination.

Second, the development of national goals for all the resources and activities on the national forests; their public development via the machinery of executive formulations, presentation and recommendation to the Congress; public testimony and consideration in both Houses of Congress; enactment of a law expressing the goals and finally signing into law by the executive.

Third, the annual budget process that implements the established long term goals.

Fourth, the execution of these budgets to achieve these national goals.

This bill addresses these issues in a way that I think will sharpen the national focus for capitalizing on national forest potential.

There are some aspects of national forest management that have stirred wide and heated debate:

First. Favored use for a resource. It is widely believed that in the allocation of always scarce funds timber cutting always is given a priority over not only growing timber for the future but also all other resources and uses.

Second. Poor allocation of funding alternatives: A continuing dearth of road funds forces two kinds of options: First, make large sales in order to underwrite estimated road costs, and second, make widespread use of timber price reductions to secure needed permanent roads.

Third. Irregularity in capital and operating programs: Budget squeezes force considerable adjustment, particularly of programs with future substantial benefits and low direct Treasury potential revenue.

Fourth. Choice of timber harvest methods. There has been a wide debate over what is known as clearcutting, which included extensive hearings and a report by the Committee on Interior and Insular Affairs. There is little doubt that some of the large clearcuts go well beyond the norm needed to achieve a silviculturally sound timber sale. The very nature of a large "clearcut" makes it show up in stark contrast to an even larger volume of timber removed in what is generally called a "selection cut." When professional foresters are limited in their options, the results in either type of sale, but most particularly a "clear-

cut" sale, can be extremely unsatisfactory.

Logging is a most disruptive process. The very machinery used, even when good planning, careful supervision, and environmentally oriented execution occurs, can tear up the site.

I list these as examples of the kinds of issues we confront. Short-term approaches are confounding long-term requirements.

It is not my suggestion that every aspect of this bill is perfect in its detail. The central core of the bill expresses a concept that I find appealing.

Several of the bills' specifics attract me to it. These include:

Setting minimum goals for reforestation and stand improvement;

Stimulating real conservation of all of the multiple uses on a balanced base;

Requiring that timber sales carry the "seal of sound silviculture" and wise use of trees cut;

Gearing road programs so that total multiple use needs are met and vital timber access roads are secured via appropriated funds and timber sale value reductions in an orderly manner; and

Protecting county revenue sharing in assigning priorities to road construction methods.

We thus have the core issue of commitment to define goals and fund them and the additional steps needed to effect better programs for all resources but especially timber. Out of all this it is my hope will flow benefits that improve all of the multiple uses.

In my discussions with the junior Senator from Minnesota (Mr. HUMPHREY) he has stressed to me the strong hope he has that contending groups and ideas can come together with good will and amicably to help perfect this bill.

I am not the draftsman of this bill, so I hope that those who alined themselves around S. 1734, which was before the 92d Congress, will not jump to conclusions of any sort.

This bill is a new and fresh effort to meet the needs. I propose to approach the issues in this spirit and urge all others to do so also.

There is little doubt that we face a continuing population growth. We face a mounting demand upon all natural resources. Our softwood forest resources are in particularly high demand and their rate of drain versus growth is not favorable, especially on a saw timber basis. Forest management as practiced by professional U.S. foresters is definitely predicated for most species and situations on cutting cycles of a century or less as compared to natural life cycles of two to five centuries. Concepts of financial maturity as expressed by quantity grown over the shorter period are the rule rather than higher quality secured over the longer period. In other words intensive forest management can produce two, three or even four crops over the two or three centuries a normal tree life cycle would take. The sacrifice in quality is more than offset by the greater wood secured.

To meet future wood needs will require just this sort of management. The desultory and indifferent practices on much private forest land requires an extra effort on large public and private forests of high capacity. Currently we are growing about half the softwood we could grow each year.

The fact that the national forests have half of the Nation's softwood timber reserves should not confuse us as to the realities. These lands have half the timber because other forests have been cut so heavily in the past and have not recovered. Looked at over the long pull the national forests will be fortunate indeed if they can produce a quantity of timber equal to their pro rata acreage if there were no multiple use constraints that acted to limit harvest levels due to a relatively lower site capability. Also much of their high mountain commercial forest has key watershed values that is a constraint on timber cutting. Other use requirements will act as a further restraint. Thus it becomes all the more important that intensive multiple use forestry be applied to these public forests.

However, the almost 1 trillion board feet of timber in the national forests is an attractive crop which engenders all sorts of schemes to cut it faster. If we are to hold fast to the sustained yield concept, the only way we can cut this timber faster is to take the steps first that grow national forest timber faster and better.

These things need to be said and said clearly in order that there will be a complete understanding of my basic interest in the bill.

I hope, therefore, we can go forward together with our concern for the future matched by a dedication that it will be a bright one.

It is my intention to supply the Committee on Agriculture and Forestry a list of people in Montana whose views should be solicited in order that we will get the widest public consideration of this proposal by people in the State of Montana.

ARTHUR F. SAMPSON, ADMINISTRATOR, GSA

Mr. GRAVEL. Mr. President, the July 1973 issue of the Government Executive carried an article by Mr. Samuel Stafford about a very unique public official who daily faces and solves very unique governmental problems. I am speaking about the Honorable Arthur F. Sampson, Administrator of the General Services Administration.

The General Services Administration was established under the Truman administration through the Federal Property and Administrative Services Act of 1949. The job that the GSA has done in these 24 years is short of phenomenal. We have come to look upon the GSA as the "Government's housekeeper" performing a multitude of duties ranging from purchasing pencils to building office buildings.

As a Senator, my staff and I have daily need for contacting most of our governmental departments and agencies and usually know just how quickly information will be forthcoming. Certainly no governmental organization matches the competence and timeliness of responses from the General Services Administration. The attitude of employees is usually reflected by the head of an organization, and in the case of the GSA it has been a great pleasure to my staff and me to work with the Administrator and his very fine staff.

Mr. President, so that my colleagues may know more about this dedicated public servant, I ask unanimous consent to have Mr. Stafford's excellent article printed in the RECORD.

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

GSA: WHAT'S NEW IS REALLY NEW IN FEDERAL BUILDINGS

(By Samuel Stafford)

HIGHLIGHTS

1—The General Services Administration, long considered a mere watchdog over Federal equipment and facilities, has assumed a new and important policymaking role with far-reaching implications.

2—The agency has launched programs aimed at fostering improved relations with communities in which its facilities are located.

3—Environmental, socio-economic, energy conservation and other considerations, which formerly were given short shrift by the GSA now are an important part of GSA's site location and building renovation efforts.

4—Main aim of Art Sampson, head of GSA, is to create a cost-beneficial Federal physical plant in which workers can produce. One problem confronting Sampson: How to make the best tradeoff between socio-environmental considerations and other factors such as marketplace economics and worker output?

The location of Federal buildings in cities across the country, of course, has long been a prime example of pork barrel politics.

Decisions as to total cost, architecture, siting and other building factors for years have been made by local and national politicians playing footsie with favored downtown builders and land owners.

It has been a case of bad decision making, producing abominable results. Best example: U.S. Post Office buildings which have been poorly located in the cities they are supposed to serve and which often are either too large and lavishly equipped for the number of patrons they serve or are inadequate to handle the traffic efficiently.

Likewise, large Federal regional headquarters buildings often have been mislocated in cities from a standpoint of serving the public. A qualifier should be added: Highways, bridges, parking facilities and other forms of urban construction *also* have been mislocated, as hindsight has shown; but with Federal buildings, there seems less excuse for ignoring long-range planning considerations.

The Federal facilities traditionally have been located in a way that has given more weight to site acquisition, development costs and the desires of Federal agencies to build in certain locations than to the plans and needs of local areas.

Effect of such short-sighted policies has been dismal.

POLLUTION HAZARDS

A 1972 General Services Administration report on proceedings of an environmental conference on building construction notes that "the Federal Government has long provided a major stimulus for urban planning through its program requirements and financial incentives . . . these activities have created and furthered the planning process at other levels of government . . ."

However, the report continued that the Federal Government's exclusion of urban planning considerations in site selection has

produced unhappy effects "which have become increasingly visible with site selections reinforcing urban sprawl, contributing to abandonment of old employment centers, supporting economic and social segregation and conflicting with local development objectives as expressed in comprehensive plans."

That conference, as noted, was in 1972. It signaled a new interest in socio-environmental aspects of Government construction by the GSA, the builder, owner and manager of all Federal facilities in the United States.

The impact of GSA policy decisions on both public and private construction throughout the country can not be overestimated. The GSA annually buys more than $2 billion worth of materials and is responsible for more than 10,000 Federal-owned or leased buildings, Every day across the country, some 1,500 Federal construction projects are in various stages of completion.

The decisions that are—or are not made—obviously have considerable effect on what in the broadest sense is labeled the urban "environment."

If a wrong site is chosen, the public users of the Government services suffer. If a poor site is chosen, a city's traffic and parking problems may be aggravated. The kind of paint selected for Federal offices may present a pollution hazard. The same is true of the type of fuel bought to heat a Federal building. Solid waste disposal is a growing problem.

During the past year, the debate over the "energy crisis" has heated up. The GSA now is exploring ways to conserve energy in its Federal buildings.

The entire scope of Federal architecture is under intensive investigation. Critics have long been critical of bureaucratic architecture, which they have felt was a mish-mash of uninspiring marble, concrete, glass and Greek columns.

The Nixon Administration recently convened a high-level Design Assembly attended by designers, architects and Federal administrators, with an eye to improving building design. There is some feeling among those familiar with Federal construction that the Nixon task force will concentrate too heavily on architectural esthetics and the preservation of historic landmarks, which, while important facets of the problem, do not deal with socio-environmental-energy conservation aspects of building.

The man in the middle of this relatively new movement to improve siting and design of Federal buildings is Arthur F. Sampson, administrator of the GSA.

Sampson, who came to GSA in 1969, played a key role in reforming management and budget operations of the state of Pennsylvania. He favors the word "excellence" in conversation. His reputation both in Pennsylvania and with the Federal Government has been that of an activist, a positive thinker, a doer, a man who brushes away obstacles in the way of getting things done.

Architects generally have been pleased about initiatives begun by Sampson and his predecessor, R. L. Kunzig.

Among other things, Sampson reduced a three-foot-high stack of regulations for public building architecture to a brief pamphlet. And Sampson also started an awards program to recognize superior designs. Awards have been given to the U.S. Tax Court design in Washington and a Federal correctional facility and parking facility in Chicago, among other projects.

The GSA under Sampson also has started to turn over landmark buildings the Federal Government doesn't need to local governments and has explored the possibility of including shops, restaurants, and other community facilities in U.S. office buildings.

Sampson, a Republican, has some reservations about the Administration task force's apparent tilt toward the choosing of designs by a blue-ribbon panel of architectural judges; to Sampson, final judgment should rest with the GSA, working with involved agencies as to their needs.

The GSA during the past six years has steadily gained policymaking influence in the Federal Establishment in agency management of Government procurement, paperwork handling and data processing and communications.

The trends, to Sampson, have been "exciting." Among the substantive directional changes in Federal design and construction procedures:

The Public Buildings Amendments of 1972 gave GSA the authority for three years to have Federal buildings financed and built under a purchase contract method that looks to the private sector for capital, and the Act also created a Federal Buildings Fund into which all agencies pay a rental or user fee based on the space they occupy and the local market rate for comparable office space, said fund to be used for new construction, operation, maintenance, repair and protection;

"Value Engineering" has become a fact of life in contracting. Sampson describes it as "a methodology of having people take the time to create, record, evaluate and implement cost-saving ideas without reducing levels of quality . . . a proven technique that I received training in with industry when I was with the General Electric Corp. (early in his career), introduced in the state government in Pennsylvania and later brought with me when I came to GSA. It's a proven technique and one that can save a lot of Federal dollars."

EXECUTIVE ORDER

Life-cycle costing in which the emphasis is shifted from a traditional focus on initial costs to long-term costs of facilities and equipment. Says Sampson: "We're saying that sometimes you may have to pay a little more for the acquisition of a piece of equipment but over the life-span of that equipment it may cost less for maintenance and replacement than it might cost if you saved money initially and bought cheaper equipment.

"Too often, we have put marginal equipment into buildings and the Government purchasers have never seen the individual parts of the equipment because it has come to us as a mechanical or electrical or structural system so nobody has had a chance to look at that little motor or that little fan or that insignificant piece of piping.

"Now, we're looking at these things and saying to the architect, 'You must put down two or three alternatives and compare those alternatives on a life-cycle cost basis and not on an initial acquisition cost basis.'

"For example, you may have a motor that's 30% efficient and you have to run it three times as long as you should to give you some heat or air conditioning. Well, let's get an efficient motor in it. You'll never get 100% efficiency but you can try for at least 85% efficiency."

Two of GSA's major thrusts these days are in the area of socio-environmental building considerations and energy conservation.

An environmental office has been set up in the Federal Buildings Service. And a new Federal building in Saginaw, Mich., will incorporate the latest advances in environmental technology. The considerable clout of GSA's purchasing power also is being brought to bear on the private sector in the application of effective waste disposal technologies, the purchase of biodegradable and recycled materials and other activities.

These trends were the direct result of the issuance of Executive Order 11512 by President Nixon on February 27, 1970. The order directed the GSA to amend its established procedures to give recognition to socio-economic and environmental considerations in agency site selection and applied to the planning, site acquisition, construction and management of Federal properties.

Formerly, the GSA had operated under Executive Order 11035, which focused more on an agency's mission than on the effect of construction of a certain type in a given area.

FEDERAL-LOCAL COOPERATION

To GSA officials, the location of an Internal Revenue Service automated data processing center in Fresno, Calif. is a good example of what can be done under Executive Order 11512.

The IRS had been looking for a site since 1968, but the project had been in limbo because of local conflicts. Local minority groups had seen racial implications in the removal of their area from site consideration.

After the executive order was issued, a team of local city employees began evaluating each site as to its physical, social and economic impact. They were aided by GSA specialists and private consultants.

The final location of the ADP center in east Fresno near the city's Mexican-American community was a compromise hammered out by the conflicting forces—minority groups. Federal officialdom, city government and downtown businessmen.

The GSA believes that the IRS site chosen under the new procedures is proof that Federal-local cooperation in site selection is not only possible, but also is beneficial to all involved parties.

Among other benefits of siting the IRS center in east Fresno: racial tensions in the city appear to have been reduced; land values in the area have been enhanced; more than 1,500 jobs have been opened up in a largely minority group area; and shopping facilities, bus service, roads and traffic control in the vicinity of the center have improved.

The GSA has stepped up its program of monitoring Federal buildings for pollution emissions and has included new pollution control equipment in its repair and improvement budget.

Last Fall, the GSA began designing a building in Manchester, N.H., which will incorporate new concepts and techniques in energy conservation.

Sampson believes that the Nation faces a severe "energy problem" but that the much-discussed "energy crisis" has not arrived yet. He also thinks that environmentalists are going to have to tailor their demands to the realities of life "if this country is to survive."

CRISIS SYNDROME

"We have an abundance of energy sources," he said, "but we just haven't been able to tap them. I firmly believe that we're going to have to have a trans-Alaskan oil pipeline, all those nuclear power plants, and supertankers.

"There is admittedly a crisis syndrome in many areas of energy involvement. But I do not think we have reached the crisis stage in the building construction field. The onus should not be put on the construction industry.

"Nobody has shown me the extent to which office buildings contribute to the energy problem. Those statistics simply are not available and there's no reason why we should add millions of dollars to building costs to achieve drastically reduced energy levels when buildings represent less than 40% of the country's energy consumption.

A DEGREE OF MODERATION

"There are those who want to turn buildings upside down or make them round or oblong to achieve certain environmental or energy conservation ends. They want to make the buildings so odd that the lifestyles of the people working in them would be drastically altered. But the people are not animals who can be manipulated this way.

"What I'm saying basically is that we have to approach this whole problem with a degree of moderation. We don't want to go overboard.

"We have found that we can save between 30 and 50% of our energy needs by some very simple design techniques within the current state of the art.

"In the past, nobody paid much attention to the way you faced a building in relationship to the sun and prevailing wind directions. We are now doing so. We are taking these factors into consideration in our site selections.

"There are techniques that can be used now for taking heat from the outside and storing it on the inside. You can save a great deal of energy through the storage of heat and cool air. You can recycle water. We don't have to be esoteric about it. The time may come when solar energy systems are feasible but that time hasn't come yet."

IMPATIENCE WITH INACTION

Meanwhile, as data is being amassed in the Manchester, N.H., experiment, the GSA has issued ukases to its regional supervisors to curb energy consumption through a variety of simple administrative edicts, such as (going back to Lyndon Johnson) turning off lights when offices are not in use, using timers to turn on and off air conditioners and other equipment, installing photo cells to control outside lighting, and using solar screens to reduce the heat gain from outside.

Sampson has brought his own quite individual style of management to GSA. It has both bemused and fascinated his subordinates. Sampson habitually plays a fast set of tennis before coming to work. After arriving in his office, he changes from business suit to sport shirt and slacks, his usual working attire for the day. If he has to attend a high-level meeting or deal with important personages, he changes back into suit and tie. Otherwise, he is the most casually dressed agency head in Washington.

He fields phone calls like a sunbather brushing off flies. There is a problem with such and such, a caller explains. Never mind the problem, Sampson says, what is being done about it? Not much, the caller conveys. Well, take care of it, Sampson says, get off the dime and do something about it.

"The boss," said one Sampson aide, "wants results and he gets impatient when somebody tells him something can't be done."

This impatience with inaction, which some of Sampson's aides in the Pennsylvania government were familiar with, has filtered down through the ranks in GSA. Result: A bureaucracy that was mainly a sleepy caretaker of the Federal Government's physical properties 15 years ago is beginning to wake up.

For one thing, Federal buildings these days are being designed to meet needs of both the involved U.S. agencies and the local communities more than formerly was the case.

In the past, a Federal construction project took so long getting off the drawing boards that the finished facility often wound up poorly designed for the purposes for which it was intended. Sampson, Kunzig and their predecessors have worked diligently to cut the time lag.

"Historically," Sampson said, "we have been able to make a pretty accurate assessment of what we needed in a building. We could say that a certain building should be designed to house 2,000 employees whose mission was such and such.

"The trouble was that in the past our system for getting a building authorized, acquiring the site, getting it cleared, and getting the building designed and constructed was unwieldy. It often took from 5 to 10 years.

FEDERAL BUILDING FUND

"So the estimate you started with of 2,000 people doing certain things didn't make much sense 10 years later.

"We're more scientific about our estimating now. And our contracting procedures have been improved dramatically. We've reduced the cycle from 5 or 10 years to a two-year building time frame.

"What this means is that if we estimate that a building is supposed to go up for 2,000 people two years hence, the building is there within two years.

"One of the main changes has been the Federal building fund concept. We do not have to depend upon the appropriation process as much as before. We will have a pretty fixed amount of money each year coming in that will be used for the replacement of buildings.

"Now if you've got the funding, you can plan the building and get it constructed within the two-year time frame so the estimates will meet the needs pretty well."

He said, "We have also done a lot to make the interiors of our buildings more compatible with the needs of people working there. We've tried to eliminate the 'long gray line' of desks and arrange office space better and use more color.

"It is no secret that people produce more when they work in pleasant surroundings. And I'm not talking about just units of output—turning out 10 units instead of three. What I'm talking about is fashioning an environment in which people can think and be creative and have a positive attitude towards their work.

"So we are paying attention to the exteriors—to the landscaping, the parking and traffic situations, as well as to the interiors—the acoustics, the color schemes, the removal of partitions and so on.

"When administrations change, the thrust of Federal programs naturally undergoes severe changes. We, as the caretakers of the physical working facilities, have to be flexible. Some offices are wiped out and new offices are established.

"We now favor the idea of having offices with no partitions. If you want to change an office's function, you just shift a few movable pieces around. This is not only plain common sense, it is also economical."

"IT HAS TO HAPPEN"

Sampson talks a lot about "tradeoffs."

"Environmental and conservation considerations sometimes are opposing poles of an issue. We have been stressing fire safety and energy conservation. When you talk about fire safety you are talking about security. But putting in fire safety facilities may be contrary to such considerations as esthetics of a building's interior and the best design from a people point of view. We are trying to balance all these conflicting factors. Our experimental building program is an important part of this. But frankly, we do not yet know what our priorities should be."

Sampson has firm ideas about how the bureaucracy should be moved in order to make things happen.

"First of all," he said, "you've got to have a management team that is oriented to the idea of change.

"I spent a great deal of time recruiting and promoting the right kind of people—those who have open minds. And I constantly stress creativity.

"Once you get people oriented to the notion of change and innovation, the desired changes occur. You can not order change or innovation; it has to happen. And it happens because the climate is right for it to happen.

"Now when you innovate, that doesn't make you a genius. There have always been a lot of good ideas around. The problem has been in finding out what they are and learning how to use them.

"Almost all the innovations we've made in construction have been around for years but they weren't being used by the Public Buildings Service. But they're being used today.

"It is human to resist change. But if you are going to get something done you have to organize. You have to convince your top management people that changes are necessary and possible."

Sampson said, "People are not hard to motivate. If you can convince them that what they are doing is *really* rewarding, they will work for you. People *do* have brains and strengths and they want to earn their pay. I think it all comes down to whether the top man can get the employees excited about what they are doing."

He is "very strong" for the Federal Civil Service system. Having said this, he adds, "I have found the bureaucracy at the Federal level far less flexible and much heavier than it is at the state level.

"The Civil Service system, to be frank about it, rewards mediocrity. It is pretty much a lock-in system. And this means that no manager who comes in is going to be able to change the direction of ongoing programs easily.

"The really crucial area is middle management—the people at the GS–11, 12, and 13 levels. And you've got to work at getting things done day in and day out.

"You can send down orders or suggestions about things that should be changed and when they come back to you, you find nothing's been changed.

"There are two things working here. One is that you have an institutionalized system that is resistant to change. And the other is that many Federal employees simply are not convinced that anybody at the top cares about what they are doing.

TO CONTRACT SUPERGRADES

"I'm very strongly in favor of the proposal that has come up now and then to put supergrades under contract. The Federal Government has always attracted good people. Most of them didn't stay. Why? Because the Government is woefully short of good managers, good leaders."

Sampson is not a modest man, although he tries very hard to be. Some Sampson-watchers dating back to his industry days and his Pennsylvania-government-reform period believe that he is every bit as good as he thinks he is. In every job he has ever held, they point out, Sampson moved the dolts off the dime and got things done.

His voice rises as he talks about managers who don't want to manage and supervisors who don't want to supervise.

"We have expanded five times the amount of training we give front-line supervisors since I came to GSA," he said.

"I don't say that this is any big deal and I don't want to seem critical of Federal administrators in the past. But it seems obvious to me that much of the problem of getting the bureaucracy moving involves the kind of supervisors you have.

"For years, we have appointed people to supervise 10 or 20 people who don't know a thing about supervising. And they spend their time shuffling papers, blowing smoke and satisfying the whims of their superiors, never mind the primary missions of the agency.

"I thing a lot of the supervisors in Federal agencies have long since given up. They don't think much is going to get done and they are just putting in their time without rocking the boat.

"Well, if some administrators want to just put in a period as overseers of a going concern that is fine. I don't. I want my supervisors to work with their subordinates and motivate them and I want things to happen.

"If I didn't I'd be somewhere else."

THE GROWING IMPACT OF GSA

The General Services Administration increasingly has been given a larger role in policy decisions affecting management of Federal agency operations.

That this is so is due to the confluence of several quite unrelated events and circumstances.

First, Richard Nixon came to office determined to get a firm handle on operations of the Federal bureaucracy. And he quickly beefed up the power of the Office of Management and Budget.

Secondly, the GSA, as an agency that deals with the entire Federal establishment, had fairly early in the game developed what has since come to be known as the "systems approach" in its procurement, property management and data processing and communications responsibilities.

And third, the GSA in recent years has had a series of "activist" leaders who have been willing to assume more management responsibility.

On May 22, President Nixon announced that GSA was going to "assume a broader management role by becoming the President's principle instrument for developing better systems for providing administrative support to all Executive branch activities."

Stripped of bureaucratic doubletalk, the statement essentially said that GSA, which has built up an impressive management capability over the years, was going to get the official authority and responsibility to do what it was doing all along.

The GSA previous to the new order had one serious deficiency in its new role. It was weaker in financial management than in other capabilities. The OMB, however, has promised considerable support in this area. Dwight Ink, assistant director of OMB and a highly respected management and budget official, has been designated deputy director of GSA.

"The OMB," said one GSA official, "has sprinkled its own people throughout the Federal establishment. Sometimes they have been very helpful. Sometimes they have irritated the agency people. But I think this action is a recognition that OMB is so preoccupied with the budget that they can't do everything they should do on the management side.

"We have been in these agencies all along listening to their problems and we feel very close to the issues that concern these agencies."

"I think," said Art Sampson, head of GSA, "this will be very exciting for GSA and will increase the stature of the agency immeasurably."

The PRESIDING OFFICER. Is there further morning business?

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

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

Mr. ROBERT C. BYRD. Mr. President, how much time remains under the order for the distinguished Senator from Minnesota (Mr. HUMPHREY)?

The PRESIDING OFFICER. Twelve minutes.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum, and I ask that the time be charged against my time under the order.

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

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

Mr. ROBERT C. BYRD. Mr. President, how much time do I have remaining under the order?

The PRESIDING OFFICER. The Senator has 11 minutes.

Mr. ROBERT C. BYRD. How much time does the distinguished Senator from Minnesota have remaining?

The PRESIDING OFFICER. Twelve minutes.

Mr. ROBERT C. BYRD. I ask unanimous consent that I may yield all my remaining time to the distinguished Senator from Minnesota.

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

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

ORDER OF BUSINESS

The PRESIDING OFFICER (Mr. TUNNEY). The Senator from Minnesota (Mr. HUMPHREY) is to be recognized for 12 minutes on his own time and 11 minutes on the time of the Senator from West Virginia.

Mr. HUMPHREY. Mr. President, first may I express my thanks again to the majority whip for his generous consideration and cooperation.

FOOD—INFLATION AND FOREIGN POLICY

Mr. HUMPHREY. Mr. President, it is often said that we Americans seem to learn our lessons out of hardship, difficulty, and tragedy. For years we have taken for granted our abundance of food and fiber. For many years the media—the columnist, the politician—have been complaining about agricultural surpluses and the cost of subsidy payments to our farmers. For as long as I can remember during my years of service in Congress very little attention has been paid by the economists or the commentators or the editorial writers, or the industrialists or the financiers to the importance of our agriculture exports. In other words, the American farmer and the American agricultural economy have been taken for granted, often ignored, generally misunderstood, and frequently abused.

Likewise the abundance of food in our own country has been taken for granted. The low price of that food has been taken for granted for years. At long last, due to the incredible demand for food and fiber, both internationally and domestically, resulting in part from 2 years of bad weather which seriously affected production of feed grains, the vital importance of agricultural production and the role of the farm producer has come into sharp focus and proper respect.

Mr. President, I can recall how little understanding there was in the press of this country, particularly here on the eastern seaboard, of the problems that beset our rural people and particularly our family farmers. I can recall so vividly the editorials and the political harangue that took place for years about the mounting surpluses of feed grains, wheat, and dairy products. It was always my judgment that there was no surplus, but rather underutilization; and one of the things that happened of late which has put great pressure on our supply of foodstuffs is that more people are getting a good diet today than ever before.

The Federal Government is spending literally billions of dollars in what we call food supplements. By that I mean making available food stamps for the needy, making available an ever better and expanding school lunch program for our school children, supplemental feeding for mothers and children and special type feeding programs for the elderly. Many of these groups and individuals served by these programs had a very inadequate diet in years gone by. But with the Federal Government's nutrition programs and feeding programs combined with those of private philanthropy and State and local government there has been a great expansion of what I call good nutrition for the American people. This has placed a tremendous demand upon our supply of foodstuffs.

So, Mr. President, if we add up the following factors: First, population growth at home and abroad; second, better and wider utilization of available food supplies, particularly at home; third, the growing prosperity and affluence in Western countries and Japan, which has meant wider and more intensive use of protein products, one begins to understand the reason for the pressure on the food supply.

Then, as I have indicated in my remarks, add to this the 2 years of bad weather which seriously affected the production of feed grains in many areas of the world, and notably last year in the Soviet Union, in Australia, and in Argentina, and all of this adds up to an observation, that I think is generally understood now, that Mr. Farmer has become important and the American agricultural production system has become the subject of growing concern and attention.

We are now beginning to realize that national security is more than military hardware and military manpower. Yet I was amazed yesterday to find in the analysis of national priorities in the budgets for 1972, 1973, and fiscal year 1974, as prepared by the Brookings Institution, the most respected and eminent governmental research establishment in this country, that those documents had little or no reference to food supply. How can we talk about national priorities without being concerned about the availability of food, its production, its transportation, its distribution, and its utilization? Yet I think the fact that this prestigious research institute, having ignored in its No. 1 publication entitled "National Priorities, Budget 1974," the whole area of agriculture, indicates the lack of thinking that has precipitated part of the problem today in terms of food and fiber supply.

I repeat once again that many of our highly educated people in prominent positions in government, industry, and education are unaware of the importance of

the producers of food and fiber. The Government has lacked any coherent policy; it has made no long-range plans; it has lived as a Government by what we call ad hoc or day-by-day reactions rather than plan and act in accordance with our Nation's and the world's long-term needs.

This Congress will spend many hours and days debating national security. We will be arguing over weapons systems. We will have long and protracted debates over troop levels. Yet may I say all this military is worthless if this country finds itself lacking in food and fiber.

One of the great generals of all times, Napoleon Bonaparte, said that an army travels on its stomach. Apparently the Government of the United States thinks it travels only in vehicles; that you do not need food. We have no food reserves, yet we have reserves of nuclear weapons to blow this earth into a million pieces; we have no food reserves, yet we have military reserves of manpower; we have no food reserves, yet we have reserves of tin, lead, zinc, aluminum, and chromium. We have no food reserves, yet we have reserves of ammunition to fight three wars. And we talk about national security.

A government that does not have any more judgment than to say you have national security simply because you have weapons, is a government unworthy of the confidence and respect of the American people. So national security boils down to more than military manpower and military hardware. It is an adequate supply of food and fiber. We are beginning to realize that there is no hope for international monetary reform and stability in a world plagued by shortages of food and fiber. No matter how much bankers tinker with money matters, if you have a shortage of food and fiber, you cannot possibly have international monetary stability.

We are beginning to understand that there is no way to check the forces of inflation as long as there is a shortage of food and fiber. No matter what kind of controls are put on, they do not produce beef, as the American housewife is finding out. No matter what kind of controls are put on, they do not produce soybeans, which in turn produce turkey, pork, beef, and dairy products. All of these economic gimmicks are meaningless and useless unless we have the production of food and fiber we need.

We are beginning to understand that there is no way that the United States can overcome its deficits in balance of payments as long as we have to curb our exports of food and fiber.

Those exports earn us dollars, and when we have to stop those exports, we stop the flow of dollars back to the United States.

We are beginning to understand that there is no way that we can obtain a favorable balance of trade as long as we are unable to fulfill the contracts which we have made with nations which wish to purchase our agricultural commodities. And today the United States is again in a deficit on its trade, importing more than it is exporting.

In other words, Mr. Farmer—that man out in the field, and the land that he tills and the crop that he harvests—has become the central figure in all our domestic and international concerns. The success of our diplomacy, the hope of building enduring relationships of trade and commerce, is being threatened, because of mandatory export controls. Our years of effort to modify or break down the severe restrictions of the common agricultural policy of the Common Market have been shattered. Many of our old customers, such as Japan and Western European countries, are looking for new sources of supply and beginning to feel that the United States is no longer a reliable source of supply. At home there are bitter complaints over rising food prices. And yet with all of this plainly evident, there seems to be no policy to deal with the immediate food shortages and the long-range requirements to satisfy both domestic and international needs.

We are plagued with a hangover from the past that carries with it the fear of surpluses. Our Department of Agriculture has never geared itself to the export markets.

By the way, the distinguished Prime Minister of Japan met with Members of the House and the Senate yesterday, and in his conversation with us he pointed out how much Japan would like to purchase from the United States. He said there is an ever-expanding market there; then he went on to say that American businessmen have to study that Japanese market, they have to tailor their goods to the habits and the cultural patterns and desires of Japanese customers.

What I am saying is that the American Government talks exports, but fails to do enough about it. What I am saying is that the Government over the years has been so concerned about surpluses and giving our commodities away that it has never really planned on how we can sell those products on a continuing basis, not on a crash basis such as we did with the Soviet Union, but on a sensible, long-term program of exports.

Over 40 years of experience and attitude has been conditioned and predicated on unlimited supplies. Our Government is bothered, bewitched, and bewildered by new events, new economic forces that as yet it does not seem to understand.

There are certain facts that are clear and unmistakable. First, world population is increasing faster than world food production, despite the green revolution and despite the greater utilization of modern science and technology in agricultural production.

Second, the growing affluence of a greater number of people in Western and Eastern Europe, in Japan and other areas has placed a high demand on animal protein and thereby causing greater consumption of cereal grains for the production of beef, pork, and poultry.

Third, the transportation system both domestic and international, including systems of distribution, are totally inadequate for the increased movement of food and supplies necessary for agricultural production.

Let me digress for a moment to make a prediction, Mr. President. I see my good friend the Senator from North Dakota (Mr. YOUNG) here, the champion of American agriculture. I predict that while the Senate and the Congress are out of session this August, there will be newspaper stories telling the American people that grain is being harvested and is lying on the ground, that the elevators are packed, that boxcars are in short supply, that transportation facilities are jampacked and glutted. We are going to have a good crop in this country, and we are not going to be able to move it.

More than a month and a half ago I wrote to the Secretary of Agriculture asking what plans this Government had, what emergency steps it could take, to make sure this crop moved into channels of commerce. I would like to point out that now, with 40 million or more acres planted to grains this year over last year, we are going to be in an unbelievable mess. We are not going to be able to move our crop, because we have no more boxcars this year than last year.

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

Mr. HUMPHREY. I yield.

Mr. YOUNG. My esteemed colleague is quite right. North Dakota is now about to harvest average crop, but we have at least 1 year's supply in storage that the farmers cannot sell, because of a shortage of boxcars. The local elevator, the fellow who buys the grain, will not even quote a price, because he cannot move it and has no place to store it.

Mr. HUMPHREY. Mr. President, this is as practical an example as a Senator can give. The Senator from North Dakota knows what the people of his State are up against. I think I know the State I represent. The fact is that we will read about the crop this country is going to have, how much supply we are going to have, and how rich the farmers are going to get. Many of the farmers cannot sell their crop because they cannot move it. Many times they cannot get a loan, because the terminal centers are not making loans to the country elevators.

In addition, in our part of the country, farmers are afflicted with a shortage of fuel, so they cannot harvest their crop and sell it. I do not want to be a prophet of gloom and doom, but may I say I have not been wrong on this. I have been saying what I am saying here today year after year. I am trying to tell the people in the great urban centers of America that you have neglected American agriculture and now you are paying for it. The housewives in New York, Boston, Philadelphia, Detroit, and Washington, D.C., could be having food prices at 10 to 20 percent less if we were able to move the crop, but we do not have a railroad system that is capable of moving it. We do not have a trucking system that is capable of moving it. We have inadequate supplies of fuel, and our Government is dilly-dallying around with respect to putting into effect a mandatory system of fuel distribution. We are going to have to have fuel for American agri-

culture, or, I wish to tell the people in the galleries, that food prices will go right through the roof of the Capitol. Listen well to what I say. Not only are we going to fail in supplying our foreign customers with the supplies we promised them, but the American consumers are not going to have the supplies they will need. Why? Because the Government has a kind of political paralysis—just unable to move, or just unwilling to move.

Fourth, I want to suggest there has been no systematic plan to develop adequate food reserves, domestically worldwide, needed to meet the uncertainties of weather, production, and market conditions.

We need a food reserve in this country. We need a food reserve internationally.

Finally, the system of monitoring, estimating, and reporting food supply on a worldwide basis is totally inadequate and obsolete for modern marketing needs.

In light of the food situation today, we ought to have every week the most up-to-date reporting on food supplies, crop production, movement of crops, utilization, where the shortages are appearing. Our system today is out of date. No modern business would be caught with such obsolescence.

Finally, these evident observations carry with them their own answers. First, there must be an emphasis upon the increased production of food and fiber in the less developed countries. That is what our foreign aid bill will do when we come up with it here. The first emphasis in the foreign aid bill should be not in building new cement plants or steel plants, or ports, but to build a system of modern agriculture in those countries to take care of their growing population.

This must be the emphasis of our bilateral foreign aid and of international multinational foreign assistance.

Second, there must be continued efforts in research and technical assistance to increase the production and availability of protein, any and all forms.

Third, transportation systems for the delivery and distribution of agricultural supplies must have high priority here at home and abroad.

I know that it is important to have four-lane interstate highways so that we can tear across this country. However, I want to tell the Senate that unless we have decent farm-to-market roads, what we will be tearing across the country for, is to find a place to eat.

Farm-to-market roads are totally out of date in almost every State in the country. We build bigger and bigger trucks year after year, yet many of those roads have big signs on them saying that they are unusable for trucks above 4 or 6 tons. And today a 6-ton truck to move grain is as obsolete as a wheelbarrow in the 1800's.

Fourth, international agreements must be arrived at to make available crop reports—estimates and predictions of production and utilization—to all countries and hopefully through some form of international organization such as the FAO of the United Nations.

And finally, we must develop a world food reserve in which each of the exporting nations—nations with potential surplus production capacity—maintain a reserve supply over and above the immediate current domestic and international requirements.

In reference to the strategic reserve of feed grains, I have recommended and proposed what is known as a consumer and marketing reserve, S. 2005, on June 15. This program would call upon the U.S. Department of Agriculture in cooperation with our family farmers and the private grain trade to maintain at all times a reserve supply of wheat, corn, and soybeans at specified amounts. This reserve would be available in times of shortage and to be used to meet domestic needs and international export commitments. It would be used to maintain a stable price structure for the consumer and to assure reliability of delivery on our export commitments. The reserve would be acquired during times of market surplus and when farm prices were below target levels, thereby assuring the farm producer that he would not be the victim of a depressed market, but rather would have a system by which the Government through the Commodity Credit Corporation would purchase supplies and seal them off from the regular normal market as a part of the strategic reserve.

Insofar as exports are concerned and the possibility of export controls, we simply cannot pursue a course of imposing those controls without proper advance consultation with other nations and in particular those who depend upon us for supply. Every effort should be made to arrive at voluntary agreements through the process of patient negotiation rather than the imposition of mandatory controls. But more significantly, with the prospect of continued pressure on supply which automatically forces up price and causes severe economic and political problems both at home and abroad, it is imperative that we enter into some form of international agreements or understandings that will face up to the need of sharing the supply without the extreme measures of sudden and unexpected mandatory controls.

The Subcommittee on Foreign Agricultural Policy of the Senate Committee on Agriculture and Forestry has recently published a report on the impact of the recent export control proposals. This report deals directly with the critical problem of food shortages and their effects upon world markets and world trade. Its recommendations get to the heart of the long-term needs of foreign agricultural policy.

The Washington Post of Tuesday, July 31, has an excellent editorial entitled "Soybean Power." This editorial poses the "painful choice" that we must make when agricultural commodities are in short supply. I read from it:

> We now have an extremely painful choice to make. Either we must be prepared for further large increases in food prices, as foreign and domestic buyers bid against each other for limited supplies, or we must restrict exports. Export restriction is preferable. But we owe it to other nations' expectations, and to our own future commercial standing, to develop these restrictions with the greatest possible care and the longest possible warning. The administration's present policy is to view the present shortages as a mere passing embarrassment and to promise the controls will shortly vanish. The White House is reported to be cooling on its own legislation, already before Congress, to clarify its export control authority.
>
> The administration does not like export controls. Nobody likes them. But ducking reality, in matters as urgent as nations' food supplies, is wrong in principle and dangerous in practice. The time is due, and overdue, to let the rest of the world know what share it can expect of the American harvests now being gathered.

That is a sensible statement. Yes, it is imperative that we have a policy and that we let the rest of the world know what it is. It is imperative that we let the American consumer know what he or she can expect in terms of food supply.

Beef and pork prices must start to level off. No one knows today what supplies will be available. No one knows what will be done tomorrow. No one knows whether U.S. export controls imposed recently will be continued or taken off. And because of that, Mr. President, we have this problem today.

It is imperative that we have a food policy and, secondly, that gives proper notice and policy guidance to those countries that look to us as a source of supply. In other words, let us quit kidding ourselves and deceiving others. Let us not make contracts that we cannot fulfill and promises that we do not intend to keep.

I ask unanimous consent that the editorial from the Washington Post entitled "Soybean Power" be printed at this point in the RECORD. I also ask unanimous consent that notes on the world food situation with special reference to the United States, 1973–1974, as prepared by Professor Cochrane of the University of Minnesota for presentation before the Joint Economic Committee be printed in the RECORD, as well as a statement of yesterday from the Connally News Service Wire suggesting that wheat exports over the next marketing year could hit last year's "phenomenal levels."

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

SOYBEAN POWER

A month ago the price of soybeans hit $11 a bushel, three times the price a year earlier. The Nixon administration responded by slamming down export controls. The controls were characteristic of the administration's recent economic policy: they were a hastily conceived and panic-stricken reaction to a danger that had been ignored far too long. It is instructive to see what has happened over the month since the embargo fell. With foreign markets sharply curtailed, the price of soybeans fell one-third over the first few days. But since then the price has risen steadily and is now bobbing around $10 a bushel. A strong impression seems to prevail, among the professional traders, that there are going to be only barely enough soybeans even at these unprecedented prices to meet domestic requirements until the new crop arrives this autumn.

Events are giving the country an involuntary crash course in agricultural economics. The relationship between feed costs and food costs are now familiar to many of us who, in the past, never devoted much attention to

the diets of cows and pigs. We have now all learned that when the price of soymeal goes up, the prices of chicken legs and hamburger inevitably follow. We are also learning that several other interesting things happen as well. The uses of soybeans, wheat and corn all overlap to some degree. Since the controls were put on soybean exports, the prices of wheat and corn have moved up sharply and both are now substantially more than twice last year's level.

When the administration put controls on the price of beef last March, the Agriculture Department apparently considered them to be little more than a clever and easy way to reassure the consumer without actually distorting the market. Soybeans, according to the wisdom of that moment, were getting cheaper and therefore beef would also shortly get cheaper. The ceilings would symbolize the protections offered the buyer by a wise and benevolent government, while the actual prices would float slowly downward under the normal pressures of a free market. Unfortunately, things worked out otherwise.

International demand once again turned out to be far stronger than anyone had expected, and soybean prices rose drastically through the spring. Mainly to save face, the administration is doggedly perpetuating the beef controls for another six weeks although it unfroze other food prices in mid-July. That is why the wholesale prices of beef are currently lower than chicken or pork, although beef is more expensive to produce. And that, in turn, is why consumers can expect progressive difficulties in finding certain cuts of beef over the coming months. The lesson here is that the administration's consistent underestimates of world demand are proving highly disruptive and expensive both to producers and consumers.

Abroad, the cost of these misjudgments falls most heavily on our best customers and friends. The Japanese have made very clear their distress at the sudden interruption of essential foodstuffs. Canadian stock growers are having, in one respect, an even more difficult time. Present American soybean policy allows the export of only one-half of a foreign buyer's contract. The Japanese dealers at least have contracts. But Canadian buyers are close to our markets and they are used to thinking in terms of a unified continental economy. They generally buy as our own farmers do, without contracts. Those who have no contracts currently get no soybeans. Most Canadian farmers can find alternative feeds, but they are more expensive. Here lies another lesson: in meat, the continental market is indeed unified and any action that pushes up the Canadian price of meat also pushes up the price in the United States because we buy each others' products.

Governments throughout the world are in the process of sharply improving their people's nutrition, and the demand for American foodstuffs is consistently outrunning all conventional predictions. The current wheat crop will be a record, but it already looks as though foreign buyers will want far more than even this vast harvest can provide. The emergence of China as a major purchaser of American grain and soybeans is only the latest illustration of the astonishing array of countries that now depend, to one degree or another, on the American farmer to feed their people.

We now have an extremely painful choice to make. Either we must be prepared for further large increases in food prices, as foreign and domestic buyers bid against each other for limited supplies, or we must restrict exports. Export restriction is preferable. But we owe it to other nations' expectations, and to our own future commercial standing, to develop these restrictions with the greatest possible care and the longest possible warning. The administration's present policy is to view the present shortages as a mere passing embarrassment and to promise the controls will shortly vanish. The White House is reported to be cooling on its own legislation, already before Congress, to clarify its export control authority.

The administration does not like export controls. Nobody likes them. But ducking reality, in matters as urgent as nations' food supplies, is wrong in principle and dangerous in practice. The time is due, and overdue, to let the rest of the world know what share it can expect of the American harvests now being gathered.

SOME NOTES ON THE WORLD FOOD SITUATION WITH SPECIAL REFERENCE TO THE UNITED STATES IN 1973–74

(By Professor W. W. Cochrane)

I. The situation:

A. The world of food and agriculture has turned upside down over the past year.

1. Grain supplies in world markets have become exceedingly short, and prices have risen significantly.

a. No. 1 Canadian Red Spring wheat at Fort William rose from $62.45 per metric ton in April 1972 to $98.59 in April 1973.

b. Rice, 5% broken, f.o.b. Bangkok, rose from $128.96 per metric ton in April 1972 to $204.05 in March 1973.

c. Sorghum grain U.S. No. 2, c.i.f. Rotterdam, rose from $59.05 per metric ton in April 1972 to $81.49 in April 1973.

2. The general surplus condition of American agriculture has evaporated, and supplies of various food products at retail have become painfully scarce.

3. U.S. farm prices are soaring; average prices received by farmers in the United States increased between June 15, 1972 and June 15, 1973, as follows:

a. All wheat, per bushel: from $1.33 to $2.43.

b. Corn, per bushel: $1.13 to $1.99.

c. Soybeans, per bushel: $3.32 to $10.00.

d. Hogs, per c.w.t.: $25.60 to $37.20.

e. Broilers, live, per lb.: 14.4¢ to 24.5¢.

B. As we all know, livestock prices have continued to advance since June 15, 1973. U.S. No. 1 hogs reached the high of $50.00 per c.w.t. in midwest markets on July 20, 1973, and the prices of poultry products and beef give every promise of shooting skyward in the fall of 1973. How high, no one really knows. But the Wall Street Journal for July 20, 1973 predicted bacon at $2.00 a pound, broilers at 75¢ to $1.00 per pound, and eggs at $1.00 a dozen at retail within two weeks, with the big kick in beef prices to come in September.

C. Confronted with this situation, what has the Administration done? In general terms, it has pursued an erratic, inconsistent course of action dealing with each crisis as it arose, rather than developing a consistent, rationally planned course of action. More specifically:

1. It contributed to the tight grain market in the U.S. by underwriting the sale of some 400 million bu. of wheat to the Soviet Union, and by pushing soybean exports in fiscal 1972–73.

2. It has contributed to uncertainty in the minds of farmer producers and processors, hence to production discontinuities, by alternately controlling and decontrolling retail food prices.

3. It has tried to increase domestic supplies by

a. easing production controls and bringing more acres into production in 1973 and

b. placing an embargo on the export of 1973 crop soybeans and products.

D. This is what happened in one short, eventful year. The world, and more particularly the U.S., moved from a grain surplus condition to a shortage condition in one peacetime year.

II. How did this happen? What happened to cause this complete turnaround in the food-agriculture situation?

A. It is important to recognize first that little of the cause of this turnaround is to be found in developments within the U.S. This is a case of world developments impinging upon the U.S. situation.

B. What then were these world developments? There were several in number, and I list them in general order of importance, although I have no way of assigning exact weights to these causes.

1. The long-run trend in Western Europe, Japan and other areas for the per capita consumption of meat products to increase, with the concomitant increase in the import demand for meat-producing inputs (e.g., protein meals and feed grains) in those areas.

2. The poor grain crop in the Soviet Union in 1972, and the decision by the Soviets to go into the international market and purchase large quantities of grain to make up for their domestic losses.

3. The poor food grain crops in South and Southeast Asia in 1972 and the entry of some of those countries into the international grain markets in search of supplies.

4. The failure of the Peruvian fish catch in 1972, and the loss of that important source of protein meal.

C. The scenario, as I see it, runs as follows—the strong and growing demand for animal products in Western Europe and Japan over the past decade has slowly but steadily tightened the international markets for feed grains and protein feeds. To this important economic development we add three supply restrictions resulting from acts of God: a bad grain crop in the Soviet Union, poor food grain crops in South and Southeast Asia, and a failure of the Peruvian fish catch. Finally, we add two conscious acts of man: the decision by the Soviets to enter the world market to make up their losses and the decision by the U.S. to sell out its reserve stocks of grains and soybeans. From this scenario we get the following:

1. A general tightening of world grain markets, and a significant strengthening of grain prices in those markets.

2. A sharp and dramatic increase in farm and food prices in the U.S. as it has run short of the inputs required to produce the high levels of animal products demanded by its consumers.

D. In my judgment, the excellent intelligence-management system of the U.S. Department of Agriculture, which was developed over several decades, has broken down, thus allowing, even abetting, the U.S. to sell supplies of grains and protein products to foreign nations which it required to produce its own supply of animal products at stable prices. As a result of poor government management we oversold in a tight world situation and left ourselves in short supply with regard to the raw materials for producing animal products.

III. What is likely to be the duration of the present food crisis in the U.S.?

A. *If* we do not run into bad weather and poor crops in any of the major wheat-producing areas of the world, or in any of the great grain-consuming areas of the world, wheat prices in the U.S. should begin to ease following the harvest of the 1973 crop.

B. *If* we do not run into bad weather and poor crops in the major feed grain-producing areas of the world, prices of corn and other feed grains in the U.S. should hold at or around present levels through the 1973–74 crop year and begin to ease following the 1974 harvest. But the feed grain situation is exceedingly precarious; prices could rise or fall with any small supply development around the world. It is a "touch and go" situation.

C. *If* the Peruvian fish catch returns to normal, the price of soybeans and soybean meal in the U.S. should begin to decline following the large 1973 harvest. But no one expects soybean prices to return to the $3.00 level of 1970–72. The world demand for the

meat-producing resource is too strong. But only time will tell whether soybean prices level off at $4.00 per bushel or $8.00.

D. Because of high feed grain prices, retail price ceilings, and uncertainties generated by this Administration, current poultry and hog production is well below capacity, and supplies of these products at the retail level are going to be very short in the fall of 1973 and winter of 1974. Thus prices of these animal products, together with beef, are going to soar in the months ahead. Probably, due to the short production cycle, poultry and egg prices will ease first in the spring of 1974. But the U.S. consumer is going to pay and pay in the winter of 1973–74 for the mismanagement of grain and protein product supplies by this Administration.

E. But what we have said above is dependent upon no unusual policy developments among importing and exporting nations and average, or normal, weather around the world. These are critical assumptions that may or may not be realized in fact. Any one of the following developments could take place over the next several years:

1. More bad weather and poor grain crops in major producing-consumption areas;

2. A series of bountiful crops around the world;

3. A failure of the Peruvian fish catch for many years;

4. The development of major feed grain-producing areas in Africa and Latin America with significant increases in exportable supplies of feed grains.

5. The decision on the part of the Soviet Union to upgrade the quality of the diets of its people, and the continued importation of large quantities of inputs for producing animal products (e.g., feed grains, protein meals).

F. Now none of the possible developments listed above can be predicted with any degree of certainty, but depending upon which one, or combination of them, should materialize, the world market for grains will either continue to tighten, or begin to ease off. And these developments may be either sharp and precipitous or long-run and sustained. In short, we cannot predict with any degree of certainty whether the world grain supply situation is going to become tighter, hence more critical, over the next few years, or will ease and possibly move into a surplus situation.

G. The implications for the U.S. are, of course, of critical importance.

1. Since we are an integral part of the world market,

a. the leading supplier of feed grains and soybeans, and

b. a major supplier of wheat,

the materialization of any one, or combination, of the unpredictable developments outlined above, which have the capacity to tighten or loosen the world market situation, would be translated immediately into a contraction or expansion of export sales by the U.S., and an increase or decrease in the prices of these products in the U.S.—products which are the basic inputs of livestock production.

2. Further, since the demand for food in the aggregate and meat in the aggregate is highly inelastic, this means that small changes in the marketable supplies of feed grains, protein meals and wheat are going to have important price-generating effects on animal products.

a. A small increase in the marketable supplies of feed grains and protein meals will have an important price-depressing effect on animal products, given the appropriate lag, and

b. A small decrease in the marketable supplies of feed grains and protein meals will have an important price-enhancing effect on animal products, given the appropriate lag.

H. In other words, because of the extreme inelasticity of demand for food by U.S. consumers, it is a *fine line* between too much and too little. A little too much causes farm prices and food prices to tumble precipitously; and a little too little causes farm prices and food prices to zoom skyward.

1. Because we have lived in a chronic surplus condition in the U.S. for 20 years in which the government has supported farm prices at a reasonable level and managed the agricultural surplus-producing capacity through production control and stock takeover, consumers, politicians and economists have forgotten the price consequences of a small shortage or a small surplus of food products in a free market situation.

2. But this Administration has hitched the U.S. agricultural production plant to the world market to the extent that existing laws would permit, and we are reaping the whirlwind.

a. The first tightening of the world grain supply situation (due to unfavorable weather in some faraway places) encountered by this Administration is driving the prices of animal products in the U.S. to recordbreaking peacetime levels.

b. A series of bountiful crops around the world could just as quickly result in a world surplus of grains and disastrously low farm prices in the U.S. if this Administration should succeed in dismantling the agricultural supply management programs.

I. Given the nature of the demand for food in the U.S. and the unpredictability of the world supply situation beyond one year in advance, the complete and full integration of the U.S. agricultural production plant into the world market is certain to result in:

1. A feast or famine situation for U.S. consumers, and

2. Sharp and wide price fluctuations for U.S. farmers.

J. The question is—do we want these kinds of price-quantity gyrations in the food and agricultural sector, or do we want greater stability?

IV. What kind of a food-agriculture policy must the U.S. develop if it is to provide its citizens with adequate supplies of food and stable food and farm product prices at reasonable levels and still remain a major supplier of grains and protein meals to the international market?

A. First, it must be a flexible policy capable of dealing effectively with either a world shortage situation or a world surplus situation.

1. It must be able to move in either direction.

2. And it must be able to do so quickly. It must be able to cope with a turnaround situation such as we have witnessed in 1972–73.

B. The central feature of this flexible policy must, in my view, be a major government storage program somewhat along the lines of past CCC storage programs but with broader objectives and a more rational set of operating rules.

1. The overriding purpose of the program would be to stabilize farm product prices at both the farm and retail levels.

2. To this end, it would operate like a giant balancing wheel in the agricultural economy, acquiring products in periods of surplus and low prices and disposing of stocks in periods of short supply and rising prices—thus, serving to moderate and stabilize the price swings involved.

3. It might acquire stocks through farm price supporting operations, as in the past, but it should have the authority to acquire stocks in the market even though product prices were above support, or loan, levels; and it should have the authority to sell at any time or to dispose of stocks in other ways (e.g., P.L. 480) so as to contribute to price stability in the U.S. and in world markets.

4. But, as we know from past experience, a storage program devoid of other management devices can run into serious trouble. Thus, this food and agricultural policy must include:

a. Voluntary production control features such as were included in the Agricultural Act of 1965 and in the farm legislation now before Congress.

b. Import and export controls, the former to protect uneconomic production deemed to be in the national interest, the latter to protect domestic supplies in periods of critical world shortages.

c. The arbitrary and excessive reliance on the kinds of controls indicated under (b) above is likely to have an injurious effect on U.S. consumers and on foreign trade relations, but on some occasions their use may be required to avoid painful consumption or production adjustments in the U.S. economy.

5. Buttressed by the management devices suggested in (4) above, the storage program will have the capacity to achieve its price stabilization objectives; without those devices it is doomed to failure.

C. But the important point of this discussion is not program mechanics. I have discussed mechanics only to illustrate the content of a food and agriculture policy with the capacity to provide consumers with adequite supplies and to stabilize prices in the uncertain and unpredictable world of food and agriculture in which we will be living in the decades ahead. The important point of the discussion is the following:

1. The world—a world integrated by an international market—is balanced on a razor's edge with respect to food supplies and farm prices.

a. Some bad weather and a poor crop in India, or the Soviet Union, and prices shoot skyward as nations and their trading representatives seek supplies from a limited reserve stock to offset their losses and build stocks.

b. Or a series of bountiful harvests around the world leads to physical surpluses (due to limited storage facilities and programs) and tumbling prices in world markets. With just the right combination of events we could have such a development in late 1974.

2. But which way the world will fall and when—surplus or shortage condition—*beyond the current crop year* is unpredictable.

3. And since the U.S. is an integral part of the world market system, as one of its principal suppliers, the movement into a shortage situation, or surplus, is immediately felt in the U.S. domestic farm commodities market—with prices either increasing sharply or decreasing sharply.

4. We have recently witnessed one side of this phenomenon—the quick conversion of a tight world grain situation into a domestic food price crisis.

5. And we can expect, as a normal thing, to witness and feel at home these swings from world grain surplus to shortage and back again. But beyond the current crop year we cannot predict the occurrence of these swings.

D. Given the above set of relationships,

1. It does not make sense to wait for a crisis to develop, even perhaps inadvertently contributing to it, and then take *ad hoc* steps to deal with it.

2. It makes sense to recognize the kind of food and agriculture world of which we are a part.

3. To make the best possible use of information and intelligence with regard to food production, distribution and disappearance, and to *know* what to expect with regard to such variables for relevant future periods—periods that run up to a year in duration.

4. And, on the basis of the above intelligence, to begin to execute the flexible policy discussed above to cope with the unfolding world food situation—surplus or shortage.

E. The effective execution of such a flexible food policy should

1. Moderate the slide into a world surplus or shortage situation and its adverse price effects, and

2. Insulate to a tolerable degree the domestic market from the extreme supply and price consequences of the world development.

F. The vigorous execution of a flexible policy of farm product storage and management has much to offer American consumers and farmers in the way of assuring adequate supplies and stabilizing prices. The "bare shelf" policy of this Administration in the context of a free market can only lead to "feast or famine."

USDA WHEAT SITUATION SUMMARY CITES EXPORTS COULD HIT LAST YEAR'S "PHENOMENAL LEVELS"

WASHINGTON, July 31.—Giving perhaps undue credibility to the 916 million bushels wheat 73–74 export figure that inflated, undelivered exports as of July 6 show, USDA's wheat situation summary today shows that total domestic use and exports for the season will "likely exceed production, resulting in another reduction in carryover at the end of the 1973–74 season to around 300 million bushels."

Although top USDA officials have discredited the July 6 wheat export total and say they are waiting for the week when Commerce Department-gathered figures will show "deflated" export totals, the USDA wheat situation uses the 916 million bushel figure. Domestic wheat disappearance may edge lower if less wheat is fed, USDA added, but wheat exports could approach last year's phenomenal 1.185 billion bushel level.

DEPARTMENT OF THE INTERIOR APPROPRIATIONS, 1974

The PRESIDING OFFICER (Mr. TUNNEY). Under the previous order the Senate will now proceed to the consideration of H.R. 8917, which the clerk will report.

The assistant legislative clerk read as follows:

Calendar No. 342 (H.R. 8917) a bill making appropriations for the Department of the Interior and related agencies for the fiscal year ending June 30, 1974, and for other purposes.

The Senate proceeded to consider the bill which had been reported from the Committee on Appropriations with amendments.

The PRESIDING OFFICER. There is a time limitation on the bill of 2 hours, the time to be equally divided and controlled between the Senator from Alaska (Mr. STEVENS) and the Senator from Nevada (Mr. BIBLE), with one-half hour on any amendment, debatable motion, or appeal.

Mr. BIBLE. Mr. President, I yield myself such time as I may desire. First, if I might, I would like to make some corrections in the report and in the bill. After doing so, I intend to suggest the absence of a quorum so that the Senator from Alaska (Mr. STEVENS) can be alerted and can participate in the discussion of the bill. He is the ranking minority member of the Interior Appropriations Subcommittee.

Mr. President, on the first page of the report, the second line in the tabulation appearing on that page reads:

Bill as passed by the House, $219,069,500.

That is a typographical error. It should be corrected to read "$2,460,754,200."

On the line immediately below it says:

Increases of House bill recommended by Committee.

The report as before the Members of the Senate presently reads "$201,914,-500." It should correctly read $219,069,-500.

Also, on page 16 of the report in the tabulation, the figure $415,000 for the development of Big Horn Canyon National Recreation Area, Wyo., should read $145,000.

Mr. President, I ask unanimous consent that the report be corrected accordingly.

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

Mr. BIBLE. Mr. President, on page 12, line 15 of the bill, H.R. 8917, the figure "$71,223,000" following the word "exceed" was inadvertently deleted.

I ask unanimous consent that this House figure be reinserted and lined through, because this should indicate both the House figure and, right next to it, the action the Senate took within the bill.

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

Mr. BIBLE. Mr. President, I ask unanimous consent that there be a quorum call without the time being charged to either side.

The PRESIDING OFFICER. Does the Senator from Nevada wish to have the committee amendments considered en bloc?

Mr. BIBLE. Well, I can do that before the quorum call.

Mr. President, I ask unanimous consent that the committee amendments to H.R. 8917 be agreed to en bloc; that the bill as so amended be considered as original text for the purpose of further amendment; and that no points of order against legislation in an appropriation bill be waived.

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

The amendments agreed to en bloc are as follows:

On page 2, line 10, strike out "$83,872,-000" and insert "$83,932,000".

On page 4, line 23, after the word "of", strike out "three" and insert "two"; and, in line 24, after the word "aircraft", insert "and one new aircraft".

On page 6, line 6, after the word "shops", strike out "$299,976,000" and insert "$302,050,000, of which $3,528,000 shall be available to reimburse other agencies for obligations incurred on and after February 1, 1973."

On page 6, line 18, after the word "law", strike out "$86,022,000" and insert "$86,108,000".

On page 7, line 1, after the word "contract", strike out "$53,343,000" and insert "$48,287,000".

On page 8, line 11, after the word "That", insert "in addition to the funds heretofore advanced".

On page 12, at the beginning of line 16, strike out "$71,223,000" and insert "$87,223,000"; and, in line 17, after the word "States", strike out "to be matched by the individual States with an equal amount" and insert "in accordance with section 6(c) of said act."

On page 13, line 10, after the word "Samoa", strike out "$15,000,000" and insert "$14,500,000".

On page 14, after line 2, insert:

TRUST TERRITORY OF THE PACIFIC ISLANDS

For expenses necessary for the Department of the Interior in administration of the Trust Territory of the Pacific Islands pursuant to the Trusteeship Agreement approved by joint resolution of July 18, 1947 (61 Stat. 397), and the Act of June 30, 1954 (68 Stat. 330), as amended (84 Stat. 1559), including the expenses of the High Commissioner of the Trust Territory of the Pacific Islands; compensation and expenses of the Judiciary of the Trust Territory of the Pacific Islands; grants to the Trust Territory of the Pacific Islands in addition to local revenues, for support of governmental functions, and payment to the Trust Territory Economic Development Loan Fund pursuant to Public Law 92–257; $47,776,000, to remain available until expended: *Provided*, That all financial transactions of the Trust Territory, including such transactions of all agencies or instrumentalities established or utilized by such Trust Territory, shall be audited by the General Accounting Office in accordance with the provisions of the Budget and Accounting Act, 1921 (42 Stat. 23), as amended, and the Accounting and Auditing Act of 1950 (64 Stat. 834); *Provided further*, That the government of the Trust Territory of the Pacific Islands is authorized to make purchases through the General Services Administration: *Provided further*, That appropriations available for the administration of the Trust Territory of the Pacific Islands may be expended for the purchase, charter, maintenance, and operation of surface vessels for official purposes and for commercial transportation purposes found by the Secretary to be necessary in carrying out the provisions of article 6(2) of the Trusteeship Agreement approved by Congress.

On page 15, line 25, after the word "activities", strike out "$155,974,000" and insert "$162,190,000"; and, on page 16, line 1, after the word "which", strike out "$20,695,000" and insert "$26,049,000".

On page 17, line 16, after the word "law", strike out "$145,424,000" and insert "$151,324,000".

On page 18, line 21, after "(30 U.S.C. 661–668)", strike out "$61,500,000" and insert "$95,000,000".

On page 19, line 17, after the word "Refuge", strike out "$80,137,000" and insert "$80,377,000".

On page 20, line 4, after "(16 U.S.C. 757a–757f)", strike out "$12,846,500" and insert "$5,933,000".

On page 20, after line 8, insert:

MIGRATORY BIRD CONSERVATION ACCOUNT

For an advance to the migratory bird conservation account, as authorized by the Act of October 4, 1971, as amended (16 U.S.C. 715k–3, 5; 81 Stat. 612), $7,100,000, to remain available until expended.

On page 20, line 17, after the word "and", strike out "sixty-nine" and insert "sixty".

On page 21, at the beginning of line 22, strike out "$176,720,000" and insert "$187,577,000".

On page 22, line 19, after the word

"Commission", strike out "$20,000,000" and insert "$19,744,000".

On page 23, line 24, after the word "values", strike out "$4,054,000" and insert "$15,559,000".

On page 24, line 5, after the word "expended", strike out "$31,531,000" and insert "$28,995,000".

On page 25, after line 15, insert:

OFFICE OF SALINE WATER

SALINE WATER CONVERSION

For expenses necessary to carry out the provisions of the Saline Water Conversion Act of 1971 (42 U.S.C. 1959–1959h, as amended), including not to exceed $1,600,000 for administration and coordination expenses during the current fiscal year, $3,727,000, to remain available until expended.

On page 26, at the beginning of line 4, strike out "$7,500,000" and insert "$7,800,000".

On page 26, line 13, after the word "expenses" strike out "$15,495,000" and insert "$16,026,000".

On page 26, line 25, after the word "law", strike out "$670,000" and insert "$1,000,000'.

On page 29, line 23, after the word "thereto, strike out "$259,701,000" and insert "$257,961,000".

On page 30, line 11 after the word "law", strike out "$59,145,000" and insert "$59,880,000".

On page 30, line 18, after the word "law", strike out "$27,760,000" and insert "$26,760,000".

On page 31, line 1, after the word "objectives", strike out "$26,353,000" and insert "$24,357,000".

On page 34 after line 4, insert:

SCIENTIFIC ACTIVITIES OVERSEAS (SPECIAL FOREIGN CURRENCY PROGRAM)

For payments in foreign currencies owed to or owned by the United States for forestry research and other functions related thereto authorized by section 104(b)(3) of the Agricultural Trade Development and Assistance Act of 1954, as amended (7 U.S.C. 1704(b)(3)), $500,000, to remain available until expended: Provided, That this appropriation shall be available, in addition to other appropriations for these purposes, for payments in the foreign currencies: *Provided further,* That funds appropriated herein shall be used for payments in such foreign currencies as the Department determines are needed and can be used most effectively to carry out the purposes of this paragraph.

On page 36, line 12, after the word "region", where it appears the first time, strike out "or" and insert "to"; and, in the same line, after the word "region", where it appears the second time, strike out "of the National Forest System of the Forest Service" and insert "to move or close any regional office for research, State and private forestry, and national Forest System Administration of the Forest Service, Department of Agriculture, without the consent of the Committee on Appropriations and Committee on Agriculture and Forestry in the U.S. Senate and U.S. House of Representatives."

On page 37, line 14, after the word "Act", strike out "$184,118,000" and insert "$182,803,000".

On page 38, line 2, after "(42 U.S.C. 2004a)", strike out "$46,027,000" and insert "$50,107,000".

On page 38, after line 19, insert:

OFFICE OF EDUCATION

INDIAN EDUCATION

For carrying out, to the extent not otherwise provided, part A ($50,000,000), part B ($12,000,000), and part C ($3,000,000) of the Indian Education Act, $65,000,000.

On page 39, line 22, after the word "amended", strike out "$98,675,000" and insert "$114,750,000"; and, in the same line, after the word "which", strike out "$41,425,000" and insert "$50,000,000".

On page 40, line 5, after the word "Act", strike out "$42,500,000" and insert "$50,000,000".

On page 40, line 19, after the word "amended", strike out "$8,000,000" and insert "$15,000,000".

On page 42, line 17, after the word "Park", strike out "$3,650,000" and insert "$3,850,000".

On page 44, line 19, after "5 U.S.C. 3109", strike out "$100,000" and insert "$300,000".

On page 44, line 26, after "5 U.S.C. 3109", strike out "$60,000" and insert "$150,000".

On page 45, line 13, after "Public Law 92–578", strike out "$200,000" and insert "$500,000".

On page 45, line 19, after the word "meridian", insert "in the contiguous 48 States"; and, in line 22, after the word "purchaser", insert a colon and "*Provided,* That this limitation shall not apply to specific quantities and species of timber which said Secretaries determine are surplus to domestic needs."

On page 46, after line 5, strike out:

SEC. 303. No part of the funds appropriated by this Act shall be expended for any expense in connection with any lease, permit, approval, or other action hereafter authorizing surface coal mining on any lands within any area of the National Park System; the National Wildlife Refuge System; the National Wilderness System; or the Wild and Scenic Rivers System, including "study rivers" designated under section 5(a) of the Wild and Scenic Rivers Act.

Mr. BIBLE. Now 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. BIBLE. I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. BIBLE. Mr. President, I have been advised that the Senator from Alaska is on his way. In view of that situation, I think it would probably be to the advantage of everyone if I at least make my opening statement.

Mr. President, I yield myself such time as I may require.

As the report on the bill indicates, Mr. President, the committee considered budget estimates totaling $2,575,667,300. This figure includes indefinite appropriations of receipts and amounts to liquidate contract authority for the agencies in the Department of the Interior and related agencies as listed on page 2 of the report. The Bureau of Reclamation, the power marketing agencies and related activities are excluded and can be found in the public works appropriations bill.

The committee recommends total appropriations of $2,679,823,700. This is an increase of $104,156,400 over the budget estimates and $219,069,500 over the House allowance. However, the recommendation keeps the total $181,632,600 below appropriations for fiscal year 1973.

I might add, Mr. President, that the committee has recommended $134,067,000 to fund activities not considered by the House, including programs not authorized at the time of House consideration of the bill and subsequent budget amendments. Discounting those amounts, the bill as recommended is $85,002,500 over the House.

The major increases, as I will discuss in a moment, may be found in energy research, in recreation and wildlife programs, forestry, and Indian health and education. In a determined effort to keep new obligation authority to a minimum, and on the basis of a careful consideration of priorities, the committee has recommended selected reductions in some areas of the budget proposal. None of these reductions should affect ongoing programs.

Mr. President, a glance at the tables found in the back of the report will show Senators the changes recommended by the committee in the budget estimates and House allowances. I will not attempt to detail them. I will confine my remarks to the significant changes.

First, as the report notes, the committee was confronted with difficult decisions in considering a budget proposal that was severely constrained in some areas—areas of critical importance to the management of our natural resources and to the health and welfare of Indians and Alaska Natives. In some instances programs were drastically reduced. In others, such as Federal programs under the land and water conservation fund and the Indian Education Act, there was no request at all for new funding. The committee, in meeting its responsibilities to provide a meaningful funding program, did not believe the solution was simply to add money. It was necessary to balance priorities and to counter increases with reductions wherever possible. In some cases these reductions mean only the deferral of certain programs which the committee believed were not sufficiently planned or were of lower priority. In others it meant trimming substantial increases requested in the budget.

ENERGY

Let me comment in the energy field, because this is one of the areas in which I believe we measured up to our full responsibility in providing sufficient funds for this critical need.

I mentioned earlier the committee has approved a significant increase for energy research. The bill as reported contains a total of $178,360,000 for energy research and development, excluding oil and gas and geothermal resource leasing programs. This is a $44,000,000 increase in the budget proposals.

Of that energy total, $150,560,000 is for research and development programs for the greater utilization of our Nation's

greatest fossil fuel resource—coal. The committee recommended a $30,000,000 increase for coal research alone, and these increases may be found in the budgets of the Bureau of Mines, the Office of Coal Research, and the Forest Service.

The President announced on June 29, 1973, that he would recommend an energy program requiring a $100,000,000 increase in his budget request. No budget amendment has been forthcoming to this moment, however, and the committee acted on the priorities it developed during its hearings to put together its recommendations. The increases are not entirely adequate, I am sure, but budget estimates and hearings with expert witnesses are needed before we go further. It is my hope that the President will be submitting supplemental estimates for any additional high priority needs. The committee will schedule early hearings and extend sympathetic consideration to any such proposals.

I think we are all well aware of the problem of the energy shortage and are resolved to try to measure up to it as best we can.

LAND AND WATER CONSERVATION FUND

Another difficult area was the Land and Water Conservation Fund, which finances State assistance for recreation development and Federal land acquisition. Last year, Congress appropriated the full $300,000,000 authorized from this fund, but the budget estimates this year included only $50,000,000 for State assistance. There was no estimate for Federal programs.

The committee has recommended appropriating an additional $32,000,000. With the funds carried forward from fiscal 1973, this will make more than $355,000,000 available this year for obligation. Furthermore, the committee has specified that $20,000,000 of the funds available for state assistance shall be apportioned on the basis of need to those States which are exhausting prior year grants.

Again, the committee realizes more funds are needed and could be effectively used. Within the constraints imposed by the economic situation and the overall priorities in this bill, however, I believe the committe has recommended the most effective solution.

FORESTRY

The Forest Service presented perhaps the most difficult problems. Not only was the Agency's budget severely reduced, much of its 1973 funds were impounded. Every single additional dollar appropriated by Congress over and above the fiscal 1973 budget recommendation was impounded. The administration refused—and still refuses—to spend any of these funds.

The committee strongly believes that this Nation cannot afford to neglect its forest resources. Accordingly, the committee has recommended increases of more than $15,000,000. The largest single increase was $9,000,000 for reforestation and timber stand improvement, which has been curtailed in the administration's 1973 and 1974 programs.

INDIAN PROGRAMS

As I noted earlier, there was no budget estimate at all for the Indian Education Act. This new program was initiated last fall with an $18,000,000 supplemental appropriation, and the committee considered proposals ranging as high as $318,000,000 for the fiscal 1974 program. I believe the committee recommendation of $65,000,000 provides the maximum funding possible in a constrained fiscal situation.

The committee also found the budget requests were inadequate for Indian health programs administered by the Department of Health, Education, and Welfare and funded in this bill. A total of $14,225,000 has been added, based on a careful assessment of the most urgent priorities.

In addition, the committee has recommended increases over the budget of $5,727,000 for programs administered by the Bureau of Indian Affairs.

BUDGET AMENDMENTS

Three budget amendments were submitted subsequent to the committee's hearings. For the Bureau of Indian Affairs the committee recommended the additional amount of $3,528,000 to pay the expenses of the U.S. marshals and Federal Bureau of Investigation that were incurred as a result of the Indian disturbance at Wounded Knee, S. Dak. For the Office of the Secretary and the Office of Oil and Gas, in consideration of budget amendments, the committee recommended increases of $2,530,000 and $1,100,000, respectively. Two million dollars of the additional funds requested for the Office of the Secretary, which are for energy economic studies, were included in the budget of the Bureau of Mines.

Mr. President, the committee conducted 30 days of hearings, taking testimony from several hundred witnesses. More than 300 amendments were considered which, if adopted in full, would have increased the bill by more than $1½ billion, or over 50 percent. I believe that the bill reported to the floor of the Senate this morning, as reported by the committee, represents the best possible balance of the conflicting demands of fiscal restraint and program expansion. I hope the Senate will approve the bill as reported.

Mr. President, I want to take this opportunity to pay special tribute to the man now sitting on my left, Dwight E. Dyer, who has done a stellar job on a most difficult bill. He is the "Paul Eaton" of today. Those Members of the Senate who were here in earlier years know the terrific job that Paul Eaton did, beginning in the days of Carl Hayden. As my right hand and strong arm, I am convinced that Dwight Dyer will do an equally fine job. As a matter of fact, he has already done an equally fine job this year.

Likewise, Mr. President, I would want to pay tribute to James D. Bond, minority counsel, who has been extremely helpful. It has always been great to work with the distinguished chairman of the full committee, the Senator from Arkansas (Mr. McCLELLAN), and the ranking Republican on the committee, the distinguished Senator from North Dakota (Mr. YOUNG), as well as my good friend, the distinguished Senator from Alaska (Mr. STEVENS), the ranking minority member of the Subcommittee who has been so helpful in working the bill through the legislative process.

Mr. President, I yield the floor.

Mr. STEVENS. Mr. President, I want to commend the distinguished chairman of the Interior Appropriations Subcommittee for the outstanding job he has done on this bill. And I want to thank him for all the courtesies he has extended to me through the hearings and markups of the bill.

Mr. President, while the bill as reported by the Appropriations Committee is some $100,000,000 over the budget, the largest share of this increase is in two areas the committee felt to be especially important and worthwhile. We have added $65 million to continue programs of the Indian Education Act initiated in fiscal year 1973. These funds will be used to meet the needs of Indian students who are attending the country's elementary and secondary schools. As well, some of the funds will be used for adult Indian education. The other large increase was in the amount of $42.5 million for the Office of Coal Research. In addition to this there are funds in the Bureau of Mines and Forest Service accounts for coal research.

Mr. President, another item that has generated a great deal of interest is the National Foundation on the Arts and Humanities. On this item we have added $16,075,000 over the House figure which is $40,236,000 over the appropriations for fiscal year 1973. In addition, we increased the House allowance for matching grants by $7 million.

Mr. President, there are, of course, many other important items in this appropriations bill, but since the chairman has already gone over many of these, I will conclude my statement once again by thanking the distinguished chairman of the subcommittee, the Senator from Nevada (Mr. BIBLE), for all his courtesies and, in particular, point out the extreme number of amendments which were offered by Members and which were considered, one by one, with his usual diligence and kindness.

Mr. President, this is a workable bill. I know of no amendments to be offered on this side of the aisle so far.

Mr. President, I yield the floor.

Mr. BIBLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. TUNNEY). On whose time?

Mr. BIBLE. On my time.

The PRESIDING OFFICER. Without objection, the clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. CHILES). Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, will the distinguished chairman of the committee yield?

Mr. BIBLE. I yield 3 minutes to the distinguished Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I wish to express my deepest and most heartfelt appreciation to the chairman of the Interior Appropriations Subcommittee, Senator BIBLE, for his cooperation and assistance in helping me to obtain inclusion, within H.R. 8917, of critically needed funds for increasing our coal research and development programs.

I am particularly grateful to Senator BIBLE, and to Senator STEVENS, the ranking minority member of the subcommittee, for acceptance within the subcommittee, of my amendments, which, including $3 million for reactivating the Cresap pilot plant, increased coal research by $42 million. My amendments, which I offered in the subcommittee markup, proposed originally an increase of $100 million, above the budget request, for coal research. I still believe that an additional $100 million can be effectively utilized, and I naturally would like to have seen that amount included within the bill; however, I believe the $42 million which was accepted by the committee will provide a substantial and an overdue boost to our ongoing coal research programs. I submitted, in the subcommittee, a breakdown of the program I proposed which indicated how the additional funding I requested would be spent. Also, the administration experts on coal research with whom I consulted do not take issue with the following facts:

First. That the additional moneys can be effectively utilized immediately, and that the Office of Coal Research has on hand and awaiting funding, numerous worthwhile and promising coal research programs;

Second. That the additional funds will result in an accelerated program of research that can save this country valuable leadtime in solving our energy crisis;

Third. That coal liquefaction and gasification programs will be accelerated;

Fourth. That by accelerating mining technology research, we can bring about mining productivity increases that would not otherwise come about; and

Fifth. That an accelerated program will bring onstream high Btu gas plants earlier than the current program of research will allow.

However, in order that there may be no misunderstanding regarding these actions to sharply increase the funding for coal research, I want to give a background summary of this problem and explain why I believe this increase is fully justified at this time.

On January 29 of this year, when the President submitted his fiscal year 1974 budget requests to the Congress, included therein were individual requests of: $52.5 million for the Office of Coal Research; $18.1 million for Bureau of Mines energy-related coal research; and $25 million for a central energy research and development fund, of which $21 million was budgeted for coal research.

The House version of H.R. 8917, the fiscal year 1974 Interior appropriations bill, which passed the House of Representatives on June 27, 1973, included $61.5 million for the Office of Coal Research and $18.1 million for Bureau of Mines energy-related coal research. The House bill did not, however, include the $25 million central energy fund, as requested in the budget; rather, the House report states that certain increases included in the House bill for the Bureau of Mines, Office of Coal Research, Geological Survey, and U.S. Forest Service energy-related projects, were provided in lieu of the central energy and development fund.

After the House bill was enacted, the President in a June 29, 1973, special energy message, stated that he was immediately taking steps to increase energy research in fiscal year 1974 by $100 million, over and above amounts which had previously been requested in his fiscal year 1974 budget, and that approximately one-half of this amount, or $50 million, would be allocated to coal research. While I was naturally pleased that the President recognized the need to provide an additional $50 million for coal research in fiscal year 1974, I regret that Congress has not yet been supplied with a budget amendment from the administration requesting these additional funds.

For a long time prior to the President's June 29 message—and even subsequently—I repeatedly urged the administration, both publicly and privately, to accelerate funding for coal research. In furtherance of this objective, I have, on numerous occasions, met with the Assistant Secretary of the Department of the Interior for Energy and Minerals and with the President's special staff on energy problems to exert my maximum efforts toward obtaining administration support for an accelerated, and a greatly increased, coal research program.

I believe that sharp increases for coal research are not only justified, but absolutely necessary, at the present time. The reasons are as follows:

First. Domestic oil and gas resources are short and are declining. Yet, our coal resource base is abundant. As a matter of fact, coal comprises 90 percent of our recoverable fossil resources, but we at present are deriving only 17 percent of our domestic energy from this source. As a practical matter, our coal supply is actually declining because of—constraints in mining laws which make it more costly to mine coal; and environmental constraints on the use of coal—sulfur dioxide.

Second. We must increase our domestic production and utilization of coal rapidly, but in an environmentally acceptable manner, for the following reasons:

To halt the reliance on foreign oil supplies and minimize the implications to national security—at current rates of consumption and in projected growth during the next decade, the United States will be importing more than half of our needs in oil and gas by the year 1985;

To slow and eventually reverse the increasing balance-of-trade and balance-of-payments deficits associated with greater levels of oil importation. The Office of Oil and Gas of the Department of the Interior informs me that in calendar year 1972, we imported 4,741,100 barrels of oil per day. On an annualized basis, this amounts to 1,730,501,500 barrels per year, and this represents dollar expenditures of $6 billion per year, including ocean freight to the port of entry. During calendar year 1973, we are importing 6,125,000 barrels of oil per day. On an annualized basis, this amounts to 2,235,625,000 barrels per day, and this represents dollar expenditures of $9 billion per year including ocean freight to the port of entry; and to place an effective ceiling on the price of a barrel of imported oil. I want to call particular attention to the following facts: For calendar year 1973, our domestic oil consumption is estimated to total 6 billion barrels, and of that amount it is estimated that we will import 2 billion barrels, or one-third of our petroleum consumption. At current prices of approximately $4 per barrel, that translates into an $8 million contribution toward our trade deficit for 1973.

Third. However, to increase our domestic production and utilization of coal, it must be converted to more easily usable and more environmentally acceptable energy forms. This requires the development and demonstration of new technologies for mining coal, for directly burning coal, and for producing clean liquid and gaseous fuels from coal.

Until sulfur-removing techniques are perfected, it will be impossible to meet the very stringent requirements of the Federal Clean Air Act. It is estimated—and it was so noted by the President in his recent energy message to Congress—that if the strict compliance with secondary standards demanded by EPA and the States in 1975 is not reconsidered, up to 155 million tons of coal annually cannot be utilized. This is the equivalent of 1.6 million barrels of oil per day, which, even at current import prices represents an expenditure of, roughly $1½ billion a year. And that assumes that our oil imports will not be affected in the future by political upheavals in the Middle East, or by economic blackmail on the part of King Faisal or the Sheikh of Kuwait.

Therefore, Mr. President, on the basis of these facts, I feel that, despite the stringent budgetary constraints under which we are currently operating, that large increases for coal research are both fully justified and absolutely necessary.

The Senate bill, pending before us today, as amended, contains a total of $95 million for Office of Coal Research administered programs. This represents an increase of $42.5 million over the 1974 budget request and $33.5 million over the amount contained in the House bill. In order that it may be shown exactly how the Senate increases will be allocated, I shall later ask that a table be inserted in the RECORD at the conclusion of my remarks, in order to reflect the fiscal year 1974 budget, the House and the Senate allocations for each of the major coal research activities. This table shows how each of these programs will be accelerated as a result of my amendments.

My amendments increasing coal research by $42 million provided $3 million in fiscal year 1974 funding for reactiva-

tion of the Cresap pilot plant in West Virginia, together with language authorizing the expenditure of $2 million in carryover funds; an additional $20 million for liquefaction research; $12 million for coal gasification research; and $7 million for improved mining technology, which will be conducted by the Bureau of Mines.

Mr. President, what we are doing in this bill is catching up on, and paying for, past neglect in this area.

Only 5 years ago, the total moneys appropriated to the Office of Coal Research for 1 year amounted to $11 million. Had we funded coal research at sufficient levels in past years, we would not have to step it up so quickly now. In other words, the energy crisis that is upon us in the 1970's can be properly said to result from our failure to take adequate steps in the 1960's to prevent it. If we are going to formulate a truly realistic, dependable, and durable national energy research policy, it must be keyed to the fullest possible utilization of coal. I am convinced that every penny spent on coal research now will be a dollar earned in the future.

Mr. President, I again wish to thank my friend and subcommittee chairman, Senator BIBLE; also Senator STEVENS and the other members of the committee for their acceptance of my amendment.

Mr. President, I ask unanimous consent to include in the RECORD the budget, the House, and the Senate allocations for each of the major coal research activities for fiscal year 1974.

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

OFFICE OF COAL RESEARCH, FISCAL YEAR 1974

[In millions of dollars]

	Budget	House	Senate
Coal liquefaction	12.75	19.75	39.75
Improved mining systems	.50	.50	[1].50
Coal gasification:			
High Btu	20.00	20.0	24.0
Low Btu	11.5	11.5	19.5
Improved combustion	2.7	2.7	3.2
Improved power systems	3.85	5.85	6.85
Engineering and economic analysis	1.45	0	0
Supervision and administration	1.20	1.20	1.20
Total	52.5	61.5	95.0

[1] In addition the Senate action adds $7,000,000 to Bureau of Mines for improved mining systems.

Mr. BIBLE. Mr. President, I yield myself such time as I may require.

I send to the desk an amendment which I ask to have stated.

The PRESIDING OFFICER (Mr. CHILES). The amendment will be stated.

The legislative clerk read as follows:

On page 24, line 6, in lieu of "$28,995,000" insert "$29,145,000".

Mr. BIBLE. Mr. President, I shall make a very brief explanation of the amendment. It was an oversight on my part that it was not included in the committee amendments. It is an amendment that was suggested to me, in part, by the distinguished senior Senator from Mississippi (Mr. EASTLAND).

The amendment adds money for the project called gunboat *Cairo*. It is for advancing additional preservation work on this particular Civil War gunboat. It would add another $150,000 to the bill. This is a project that should go forward. It is one in which our beloved junior Senator from Mississippi (Mr. STENNIS) has a great interest. It is my error that it was not included in the committee bill.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Nevada.

The amendment was agreed to.

Mr. HATHAWAY. Will the Senator yield?

Mr. BIBLE. I yield to the distinguished Senator from Maine.

Mr. HATHAWAY. I note in the committee report that $150,000 has been added to the Forest Service budget for wildlife habitat research at Orono, Maine. I wish to thank the Senator from Nevada (Mr. BIBLE) and the members of his subcommittee for their consideration.

I have been advised, however, that the funds could be more effectively utilized by allotting $100,000 for timber management research and $50,000 for wildlife habitat research. I ask the guidance of the Senator from Nevada (Mr. BIBLE) on how this reallocation of the recommended funding might be best achieved.

Mr. BIBLE. As the Senator knows, the report of the committee has been printed and cannot be changed. I believe the best way to approach this matter, since it does not involve an increase in appropriations, is to seek approval for the changes suggested by the Senator during our conference negotiations with the House. I have no problem with the suggestions, and I shall be happy to propose suitable language in the conference report.

Mr. HATHAWAY. I thank the Senator for his cooperation and his courtesy. This is important to the timber resources of my State, although the amount involved is relatively small.

Mr. BIBLE. I yield to the Senator from Kansas (Mr. DOLE).

Mr. DOLE. Mr. President, I would like to direct a question to the manager of the bill.

Both the House and Senate Appropriations Committees have directed that $1,930,000 previously appropriated for construction at Haskell American Indian Junior College be reprogramed and utilized for other construction projects in the coming year. The reason given for this action was that $1,930,000 of the total $5.7 million appropriated last year would not be obligated until fiscal year 1975.

I wish to assure the committee that these additional funds will be needed to complete the construction package at Haskell, but I can also understand the committee's desire to have funds expended during the year in which they are appropriated.

I would therefore appreciate having some indication of the committee's interest in again making the $1,930,000 available for Haskell construction when it is needed in fiscal year 1975.

Therefore the question I would pose is this: Does this reprograming in any way reflect reduced support on the part of the committee for the Haskell construction program, and if not, does the committee expect any difficulty in making these funds available for the Haskell project in fiscal year 1975?

Mr. BIBLE. Let me say to the Senator that the reprograming of these funds in fiscal 1974 is in no way prejudicial to the purpose for which they were originally appropriated. The need remains, and if the Bureau is in a position to obligate the funds in fiscal 1975 I assure the Senator that I will certainly do what I can to see they are made available. I see no problem at this time. The Senator's concern has been noted and will be kept in mind when the committee takes up the fiscal 1975 budget estimates.

Mr. DOLE. I thank the Senator. These funds are indeed important. His words of support are most appreciated.

Mr. BIBLE. Mr. President, I have tried carefully to canvass the Chamber. I do not know of any further amendments. If there are no further amendments I am prepared to suggest third reading.

There is one other matter I wish to call to the attention of the Senator. The Senator from Minnesota (Mr. MONDALE) spoke to me about a problem he had on which I have no worries or doubts at all. This does not require an amendment. I simply wish to state that of the money we have available to us for the Bureau of Indian Affairs we want to make it clear that at least $275,000 should be available for providing referral services to urban Indians. This was referred to us a year ago by the Senator from Minnesota. I thought he made a good case. Unfortunately, the administration impounded this amendment. They have now built it into their funds and I think they will, with a little urging, spend it for this purpose. We want the RECORD clear that $275,000 should be used for that purpose.

I yield to the Senator from Minnesota (Mr. MONDALE).

Mr. MONDALE. Mr. President, first of all, I would like to congratulate the distinguished manager of the bill, the Senator from Nevada (Mr. BIBLE), for his dedicated leadership in the development of the pending bill. In particular, I wish to express my deep appreciation for his work in providing $65 million for the Indian Education Act of 1972. Last year the Congress provided $18 million to begin this program on a modest basis, and these funds were expended only under threat of court suit. I am hopeful that this year the administration will heed the intention of the Congress so that the educational needs of the two-thirds of America's Indian children who attend public schools may be better served.

I wish to address several questions to the distinguished manager of the bill with regard to the availability of assistance for providing referral services to urban Indian citizens.

As the Senator just outlined, last year the Congress provided $275,000 to permit the establishment of five regional referral centers. These centers would assist urban Indian citizens in securing benefits under State, Federal, or local law for which they may be eligible.

It is my understanding that none of these funds were spent for this purpose during the last fiscal year.

Mr. BIBLE. The Senator is correct. None of these funds were spent by the

Bureau of Indian Affairs during the last fiscal year for that purpose.

Mr. MONDALE. I am told that $275,000 for these purposes has been included in the base estimate provided by the BIA for this year's budget.

Mr. BIBLE. I am told that the Bureau has so informed the committee staff.

Mr. MONDALE. I am deeply concerned over the failure of the Bureau of Indian Affairs to utilize these funds as intended by Congress. Quite frankly, I am fearful this inaction may continue, even though the funds are apparently available again in fiscal 1974.

Mr. BIBLE. I certainly share the Senator's concern. I believe the record we are establishing in this exchange will certainly make it clear that these funds should be obligated as intended by the Congress. I will assure the Senator that this problem will be taken up in conference with the House and, if required, suitable language will be offered for the conference report. In addition, I am asking the subcommittee staff to follow through with the Bureau and attempt to make sure these important programs are implemented.

Mr. MONDALE. The Senator is more than helpful, and I assure him his efforts will be most deeply appreciated.

Mr. BIBLE. I yield to the Senator from Michigan (Mr. HART).

Mr. HART. First let me thank the Appropriations Committee, in particular Senator BIBLE, chairman of the subcommittee, for the addition of $155,000 for development of Pictured Rocks National Lakeshore. The administration requested no money for Pictured Rocks and I am most grateful that Senator BIBLE recognized a need for action and commitment.

In a letter to the subcommittee, I referred to my concern that I had been unable to find out when and for what all the money which had so far been appropriated for Pictured Rocks had been spent. May I ask if he has received any information on this matter from the Department?

Mr. BIBLE. I am happy to respond to the Senator from Michigan (Mr. HART). The committee staff has checked with the National Park Service and learned that the $203,000 appropriated for development of Pictured Rocks National Lakeshore last year has indeed not be obligated. We are assured this is not a deliberate effort to slow down this needed work but a problem of environmental impact statements. It would seem that the statement draft filed in connection with the planned development was not accepted and is being redrafted to meet objections. This is a paperwork hangup, it appears.

We are assured that this work will get underway just as soon as the necessary clearance can be obtained. The work involved, as the Senator knows from his continuing interest in this program, is construction of the Miners Castle overlook, trails and parking areas, sanitation facilities and related improvements.

I share the Senator's hope that this work, together with the additional development funded in the pending bill, will soon be accomplished.

Mr. HART. I thank the Senator from Nevada (Mr. BIBLE) for his interest and assistance. This development is needed to make this area properly available to the public.

Again, my appreciation to the chairman of the Interior Appropriations Subcommittee and the subcommittee members for their support of the additional funding.

Mr. President, I yield back such time as I have on the amendment.

Mr. STEVENS. I yield back my time.

Mr. BIBLE. Mr. President, if there are no further amendments, we are ready for third reading.

The PRESIDING OFFICER. The bill is open to futher 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, the bill to be read a third time.

The bill (H.R. 8917) was read the third time.

Mr. HATFIELD. Mr. President, I wish to thank the distinguished chairman of the Appropriations Subcommittee on Interior and Related Agencies and the Senator from Alaska (Mr. STEVENS) for their effort in producing the bill we are now considering. I believe that the budget request submitted by the administration was scandalously inadequate. It simply did not reflect the needs of our natural resource management programs. As the committee stated in its report, "programs important to forest resources, wildlife, and recreation activities and Federal land acquisition were sharply curtailed in the President's budget."

I am, therefore, very pleased that we have been able to make some significant additions for resource management programs, while holding total appropriations below fiscal year 1973 appropriations. I do not believe that our additions are enough to really do the management job which the Federal agencies should be doing, but it is an improvement, and I am grateful to the chairman and other members of the committee for this improvement. We have added $9 million for reforestation and timber stand improvement in the Forest Service budget so that we might begin to reforest over 5 million acres of national forest lands which make up the present backlog. We have increased forest research funding by over $2½ million. We have increased funding for cooperative forest fire control by $3 million.

In the area of energy, I am extremely pleased that the committee has included $1.5 million for the Bureau of Mines pilot plant for converting wood waste to oil at Albany, Oreg. Wastes from the harvesting and processing of timber in the United States constitute a solid waste problem of significant magnitude. Overall, logging and wood-processing wastes are estimated to approximate 55 million tons annually on a dry basis. Of this total, about 30 million tons per year are accumulating at processing plants. About one-half of this material presently is disposed of by burning. An estimated 25 million tons of debris are left in the woods each year and become a serious fire hazard and a reservoir for diseases and pest insects.

The Bureau of Mines has demonstrated that these types of organic wastes can be converted to oil when subjected to the action of carbon monoxide and water at temperatures between 250° and 400° C. and pressures of 2,000 to 4,000 pounds per square inch. The yield, after deducting for the amount of energy needed to conduct the process, is about 1.25 barrels from each ton of dry organic matter. The oil is low in sulfur—typically below 0.5 percent—and could be used as a fuel for powerplants. Assuming that only 10 percent of the available wood wastes could be collected with a reasonable amount of effort, this would be equivalent to about 7 million barrels of oil.

The Congress appropriated $300,000 for design of this pilot project last year and in late June the Bureau of Mines let the contract for this design, which should be completed by December.

The Senator from Nevada (Mr. BIBLE) deserves a great deal of credit for chairing the Subcommittee on Interior and Related Agencies and the Public Works Subcommittee this year, and I thank him again for his hard work.

Mr. PELL. Mr. President, as chairman of the Special Subcommittee on the Arts and the Humanities of the Senate Committee on Labor and Public Welfare, I congratulate the Appropriations Committee on that segment of the pending legislation which provides appropriations for the Endowments on the Arts and the Humanities. They have increased the House figure by about $23 million. I can assure the Members of the Senate that this increase is fully justified. Our hearings held in conjunction with reauthorization of the Arts and Humanities Act demonstrated not only a fine record of accomplishments since 1965, but also a creative and meaningful approach for the future. It should also be noted that some of these funds will be used in conjunction with the Bicentennial celebration.

There is one point that I would like to bring to the attention of the Senate, and, while I do not intend to introduce an amendment to deal with this matter, I would submit that legislative history is being made which is not in the best interest of either Endowment. The bill contains a separate line item of $8.25 million for State arts programs. Historically, State arts councils were mandated by law. Six years ago, at the suggestion of the Special Subcommittee on the Arts and the Humanities, the Humanities Endowment started to develop, on its own, State humanities programs. There are now over 40 State programs in existence. This year, while working on the reauthorization, consideration was given to mandating State humanities councils as is now the case with State arts councils. However, since the leadership of the Humanities Endowment had been so creative in doing this voluntarily, it was decided that the mandating would not be necessary. Therefore, I was most con-

cerned that there was a lesser amount made available to the Humanities Endowment, the rationale being that the Arts Endowment has a large State program to support. I believe that the Humanities Endowment should be given equal treatment, as both Endowments have State programs.

I hope that this unequal division of funds will be remedied in the next bill, and I will offer to assist the Appropriations Committee in learning the facts on the Humanities Endowment's State councils.

In closing, I again congratulate the Appropriations Committee and especially Senator BIBLE, chairman of the Interior and Related Agencies Subcommittee. He has done a fine job.

Mr. CRANSTON. Mr. President, I rise to express my appreciation to the distinguished chairman of the Interior Appropriations Subcommittee (Mr. BIBLE) and to the other members of the Senate Appropriations Committee for including in H.R. 8917 $10 million for land acquisition in the Golden Gate National Recreation Area of California.

The Golden Gate National Recreation Area, created last year when Congress enacted Public Law 92–589, is a unique urban recreational resource. When acquisition is completed, it will include long stretches of beaches, dramatic bluffs rising high from the ocean's edge, quiet stands of redwoods, grassy hills, as well as numerous points of public interest in San Francisco and Marin Counties, such as Alcatraz Island, the Marina Green, and portions of Forts Barry, Chronkite, Baker, and the Presidio. It will stretch from the southern tip of San Francisco County up through Marin County to join Point Reyes National Seashore. It will provide an unprecedented people-oriented resource for the 5 million residents of the San Francisco Bay Area.

The estimated cost of acquiring all the private lands slated for acquisition in the Golden Gate National Recreation Area was, at the time of enactment, in the neighborhood of $60 million. While far short of the total necessary, the $10 million included in the fiscal year 1974 budget for land acquisition in the GGNRA will provide a major first step toward our goal.

Public Law 92–589 grants to the Secretary of Interior the authority to contract with landowners for the acquisition of lands and interests therein by making periodic payments toward the purchase of such lands and interests, provided that the periodic installments do not exceed 10 years. This provision was placed in the bill for the specific purpose of saving the taxpayer money. It was based on the unfortunate experience we had in acquiring all of the lands at Point Reyes National Seashore. In the latter case, the park was created in 1962 by an act of Congress, but was not fully acquired until 1972. During this 10 year interval, the cost of land acquisition quadrupled, jumping from $14 million to $58 million. Subdivisions were planned, improvements were made, and some houses were actually built within the park boundaries which later had to be removed—all at an inordinate and unnecessary expense to the American taxpayer. Hopefully, with the authority to contract for installment payments which has been granted to the Secretary by Public Law 92–589, we can avoid the unnecessary, but presently uncontrollable, spiralling of land values in the Golden Gate National Recreation Area. I urge the Department to use this contract authority wherever possible.

Mr. MCINTYRE. With specific reference to section 158 of the conference report it is my understanding that the language "parkway type highway," is used to indicate a parkway in the generic sense, that is, a recreational and scenic highway located in a park and primarily serving park traffic, from which commercial traffic is normally excluded except in those specific cases when the Secretary of Transportation and the proper officials in New Hampshire permit use of the parkway by other types of vehicles. It would therefore be distinguished from a multipurpose highway. Is my understanding correct?

Mr. BENTSEN. The Senator is correct. The type of vehicle that can use this parkway would be limited except in the situations the Senator has described.

Mr. MCINTYRE. Also referring to section 158, where the report states the parkway should be constructed according to standards which the Secretary determines are necessary for protection of the environment, is it not the intention of the language to in no way affect or diminish any obligation or responsibility of the Secretary under Federal law for the protection of the environment and the preservation of landmarks of historic significance, including, without limitation, the provisions of the Department of Transportation Act, the Federal-Aid Highway Act for the preservation of parklands, and the National Environmental Policy Act of 1969?

Mr. BENTSEN. The Senator is correct.

Mr. COTTON. Mr. President, I wish to express my appreciation to the members of the committee of conference on S. 502—the proposed "Federal-Aid Highway Act of 1973"—with respect to section 158 bearing the caption "Franconia Notch, New Hampshire."

Mr. President, as my colleagues in the Senate may recall, during the consideration of the bill, S. 502, on Thursday, March 15, the Senator from New Hampshire offered and there was agreed to an amendment which, although written in general terms, was applicable specifically to Franconia Notch in my State of New Hampshire, involving a segment of the Interstate System of not more than 12 miles in length.

Mr. President, the purpose of my amendment was to accomplish two things: First, it expressed the sense of Congress that the Secretary of Transportation shall reconsider the request of the State to approve construction of the applicable segment as a parkway. Secondly, it provided an exemption from the present statutory requirement that the segment be constructed as a multipurpose highway, providing for the construction of a parkway-type highway.

Mr. President, when the bill, S. 502, went to conference there was no comparable provision in the House-passed version. But, through the efforts of the distinguished conferees on this bill, and particularly the distinguished chairman of our Committee on Public Works (Mr. RANDOLPH), the distinguished Senator from Texas (Mr. BENTSEN), the distinguished Senator from Vermont (Mr. STAFFORD), the distinguished Senator from New York (Mr. BUCKLEY), and the distinguished Congressman from the Second District of New Hampshire (the Honorable JAMES C. CLEVELAND) a conference substitute now appearing as section 158 was drafted which further improved upon my earlier amendment. And, Mr. President, I am happy to report to my colleagues in the Senate that this conference substitute is not only consistent with my original amendment, but I have been advised is acceptable to the several interested environmental groups in my own State of New Hampshire.

In this connection, Mr. President, I know that, for example, the distinguished Senator from Wisconsin (Mr. NELSON) expressed some reservations concerning my amendment which had been adopted earlier by the Senate on March 15. I therefore would like to call the attention of my colleagues to the following excerpt which appeared on the front page of the New Hampshire Audubon News of April 1973:

> What the Cotton amendment does do is open up the possibility of some sort of compromise between the Highway Dept. and those concerned about the possible adverse impact of a major highway on the fragile environment of the Notch.

Mr. President, throughout the subsequent consideration of S. 502 both myself and my distinguished colleague from New Hampshire (Mr. MCINTYRE) have been in close contact on this matter with the counsel for both the Society for the Protection of New Hampshire Forests and Appalachian Mountain Club, who count among their member hundreds of New Hampshire citizens. And, Mr. President, I am happy to report to my colleagues in the Senate that based upon my own prior communications with the counsel for these groups, as well as telephone conversations a member of my staff had with a representative of the White Mountain Protection Committee, the conference substitute set forth as section 158 is acceptable to them.

As a matter of fact, by letter dated June 14 the counsel for the two groups—the Society for the Protection of New Hampshire Forests and the Appalachian Mountain Club—wrote to me in the following manner concerning this conference substitute:

> * * * the essence of the amendment was preserved in the Conference version of the Bill.
>
> We have made known to the members of the Society for the Protection of New Hampshire Forests and the Appalachian Mountain Club your efforts to keep a full-blown Interstate Highway with all its trappings out of Franconia Notch. Your work was in the

public interest and all of us greatly appreciate what you have done.

In conclusion, Mr. President, I again wish to express my appreciation to the committee of conference on S. 502 for preserving and improving upon my original amendment to this legislation.

Mr. PEARSON. Mr. President, some questions have arisen recently with regard to the funding of the ongoing construction program at Haskell Indian Junior College, Lawrence, Kans. This is now one of the Nation's leading institutions of Indian higher education. The support of Congress and the administration for Haskell's long overdue program of building modernization will be reflected in the future quality of Indian education and Indian leadership in this country.

I would like to express my concern over the action of the House Appropriations Committee, upheld by the Senate, to reprogram $1,930,000 in construction funds originally appropriated by the Congress for use at Haskell in fiscal 1973. On July 19 I wrote to Rogers Morton, Secretary of the Interior, expressing my view that all the funds approved by Congress for Haskell should be available and my further concern "over the possibility that this $1,930,000 may be lost entirely to that institution."

Haskell and the community of Lawrence only 2 weeks ago dedicated that portion of the new buildings on which construction has been completed. My concern at this point is for the rest of the program, which includes much-needed student dormitories to bring the quality of residential accommodations up to standard. Until recently—and even today—Haskell students were found living in improvised quarters beneath the old stadium, under conditions which hardly squared with the high goals which we have set for Indian education.

It is my understanding that the administration opposed the action of the House to reprogram Haskell construction funds. It is also my understanding that the Haskell Board of Regents, during a meeting with Bureau of Indian Affairs officials in Washington April 19 and 20, received assurances that the entire $5,730,000 originally appropriated for construction at Haskell would be available for that purpose. I well recognize the reasoning of the Appropriations Committee in upholding the House action. These funds are not immediately needed and can be restored when construction progress requires it.

I would only like to point out that the building program at Haskell is far from complete, and that we can firmly expect the entire $5.7 million appropriated last year to be needed. Also, I would like to point out that these facilities are not luxurious. They have been built on lean budgets and are designed to be as utilitarian as possible within the scope of their educational purposes.

I fully recognize the urgency of other Indian education projects around the country, and support efforts to move them ahead. In Haskell, we have a fine, and improving, Indian center for higher and vocational education. Its future is not unrelated to the development of future Indian leaders in this country. The promise of a just response to Indian desires for equal educational opportunity, too long denied, should be met by the performance of our Government in providing the funding priorities needed.

Mr. MATHIAS. Mr. President, the Department of the Interior and related agencies appropriation bill (H.R. 8917), which the Senate is considering today, includes a number of provisions of great importance to those who are concerned about the preservation of our natural resources and national heritage. One of these items is of particular interest to the citizens of Maryland, Virginia, West Virginia, and the District of Columbia—the restoration and reconstruction of portions of the historic Chesapeake and Ohio Canal which were severely damaged by Hurricane Agnes last summer.

I visited the canal this past Monday morning, as I have on several occasions since it was ravaged by Agnes' floods, and found the flood damage still to be of grave proportions. The towpath, once an uninterrupted joy for hikers, bikers and naturalists of all ages, has been disrupted at countless points along the 184-mile course of the canal; historic arched masonry aqueducts are in danger of falling in a number of places; and breaks in the wall between the canal and the Potomac are eroding further each day that they are unattended, with the rush of the river's waters. Further delay in this crucial reconstruction effort will only increase the ultimate cost, and in some cases, will allow destruction that can never be repaired at any cost.

The Park Service has been eager to undertake this reconstruction for some time. Until recently, however, efforts to secure funding for reconstruction of the canal have been held up by the refusal of the administration's Office of Management and Budget (OMB) to approve a budget request. OMB has now approved a very modest budget request of $1.3 million for this purpose—a figure which is well below the amount the Park Service had hoped for and could usefully expend to undertake the most critical repair work in the current fiscal year.

As a member of the Senate Appropriations Committee which reported this bill to the full Senate, I am delighted that at least this $1.3 million was included for emergency reconstruction of the canal. But far more funds will be needed in the very near future if we are to avoid considerably higher long-range costs and damage which may eventually prove to be irreparable.

At present, Mr. President, the total cost of the flood-caused damage to the canal is estimated at $34 million. Furthermore, Secretary Morton is on record as having expressed the hope that the needed repairs may be completed by the bicentennial year, 1976. We can hardly achieve this goal at the current rate of appropriations for this task, although the Secretary assures me that this project is at the top of his list of priorities.

Therefore, when the Interior Department's fall supplemental appropriation bill comes before our committee after the August recess, I believe it is essential that we spare no effort to assure additional funding for C. & O. Canal restoration in the current fiscal year.

In this regard, I am heartened by the sympathetic attitude which the distinguished Senator from Nevada (Mr. BIBLE) as chairman of the Appropriations Committee's Subcommittee on the Interior, has expressed to me regarding the plight of the C. & O. Canal. As a result, I am confident that this matter will receive the full and fair consideration of the subcommittee during its deliberations. The C. & O. Canal is in friendly hands with Senator BIBLE who was chairman of the legislative subcommittee that created the park. Friends of the canal gratefully acknowledge our debt to Senator BIBLE and I am sure we shall soon have further occasion to be grateful to him.

In the meantime, I would like to commend to the attention of my colleagues a recent article which was published in the Hagerstown, Md., Morning Herald, which graphically depicts the need for these funds if we are to safeguard this unique and irreplaceable aspect of our national heritage.

I ask unanimous consent to have this article printed at this point in the RECORD.

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

CANAL—NOT FOR BIKES

(By Kim Keister)

(EDITOR'S NOTE: When Morning Herald summer intern Kim Keister learned there was "a bike trail" along the C&O Canal towpath, he was anxious to make the trip with a friend. Keister, who will be a senior this fall at the University of Maryland in College Park, records his impressions of the towpath as a recreational trail.)

The C & O Canal towpath was built for mules, and now, 150 years after its construction was begun, it is still better suited for the ornery beasts than for bicyclists.

The 184½-mile path is publicized by the National Park Service as a trail for bikes, hikes and horses. But the path has taken a beating from storms, particularly last year's Hurricane Agnes, which have carved deep puddles and ruts and exposed large rocks and tree roots along much of the route.

In short, the trail from Cumberland, Md., to Georgetown in Washington, D.C., has been turned into a nightmare for the unfit traveler's back side.

Starting from either end, the trail first rides like the Salt Flats in Utah. But within a few miles, the horse or bike rider abruptly confronts heavily pocked path which jolts him from that notion if not from his steed.

Roots form tic-tac-toe boards across the trail, rocks loom as near hurdles. Along with the yard-wide puddles and ankle-deep swamps, these obstacles make the trail into a steeplechase. Navigation becomes as difficult and hectic as cross-town driving in New York City at rush hour.

Forget about enjoying the scenery while riding—eyes must be glued straight ahead. Nature's aromas go unnoticed, even where stench does not rise from the canal's scum—the unfit traveler is gasping through the mouth, not sniffing through the nose.

Riding becomes difficult and must be struggled with mile post after mile post. Real difficulty strikes at the dozen or so unposted spots along the trail when peddling becomes impossible or the risks of slicing a tire grow too great. Then the rider becomes the steed and the vehicle the burden.

At some points the path has been washed out leaving a thin strip of slippery clay. There the rider must choose between carrying his bike down steep slopes into flowing water, or walking a tightrope to the other side of the crevice.

Still, four more chewed up stretches along the canal warrant signs that warn: "Towpath closed to horses and bikes." Detours on public roads circumvent these impassable gorges cut by Agnes, causing the rider to miss more than 15 miles of the path.

Actually the bypassed sections of the path are not any worse than some of the open sections. None of the trail is closed to hikers, so the rider who has already carried his bike at points along the way may take these stretches in stride. Of course, it can take 20 minutes to traverse just 200 yards.

These are the hazards of the towpath. More inconvenience, even danger, lurks at some of the aqueducts and dams. Many are well preserved and impose no problem. But others are rundown.

Chunks of stone have fallen from the path as it runs over the top of the more dilapidated structures, making it advisable to dismount once again and stroll the bike across. On others, the guard rail is missing in sections leaving one false step between a safe passage across the top and serious injury or death 50 feet below.

Mrs. Lee Struble, spokeswoman for the southern section of the trail, says she knows of no significant plans to repair that part of the trail. "We're using our own maintenance people to repair as much as possible," she says. "The rest of it will just have to wait."

"I doubt that it will ever be really smooth in the sense of a bike trail," she notes.

Mr. HANSEN. Mr. President, I would like to take this opportunity to commend my colleagues in the Appropriations Committee for reporting to the floor a bill which demonstrates this body's concern for balancing the Federal budget and reversing the inflationary spiral in this Nation. The committee has recommended a decrease in new budget obligational authority of $159,501,600 below the 1973 budget estimate. In my mind, this is wise and timely action.

I am especially gratified by the committee's recognition of the pressing needs of Indian Americans—with the inadequacies existent in Indian hospitals, housing, and educational facilities. Clearly, the allocations for Indian health services and education will go a long way toward alleviating the problems of this most deserving group of native Americans.

Turning to the Bureau of Mines appropriation. I was most pleased with the creation of a new organization within the Bureau—the Mining Enforcement and Safety Administration. The allocations outlined in the committee report—including $700,000 for research on filling critical mine void areas in Rock Springs, Wyo.—mark significant progress in the field of mining safety.

It seems that we are constantly faced with striking an appropriate balance between ever expanding needs and contracting Federal expenditures. It is about time that Congress take responsible action in this area.

Mr. DOLE. Mr. President, I wish to indicate my support for the Interior appropriations bill which we are now considering and specifically compliment the committee on the emphasis they have placed on providing additional funds for the Office of Coal Research and the Office of Oil and Gas.

FUEL SHORTAGE

The fuel shortage crisis which the Nation is facing has had its greatest impact in Kansas and other Midwestern States. Fuel supplies continue to be uncertain, and the problem appears to be one which we will have to face for several years.

The solution lies in placing a greater emphasis on programs which encourage the development of new resources and better utilization of existing reserves in new and improved ways. The dilemma we now face is not an energy crisis but a fuel crisis. Adequate domestic energy bearing resources are available, especially in the form of coal, but we must learn how to utilize these resources to meet our energy requirements in ways which are not adverse to our environmental concerns. I feel that additional funds made available for coal research will help us achieve this end.

I also join in support of the additional $2.5 million appropriation for the Office of Oil and Gas. I have consistently urged that a mandatory petroleum allocation system be implemented and am hopeful that the additional funds requested by the administration for the Office of Oil and Gas will be made available at the earliest possible date upon implementation of a mandatory system.

Mr. President, in communications I submitted to the Appropriations Subcommittee I had requested additional appropriations in three areas which were not approved. I would like to make my colleagues aware of these requests with the hope that they might receive favorable consideration when the first supplemental appropriations bill is considered this fall.

OPERATING FUNDS FOR HASKELL

The first request was for an additional $767,000 to be added to the Operating Budget of the Haskell American Indian Junior College during fiscal year 1974. Haskell is one of our leading institutions of Indian higher education. More than 1,100 Indian students attended Haskell last year. A $5.7 million construction program is underway to improve the school facilities, but operating funds are also necessary if the quality of education at Haskell is to show continued improvement.

The Department of the Interior has informed Haskell that their budget for the coming year would be $3,363,300. This is an amount slightly less than last year's budget. The Board of Directors has unanimously approved a budget request for Haskell of $4.1 million. These funds are necessary if Haskell is to sustain educational opportunities for its students and continue to improve its curriculum. Last year Haskell had a budget of only $40 to improve its library, and no substantial expenditure for improving dormitory facilities has been made during the last 15 years.

I am, therefore, hopeful that an additional $767,000 can be made available for Haskell for use in the following ways:

Student work-study	$50,000
Student recruitment	50,000
Dormitory furnishing	200,000
Retraining of instructors in graphic arts	$32,000
Funds for summer school	100,000
Improved nutrition program	100,000
Board of Regents activities	40,000
Library	80,000
Education advice and counseling	40,000
Out of school enrichment and community activities program	75,000
Total	767,000

BOR FUNDS FOR KANSAS

I also had indicated my support for enlarging the special fund established under the Bureau of Outdoor Recreation which would assist States such as Kansas who have spent nearly all of their previous years' allocations and would be unable to operate at a meaningful level during the coming year due to the greatly reduced appropriation for 1974. The $20 million special fund established by the Senate bill will help relieve the funding shortage in Kansas during the coming year. However, the Department of the Interior has indicated that from $30 to $50 million may be needed to sustain this program at last year's level of operation in approximately 20 States which have obligated nearly all of their funds. I would hope that my colleagues will remain aware of the needs of these States and make the additional funds available in supplemental appropriation action.

The land and water conservation funds are not tax revenues but rather are accumulated through moneys acquired through the Federal leasing of Outer Shelf oil rights, the sale of surplus Federal property and income from motor boat fuel taxes. The moneys are earmarked for use by States for outdoor recreation purposes and are not as inflationary as many Federal expenditures because they are often used to acquire real estate and can be obligated over a 3-year period.

Therefore I feel that the funds under this program should be obligated to meet the existing needs. In Kansas there is a need. Fifty-five applications from last year remain unfunded and an additional 50 are expected to be submitted in the coming year. I am hopeful funds will be available to meet a majority of these needs.

FORT SCOTT NATIONAL HISTORIC SITE

Finally, I would ask that my colleagues remain aware of the special needs for Interior appropriations to assist the city of Fort Scott. Due to some complications over dollar estimates on work to be done on the Fort Scott National Historic Site in Fort Scott, Kans., a spending authorization for the program was set at a level inadequate to complete the project.

The problems which delayed the authorization have now been resolved to the satisfaction of everyone concerned, and I have introduced a bill, S. 2173, which would authorize an additional $1.42 million to be spent by the National Park Service for work on the fort. I am hopeful that the bill can gain congressional approval in the near future and would ask that the necessary appropriations be made available for this project as soon as the expenditure is authorized. Funding during the coming fiscal year is necessary if the renovations are to be com-

pleted in time for the city's bicentennial celebration in 1976. The fort is to be the focal point for the city and southeast Kansas bicentennial festivities.

Mr. FANNIN. Mr. President, I rise to support H.R. 8917 and in doing so I want to express my appreciation for the work of the distinguished Senator from Nevada. His leadership in meeting the problems that are represented in this bill has been exceptional and I want to acknowledge his contributions to the development of this bill as well as to the members of his committee.

H.R. 8917 is a commendable bill as it seeks to increase the commitment of the Federal Government in the support of Indian education. The action by the committee in approving a $65 million appropriation for title IV, the Indian Education Act, of Public Law 92–318 represents a major step in increasing the opportunities for strengthening and enhancing our efforts to provide a quality Indian education program.

Even though I support wholeheartedly the funding of title IV, I was disappointed that the committee failed to increase funds for the Johnson-O'Malley program. As the Senate is undoubtedly aware, the Johnson-O'Malley program has, over the years, provided substantial financial assistance in support of the education of Indian children enrolled in local public school districts. This assistance has taken the form of supplementary funds to support the basic education costs of those school districts located on or near Indian reservations. Such assistance has been necessary due to the fact that these local school districts are without sufficient local resources to support their operations due to the presence of tax-exempt Indian lands. Without Johnson-O'Malley funds, these schools would have found it very difficult to operate. In this respect, the Johnson-O'Malley program has provided the necessary margin of difference in meeting the high cost of educating reservation Indian children.

Yet, despite the increased need for Johnson-O'Malley funds, the 1974 budget provides $25,352,000 against a request from the 24 States participating in this program of $39,587,222. For example, Arizona needs $6,061,432.50 in Johnson-O'Malley funds for fiscal year 1974, but under present budget plans, the Department of the Interior plans to allocate only $3,785,000 to Arizona and this is $50,000 less than what the State received last year, yet costs are increasing.

In recognizing this deficit funding, Senator GOLDWATER and I joined in requesting that funds for the Johnson-O'Malley program be increased by $14,235,000 over the budget request to meet fully the requests of those 24 States participating in the program.

Mr. President, I ask unanimous consent to have placed in the RECORD at this point, an analysis of the Johnson-O'Malley program as it relates to the 1974 budget.

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

JOHNSON-O'MALLEY FUNDING, FISCAL YEAR 1974

Area and State	State request	Area request	BIA request	Appropriation request
Aberdeen:				
Nebraska	$800,000	$800,000	$800,000	$670,000
North Dakota	911,714	911,714	900,000	740,000
South Dakota	2,209,302	2,209,302	2,200,000	1,640,000
Albuquerque:				
Colorado	354,000	354,000	354,000	287,000
New Mexico	1,882,135	1,882,135	1,880,000	1,488,000
Anadarko: Kansas	153,000	153,000	153,000	102,000
Billings:				
Montana	2,363,579	2,354,579	2,350,000	1,080,000
Wyoming	326,332	326,332	326,000	135,000
Juneau: Alaska	8,321,000	6,761,328	3,961,000	4,859,000
Minneapolis:				
Minnesota	1,840,949	1,841,000	1,841,000	1,350,000
Wisconsin	693,482	693,000	693,000	460,000
Iowa	165,150	165,150	165,000	150,000
Michigan	254,940	254,940	254,000	140,000
Muskogee:				
Oklahoma	$2,967,155	$2,967,155	$2,960,000	$2,140,000
Mississippi	32,800	15,000	15,000	15,000
Navajo:				
New Mexico	2,701,552	2,200,000	2,200,000	2,000,000
Peripheral	2,328,700	2,105,000	2,105,000	2,105,000
Phoenix:				
Arizona	[1] 8,562,484	6,011,274	6,000,000	3,785,000
Nevada	285,000	245,000	245,000	245,000
Utah	20,000	20,000	20,000	20,000
Portland:				
Idaho	600,000	600,000	600,000	485,000
Washington	1,080,000	1,080,000	1,080,000	1,025,000
Oregon	170,000	170,000	170,000	71,000
Sacramento: California	3,000,000	500,000	500,000	350,000
Southeast: Florida	65,000	20,000	20,000	10,000
Total	42,088,274	34,639,909	31,792,000	25,352,000

[1] This may have been revised to $6,061,432.50 since the original request.

Mr. FANNIN. The committee felt, however, that an increase in Johnson-O'Malley funds would not be necessary since it was assumed that the funds appropriated to implement title IV would be sufficient since funds under part A of title IV would be going to those public schools who receive Johnson-O'Malley funds as well.

On the assurances of the manager of the bill, the distinguished Senator from Nevada, that title IV funds could be used to defray, in part, basic operational costs of those public schools located on or near Indian reservations, such as salaries for teachers who are carrying out projects and programs provided under title IV, I have accepted the committee's decision.

I want to make it clear, however, that this is a matter which I intend to review and if the assumption of the committee concerning the use of title IV funds does not prevail then I will pursue increased funding for Johnson-O'Malley. I think that the Congress must recognize that if public schools located on or near Indian reservations are to do their job, the Federal Government is going to have to deliver funds in sufficient amounts to meet the increasing operational costs that these schools incur in order to provide a quality educational program for our Indian children.

The Federal Government is kidding itself if it thinks that special programs for enhancing Indian education is enough. What is needed are funds to support fully the operational costs of reservation schools whose limited tax resources are incapable of providing.

In my opinion, only basic operational funds can guarantee quality personnel, services, and facilities. Johnson-O'Malley, then, is a key to providing the difference between mediocrity and excellence.

I hope, Mr. President, that title IV funds will provide operational assistance, but if the impact of title IV on operational costs is insufficient I will urge that Johnson-O'Malley funds be increased.

Mr. STEVENS. Mr. President, I want my colleagues to know of the very significant role the distinguished junior Senator from West Virginia (Mr. ROBERT C. BYRD) played in our subcommittee, as well as the full committee, when we were deliberating the need for increased funding for coal research. His expertise on this subject was invaluable in helping us to reach a decision. He spent a good deal of time with us going over the various proposals, his as well as others, that were presented to the committee.

Senator BYRD was very persuasive about the need for additional funds for coal research; at the same time, however, he was very responsible in trying to keep the budget down to a reasonable figure. His original proposal was for an additional $100,000,000. We looked at this and the other proposals, and we were able to come up with an amount for coal research that is both fair and reasonable. It was largely because of Senator BYRD's efforts that we were able to do so—his two amendments which added $42 million were adopted.

I must also mention, of course, the great patience, skill and understanding displayed by our distinguished chairman of the subcommittee, Mr. BIBLE, on this matter.

THE NEED FOR THE NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

Mr. HRUSKA. Mr. President, among the amendments in the bill is one which increased the appropriation for the National Foundation on the Arts and Humanities.

In my view it was a responsible increase. This is especially true if one considers the fact that the Endowments make an important contribution to improving our Nation's cultural life. Each dollar provided to the Endowments helps bring forth additional dollars from State, local, and private sources.

What has occurred in the States of Nebraska, Kansas, Iowa, and Missouri

is a good example of the positive effect of the Endowments. These States have formed a Mid-America Arts Alliance. This alliance is improving the cultural potential of the area. In addition, State arts and humanities councils are good examples of what seed money from the Endowments can do.

Considering that the Endowments have provided much in the past, it would be indeed unfortunate if we restricted their capabilities for the future by denying them responsible increases in their budgets. This is especially important if we consider that the Endowments have provided the States much help in planning for our Nation's Bicentennial in 1976.

Mr. SCHWEIKER. Mr. President, included in this bill is an amendment the Senator from Illinois (Mr. STEVENSON) and I sponsored to increase appropriations for the Office of Coal Research for fiscal year 1974 which was accepted by the Appropriations Committee.

Our amendment would have nearly doubled the $52.5 million which the President's budget requested for the Office of Coal Research. The committee by approving $95 million has come very close to funding the full amount requested in our amendment. Our amendment was also supported by 23 Senators who joined us in writing the distinguished chairman of the Interior Appropriations Subcommittee on behalf of increased funding for coal research.

We must accelerate development of coal as a potential long-range solution to the energy shortage. It can be converted into clean burning pipeline gas and fuel oil at a cost competitive with all sources of energy on the market today. Anything less than a full-scale Federal coal research effort at this time could be potentially catastrophic. I am pleased the members of the committee agree.

Senator STEVENSON and I were prompted to introduce our amendment after the administration requested an increase over present spending of only $9 million for coal research in its fiscal year 1974 budget. However, in his June 1973 energy message to Congress, President Nixon later requested an increase of $50 million. The appropriation last year for the Office of Coal Research was $43.5 million.

The energy crisis dictates that we develop all our potential sources of energy, including fossil, atomic, and solar. We have an estimated 500 years of coal reserves beneath our land as compared to 30 years reserves of oil and we would be foolish not to take advantage of it.

Total funds for all facets of coal research approved by the Committee and in the bill are close to $150 million. This is an important step in energetically pursuing the solutions to our energy problems which can be provided through coal research and I am very pleased that coal conversion research will be given the attention and resources it so richly merits.

MASSIVE RESEARCH PROGRAM FOR COAL IS AIDED BY FUNDING IN APPROPRIATIONS BILL

Mr. RANDOLPH. Mr. President, I am gratified that the pending measure recognizes the need for increased research and development to help meet our growing energy demands and to alleviate the crisis confronting our Nation. I particularly congratulate the members of the Appropriations Committee for providing substantial increases for coal related developments.

The higher funding levels for the Office of Coal Research and the Bureau of Mines provide the resources to develop our most abundant domestic fuel—coal. As a Senator from the largest coal producing State and as a member of the Senate's National Fuels and Energy Policy Study group under the Committee on Interior and Insular Affairs, I have consistently stressed the need for a massive research and development effort to insure that coal will be available to meet our energy needs. I am a cosponsor of Senator JACKSON'S bill to establish a combined energy research project with satellite units.

Historically, as a Member of the House and as a Member of the Senate, I have been an advocate of energy research and development, especially, in the fields of coal gasification, and coal, oil shale and lignite liquefaction first authorized in the 1940's by the Randolph-O'Mahoney Act. My interest in finding and demonstrating better technology to expand our energy supplies continues in this period of growing energy crisis.

On July 25, it was my privilege to join with other Members of this body in urging substantial increases for coal research and development. I ask unanimous consent that our letter to the senior Senator from Nevada (Mr. BIBLE), and his appropriations subcommittee, be printed at this point in the RECORD.

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

U.S. SENATE,
Washington, DC., July 25, 1973.

Hon. ALAN BIBLE,
Chairman, Interior Subcommittee, Senate Appropriations Committee, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Later this week, the Interior Subcommittee of the Senate Appropriations Committee is scheduled to take up in Executive Session H.R. 8917, the appropriations bill for the Department of the Interior and related agencies for fiscal 1974. Among the items to be considered will be the budget for the Office of Coal Research.

In the President's budget the funding for the OCR was set at $52.5 million, including $51.3 million in contract authority for ongoing and proposed projects relating to coal research and development. On May 9 before your Subcommittee, Senator Stevenson of Illinois testified on behalf of himself, Senator Schweiker of Pennsylvania, and 18 other Senators in favor of increased funding for the OCR—an additional $50.7 million in contract authority for a total contract authority budget for the OCR of $102 million. The statement presented on behalf of these 18 Senators also set forth the projects for which the increases could usefully be spent.

It is our belief that the nation's current energy situation dictates that such increased funding for coal research and development should be a high budgetary priority. The President reached this same conclusion in his June 29 energy message by calling for increased energy r & d funding in fiscal 1974 of $100 million over the original FY 74 budget estimate. About half of this increase, the President indicated, should be spent on coal research and development. This corresponds closely to the increase proposed in the May 9 testimony before your Committee.

There are various proposals to expand and restructure the government's programs relating to energy research and development. The programs of the Office of Coal Research can be expanded now. If the Congress should decide later on that an expanded or somewhat different approach is necessary, the programs ongoing within the OCR can easily be incorporated. The funding for the OCR can be increased immediately. It has the administrative capacity, and numerous worthy applications await funding. Our energy problems only worsen by the day. We have already waited far too long to begin the level of research necessary to utilize adequately our vast coal reserves. We ought now to redouble those efforts. Coal technology, including mining technology, is capable of unlocking the nation's largest energy resource. For a small investment we can help make the nation less dependent upon undependable and increasingly expensive foreign sources of energy.

We respectfully urge that in your Subcommittee's consideration of H.R. 8917 you give the most favorable consideration to increased funding for the Office of Coal Research.

With best wishes,
Sincerely,
Adlai E. Stevenson III, Lee Metcalf, Joseph R. Biden, Jr., Richard Schweiker, Birch Bayh, Hubert H. Humphrey.
Marlow W. Cook, Hugh Scott, Howard H. Baker, Jr., Clifford P. Case, Quentin N. Burdick, George McGovern, Walter F. Mondale, Frank E. Moss.
Walter D. Huddleston, Harold E. Hughes, Edward J. Gurney, James Abourezk, J. Glenn Beall, Jr., Jennings Randolph, Charles H. Percy, Mike Gravel.
Dick Clark, Thomas F. Eagleton, Bill Brock.

Mr. RANDOLPH. Mr. President, the affirmative action of the Appropriations Committee in working to meet this request is a significant step toward developing a better program to utilize our vast coal reserves.

It is particularly gratifying that the increased funding for the Office of Coal Research provides $42.5 million over the inadequate budget request, bringing OCR funding to a level of $95 million. Included in this increase are:

To reactivate the coal liquefaction pilot plant, Cresap, W. Va. The Office of Coal Research is directed to utilize $2 million in unobligated funds previously appropriated for this project—$3 million.

To expand research on magnetohydrodynamics—MHD—including cooperative programs with the Soviet Union and the initiation of pilot plant design—$3 million.

To accelerate construction of a solvent refined coal pilot plant, Fort Lewis, Wash., $3 million; and to initiate design of a demonstration plant, $1 million—$4 million.

Improved coal combustion techniques—$500,000.

The committee has approved general increases of $20 million for coal liquefaction and $12 million for coal gasification, including $3.4 million for project COED to strengthen existing research and development programs and to initiate new efforts.

Further, Mr. President, the appropriation for the Bureau of Mines contains an increase of $7.5 million for improved coal mining technology—a vital endeavor if we are to fully utilize our coal resources

in the future. It is essential that we find ways to extract coal economically, under the highest possible standards of health and safety.

While I feel that the pending measure is a significant improvement over the budget request, I caution that it is still inadequate for the coal research and development level our Government can and should achieve if we would spend far less on outer space endeavors and more here on Earth.

As I have stressed in the past, the administration's 1974 original budget for energy research and development reflects a token $61.6 million for coal technologies needed for the 1980's and 1990's and a flagrant $107 million increase to a gigantic $506 million for nuclear technologies for the 21st century. Space and nuclear activities are overfunded annually, in my opinion.

It is recognized that the President's energy message of June 29 called for increased energy research and development funding of $100 million, half of which would be for coal. Nevertheless, this amended request was "too little and too late."

With coal and clean derivatives generally recognized as the only domestic alternatives to oil imports, it is obvious that action, not rhetoric, is needed now to insure the future and essential role that domestic resources, principally coal, must serve in our energy economy.

For 20-plus years, the American people have subsidized nuclear power developed on the premise of abundant electric energy. We must now apply this same concept and assure abundant supplies of domestic, not foreign, energy resources, compatible with environmental requirements. It is unrealistic to continue to expect that increased exploration for domestic oil and gas can alone carry the burden for successful obviation of the energy crisis.

During hearings before the National Fuels and Energy Policy Study Group on Federal energy research programs and priorities, I pointed out that our Nation's long-term energy posture depends on the successful development of solar energy, the nuclear breeder reactor, controlled fusion, and other unconventional energy resources. First, however, we must successfully meet the requirements of the 1970's and 1980's when there will be need for the development of sulfur oxide control technology, coal liquefaction, both high- and low-Btu coal gasification, and geothermal energy sources.

With present technology, there are some 150 billion tons of recoverable coal, out of an estimated 3.2 trillion tons. Even should maximum production be pursued for the next 15 years, less than 10 percent of our presently recoverable reserves would be consumed.

Nevertheless, energy self-sufficiency will require unprecedented growth from our Nation's coal industry. This means that, at a minimum, by 1985, the United States must be capable of producing and using, in environmentally acceptable ways, between 1.8 and 2 billion tons of coal. This compares to about 700 million tons, today. This is a two and one-half to three-fold increase in production in 12 years. However, should other energy supplies not be able to meet their projected roles this task for coal could be made even more difficult. Coal production might have to reach 2.6 billion tons. This means that by the year 2000, production might have to be as high as 4 billion tons.

A crash program would, of course, require cooperation from the private sector where the greatest expertise now exists. Yet, the very companies which possess the expertise on such technologies as synthetic fuels from coal will continue to be wary of joint government-industry projects unless the Federal effort is maintained at a high and constant level. Unless we do this, particularly in the area of coal research, our Nation will suffer from a critical energy shortage beyond the proportions we know today or even predict for the future.

Mr. BIBLE. Mr. President, I understand the leadership desires to postpone the vote on this matter until noon. I am perfectly willing to yield back my time and to enter into a unanimous consent agreement that the vote on final passage of the appropriation should be at whatever time the majority leader, who is standing very pensively in front of me, determines.

Mr. President, I ask unanimous consent that the vote on final passage of the Interior appropriation bill occur at 12 o'clock noon.

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

Mr. BIBLE. I yield back my time.

The PRESIDING OFFICER. Does the Senator request that rule XII be waived?

Mr. BIBLE. I ask that all pertinent rules be waived.

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

Mr. BIBLE. I yield back my time.

Mr. STEVENS. I yield back the time on our side.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum for the purpose of endeavoring to get enough Senators in the Chamber to ask for the yeas and nays.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. MANSFIELD. Mr. President, I ask for the yeas and nays on the Interior appropriation bill.

The yeas and nays were ordered.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

AUTHORIZATION OF APPROPRIATIONS FOR CONSTRUCTION OF CERTAIN HIGHWAYS—CONFERENCE REPORT

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of the conference report on S. 502.

Mr. BENTSEN. Mr. President, I submit a report of the committee of conference on S. 502, and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated by title.

The 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. 502) to authorize appropriations for the construction of certain highways in accordance with title 23 of the United States Code, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all 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.

(The conference report is printed in the Senate proceedings of the CONGRESSIONAL RECORD of July 27, 1973, at pp. 26329–26343).

The PRESIDING OFFICER. How much time does the Senator yield himself?

Mr. BENTSEN. Mr. President, I yield myself such time as I may need.

I suggest the absence of a quorum, and ask unanimous consent that the time not be charged to either side.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BENTSEN. 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. BENTSEN. Mr. President, I ask unanimous consent that Barry Meyer, Bailey Guard, Hal Brayman, Phil Cummings, John Yago, Leon Billings, Rick Herod, and Kathy Cudlipp of the Public Works Committee staff be accorded the privilege of the floor during the debate and vote on this measure.

I also ask unanimous consent that Ron Katz be accorded privileges of the floor.

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

Mr. BENTSEN. Mr. President, I suggest the absence of a quorum. I ask unanimous consent that the time not be charged to either side.

The PRESIDING OFFICER. Without objection, is is so ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BENTSEN. 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. BENTSEN. Mr. President, this conference report represents months of very arduous work by both the Senate and House conferees. As my colleagues will remember, we failed to pass a highway bill last year, although we did emerge from over 40 hours of conference with a 1-year extension of the major highway programs. The measure failed to gain approval when a quorum call in the House blocked final passage.

This year we had to begin anew. My subcommittee on transportation held extensive hearings in February this year and received testimony from over 40 witnesses. The Public Works Committee then reported a comprehensive bill to the Senate on March 1, and we passed the measure after several hours of debate on March 15.

In mid-April, the House passed its version of the highway bill, and we went to conference on May 7.

Mr. President, I can report that the conference held to reconcile the differences between the two bills was a very difficult one. I know that is a common expression around here, but some of my colleagues who have been here longer than I have suggested that it was the most difficult conference they have ever participated in.

We were in conference over 2½ months. The conferees met 29 times, and the House and Senate conferees met among themselves several times to try to work out solutions to our most difficult problem, the question of diverting money from the highway trust fund for the use of mass transit.

I believe we have emerged with a strong bill which preserves the essence of the Senate position on the highway bill.

Before I move into a discussion of the major points of agreement, I want to briefly say a word about my colleagues in the Senate and House who worked so diligently to bring this measure to the Members of both bodies.

As chairman of the Public Works Committee, Senator RANDOLPH of West Virginia, undoubtedly knows more about highway legislation than any other Member of the Senate. In the conference, he demonstrated the same strength and patience that have marked his years of service as the chairman of this committee. Even though his position on the highway trust fund differed from that of the majority of the Members of this body, he worked with all of the conferees and devoted his efforts to try to reach a compromise that would fairly represent the Senate.

Senator MUSKIE of Maine proved to be a tough and fair negotiator and an articulate spokesman for the Senate view which he championed in the debate on this matter last year. The Senator from Maine has been a leader in the struggle to improve the environment, and he continued his efforts in the conference.

Senator MONTOYA of New Mexico, although deeply involved with his work on the Watergate, contributed to our efforts to bring this measure to a successful conclusion.

The ranking Republican, Senator BAKER of Tennessee, worked with us in the evenings when his Watergate sessions had concluded and brought sharp and incisive reasoning which helped us to solve our knottiest problem of how to confront the mass transit issue.

Senator BUCKLEY of New York attended most of our sessions and demonstrated an ability to suggest points of agreement on several difficult issues.

Senator STAFFORD of Vermont, who has always been one of our most conscientious and hard working Members, showed his willingness to arrange his time so that he could give the maximum attention to this measure. And I might add that his fairness and the constructive attitude that he brought to the conference helped us to keep our lines of communication open during periods of tension and frustration.

I might also say, Mr. President, that the Senate conferees worked very effectively as a unit. When we offered a Senate position on one of the critical issues to the House, we spoke with one voice, even though some of us may have disagreed privately among ourselves. That, I think, lent some strength to our bargaining position.

On the House side, I want to pay particular tribute to my colleague from Texas and the chairman of the conference, JIM WRIGHT. He set the tone of the conference and kept us negotiating even when matters seemed hopelessly deadlocked. His good humor, his fairness, and his comprehensive knowledge of this measure were invaluable assets in concluding a successful conference.

I want to also express my appreciation to Congressman BLATNIK, of Minnesota, Congressman KLUCZYNSKI, of Illinois, Congressman JOHNSON of California, Congressman STANTON of Ohio, Congressman CLEVELAND, of New Hampshire, Congressman DON H. CLAUSEN of California, and Congressman SNYDER, of Kentucky.

Special mention should be made of Congressman HARSHA, of Ohio, the ranking minority Member on the House side. He fought very hard for his position, and, though the conference did not uphold his view on the trust fund, I believe every Senate conferee emerged from the conference with great respect for his efforts to represent the point of view of the House.

Mr. President, the Senate and House conferees began their sessions with some 110 points of difference in the two bills. By May 17, we had resolved all but 13 issues. Yet those 13 issues were unresolved for more than 2 months.

At the center, of course, was the question of whether to open the trust fund so that urban areas could use their highway trust funds, at local option, for this support of mass transit facilities and equipment.

On March 14 the Senate had decided that question by a vote of 49 to 44 on the so-called Muskie-Baker amendment, which opened the trust fund. The House, shortly over a month later, decided to the contrary.

From May 17 until we reached a final agreement on July 18, there were no fewer than 10 proposals and counterproposals to reach a solution on this question. I believe that the solution that we ultimately reached was an eminently fair one.

For the first year of the bill, fiscal 1974, the House position will prevail: None of the highway trust funds can be used for any form of mass transit. In fiscal 1975, up to $200 million of trust fund moneys can be used for the purchase of buses, the most immediately available form of mass transit. Then in fiscal 1976, the Muskie-Baker amendment will prevail, unless Congress in the meantime enacts legislation setting up some kind of assured urban transportation funding, such as a trust fund, which will cover both highways and mass transit.

In this compromise, Mr. President, I believe both sides have given substantially. The Senate gives up rail mass transit from the trust fund until fiscal 1976, although general fund moneys can be exchanged for trust funds for these purposes in both 1974 and 1975. The House gives up its absolute insistence that no funds shall be diverted from the trust fund for nonhighway related projects.

My Senate colleagues should realize how deeply the House Members feel about this issue and how difficult it was to ask them to yield on something which they considered to be a question of principle.

Of course, there are other important matters covered in this bill. I do not attempt to cover all of them here, but I will mention a few which deserve to be recognized.

The first is the question of authorization levels. The bill as passed by the Senate contained some $19 billion over 3 years. The House bill contained around $25 billion for the same period.

The conferees recognized that we would have to make substantial cuts in the House bill in order to avoid a veto of this measure. Therefore, our final bill contains approximately $19.9 billion, a cut of over $5 billion from the House passed bill.

I ask unanimous consent to include at the conclusion of my opening remarks a summary of the spending levels authorized in the bill, and a State-by-State breakdown of spending under various programs.

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

(See exhibit 1.)

Mr. BENTSEN. I believe we have done our utmost to exercise fiscal responsibility on this measure. The conferees at the end of their work went over the bill item by item to determine where and how much we could reduce the authorizations. As a result of their concern and their care, I believe we have a reasonable bill which the President should sign. And I should add that the important figure is the authorization level for the first year, which is roughly $6 billion. Administration spokesmen, although unwilling to suggest a precise figure, strongly indicated that a $6 billion level the first year, which is the year for which they should have the greatest concern, would be acceptable.

We have adhered to that suggestion.

A strongly contested issue was the matter of the so-called priority pri-

mary system of highways in the House bill. The House, both this year and last, included a provision for a system of highways, not to exceed 10,000 miles of primary roads to connect with the Interstate System. The authorization level in the House-passed bill was $900 million over 3 years.

The conference agreement substantially modified the House position. The 10,000-mile figure, which was objectionable both to the Senate and the administration, was dropped from the bill. Rather than $900 million over 3 years, the bill contains $600 million over 3 years. And in response to the concerns of those who fear a "junior interstate" system, the bill provides that the roads do not have to be built to interstate standards and that the Federal share of the cost shall be 70 percent, not 90 percent as on the Interstate System. The conferees do not see the priority primary program in this bill as a commitment to an entirely new system of highways with a specified level of mileage.

Another important issue was the question of operating subsidies for mass transit companies. In the Senate last March, we passed an amendment introduced by the distinguished Senator from New Jersey, (Mr. WILLIAMS) which would have provided some $800 million over 2 years for operating subsidies for mass transit. No similar provision was included in the House bill.

Faced with the unrelenting opposition of the administration, which indicated that operating subsidies in any form would invite a veto, and the skepticism as the House conferees, the Senate conferees agreed to drop operating subsidies from the bill. I should note, however, that the remainder of the Williams amendment, which provided $3 billion in capital grants for mass transit over the next 3 years, was retained.

In addition, the Senate conferees believe that the breakthrough on the Muskie-Baker amendment will be of significant importance to the future funding of mass transit.

The question of interstate transfer is also closely related to mass transit. The Senate bill allowed urban areas and States to jointly request the withdrawal of controversial interstate routes from the system. If an acceptable substitute route were provided or if the route were withdrawn because it was nonessential, any funds left over would have gone to the account of the urban area to be used for highways or any mode of mass transit.

The conference agreement would not permit funds allocation for withdrawn interstates from the trust fund to be used for mass transit: However, urbanized areas would be permitted to trade their allocations for controversial interstate segments for an equal dollar amount from the general revenues which would be used to build rail lines or to buy rolling stock for any mode of public transportation. The money originally earmarked for the "traded" highway projects would remain in the highway trust fund for highway purposes.

In addition, a State would be able to give up a planned segment of interstate highway in one section of the State and use that allocation from the trust fund for interstate mileage in another part of the State. Alternatively, the Secretary of Transportation may determine that the unused allocation may be transferred to another State or States where there is a more pressing need.

The House bill provided for an unlimited amount of new interstate mileage to provide for the interstate transfers; the conference substitute sets a ceiling on new interstate construction of 500 miles, 300 miles above the present ceiling.

The conferees were unable to come to an agreement on language concerning highway beautification; however, they intend that the beautification program should proceed with funds carried over last year. Administrative expenses for this program are also provided so that the personnel working in this field can remain at their jobs. The House and Senate will take up beautification in a separate conference, as they recognize the importance of keeping this program, which was started in 1965, moving along at a steady pace.

The question of "passthrough" and "earmarking" of funds for urbanized areas also received considerable attention. Although the Senate bill contained earmarking for urbanized areas of over 400,000 population and allowed funds to be "passed through" or controlled by incorporated municipalities within those urbanized areas having 400,000 or more population, the House bill had no such provisions, and, in fact, an earmarking provision was defeated on the House floor by nearly 200 votes.

In the bill reported by the conferees, the concept of earmarking is preserved. Funds attributable to urbanized areas of 200,000 or more must be made available for expenditure in those areas according to a fair and equitable formula developed by the State and approved by the Secretary. If such a formula is not developed and approved, then the funds will be allocated among these urbanized areas in the ratio that the population within each such urbanized area bears to the population of all such urbanized areas in the State. We believe that this provision will assure that our larger urbanized areas receive their fair share of highway funds and will largely cancel the allegation that rural-dominated State authorities can deny urbanized areas the funds they require.

On the question of impoundment, both bills contained provisions prohibiting impoundment in one form or another; the House bill prohibited the impoundment of funds under the Urban Mass Transportation Act: the Senate bill included an amendment prohibiting the impoundment of funds appropriated by Congress from the highway trust fund. Both provisions were dropped in the conference agreement in view of strong administration opposition and in light of other efforts by the Congress to place strong restrictions on the President's ability to impound. However, this action by the conferees is not to be construed as any endorsement of impoundment, and individual Members may initiate further action later on this matter if the administration continues to withhold highway funds or if other congressional initiatives do not succeed.

I do not intend to make an exhaustive list of every item in title I of the bill, but there are several other provisions which deserve to be mentioned.

Several of our witnesses, both this year and last, complained about the burden of red tape and the lengthy time involved in approving highway projects. Both bills contained provisions to allow the Secretary to utilize alternative procedures from those in current laws to approve highway projects on systems other than the interstate system. The conference agreement contains a provision entitled "Certificate acceptance" which allows the Secretary of Transportation to accept a certification of the capability of the State to perform its duties under the law. The Secretary would be required to make a final inspection of the projects upon completion and require an adequate report of the estimated and actual cost of construction; however, much of the interim responsibilities would devolve upon the States. This section, however, does not relieve any State of the responsibility of complying with environmental statutes.

The economic growth center development highways, which were in the original House bill, were included in the conference agreement. However the authorization levels were trimmed to $50 million in fiscal 1974, $75 million in fiscal 1975, and $100 million in fiscal 1976.

One provision which has received considerable attention and considerable mail provides for bicycle paths and pedestrian walkways to be funded from apportionments to the State, out of the Highway Trust Fund, for primary, secondary, urban extension, and urban system roads. The compromise agreement reached in the conference allows up to $40 million a year to be used for these purposes, with no more than $2 million for any one State.

The issue of highway safety was resolved by including provisions which appeared in both S. 893, the Senate passed safety bill, and title II of the House bill, which authorized several new programs for highway safety for projects on the Federal aid system. The thrust of the Senate bill was to correct safety hazards on roads off the Federal aid system. This Senate measure, which contained the so-called Federal aid safer roads system, was included in the final bill as a demonstration program. At the same time, many of the House provisions, which included funding for both Federal aid roads, out of the trust fund, and off-system roads, out of general revenues, were consolidated to provide funding only for roads on the Federal aid system. With very few exceptions, safety programs on and off the Federal aid system are to be funded from the Highway Trust Fund, reflecting the high priority which the conferees assign to safety.

It should be noted that the conferees substantially reduced the authorizations for safety below the amounts requested in the House bill. The House bill contained some $4.3 billion over 3 years for safety; the final bill contains ap-

proximately $1.9 billion, the amount the conferees considered that the States could prudently spend during the life of this legislation.

Before I conclude, let me take this opportunity to clear the record concerning a misprint in the conference report. Section 121 of the bill is entitled "Public Transportation," and it amends section 142 of title 23. Midway through paragraph (a)(2) on page 11 of the conference report, a reference is made to section 140(b)(6). This is an error that only appears in the prints, not in the official records, which have the correct reference, which is section 104(b)(6).

EXHIBIT 1

TITLE I

[In millions of dollars]

Program	Fiscal year— 1974	1975	1976
Interstate	2,600	3,000	3,000
Rural-primary	680	700	700
Rural-secondary	390	400	400
Urban	780	800	800
Urban-extensions	290	300	300
Forest highways	33	33	33
Public lands highways	16	16	16
Forest developed roads and trails	[1] 140	[1] 140	[1] 140
Public lands developed roads and trails	[1] 10	[1] 10	[1] 10
Parks roads and trails	[1] 30	[1] 30	[1] 30
Parkways	60	75	75
Indian reservation roads and bridges	[1] 75	[1] 75	[1] 75
Economic growth center developed highways	50	75	100
Administrative expenses (highway beautification)	[1] 1.5	[1] 1.5	[1] 1.5
Virgin Islands	[1] 5	[1] 5	[1] 5
Guam	[1] 2	[1] 2	[1] 2
American Samoa	[1] 1	[1] 1	[1] 1
Minimum authorization	50	50	50
Apportionment-primary	17	15	15
Urban high density	50	50	50
Priority primary routes	100	200	300
Alaska highway	[1] 58.67	----	----
Bridges on Federal dams	[1] 8.5	----	----
Great river road	[2] 20.1	[2] 35	[2] 35
Alaskan assistance	20	20	20
Scenic highways study	.25	----	----
Mass transit study	[1] 10	----	----
Metro accessibility	[1] 65	----	----
Inter-American highway	[1] 10	----	----
Rural bus dem. program	----	[2] 30	----
Railroad-highway dem	[3] 15	[3] 25	[3] 50
Total	5,588	6,088.5	6,208.5

[1] General Treasury funds.
[2] $10,000,000 of this figure is out of general treasury funds.
[3] One-third out of general treasury funds.

TITLE II

[Millions of dollars]

Program	Fiscal year— 1974	1975	1976
NHTSA:			
(402)	100	125	150
(403)	42.5	55	65
FHWA: (402)	25	30	35
[307(a) and 403]	10	10	10
Rail-highway crossings	25	75	75
Bridge reconstruction and replacement	25	75	75
Pavement marking	25	75	75
Pavement marking research	10	10	----
Drug use and driver behavior	10	10	10
Projects for high hazard locations	50	75	75
Roadside obstacle elimination	25	75	75
Safety educational study	5	----	
Citizen participation study	1	----	
Feasibility study	5	----	
Pedestrian safety study	5	----	
Adoption of mandatory seat-belt laws	25	32	37.5
Fatality reductions	12.5	16	19
Safer roads demonstration program	50	100	100
Driver education evaluation	10	----	
Total	461	763	801.5
Bill totals:			
Title I	5,588	6,088.5	6,208.5
Title II	461	763	801.5
	6,049	6,851.5	7,010.0
Title III ($3,000,000,000 over the 3-year period.)			

APPROXIMATE APPORTIONMENT OF URBAN FUNDS—FISCAL YEAR 1974

[Thousands of dollars]

State	Urban extension ($290,000)	Urban system ($780,000)	½ percent planning
Alabama	$3,607	$9,348	$231
Alaska	239	3,735	114
Arizona	2,605	6,758	209
Arkansas	1,631	4,225	114
California	34,155	88,508	2,911
Colorado	3,216	8,334	257
Connecticut	4,397	11,394	379
Delaware	743	3,735	114
Florida	9,944	25,769	745
Georgia	4,876	12,635	339
Hawaii	1,154	3,735	114
Idaho	601	3,735	114
Illinois	17,173	44,502	1,420
Indiana	6,142	15,916	432
Iowa	2,805	7,269	152
Kansas	2,577	6,678	142
Kentucky	3,002	7,778	202
Louisiana	4,338	11,240	307
Maine	827	3,735	114
Maryland	5,703	14,777	467
Massachusetts	9,006	23,337	781
Michigan	12,159	31,507	1,020
Minnesota	4,575	11,856	343
Mississippi	1,680	4,354	114
Missouri	5,983	15,505	465
Montana	608	3,735	114
Nebraska	1,648	4,272	114
Nevada	734	3,735	114
New Hampshire	752	3,735	114
New Jersey	12,093	31,338	1,096
New Mexico	1,258	3,735	114
New York	29,375	76,121	2,572
North Carolina	4,010	10,390	219
North Dakota	511	3,735	114
Ohio	15,003	38,877	1,198
Oklahoma	3,098	8,027	189
Oregon	2,503	6,485	117
Pennsylvania	15,480	40,114	1,248
Rhode Island	1,571	4,070	134
South Carolina	2,114	5,479	117
South Dakota	480	3,735	114
Tennessee	4,168	10,802	268
Texas	16,373	42,429	1,247
Utah	1,563	4,050	132
Vermont	244	3,735	114
Virginia	5,472	14,179	432
Washington	4,540	11,764	338
West Virginia	1,170	3,735	114
Wisconsin	5,290	13,708	373
Wyoming	320	3,735	114
District of Columbia	1,457	3,775	136
Puerto Rico	2,754	7,136	195
Total	277,730	746,996	22,811

APPROXIMATE APPORTIONMENT OF URBAN FUNDS, FISCAL YEAR 1975

[Thousands of dollars]

State	Urban extension ($300,000)	Urban system ($800,000)	½ percent planning
Alabama	$3,732	$9,467	$253
Alaska	247	3,783	125
Arizona	2,698	6,845	229
Arkansas	1,687	4,280	125
California	35,333	89,643	3,188
Colorado	3,327	8,441	281
Connecticut	4,549	11,540	415
Delaware	769	3,783	125
Florida	10,287	26,100	816
Georgia	5,044	12,797	371
Hawaii	1,194	3,783	125
Idaho	622	3,783	125
Illinois	17,765	45,072	1,554
Indiana	6,354	16,120	473
Iowa	2,902	7,362	166
Kansas	2,666	6,764	155
Kentucky	3,105	7,878	221
Louisiana	4,487	11,384	336
Maine	856	3,783	125
Maryland	5,899	14,967	511
Massachusetts	9,316	23,636	856
Michigan	12,578	31,911	1,117
Minnesota	4,733	12,008	375
Mississippi	1,738	4,410	125
Missouri	6,190	15,704	509
Montana	629	3,783	125
Nebraska	1,705	4,326	125
Nevada	759	3,783	125
New Hampshire	778	3,783	125
New Jersey	12,510	31,739	1,200
New Mexico	1,301	3,783	125
New York	30,388	77,096	2,816
North Carolina	4,148	10,523	239
North Dakota	528	3,783	125
Ohio	15,520	39,376	1,311
Oklahoma	3,205	8,130	207
Oregon	2,589	6,569	194
Pennsylvania	16,014	40,628	1,366
Rhode Island	1,625	4,122	147
South Carolina	2,187	5,549	128
South Dakota	497	3,783	125
Tennessee	4,312	10,940	294
Texas	16,938	42,973	1,365
Utah	1,617	4,102	145
Vermont	252	3,783	125
Virginia	5,660	14,360	473
Washington	4,696	11,914	370
West Virginia	1,210	3,783	125
Wisconsin	5,473	13,884	408
Wyoming	331	3,783	125
District of Columbia	1,507	3,823	149
Puerto Rico	2,849	7,228	214
Total	287,306	756,573	24,977

APPROXIMATE APPORTIONMENT OF URBAN FUNDS—FISCAL YEAR 1976

[Thousands of dollars]

State	Urban extension ($300,000)	Urban system ($800,000)	½ percent planning
Alabama	$3,732	$9,587	$253
Alaska	247	3,831	125
Arizona	2,698	6,931	229
Arkansas	1,687	4,334	125
California	35,333	90,778	3,194
Colorado	3,327	8,547	282
Connecticut	4,549	11,686	416
Delaware	769	3,831	125
Florida	10,287	26,430	818
Georgia	5,044	12,958	372
Hawaii	1,194	3,831	125
Idaho	622	3,831	125
Illinois	17,765	45,643	1,557
Indiana	6,354	16,324	474
Iowa	2,902	7,455	167
Kansas	2,666	6,849	155
Kentucky	3,105	7,978	222
Louisiana	4,487	11,528	337
Maine	856	3,831	125
Maryland	5,899	15,156	512
Massachusetts	9,316	23,936	857
Michigan	12,578	32,315	1,119
Minnesota	4,733	12,160	376
Mississippi	1,738	4,466	125
Missouri	6,190	15,003	510
Montana	629	3,831	125
Nebraska	1,705	4,381	125
Nevada	759	3,831	125
New Hampshire	778	3,831	125
New Jersey	12,510	32,141	1,202
New Mexico	1,301	3,831	125
New York	30,388	78,072	2,822
North Carolina	4,148	10,657	240
North Dakota	528	3,831	125
Ohio	15,520	39,874	1,314
Oklahoma	3,205	8,233	208
Oregon	2,589	6,652	195
Pennsylvania	16,014	41,142	1,369
Rhode Island	1,625	4,174	147
South Carolina	2,187	5,620	128
South Dakota	497	3,831	125
Tennessee	4,312	11,079	294
Texas	16,938	43,517	1,368
Utah	1,617	4,153	145
Vermont	252	3,831	125
Virginia	5,660	14,542	474
Washington	4,696	12,065	371
West Virginia	1,210	3,831	125
Wisconsin	5,473	14,060	409
Wyoming	331	3,831	125
District of Columbia	1,507	3,871	150
Puerto Rico	2,849	7,319	214
Total	287,306	766,150	25,025

APPROXIMATE APPORTIONMENT OF RURAL PRIMARY AND SECONDARY FUNDS, FISCAL YEAR 1974

[Thousands of dollars]

State	Rural Primary ($680,000)	Rural Secondary ($390,000)
Alabama	$14,644	$8,399
Alaska	35,549	20,388
Arizona	9,107	5,223
Arkansas	11,430	6,556
California	29,726	12,362
Colorado	11,010	6,315
Connecticut	4,984	2,858
Delaware	3,256	1,867
Florida	12,722	7,297
Georgia	17,988	10,316
Hawaii	3,256	1,867
Idaho	7,691	4,411
Illinois	20,535	11,125
Indiana	15,735	9,025
Iowa	16,300	9,348
Kansas	14,737	8,452
Kentucky	13,298	7,627
Louisiana	11,154	6,397
Maine	5,681	3,258
Maryland	6,789	3,894
Massachusetts	6,983	3,174
Michigan	20,105	11,531
Minnesota	18,469	10,393
Mississippi	12,654	7,257
Missouri	18,215	10,447
Montana	12,292	7,050
Nebraska	12,125	6,954
Nevada	7,346	4,213
New Hampshire	3,256	1,867
New Jersey	7,994	2,893
New Mexico	9,683	5,553
New York	24,596	12,330
North Carolina	21,058	12,077
North Dakota	8,923	5,117
Ohio	20,620	11,826
Oklahoma	13,195	7,568
Oregon	10,753	6,167
Pennsylvania	24,651	14,138
Rhode Island	3,256	1,863
South Carolina	10,890	6,246
South Dakota	9,685	5,555
Tennessee	15,602	8,948
Texas	36,833	21,125
Utah	6,709	3,848
Vermont	3,256	1,868
Virginia	15,182	8,708
Washington	10,920	6,263
West Virginia	8,372	4,801
Wisconsin	16,419	9,417
Wyoming	7,323	4,200
District of Columbia		
Puerto Rico	5,075	2,911
Total	668,032	373,493

APPROXIMATE APPORTIONMENT OF RURAL PRIMARY AND SECONDARY FUNDS—FISCAL YEAR 1975

[Thousands of dollars]

State	Rural Primary ($7,000,000)	Rural Secondary ($400,000)
Alabama	$15,075	$8,614
Alaska	36,595	20,911
Arizona	9,375	5,357
Arkansas	11,766	6,724
California	29,726	12,679
Colorado	11,334	6,476
Connecticut	5,130	2,932
Delaware	3,352	1,915
Florida	13,096	7,484
Georgia	18,517	10,581
Hawaii	3,352	1,915
Idaho	7,917	4,524
Illinois	20,535	11,410
Indiana	16,198	9,256
Iowa	16,779	9,588
Kansas	15,170	8,669
Kentucky	13,689	7,822
Louisiana	11,482	6,561
Maine	5,848	3,342
Maryland	6,989	3,994
Massachusetts	6,983	3,256
Michigan	20,696	11,826
Minnesota	19,013	10,864
Mississippi	13,026	7,443
Missouri	18,751	10,715
Montana	12,653	7,231
Nebraska	12,481	7,132
Nevada	7,562	4,321
New Hampshire	3,352	1,915
New Jersey	7,994	2,967
New Mexico	9,967	5,696
New York	24,596	12,646
North Carolina	21,677	12,387
North Dakota	9,185	5,249
Ohio	21,227	12,130
Oklahoma	13,583	7,762
Oregon	11,069	6,325
Pennsylvania	25,376	14,501
Rhode Island	3,352	1,915
South Carolina	11,210	6,406
South Dakota	9,970	5,697
Tennessee	16,061	9,178
Texas	37,916	21,666
Utah	6,907	3,947
Vermont	3,352	1,915
Virginia	15,629	8,931
Washington	11,241	6,424
West Virginia	8,618	4,925
Wisconsin	16,902	9,658
Wyoming	7,539	4,308
District of Columbia		
Puerto Rico	5,225	2,985
Total	685,038	383,075

APPROXIMATE APPORTIONMENT OF RURAL PRIMARY AND SECONDARY FUNDS—FISCAL YEAR 1976

[Thousands of dollars]

State	Rural Primary ($700,000)	Rural Secondary ($400,000)
Alabama	$15,075	$8,614
Alaska	36,595	20,911
Arizona	9,375	5,357
Arkansas	11,766	6,724
California	29,726	12,679
Colorado	11,334	6,476
Connecticut	5,130	2,932
Delaware	3,352	1,915
Florida	13,096	7,484
Georgia	18,517	10,581
Hawaii	3,352	1,915
Idaho	7,917	4,524
Illinois	20,535	11,410
Indiana	16,198	9,256
Iowa	16,779	9,588
Kansas	15,170	8,669
Kentucky	13,689	7,822
Louisiana	11,482	6,561
Maine	5,848	3,342
Maryland	6,989	3,994
Massachusetts	6,983	3,256
Michigan	20,696	11,826
Minnesota	19,013	10,864
Mississippi	13,026	7,443
Missouri	18,751	10,715
Montana	12,653	7,231
Nebraska	12,481	7,132
Nevada	7,562	4,321
New Hampshire	3,352	1,915
New Jersey	7,994	2,967
New Mexico	9,967	5,696
New York	24,596	12,646
North Carolina	21,677	12,387
North Dakota	$9,185	$5,249
Ohio	21,227	12,130
Oklahoma	13,583	7,762
Oregon	11,069	6,325
Pennsylvania	25,376	14,501
Rhode Island	3,352	1,915
South Carolina	11,210	6,406
South Dakota	9,970	5,697
Tennessee	16,061	9,178
Texas	37,916	21,666
Utah	6,907	3,947
Vermont	3,352	1,915
Virginia	15,629	8,931
Washington	11,241	6,424
West Virginia	8,618	4,925
Wisconsin	16,902	9,658
Wyoming	7,539	4,308
District of Columbia		
Puerto Rico	5,225	2,985
Total	685,038	383,075

APPROXIMATE APPORTIONMENT OF INTERSTATE FUNDS FOR FISCAL YEARS 1974, 1975, AND 1976

[Thousands of dollars]

State	Fiscal year 1974 ($2,635,134)	Fiscal year 1975 ($3,040,536)	Fiscal year 1976 ($3,040,536)
Alabama	$51,443	$59,358	$59,358
Alaska			
Arizona	50,622	58,409	58,409
Arkansas	18,899	21,807	21,807
California	170,664	196,920	196,920
Colorado	51,642	59,587	59,587
Connecticut	72,284	83,405	83,405
Delaware	12,450	14,365	14,365
Florida	78,609	90,703	90,703
Georgia	61,951	71,482	71,482
Hawaii	25,771	29,736	29,736
Idaho	12,450	14,365	14,365
Illinois	122,732	141,613	141,613
Indiana	30,104	34,735	34,735
Iowa	26,543	30,627	30,627
Kansas	30,104	34,735	34,735
Kentucky	36,752	42,406	42,406
Louisiana	75,546	87,169	87,169
Maine	13,122	15,141	15,141
Maryland	95,317	109,981	109,981
Massachusetts	77,439	89,352	89,352
Michigan	88,992	102,683	102,683
Minnesota	57,917	66,827	66,827
Mississippi	22,285	25,714	25,714
Missouri	47,758	55,105	55,105
Montana	25,597	29,535	29,535
Nebraska	12,450	14,365	14,365
Nevada	12,450	14,365	14,365
New Hampshire	12,450	14,365	14,365
New Jersey	70,243	81,049	81,049
New Mexico	23,107	26,662	26,662
New York	95,715	110,441	110,441
North Carolina	45,467	52,462	52,462
North Dakota	12,450	14,365	14,365
Ohio	76,493	88,261	88,261
Oklahoma	18,077	20,858	20,858
Oregon	63,146	72,861	72,861
Pennsylvania	122,408	141,240	141,240
Rhode Island	22,285	25,714	25,714
South Carolina	20,493	23,645	23,645
South Dakota	12,450	14,365	14,365
Tennessee	34,561	39,878	39,878
Texas	114,042	131,586	131,586
Utah	29,083	33,557	33,557
Vermont	12,450	14,365	14,365
Virginia	108,140	124,777	124,777
Washington	89,341	103,086	103,086
West Virginia	57,320	66,138	66,138
Wisconsin	29,058	33,529	33,529
Wyoming	14,093	16,262	16,262
District of Columbia	60,357	69,643	69,643
Puerto Rico			
Total	2,525,122	2,913,599	2,913,599

U.S. DEPARTMENT OF TRANSPORTATION—FEDERAL HIGHWAY ADMINISTRATION, FEDERAL-AID HIGHWAY FUNDS APPORTIONED FOR FISCAL YEAR 1974
(APPORTIONMENTS ALREADY MADE UNDER S. 1808 (PUBLIC LAW 93-61))

[Thousands of dollars]

State	ABC Primary ($225,000)	ABC Secondary ($150,000)	ABC Urban ($125,000)	ABC Total ($500,000)	Interstate ($1,000,000)	Total ($1,500,000)
Alabama	$4,554	$3,476	$1,563	$9,593	$19,885	$29,478
Alaska	11,613	7,804	103	19,520		19,520
Arizona	2,988	1,896	1,130	6,014	19,568	25,582
Arkansas	3,277	2,570	706	6,553	7,306	13,859
California	11,131	4,398	14,796	30,325	65,970	96,295

State	ABC Primary ($225,000)	ABC Secondary ($150,000)	ABC Urban ($125,000)	ABC Total ($500,000)	Interstate ($1,000,000)	Total ($1,500,000)
Colorado	$3,397	$2,164	$1,394	$6,955	$19,962	$26,917
Connecticut	1,529	913	1,905	4,347	27,941	32,288
Delaware	1,083	722	322	2,127	1,530	3,657
Florida	4,708	2,714	4,308	11,730	30,386	42,116
Georgia	5,579	4,230	2,113	11,922	23,947	35,869
Hawaii	1,083	722	500	2,305	9,962	12,267
Idaho	2,320	1,663	260	4,243	4,303	8,546
Illinois	8,266	4,577	7,439	20,282	47,442	67,724
Indiana	5,106	3,776	2,661	11,543	11,636	23,179
Iowa	5,218	3,868	1,215	10,301	10,260	20,561
Kansas	4,844	3,367	1,116	9,327	11,637	20,964
Kentucky	3,735	3,069	1,300	8,104	14,207	22,311
Louisiana	3,444	2,521	1,879	7,844	29,202	37,046
Maine	1,569	1,237	358	3,164	5,072	8,236
Maryland	2,167	1,333	2,471	5,971	36,844	42,815
Massachusetts	2,523	1,130	3,901	7,554	29,934	37,488
Michigan	6,896	4,553	5,267	16,716	34,400	51,116
Minnesota	5,797	4,088	1,982	11,867	22,388	34,255
Mississippi	3,793	3,077	728	7,598	8,614	16,212
Missouri	6,025	4,144	2,592	12,761	18,461	31,222
Montana	3,432	2,406	263	6,101	9,895	15,996
Nebraska	3,750	2,650	714	7,114	1,453	8,567
Nevada	2,356	1,539	318	4,213	4,735	8,984
New Hampshire	1,083	722	326	2,131	4,235	6,366
New Jersey	3,056	1,073	5,239	9,368	27,152	36,520
New Mexico	2,888	1,955	545	5,388	8,932	14,320
New York	9,549	4,440	12,725	26,714	36,999	63,713
North Carolina	5,568	4,948	1,737	12,253	17,575	29,828
North Dakota	2,835	2,044	221	5,100	1,521	6,621
Ohio	7,399	4,742	6,499	18,640	29,568	48,208
Oklahoma	4,365	3,025	1,342	8,732	6,988	15,720
Oregon	3,214	2,254	1,084	6,552	24,409	30,961
Pennsylvania	7,551	5,216	6,706	19,473	47,316	66,789
Rhode Island	1,083	722	680	2,485	8,614	11,099
South Carolina	3,029	2,591	916	6,536	7,921	14,457
South Dakota	2,876	2,081	208	5,165	3,475	8,640
Tennessee	4,796	3,686	1,806	10,288	13,359	23,647
Texas	13,065	8,093	7,093	28,251	44,083	72,334
Utah	2,117	1,347	677	4,141	11,242	15,383
Vermont	974	650	95	1,719	3,301	5,020
Virginia	4,217	3,216	2,370	9,803	41,801	51,604
Washington	3,386	2,276	1,967	7,629	34,535	42,164
West Virginia	1,713	1,657	507	3,877	22,157	26,034
Wisconsin	5,243	3,776	2,292	11,311	11,232	22,543
Wyoming	2,098	1,435	139	3,672	5,448	9,120
District of Columbia	1,083	722	631	2,436	23,331	25,767
Puerto Rico	1,083	1,025	1,193	3,301		3,301
Total	216,454	144,303	120,302	481,059	962,134	1,443,1

APPROXIMATE APPORTIONMENT OF PRIORITY PRIMARY FUNDS FOR FISCAL YEAR 1974

[Thousands of dollars]

State	Apportioned for— Projects	½ percent planning	Total ($100,000)
Alabama	1,693	5	1,698
Alaska	2,842	2	2,644
Arizona	1,116	4	1,120
Arkansas	1,117	2	1,119
California	7,466	62	7,528
Colorado	1,359	6	1,365
Connecticut	1,123	8	1,131
Delaware	367	2	369
Florida	2,654	16	2,661
Georgia	2,157	7	2,164
Hawaii	438	2	440
Idaho	667	2	669
Illinois	4,380	30	4,410
Indiana	2,210	9	2,219
Iowa	1,676	3	1,679
Kansas	1,522	3	1,525
Kentucky	1,490	4	1,494
Louisiana	1,584	7	1,571
Maine	559	2	561
Maryland	1,480	10	1,490
Massachusetts	1,958	17	1,975
Michigan	3,567	22	3,589
Minnesota	2,140	8	2,148
Mississippi	1,216	2	1,218
Missouri	2,365	10	2,376
Montana	1,004	2	1,005
Nebraska	1,171	2	1,173
Nevada	663	2	665
New Hampshire	369	2	371
New Jersey	2,454	23	2,477
New Mexico	925	2	927
New York	6,638	55	6,693
North Carolina	2,231	5	2,236
North Dakota	741	2	743
Ohio	4,095	26	4,121
Oklahoma	1,499	4	1,503
Oregon	1,218	4	1,222
Pennsylvania	4,472	27	4,499
Rhode Island	510	3	513
South Carolina	1,161	3	1,164
South Dakota	792	2	794
Tennessee	1,860	6	1,866
Texas	5,517	27	5,544
Utah	760	3	763
Vermont	281	2	283
Virginia	2,054	9	2,063
Washington	1,582	7	1,589
West Virginia	814	2	816
Wisconsin	2,113	8	2,121
Wyoming	591	2	593
District of Columbia	490	3	493
Puerto Rico	846	4	850
Total	95,768	482	96,250

APPROXIMATE APPORTIONMENT OF PRIORITY PRIMARY FUNDS FOR FISCAL YEAR 1975

[Thousands of dollars]

State	Apportioned for— Projects	½ percent planning	Total ($200,000)
Alabama	$3,386	$10	$3,396
Alaska	5,284	5	5,289
Arizona	2,231	9	2,240
Arkansas	2,234	5	2,239
California	14,932	123	15,055
Colorado	2,720	11	2,731
Connecticut	2,245	16	2,261
Delaware	735	5	740
Florida	5,290	31	5,321
Georgia	4,313	14	4,327
Hawaii	877	5	882
Idaho	1,332	5	1,337
Illinois	8,760	60	8,820
Indiana	4,420	18	4,438
Iowa	3,352	6	3,358
Kansas	3,045	6	3,051
Kentucky	2,981	8	2,989
Louisiana	3,128	13	3,141
Maine	1,116	5	1,121
Maryland	2,960	20	2,980
Massachusetts	3,916	33	3,949
Michigan	7,134	43	7,177
Minnesota	4,280	14	4,294
Mississippi	2,430	5	2,435
Missouri	4,728	19	4,747
Montana	2,008	5	2,013
Nebraska	2,342	5	2,347
Nevada	1,328	5	1,333
New Hampshire	738	5	743
New Jersey	4,908	46	4,954
New Mexico	1,851	5	1,856
New York	13,274	108	13,382
North Carolina	4,464	9	4,473
North Dakota	1,481	5	1,486
Ohio	8,190	50	8,240
Oklahoma	2,998	8	3,006
Oregon	2,436	7	2,443
Pennsylvania	8,945	53	8,998
Rhode Island	1,021	6	1,027
South Carolina	2,322	5	2,327
South Dakota	1,583	5	1,588
Tennessee	3,720	11	3,731
Texas	11,035	53	11,088
Utah	1,521	5	1,526
Vermont	563	5	568
Virginia	4,108	18	4,126
Washington	3,163	14	3,177
West Virginia	1,628	5	1,633
Wisconsin	4,226	16	4,242
Wyoming	1,182	5	1,187
District of Columbia	981	6	987
Puerto Rico	1,693	8	1,701
Total	191,538	962	192,500

APPROXIMATE APPORTIONMENT OF PRIORITY PRIMARY FUNDS FOR FISCAL YEAR 1976

[Thousands of dollars]

State	Apportioned for— Projects	½ percent planning	Total ($300,000)
Alabama	$5,080	$15	$5,095
Alaska	7,925	7	7,932

APPROXIMATE APPORTIONMENT OF PRIORITY PRIMARY FUNDS FOR FISCAL YEAR 1976—Con.

[Thousands of dollars]

State	Apportioned for—		
	Projects	½ percent planning	Total ($300,000)
Arizona	$3,348	$13	$3,361
Arkansas	3,352	7	3,359
California	22,397	184	22,581
Colorado	4,079	16	4,095
Connecticut	3,368	24	3,392
Delaware	1,103	7	1,110
Florida	7,936	47	7,983
Georgia	6,470	22	6,492
Hawaii	1,315	7	1,322
Idaho	1,999	7	2,006
Illinois	13,140	90	13,230
Indiana	6,630	27	6,657
Iowa	5,028	10	5,038
Kansas	4,567	9	4,576
Kentucky	4,471	13	4,484
Louisiana	4,691	20	4,711
Maine	1,675	7	1,682
Maryland	4,440	30	4,470
Massachusetts	5,873	50	5,923
Michigan	10,701	65	10,766
Minnesota	6,419	22	6,441
Mississippi	3,646	7	3,653
Missouri	7,093	30	7,123
Montana	3,012	7	3,019
Nebraska	3,514	7	3,521
Nevada	1,992	7	1,999
New Hampshire	1,107	7	1,114
New Jersey	7,362	69	7,431
New Mexico	2,776	7	2,783
New York	19,912	163	20,075
North Carolina	6,695	14	6,709
North Dakota	2,222	7	2,229
Ohio	12,285	76	12,361
Oklahoma	4,498	12	4,510
Oregon	3,655	11	3,666
Pennsylvania	13,417	79	13,496
Rhode Island	1,530	9	1,539
South Carolina	3,484	8	3,492
South Dakota	2,373	7	2,380
Tennessee	5,580	17	5,597
Texas	16,552	79	16,631
Utah	2,280	8	2,288
Vermont	844	7	851
Virginia	6,162	27	6,189
Washington	4,745	21	4,766
West Virginia	2,442	7	2,449
Wisconsin	6,339	24	6,363
Wyoming	1,773	7	1,780
District of Columbia	1,471	9	1,480
Puerto Rico	2,538	12	2,550
Total	287,306	1,444	288,750

Mr. PERCY. Mr. President, if the Senator from Texas would yield, I ask unanimous consent that William Lytton and Miss Melinda Parker be given the privilege of the floor during the consideration of the conference report.

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

Mr. BENTSEN. Mr. President, I ask unanimous consent that Clark Norton, a member of the staff, be given the privilege of the floor during the consideration of the conference report.

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

Mr. SCOTT of Virginia. Mr. President, would the Senator yield briefly so that I might compliment the conferees on doing such a wonderful job?

Mr. BENTSEN. Mr. President, I would be delighted to yield for that purpose.

Mr. SCOTT of Virginia. Mr. President, I merely want to compliment the conferees for the hard work they have put in. I disagree with many of the provisions of the bill. The bill is a compromise that has been worked out by the conferees after many long hours and days of sessions. I hope that the Senate will pass the bill and that the President will sign it into law.

I thank the Senator from Texas for yielding.

Mr. BENTSEN. Mr. President, I thank the Senator from Virginia for his kind words.

Mr. President, there is a great deal more involved in this bill, but at this time I reserve the remainder of my time and yield the floor to my distinguished colleague.

Mr. STAFFORD. Mr. President, I yield such time as he may require to the Senator from Tennessee (Mr. BAKER).

Mr. BAKER. I thank my colleague for yielding.

Mr. President, I urge the adoption of the conference report on S. 502, the Federal-Aid Highway Act of 1973. I want to state at this time that I believe that the Senate Public Works Committee has, under the exceptional leadership of our distinguished colleague from Texas (Mr. BENTSEN), brought back to this body good and meaningful legislation.

I would be remiss were I not, at the outset, to pay tribute to the distinguished chairman of the full committee (Mr. RANDOLPH) who, despite holding views on the major issue not in accord with the Senate position, showed absolute loyalty and dedication to the Senate position. He was instrumental in paving the way for accommodation and agreement with our colleagues in the House of Representatives and in bringing us to this point in the development of this bill.

I want to take this opportunity to express my personal appreciation to my distinguished colleague from Vermont (Mr. STAFFORD) who has borne an even greater share of the burden of this conference than would ordinarily have been required of him as ranking minority member of the Transportation Subcommittee. Because of other demands on my time, I was, frankly, unable to devote the attention, energy, and diligence which the conference deserved. In addition to my sincere admiration for the work of Senator STAFFORD in the conference, I am especially grateful to him for his understanding of my situation and his distinguished service as the spokesman for the minority Senate conferees.

I would also like to point out that the House conferees, dedicated as they were to the House position, performed ably, in a responsible way and finally, with an accommodating spirit.

I would like to say a special word about the able leadership of the chairman of the conference, Representative WRIGHT of Texas, who demonstrated an earnest desire to reach reasonable compromise between the views of the two bodies, and of Representative HARSHA, the ranking Republican on the House side, who conveyed to the conference his concerns and those of the House, and assisted materially in identifying the issues in conflict between us.

In the 6½ years I have been in the Senate, Mr. President, I have never been in a conference during which so many thorny issues were discussed so thoroughly, and from which we managed to report, a satisfactory result, one which I believe to be in the manifest best interests of the people of this country.

This conference report is the product of more hours of congressional attention than any previous highway legislation, dating back 17 months when the House Committee on Public Works initiated 16 days of hearings. I would like to detail for the benefit of my colleagues some of the background and the details of this very important piece of legislation.

The Senate Public Works Committee initiated its work on new highway legislation with 8 days of hearings in May and June of 1972. Following 10 executive sessions, our committee reported an original bill, S. 3939, on August 18, 1972. The Senate passed the bill on September 19 with several amendments. The most significant of these amendments was the so-called Cooper-Muskie amendment, which permitted a limited use of the highway trust fund for urban mass transportation, including rail transit. On October 5, 1972, the House passed its version of S. 3939, without such a mass transit provision.

I might point out that former Secretary of Transportation Volpe and the White House steadfastly supported the Senate position last year, as has Secretary Brinegar and the administration this year.

In the frenetic closing days of the 92d Congress, House and Senate conferees met for some 40 hours in an effort to agree on a bill and to find a compromise on the rail-transit issue. Because of the sharp division within the conference and the importance of maintaining the continuity of the highway program, our good friend, and former colleague, the Honorable JOHN COOPER, suggested that the conference pass a 1-year bill and defer action on the mass transit issue until this year, when more deliberate consideration of the issue would be possible.

The House eventually accepted that approach, and the conferees agreed to a conference report on the final day of the congressional session. While the Senate adopted the conference report, the House was unable to obtain a quorum in order to act.

Thus, we once again faced the need of considering a highway bill when the 93d Congress opened. And we faced this challenge under great pressure: the knowledge that many States would soon run out of Federal highway dollars.

In a desire to relieve some of this pressure, I introduced Senate Concurrent Resolution 6. The Senate passed this resolution on March 6, 1973. The resolution would have released to the States $1 billion of their 1974 apportionments for construction work on the Interstate System. The House, however, did not act on the resolution.

Meanwhile, the Transportation Subcommittee of the Senate Public Works Committee, under the exceptionally able leadership of its new chairman, our distinguished colleague from Texas (Mr. BENTSEN), had held 4 days of highway hearings. The committee reported S. 502 on March 1.

On March 15 the Senate passed this legislation. Once again, the Senate approved what I consider to be an important floor amendment—the Muskie-Baker amendment. This amendment, similar to last year's Cooper-Muskie amendment, would permit use of a portion of our highway funds for rail mass

transit. But once again, the House rejected this use of the Highway Trust Fund.

The issue was drawn at the first session of the S. 502 conference on May 15. An easy resolution would not be possible. The chairman of our full committee, the most able and distinguished senior Senator from West Virginia (Mr. RANDOLPH), proposed that both bodies pass an interim measure to give us time to resolve the more basic issue of mass transit. This suggestion, which was developed with great foresight, would provide to the States a portion of their annual funds for the major Federal-aid highway construction programs. Such an interim step was vital to assure all of the States that their highway programs would not suffer while we worked out our differences in conference. The Senate passed such a bill, S. 1808, on May 23. Initially, the House conferees were unreceptive to the chairman's proposal.

In the conference, we made rapid progress to settle a variety of differences. But when it became absolutely certain that the mass-transit issue could not be resolved by the end of fiscal year 1973, the House passed S. 1808.

The conferees on S. 502 returned to their task, and finally reached an agreement after a total of 29 conference sessions. It is an agreement that I believe represents a true compromise by both bodies. It shows the wisdom of Senators COOPER and RANDOLPH in their insistence that the issues be worked out in a deliberative manner, without the threat of deadlines.

A major share of the credit for the achievement of this compromise must go to the distinguished Senator from Texas (Mr. BENTSEN). I honestly cannot say enough about his great leadership as chairman of the Senate conferees. His integrity, patience, courtesy, directness, fairness, and creative exploration of all avenues toward agreement were exemplary. He led the Senate conferees in the finest sense of the word.

As I have suggested earlier, and as my colleagues undoubtedly know, Senator RANDOLPH played a role of enormous significance in our resolution of the issues. His commitment to finding an acceptable compromise, his unfailing attention and presence, his suggestions of many alternative approaches, and his perspective and experience were major elements in our successful negotiations.

Senator STAFFORD, ranking Republican on the Transportation Subcommittee, contributed greatly to the compromises on the major issues and to the resolution of many important, but less publicized, provisions. His strong support for the Senate position, coupled with a diligent search to find a reasonable compromise, were vital factors in the final shape of the bill.

The senior Senator from Maine (Mr. MUSKIE) was an eloquent spokesman for the Senate on the issues of mass transit, the necessity for flexibility in urban transportation planning, and the relation between highway legislation and clean-air goals. He played, as he always does, a creative role in molding the Senate's positions on the critical issues, combining staunch adherence to the principles in the Senate approach, while demonstrating flexibility in its implementation.

Senator BUCKLEY's reasoned analysis of issues and alternatives, together with his numerous creative initiatives, were of great value to the conference. My respect for Senator BUCKLEY's wisdom grows with each day.

If I may, Mr. President, I shall now attempt to give my colleagues an analysis of some of the more significant aspects in this very important legislation. It is a complex bill, one that deserves careful study.

One of the most obvious issues, of course, concerns the bill's large—but reasonable—cost.

The conferees of both bodies worked hard to assure that the funding levels in this bill were responsive to budgetary restraints, while assuring that sufficient funds would be available to meet our pressing transportation and highway safety needs. The conference compromise, over 3 years, is $5.5 billion below the levels authorized in the House bill, and it is only modestly higher than the Senate-passed version. We made cuts that were both painful and necessary in the major Federal-aid highway programs, and we reduced funding of the House proposals on title II by almost 50 percent.

I commend the conferees on both sides for their cooperative spirit and earnest desire to reach an accord that was close to the administration's recommendation.

For fiscal year 1974 the administration had recommended a highway authorization of approximately $5.5 billion; the conference report provides $5.59 billion. While the total difference in funds between the administration proposal and conference report amounts to approximately $2.7 billion over the 3-year life of the bill, roughly half of this excess can be attributed to the important highway safety program. The administration proposal called for minimal safety authorizations over 2 years, while the conference report provides more substantial 3-year funding. Another $1.25 billion is authorized to support three programs that were not funded in the administration proposal: priority primary routes, forest development roads and trails, and economic growth center roads.

Mr. President, I believe the conference report strikes a reasonable balance among competing priorities and represents a responsible resolution of differences between the two congressional bodies and between Congress and the Executive.

Included in the cost, Mr. President, is nearly $2.4 billion over 3 years for work on the urban system—the so-called "d" program.

Because the scope of the urban system was the central issue in the conference, I would like to discuss the conferee's position on the urban system.

As I mentioned earlier, the Senate adopted an amendment that was sponsored by the distinguished Senator from Maine (Mr. MUSKIE) and myself. This amendment established broad flexibility in the use of urban system funds, beginning in the current fiscal year, 1974. Under our amendment, a city would be allowed, at its option, to use its urban highway allocation to build highways and commuter bus lanes, to buy buses, to construct rail transit lines, and to purchase rolling stock for rail transit, or any combination of those options.

The intent of this language was to grant city planners the broadest possible flexibility in deciding what mix of transportation options would best meet the needs of the city. This amendment would remove any artificial barriers to rational urban transportation planning. Fexibility in assessing and implementing options is essential if we are to attack effectively the transportation problems of our large cities. It simply is not a wise policy to grant one mode of transportation assured funding, while granting less assurance to a competing and complementary mode.

This amendment achieved flexibility without diverting resources from rural areas where the needs, although different, are as great as in our cities.

Some opponents and proponents of the amendment have stated that its purpose was to "bust the trust fund." Certainly in the sense that the provision allows moneys which would otherwise have been spent upon highways in our densely populated urban areas to be spent instead, at the option of State and local officials, upon public mass transportation, it does break with old patterns. However, the amendment does not divert even $1 that is directed to the construction of the interstate system, the rural primary and secondary road programs, or any other inter-city road program to urban mass transit projects. In Tennessee the completion of the Interstate System and the improvement of rural highways are needs of great importance.

The highway trust fund was established at a time when urban transportation problems were less severe. Perhaps the simplicity of the highways-only approach in the trust fund has exacerbated these urban problems. It is obvious to me that continued highway building, as a primary response to urban problems, could in the future seriously damage the quality of life in our cities. The infusion of flexibility into the highway trust fund to meet the growing urban needs therefore does not "break the trust fund" but assures that the fund will remain a viable concept for the future.

I am convinced that the majority of our urban areas will continue to spend most, if not all, of their urban system funds on roads and highway-related projects. For most cities, these projects will continue to produce the greatest return for the transportation dollar.

But we must, in all logic, give an urban area the flexibility to make another selection, one that is unfettered by arbitrary restrictions.

The House, as it did last year, failed to incorporate this principle of flexibility in its version of the bill.

After much study and numerous proposals and counterproposals, we developed an approach that represents a true compromise. The revised section 142 of title 23 of the United States Code includes the House's highways only out of the trust fund approach during the first fiscal year covered by this bill (1974); in the second fiscal year—1975—the cities are given partial flexibility allowing the

use up to $200 million in urban system moneys out of the trust fund for the purchase of buses, with the remaining sum of at least $600 million assured for highway construction work.

During the bill's third fiscal year—1976—the full Senate position was adopted by the conference, permitting the cities to have the broad flexibility I believe they need for effective decisionmaking.

Section 142 says that 1976 moneys can go to the "construction, reconstruction, and improvement of fixed rail facilities, including the purchase of rolling stock for fixed rail." The intent of the conferees to support this new approach is underlined by language in section 142 (e)(2) of title 23 which allows such spending "notwithstanding section 209 (f)(1) of the Highway Revenue Act of 1956."

There is one further option that may prove helpful to the cities. Prior to fiscal year 1976, a State may request and receive funds to support rail mass transit out of general revenues, in lieu of funds out of the highway trust fund.

It is important to recognize that this bill, while broadening the scope of the urban system, also strengthens the initiative and control of local officials over this program. Projects on the urban system must be selected by local officials, with State concurrence. This is a change of significance.

As part of the mass-transit compromise, the conferees recognized that our urban transportation needs may someday be met more effectively through creation of a separate, guaranteed urban transportation trust fund mechanism or account that would assure funding for all competing urban highways and mass transportation needs. Thus, the conference report includes language that would displace the use of highway trust funds in fiscal year 1976 for rail mass transit if a separate and assured urban transportation trust fund is previously established.

Section 138(b) of the bill directs the Department of Transportation to make a 6-month-long study of potential revenue sources for support of urban transportation programs, whether through the highway trust fund or some other assured funding mechanism.

The attention of the public, of course, has rightly been focused on the issues relating to urban mass transit. But I would note that this bill also contains numerous provisions that benefit transportation throughout all areas of our Nation.

Most significant, of course, is the authorization for continued work to complete the interstate system. More than 80 percent of the interstate system's 42,500 miles is now open to traffic. This bill's authorizations for the interstate system of $8.6 billion over the next 3 years will enable the States to move aggressively toward the ultimate completion of that system.

The conferees also adopted the House concept for the designation of a priority primary highway system, with funds for such highways to be apportioned among the States.

An important aspect of this provision involves the designation of such routes. The States are provided an opportunity to examine their needs and to propose such routes "for priority of improvements to supplement the service provided by the interstate system by furnishing needed adequate traffic collectors and distributor facilities." In conference, we deleted a House figure of 10,000 miles for such a priority primary system. This program should not be seen as a junior interstate system of a specified length or cost. This is a State program, to be assisted by the Federal Government, that is designed to improve primary routes selected by each State.

Another section of the conference report concerns the transfer of moneys now set aside for some interstate system projects. This section has great significance in view of the potential total cost of projects that may be affected—$5 billion.

There are two options open to a State in considering the transfer of any interstate mileage and funds. One option involves the so-called Cramer-Howard provision in existing law. Under this option, a State highway department may request the redesignation of any portion of the interstate system within the State. If the Federal Government approves, the cost of that segment, on a dollar-for-dollar basis, can be transferred to a new interstate project elsewhere in the State. For the purposes of making such transfers within the mileage limitation of the systems, the Secretary, under existing law, has 200 miles of additional, discretionary system mileage. This conference report raises the Cramer-Howard ceiling to 500 miles, thus allowing greater use of this approach.

The second option—and one that should receive most careful attention—would allow any city where a controversial interstate segment is located to jointly, with the State, request that the funds set aside for that segment to be transferred to a local mass transit project. If the city and State make such a request, and if the Secretary approves, then the city would receive a sum out of general revenues that is equivalent to the cost of the interstate segment removed. The interstate funds would then be returned to the Highway Trust Fund for eventual reallocation.

It is essential that both options be considered fully and cooperatively. While the State Highway Department has full control over any Cramer-Howard transfer request, the conferees believe the State highway departments should also examine carefully the mass transit option with local officials before making any decision and request to the Secretary.

Another provision, while relatively minor, that I believe offers vast new opportunities to the public concerns work on bicycle routes and safety. As more bicyclists take to our highways, it has become apparent that we must plan more rationally for the differing needs of bicycles and motorized vehicles.

S. 502 specifically provides that up to $40 million a year from the various Federal-aid highway programs may be spent by the States to construct separate or preferential bikeways that are in conjunction with noninterstate highways. It was agreed by the conferees that these routes should, where feasible, be removed from any proximity to motor vehicle traffic. These routes need not—and should not—run parallel to existing streets and highways, if alternate locations are available. The separation of bicycles from automobiles promotes the safety of both modes of transportation, and makes our highways more functional.

The conference report also authorizes a study of methods to improve bicycle safety and it requires that the States, as a condition to receiving Federal safety funds, incorporate provisions for bicycle safety and education into their safety programs.

As I have previously indicated the conferees worked hard in an effort to conform the conference report to the views and positions of the administration. For example, operating subsidies for mass transit were deleted. Anti-impoundment language was dropped as extraneous. And, of course, the conferees adopted the principle of the Muskie-Baker amendment, for which the administration worked long and hard. As I mentioned earlier, language in the conference report invites the Congress to establish a new urban transportation trust fund to support all urban highway and mass transit programs. Such a fund would be very close to the administration's proposal for a single urban fund.

There are a number of other provisions in the bill that I believe are worthy of mention at this time. The bill contains three important provisions designed to improve highway access to airports and other transportation terminals. Such access would expand the interconnections between various modes of transportation, thus improving the overall transportation system of the United States.

The first two of these provisions are nearly identical, and would clarify the intent of the Congress in support of highway access roads that serve airports in both urban and rural areas.

While I recognize that current law probably gives to the States the flexibility to build such roads, this option has often been neglected. Such neglect lessens the opportunity for a more integrated national transportation system. It is my hope that the various States will take advantage of this discretion and improve the access for the public to airports and other terminals, such as railroad stations.

The other airport-related provision appears as section 146 of the conference report. This section would authorize a high-speed transportation demonstration program connecting points in the Washington, D.C., area with Dulles International Airport, Va. Such a demonstration would be intended to utilize exclusive bus lanes, including, if necessary, the construction of such exclusive lanes. Construction of special terminals and parking facilities and the purchase of high-speed buses is also authorized by this section.

While this section in the bill would not be funded until fiscal year 1975—with $10 million off the top of the urban system program—this should not impose any delay. Rather, the conferees expect the Secretary to use the fiscal 1974 period to study the opportunities for this de-

monstration program, using administrative funds, so that the Department can move agressively on this demonstration in fiscal year 1975.

Another program providing new opportunities for better transportation is the economic growth center highway program. The Federal-Aid Highway Act of 1970 established the economic growth center highway program as a demonstration to connect communities which are lagging economically. The program was designed to demonstrate the effectiveness of improved transportation as an impetus to economic growth. The conference report converts this demonstration program into an ongoing, national effort.

Under the 1970 act, economic growth center projects received their basic funding from a State's allocation of rural primary or secondary funds. The authorization contained in the special program were used as an addition, or "bonus," to this funding.

Because the corridors approved for funding under the program serve areas that are economically lagging, the corridors usually do not carry heavy traffic loads. These projects have generally been assigned a low priority in the competition for Federal-aid funds. The result is very slow progress on these projects. For example, one such project in the State of Tennessee is projected, under existing law, to require 5 or 16 years to complete.

This situation has seriously diminished the value of the program, since the impact of highway improvements on a segment-by-segment basis over a period of several years is extremely difficult to measure. Additionally the program has proved a painful frustration to those communities that had expected that the program would improve accessibility, when in fact it may bring years of the inconvenience associated with highway construction.

The conference agreement obviates the need for Federal funding for these projects out of rural primary and secondary moneys by providing that additional authorizations for fiscal years 1974, 1975, and 1976, and, importantly, the unobligated portion of fiscal year 1972 funds, can be used to finance the full Federal share of any such project for which plans, specifications, and estimates are approved following enactment of this act. This should substantially speed construction of these projects and provide for the success of the program.

The conference report further authorizes $210,000,000 over 3 years for spending on parkways. It is my hope that these funds will enable work to go forward on the Natchez Trace Parkway and the tunnel authorized by section 160 of the bill in the Cumberland Gap National Historical Park.

In conclusion, Mr. President, I believe that that is a good bill. It is a sound bill. I urge that my colleagues adopt the conference report.

Finally, I wish to express my particular gratitude to the members of the staff who worked together and helped us throughout this period: Barry Meyer and Bailey Guard, committee chief clerk and minority clerk, respectively; Katherine Cudlipp and Hal Brayman of the minority staff who gave such able assistance to members' staffs and others interested in the complex provisions of the bill; Ron Katz for Senator BENTSEN, chairman of the Transportation Subcommittee and our leader in the conference; Vic Maerki and Jackee Schafer for Senator STAFFORD and Senator BUCKLEY who, with me, were the minority conferees; Phil Cummings, assistant counsel; John Yago, Leon Billings, and Rick Herod.

Mr. WILLIAMS. Mr. President, I ask unanimous consent that Mr. Paradise be given the privilege of the floor during the consideration of the conference report.

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

Mr. STAFFORD. I yield myself such time as I may consume.

Mr. President, I join with my distinguished colleagues who have already spoken in support of the conference report on S. 502, the Federal Aid Highway Act of 1973.

Before I comment on some portions of the report, as the ranking minority member of the Transportation Subcommittee I would like to express my appreciation for the leadership displayed by the Senator from Texas (Mr. BENTSEN) during the long negotiations of the committee of conference.

As chairman of the Senate conferees, the Senator from Texas (Mr. BENTSEN) displayed unshaking fidelity to the key provision of the Senate bill dealing with the use of Highway Trust Fund money for mass transportation purposes, despite the fact that he, personally, was opposed to that provision. His faithfulness to the Senate position was a key to the ultimate solution reached by the conference committee. And, of course, the Senator from West Virginia (Mr. RANDOLPH), the chairman of the full Committee on Public Works, demonstrated the same spirit of fidelity throughout the long conference even though he, also, held a personal view that was in disagreement with the Senate position.

I want to say also that Senator BAKER, the ranking Republican member of the full committee, was most helpful with his incisive advice and understanding of the difficult problems which we struggled with for the longest period, I think, of any committee of conference in the history of the U.S. Congress.

I will not take up the time of the Senate by going over various provisions of the conference report, but I do want to comment on one or two of those provisions.

Although I would have preferred a bill that would permit total flexibility in the use of Highway Trust Fund money for mass transit purposes immediately, the compromise agreement that permits that flexibility in the third year of the measure represents a significant breakthrough for our Nation. Beginning in 1975, we will be able to deal more effectively with both the transportation and air pollution problems of our urban areas in particular, and our Nation in general.

I was disappointed that the conferees were unable to reach final agreement on the provisions dealing with beautification. We had, early in the conference, reached tentative agreement to:

First, extend control to those highway signs visible from the Interstate and Primary Systems.

Second, allow no more than three official signs per mile in each direction of the Primary and Interstate Systems for signs that provide information of specific interest to travelers regarding motels, food services, service stations, and natural wonders.

Third, allow sign plaza areas within the rights-of-way for the Interstate and Primary Systems.

Fourth, provide directions to States to remove billboards dealing with products before they remove those dealing with traveler information.

Fifth, authorize $50 million annually from the General Fund.

However, at the final session of the conference, the House suggested that the conferees reopen the section dealing with billboard control, and the House offered two alternatives.

The first would have changed the language from "official" signs to "officially approved" signs. The second alternative was to delete the entire section dealing with beautification, including junkyard control and landscaping language, as well as billboard control.

Because the Senate conferees felt the "officially approved" language would lead to greater proliferation of billboards, rather than removal, we decided to delete the entire provision and to try to reach another agreement on the issue after we have had a chance to reassess the situation in separate legislation.

The conference report notes, and I would like to stress, that it is not the intention of the conferees that we halt our efforts to control billboards during this time when we are considering separate legislation dealing with the subject. It is my hope that the Congress will produce legislation that will further the cause of highway beautification and that the States and private interests concerned will bear that in mind during this interim period.

I would also like to comment briefly on title II of the bill, which is directed toward the goal of improved highway safety.

The Senate bill created a new Federal aid safer roads program that called upon the States to establish priorities that would return the best payoff in terms of safety. The Senate bill combined Federal direction to the States with a concept that permitted the States flexibility in selecting programs designed to make highways safer for motorists.

The House approach was different. The House established new categorical programs and authorized a number of new studies and research projects. The House insisted its approach was necessary for approval of the conference report and the Senate agreed to the House position. I am less than enthusiastic about the final version of the safety package that is before us.

Only a demonstration program is left of the original Senate concept. I hope, probably vainly, that the States will move forward under that concept, for I fear

the categorical programs sponsored by the final version of this bill will be less successful in dealing with our mounting highway death toll.

Finally, I would point out that the price tag on this 3-year bill is $20 billion, a figure that certainly should be acceptable to the administration. I can report that conferees on both sides worked in tandem to reduce the total to a bare minimum, given the scope of the measure.

I join with my colleagues in urging your support of this piece of legislation, and I urge the President to sign the bill into law.

Mr. President, the distinguished Senator from California (Mr. CRANSTON), had he been here, would have directed a question to me. He was called away by necessity of having to preside over a hearing. The question he proposed to ask me is as follows:

I have a question relating to Section 228 of Title II of the Conference Report, the section entitled "Curb Ramps for the Handicapped." This provision requires that each highway program submitted to the Secretary by a State for approval shall "Provide adequate and reasonable access for the safe and convenient movement of physically handicapped persons, including those in wheelchairs, across curbs constructed or replaced after July 1, 1976, at all pedestrian crosswalks throughout the state."

I wonder if the distinguished Senator from Vermont would tell me why the date was set as July 1, 1976, and whether it might not have been more appropriate to have an earlier date apply in this regard.

I would have replied, and I do reply, to Mr. CRANSTON in response to the question in this way:

I want to thank the distinguished Senator from California for raising that important question. It is my understanding that the July 1, 1976, date contained in the legislation was set in order to allow the necessary time for adoption of enabling legislation by the States and the affected local governments. I think it is important for the Secretary to know that it was the desire of the conferees that the sooner this program can be implemented in each state, the better. In other words, we urge him to use his persuasive powers to assure that these new curb ramps are installed at the earliest feasible date in each state, before the 1976 deadline, if possible.

I might note, in this regard, that such curb ramps can be used by bicyclists as well as by handicapped persons. This multiple-use factor makes it both a mobility and safety advantage to both categories of users.

The increased mobility and safety factor to both the handicapped and to bicyclists, both young and old, which will be afforded will be worth the effort.

Mr. President, I conclude by stating that we in the Senate are well aware of the work of the distinguished Senator from California (Mr. CRANSTON) in connection with aid to the handicapped.

Mr. BENTSEN. Mr. President, I ask for the yeas and nays on the conference report, S. 502.

The yeas and nays were ordered.

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

The PRESIDING OFFICER. The Senator's time will be reserved.

DEPARTMENT OF THE INTERIOR APPROPRIATIONS, 1974

The PRESIDING OFFICER (Mr. CHILES). The hour of 12 o'clock having arrived, under the previous order the Senate will now proceed to vote on passage of H.R. 8917, the Department of the Interior Appropriations, 1974.

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Iowa (Mr. CLARK) and the Senator from Alaska (Mr. GRAVEL) are necessarily absent.

I further announce that the Senator from South Dakota (Mr. ABOUREZK) 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 Alaska (Mr. GRAVEL) and the Senator from Iowa (Mr. CLARK) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Arizona (Mr. GOLDWATER) is absent because of illness in his family.

The result was announced—yeas 95, nays 0, as follows:

[No. 359 Leg.]

YEAS—95

Aiken	Fannin	Montoya
Allen	Fong	Moss
Baker	Fulbright	Muskie
Bartlett	Griffin	Nelson
Bayh	Gurney	Nunn
Beall	Hansen	Packwood
Bellmon	Hart	Pastore
Bennett	Hartke	Pearson
Bentsen	Haskell	Pell
Bible	Hatfield	Percy
Biden	Hathaway	Proxmire
Brock	Helms	Randolph
Brooke	Hollings	Ribicoff
Buckley	Hruska	Roth
Burdick	Huddleston	Saxbe
Byrd, Harry F., Jr.	Hughes	Schweiker
	Humphrey	Scott, Pa.
Byrd, Robert C.	Inouye	Scott, Va.
Cannon	Jackson	Sparkman
Case	Javits	Stafford
Chiles	Johnston	Stevens
Church	Kennedy	Stevenson
Cook	Long	McClellan
Cotton	Magnuson	Symington
Cranston	Mansfield	Taft
Curtis	Mathias	Talmadge
Dole	McClure	Thurmond
Domenici	McGee	Tower
Dominick	Metcalf	Tunney
Eagleton	McGovern	Weicker
Eastland	McIntyre	Williams
Ervin	Mondale	Young

NAYS—0

NOT VOTING—5

Abourezk	Goldwater	Stennis
Clark	Gravel	

So the bill (H.R. 8917) was passed.

Mr. BIBLE. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make any necessary technical corrections in the bill.

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

STAR PRINT OF REPORT

Mr. BIBLE. Mr. President, as I noted earlier, there are a number of printing errors and transpositions in Senate Report 93–362, accompanying the bill. Accordingly, I ask unanimous consent that a star print of Report No. 93–362 be authorized.

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

APPOINTMENT OF CONFEREES

Mr. BIBLE. Mr. President, I move that the Senate insist on the amendments, request a conference with the House of Representatives, and that the Chair be authorized to appoint the conferees on the part of the Senate.

Mr. BIBLE subsequently said: Mr. President, I yield myself 30 seconds so that I may go back to my motion to request a conference with the House of Representatives on the disagreeing votes of the two Houses and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. BIBLE, Mr. MCCLELLAN, Mr. ROBERT C. BYRD, Mr. MCGEE, Mr. MONTOYA, Mr. INOUYE, Mr. CHILES, Mr. STEVENS, Mr. YOUNG, Mr. HRUSKA, Mr. HATFIELD, and Mr. BELLMON conferees on the part of the Senate.

Mr. BIBLE. Mr. President, I ask for 1 minute.

I neglected to ask that the vote by which the Interior appropriation bill was passed be reconsidered. In view of the 95 to 0 vote, I cannot believe it is necessary, but somebody might find something he wanted in the bill that the committee left out, so, out of an abundance of caution, I move that the vote by which the appropriation bill was passed be reconsidered.

Mr. ROBERT C. BYRD and Mr. BENTSEN moved to lay the motion on the table.

The motion to lay on the table was agreed to.

FORESTRY LABORATORY AT AUBURN UNIVERSITY

Mr. ALLEN. Mr. President, reserving the right to object, I should like to inquire of the distinguished Senator about the appropriation for the forestry laboratory at Auburn University in Alabama, which was in the House bill. I do not see it in the Senate bill.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. ALLEN. I yield.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the further consideration of the conference report on the highway bill be delayed not more than 10 minutes.

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

Mr. BIBLE. Mr. President, the distinguished Senator from Alabama states the situation correctly. This item was in the House bill. It was not in the Senate bill. It will be in conference. We will go to conference in September, and if the distinguished Senator will furnish me the necessary material to justify any type of leaning with sympathy toward the House position, I can assure him that I will give it consideration.

Mr. ALLEN. I thank the distinguished Senator.

I invite the Senator's attention to the fact that there was testimony before the committee at the time the bill was considered by the Senate committee.

Mr. BIBLE. I respond to that by saying that we had testimony from hundreds of other witnesses before the com-

mittee, all plugging for what they claimed were the most worthwhile projects in the United States. We measured them and listed our priorities. But, with the further information which I know the Senator will furnish me, we will, as we go to conference, evaluate it and do the best we can.

Mr. ALLEN. I thank the distinguished Senator for that assurance.

Mr. JAVITS. Mr. President, similarly reserving the right to object, I should like to ask the Senator a couple of questions.

I believe the committee has been very wise in its provision of $6,209,600 for the Gateway National Recreation Area as reflected in the House committee report.

I am deeply appreciative of that and I also express my appreciation as one of the major authors in connection with the National Foundation on Arts and Humanities and what they have done in providing $114,750,000 to the National Foundation.

FOREST RESEARCH PROJECT

I would now like to ask the Senator if he would be kind enough to have the committee look into a proposal by the Northeastern Forest Experiment Station of the U.S. Forest Service to establish as part of the Pinchot Institute program a research project at Syracuse, N.Y., on the problems of maintaining and protecting forest environments in densely populated areas of the Northwest.

I ask unanimous consent that a memorandum prepared by the Pinchot Institute describing the project in detail be placed in the RECORD.

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

RESEARCH ON MAINTAINING AND PROTECTING FOREST ENVIRONMENTS IN DENSELY POPULATED AREAS OF THE NORTHEAST

SUMMARY

The maintenance and protection of environmental quality has become a firm national commitment and an integral part of our institutions and values. New institutions, new standards, and actions at all levels of government have committed the nation to ecologically oriented programs that will cost billions of dollars. However, every state in the nation—particularly in the densely populated Northeast—is currently involved in an environmental crisis because much of the information needed to apply ecological criteria in land use policies is lacking.

Policies for the maintenance and protection of forest ecosystems could, by the establishment of standards and guidelines through research, reduce the confusion, conflict, and uncertainty that characterizes forest land-use policy throughout the densely populated Northeast today.

Thus, a systematic, interdisciplinary research approach is needed to establish ecological baseline information, to measure the impact of present and future technology on the baseline data, and to suggest or document imaginative courses of action that will insure the ecological integrity of forest environments within and around metropolitan regions of the Northeast.

As part of its Pinchot Institute program, the Northeastern Forest Experiment Station of the U.S. Forest Service plans to establish a research project at Syracuse, New York on these complex problems as soon as the Federal budget situation permits. The first stage of this research effort will require $425,000 in Fiscal Year 1974, and the second stage an additional $425,000 in Fiscal Year 1975.

INTRODUCTION

One of the most significant challenges facing decision makers in the Northeast is the protection and maintenance of environmental quality in and around densely populated areas—including attractive forest environments where man can work and play. For, as the expanding technology of Megalopolis invades these fragile forest environments, we face the dilemma that the more we strive for a technological future, the more likely we are to achieve ecological disaster.

In this regard, an outstanding capsule phrasing of the nation's concern for this environmental problem states: "Wealth and happiness are not the same thing. Now is the time to make our peace with nature. We must measure success or failure by new criteria." That statement sounds very much like it could have come from Thoreau's *Walden*, or from *Man and Nature* by George Perkins Marsh, but it is a quote from a message to the Congress on January 1, 1970 by President Richard Nixon.

Thus, the nation's quickening concern, especially in the densely populated Northeast, with environmental quality is no passing fad. In fact, the pursuit of environmental quality has become a firm national commitment and an integral part of our institutions and values. New institutions, new standards, and actions at all levels of government have committed the nation to ecological oriented programs that will cost *billions* of dollars.

Every state in the nation, particularly throughout Megalopolis, is currently involved in an environmental crisis because much information needed to apply ecological criteria in land use policies is lacking. The need for environmental research to cope with this crisis is emphasized in Section 102 of The National Environmental Policy Act of 1969, which requires ". . . a systematic, interdisciplinary approach that will insure the integrated use of the natural and social sciences . . . in planning and in decision-making which have an impact on man's environment . . ." The Act further stipulates that we "identify and develop methods and procedures . . . which will insure that presently unquantified environmental . . . values be given appropriate consideration in decision making, along with economic and technical considerations . . .;" and that we study, develop, and describe appropriate alternatives to recommended courses of action for those issues "which involve unresolved conflicts concerning alternative uses of available resources . . ." Thus, research needs in relation to the forest environment as a criteria for public land policy and protection have been clearly drawn.

However, before ecological criteria can be applied in forest land-use policies, a major Forest Service research effort is needed in at least three interrelated problem areas.

First, ecological baseline information through biological research is needed to insure adequate understanding of the forest environment as it relates to the soil, water, and forest vegetation. Second, systems analysis research needs to measure the impact of present technology and to forecast the consequences of future technological development on the ecological baseline data. Finally, multidisciplinary teams of political scientists, biologists, and systems analysts must synthesize the information gathered in the first two phases and suggest or document imaginative courses of action that will insure the ecological integrity of those forest environments within and surrounding metropolitan regions of the Northeast that are required for man's ultimate survival.

CURRENT RESEARCH

The Forest Service's Pinchot Institute of Environmental Forestry Research is currently helping to provide answers to some of the problems that arise from man's interaction with his forested environments throughout Megalopolis. The Pinchot Institute is a part of the Northeastern Forest Experimental Station, with headquarters in Upper Darby, Pennsylvania. Research of the Pinchot Institute is centered at Amherst, Massachusetts and Pennington, New Jersey. The seven current areas of research are as follows:

(1) Economic evaluation research to identify forest uses in densely populated areas and to quantify demands and benefits for those uses.

(2) Landscape tending research on techniques and principles for modifying and maintaining aesthetically desirable conditions on forest lands in urban and suburban environments.

(3) Genetic improvement research of intensively used forest vegetation, including the identification of plants and trees best adapted to urban stresses.

(4) Wildlife habitat research that determines the requirements of non-game species for human enjoyment throughout Megalopolis.

(5) Urban recreation research that relates the leisure time needs of metropolitan man to surrounding forested environments.

(6) Amenity value research on the ability of natural stands of trees to reduce noise, temperature, and air pollution by particulate matter inherent in densely populated areas.

(7) Multiple use research on municipal watersheds to determine the effects of forest treatments and selected recreation activities on the quality of water from watersheds in the heavily populated northeastern seaboard region.

To solve the wide variety of environmental forestry problems encountered in these seven research areas, the Forest Service, in 1970 and 1971, assigned two multidisciplinary teams (four scientists per team) to the Amherst and Pennington programs respectively. These scientists are trained in economics, landscape architecture, silviculture, wildlife habitat, recreation, microclimatology, plant physiology, and hydrology.

These Forest Service teams coordinate a major part of their research efforts with the scientists in nine leading universities in the Northeast that make up the other branch of the Pinchot Institute. Thus, the research efforts of Forest Service scientists are enhanced and magnified by the excellent cooperation with their colleagues in these nine universities. As a result, the Pinchot Institute, even in its brief existence, is setting standards and criteria for Megalopolitan decision makers to use in resolving important land use conflicts between the short range cost/benefit standards of urban expansion and associated long range ecological consequences.

These research developments of the Pinchot Institute show clearly that Forest Service research is beginning to find ways to improve the social well-being of man in Megalopolis while maintaining the ecological balance of man and his forest environment. But much research remains to be done.

RESEARCH NEEDS

The most difficult and important research task in environmental forestry related to megalopolitan man still lies ahead. In this regard the noted environmentalist-planner Ian McHarg stressed that the world is a man-nature relationship in which ". . . the ecological view offers an invaluable insight. It shows the way for the man who would be the enzyme of the biosphere—its steward, enhancing the creative fit of man-environment, realizing man's design with nature."

Forest ecosystems form a complex unity embracing such elements as soil, water, flora, and man. Although man has never been able to deal with the ultimate unity of the ecosphere, he has been learning more and more about its interrelated workings.

As more has been learned, the practicality of introducing ecological concepts into forest land use policy is enhanced. But the word "practicality" may be given two different interpretations. There is a conventional short-run practicality of socially sanctioned arrangements. There is also a long-run practicality that takes account of ecological trends, assesses the consequences of their continuation into the future, and estimates the effects of modifying forces that may impinge upon them. Up to now, because of a lack of reesarch information, the short-run interpretation of practicality has taken precedence over the latter definition at the cost of some degradation of the forest environment.

However, it is doubtful that a public land-use policy designed to maintain and protect forest ecosystems would necessarily be more complex than the mass of laws, policies, and regulations affecting present ownership and land use today. The effectiveness of forest land policy does not depend upon its mirroring the complexities of ecosystems. On the contrary, an ecological approach would simplify and clarify forest land management. A policy for the protection and maintenance of forest environment would, by the establishment of standards and guidelines through research, reduce the confusion, conflict, and uncertainty that characterizes land-use policy throughout the densely populated Northeast today.

A major goal of environmental forestry research in Megalopolis, therefore, should be to evolve and promote natural resource development policies and programs which take into account people's and nature's areas of conflict and thus discover and enhance the areas of harmony. The new research proposed for the Forest Service's Pinchot Institute at Syracuse, New York would have three principal objectives:

1. Establish adequate baseline data to insure adequate understanding of forest environments in Megalopolis involving soil, water, and forest vegetation.

2. Assess the impact of present and future technology on those same aspects of the forest environment.

3. Study and suggest program approaches that would insure the long-range ecological balance required for metropolitan man to live in balance with and insure the integrity of the forest environment.

The New York State University College of Environmental Science and Forestry at Syracuse, New York is the ideal location for the proposed project. The college has the breadth of expertise and the broad range of facilities to aggressively support and be involved in the interdisciplinary research effort required.

The annual cost for the planned expansion of the Forest Service research program at Syracuse, New York is $850,000. This additional appropriation would be used to: (1) employ one political scientist, two systems analysts, two biologists, and one engineer, along with a supporting staff; and (2) conduct large scale grant studies in cooperation with the nine leading universities that comprise the Pinchot Institute Consortium of Universities in the northeastern Megalopolis. Approximately half of the money needed would be used annually for grants. The first stage of this proposed reesarch effort will require $425,000 in Fiscal Year 1974, and the second stage an additional $425,000 beginning in Fiscal Year 1975.

Mr. BIBLE. I will be happy to look into it. This is the first time I have heard of this project. I am not aware of the merits or demerits but we shall look into it.

Mr. JAVITS. I thank the Senator.

THE TAHOE PROJECT

Mr. TUNNEY. Mr. President, I would like to ask the chairman of the subcommittee a question with respect to the $4 million in the bill for land acquisition in the Lake Tahoe Basin. I continue to be deeply concerned that the land use program would go ahead without a very clear indication from the Forest Service or from the Tahoe Regional Planning Agency——

Mr. BIBLE. Mr. President, may we have order in the Chamber? I cannot hear my distinguished colleague who is standing next to me.

The PRESIDING OFFICER. The Senate will be in order.

Mr. TUNNEY. I continue to be deeply concerned about having moneys made available for Tahoe unless it is clear that the Forest Service and the Tahoe Regional Planning Agency are effectively implementing the overall plan for the purchase of land. The committee, and the Congress, should not only be told what those land parcels are, but also exactly how the purchase program fits into the overall plan to maintain the beauty of the Tahoe area. As the Senator knows, recently the Tahoe Regional Planning Agency permitted the construction of a thousand car shopping center, a casino and a hotel.

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

The PRESIDING OFFICER. The Senate will be in order.

Mr. TUNNEY. The TRPA also granted a variance for a 16-acre parking lot, which is not exactly consistent with the maintenance of beauty and environmental quality of the area. The thing that disturbs me is that the Forest Service has not indicated publicly how the $4 million acquisition would affect the overall plan. I think it is unwise to give the Forest Service a blank check for $4 million to do with as it wishes.

I had suggested earlier to the distinguished Senator who chairs the subcommittee that clarifying language be included in this report. The report, which was not available until shortly before the debate began, did not make it clear what we were doing by making this $4 million available.

Mr. BIBLE. The language was deliberately left out because I do not think it belongs in this appropriation bill. I know of the Senator's interest and I know it is an interest which he feels keenly and on which he speaks out loudly and clearly in Tahoe. I have a home in Tahoe. That is the only home I have in the whole world. We live several weeks there each year and go there as often as we can to get away from our strenuous and arduous duties here. So I know as much about Tahoe as the Senator from California. I have been going there since I was 11 years old. I do want to see it preserved; I do want to see it protected; I have spoken on it time and time again, and I have been instrumental in securing funds for State and Federal acquisition to protect this scenic resource.

I was deeply involved in the acquisition of undeveloped shoreline around Sand Harbor to preserve that part of the lake so that it could not be overdeveloped.

I have great sympathy with what the Senator said, but I think this is in the wrong forum. This was argued in the Committee on Public Works last year and year before last. That is where it should go.

I do not think it is part of the appropriation bill.

Mr. TUNNEY. Mr. President, reserving the right to object, I am wondering whether or not the committee, prior to the time it put the $4 million in the bill, had been directly apprised by the Forest Service what lands were going to be purchased and how this purchase would effect existing plans to protect the Tahoe Basin?

I feel that it is highly irregular for Congress to give this blank check to the Forest Service.

Mr. BIBLE. I do not think it is highly irregular at all. We provide all kinds of money for the Forest Service to acquire inholdings. We do not spell out the process for the lack of inholdings. I forget the number of parcels we authorized within the Park Service, but we do not spell out the amounts for parcel A, parcel B, or parcel C. I assure my friend from California that we do not ask the Forest Service to pinpoint.

This was an amendment added by the Senator's colleague from California, a member of the same party, from the same district in California.

The PRESIDING OFFICER. The time of the Senator from Nevada has expired.

Mr. BIBLE. Mr. President, I ask unanimous consent that I may have 3 additional minutes.

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

Mr. BIBLE. I assume that he has well in mind, well in hand, exactly where these purchases are to be made. He is the one who added them. I simply concurred in the House action because I thought it was necessary and a step in the right direction.

Mr. TUNNEY. I conclude by saying—because I do not wish to delay the business of the Senate—that I personally believe it is a mistake to make funds available to the Forest Service in this manner, because, for one thing, Federal land acquisition at Lake Tahoe can increase speculation in land values driving prices much higher in future years as a result of speculative value.

I voted for this bill, bacuse I support most items in the bill, and because I think the distinguished Senator from Nevada has done a monumental job. But I have to disagree with the committee on its decision to provide $4 million to purchase land at Tahoe without also including clarifying language.

Mr. BIBLE. I suggest to the Senator from California that he should read well the presentation and the colloquy of the Representative in Congress who lives very close to these two areas—El Dorado and Placer Counties. I do not know of a man who is better able to talk about Placer and El Dorado Counties than Representative JOHNSON. He made a presentation and said where the land was to be required.

There is nothing unusual about it. We provide money every year. As far as I am concerned, it will be for inholdings in Forest Service lands. But we cannot nail

it down for parcel A, parcel B, or parcel C. I forget how many hundreds of millions of dollars are going to be necessary to acquire the remaining parcels.

The PRESIDING OFFICER. The time of the Senator from Nevada has again expired.

Mr. BIBLE. I yield myself 2 additional minutes.

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

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, will the Senator permit me to make a unanimous-consent request?

Mr. BIBLE. I yield for that purpose.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the vote on the highway bill conference report take place at 1:55 p.m. today.

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

Mr. BIBLE. I conclude by assuring my distinguished friend from California that he cannot find a better program in the entire appropriation bill. He has done better than any other single Senator with funding increases. We have provided $10 million, among other things, for the acquisition of land for the Golden Gate National Recreation Area. Sometimes we cannot get everything we want, but the Senator from California has done extremely well.

I suggest again that the Senator read the whole presentation by his colleague from his native State, a member of his own party, who added this money on the House side and spelled out exactly what parcels were to be acquired. That will answer the Senator's question, I think, very satisfactorily.

Mr. TUNNEY. I am fully conscious of the fact that the Senator from Nevada has been most reasonable in making substantial sums of money available for California. I am deeply appreciative of it. I have indicated that to the Senator privately, and I do so now publicly. I think the Senator has treated California extremely well.

I would like to again indicate, however, my concern for Lake Tahoe. I think the Senator understands my concern.

Mr. BIBLE. I think the Senator has spread his concern very well on the RECORD.

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

Mr. BIBLE. I am happy to yield.

Mr. HUMPHREY. I want to thank the Senator and commend him for his usual splendid job.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. BIBLE. I yield myself 1 minute, if that will be sufficient for this colloquy.

Mr. HUMPHREY. I merely wanted to ask the Senator a question. I did not get a chance to do it because of committee meetings, and so forth. It concerns the Forest Service appropriation. I am sure the Senator is aware that there were substantial reductions from last year for the Forest Service.

Mr. BIBLE. Very crippling reductions, I might add.

Mr. HUMPHREY. I am hopeful that when and if a supplemental bill comes along we might have favorable consideration for additions, because our national forests are in a serious predicament today.

Mr. BIBLE. I could not agree more. I might say that we have substantially fattened the appropriation over the budget request for forest land management, forest research, State and private forestry cooperation, construction and land acquisition right down the line, because I thoroughly agree with the Senator. I think it was brutal the way the administration cut back the budget after freezing every single congressional add-on we approved for Forest Service items—every single one. I would have thought they might have at least left one little one for Nevada in, but they did not.

Mr. HUMPHREY. We have a need in the field of reforestation. This country imports 7,600 million feet of lumber per year. It is ridiculous, with the forest lands we have, to be in that predicament.

Mr. BIBLE. The Senator will note that the bill just approved, as recommended by committee, contains an additional $9,000,000 for reforestation and timber stand improvement. The committee recognized the importance of this program and others in recommending a total budget addition of $15,594,000 for the Forest Service.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Berry, one of its reading clerks, informed the Senate that, pursuant to the provisions of section 2(a), Public Law 92-489, the Speaker had appointed Mr. FLOWERS as a member of the Commission on Revision of the Federal Court Appellate System, vice Mr. HUNGATE resigned.

ENROLLED BILL SIGNED

The message announced that the Speaker had affixed his signature to the enrolled bill (S. 1993) to amend the Euratom Cooperation Act of 1958, as amended.

MESSAGES FROM THE PRESIDENT—APPROVAL OF BILL

Messages in writing from the President of the United States were communicated to the Senate by Mr. Marks, one of his secretaries, and he announced that on July 30, 1973, the President had approved and signed the act (S. 1413) to increase the authorization for fiscal year 1974 for the Committee for Purchase of Products and Services of the Blind and Other Severely Handicapped.

EXECUTIVE MESSAGES REFERRED

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

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

FEDERAL-AID HIGHWAY ACT OF 1973—CONFERENCE REPORT

The Senate continued with the consideration of the conference report on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 502) to authorize appropriations for the construction of certain highways in accordance with title 23 of the United States Code, and for other purposes.

Mr. BENTSEN. Mr. President, I yield 5 minutes to the distinguished Senator from Maine, who was a tough, able, and fair negotiator in the conference for the Senate majority position.

Mr. MUSKIE. Mr. President, this conference report on authorizations for the Federal-aid highway program which is now before the Senate is the result of a most difficult negotiation on the part of your conferees. The agreement is not as progressive or far-reaching legislation as passed by the Senate, nor is it as restrictive, narrowly focused or expensive as the bill passed by the House.

The conference agreement was made difficult by diametrically different views on the issue of flexibility in use of highway trust funds. Senator HOWARD BAKER of Tennessee and I proposed, and the Senate adopted, an amendment to permit cities to utilize urban trust funds for the most appropriate, locally determined transportation use. The House bill continued the existing law of prohibition on diversion of highway trust funds for public transportation projects.

The conference agreement provides for flexibility in the use of urban system highway trust funds in fiscal year 1976. In fiscal year 1975 up to $200 million of urban system highway funds can be used for the acquisition of buses and in 1974 the old rules would apply.

Mr. President, the conferences report on the Federal-Aid Highway Act establishes the principle of flexibility.

Even though significant funding authority for the urban mass transportation program is provided, there is no assurance that these funds will be committed. The Administrator may still refuse to enter into contracts to commit these funds.

Other key provisions of the Senate bill which would have required early consideration of alternative transportation modes and public participation in those decisions which would have permitted emergency funding of transportation alternatives in urban areas with critical air quality problems, and which would have permitted the transfer of disputed urban interstate funds to other transportation purposes in urban areas were deleted from the conference agreement at the insistence of the House.

Mr. President, we have not charted the new course proposed by the Senate bill, but the conference agreement signals a change in direction.

The Senate conferees spent many days and evenings negotiating with the other body on this legislation. I can assure my colleagues that every effort was made to retain the Senate position intact, especially the Muskie-Baker amendment. The chairman of the Senate conferees, Senator LLOYD BENTSEN and the chairman of the Public Works Committee,

Senator JENNINGS RANDOLPH joined with Senators BAKER, BUCKLEY, STAFFORD, and myself in a committee effort to maintain the Senate position. Senator BENTSEN and Senator RANDOLPH deserve the plaudits of their colleagues for this effort in behalf of a position which they disapproved in the Senate. The fact that we prevailed at all in providing flexibility in the third year of this new authorization is a credit to the efforts in behalf of the Senate which Senator BENTSEN and Senator RANDOLPH made.

Mr. President, I am going to support the conference report. In less than 2 fiscal years we will be able to embark on a new era of urban transportation options.

In fiscal year 1975, the fiscal year for which the budget is presently being prepared, there will be $200 million in highway trust funds for acquisition of buses. That $200 million will be absolutely essential to communities with air pollution, congestion, noise, and other transportation problems which require immediate solutions.

By 1976, urban areas, because of the action of this Congress, will have the opportunity to utilize their share of highway trust funds for vital urban transportation needs.

By 1976, when this program will require new congressional action, we in the Congress will have a better understanding of the real transportation needs of America's cities and the demand these needs will make on the urban system portion of the trust fund.

In the interim, we will have had an opportunity to review the highway trust fund in order to consider making transportation generally rather than highways alone a national commitment.

Mr. President, it is important to note that this legislation will provide a new source of funds for urban mass transportation immediately. Not only does the bill authorize $3 billion for the Federal urban mass transportation program but also advance contract authority is provided for communities which choose to construct public transportation systems rather than highways.

Under the provisions of the conference agreement, any community which elects not to use its fiscal year 1974 urban system funds for highways may obtain an equal amount of Treasury funds—through contract authority—for public transportation purposes. While this is not assured funding as provided in 1976 pursuant to the Muskie-Baker amendment, it will provide a significant opportunity to test the will of this administration to commit Federal dollars to immediate transportation needs.

Communities throughout the country are aware of the need to provide alternative transportation procedures in order to meet Federal air quality control plans. These plans cannot be implemented without a massive commitment of Federal dollars. It is encumbent upon this administration to see that funds, equal to amounts frozen in the Trust Fund, are committed as rapidly and as effectively as possible to achieve the goals set forth in the Clean Air Act to reduce the hazards which air pollution poses to so many of our people.

As I said at the time the Senate acted on these amendments to the Federal-Aid Highway Act, we are beginning to reshape and redirect transportation policies and priorities. It is a modest beginning. We have commenced an effort to diversify and make more flexible the uses of the Nation's limited transportation funds. We must now examine in the years ahead how to do a better job to assure adequate transportation for all America.

Mr. President, I wish to commend the distinguished Senator from Texas (Mr. BENTSEN) and the distinguished chairman of the full Committee on Public Works, the distinguished senior Senator from West Virginia (Mr. RANDOLPH), for their outstanding leadership and commitment to the Senate positions during one of the most frustrating conferences it has been my pleasure to be involved in during my 15 years in the Senate.

The Muskie-Baker amendment, so-called, was the chief point of difference between the Senate and House conferees. The views of the Senator from Texas and the Senator from West Virginia on this issue are very clear in the RECORD of the Senate. The majority of us represented the Senate point of view. However, let me say that the Senate point of view would not have had the impact it did on the final report of the conference had it not been for the contributions of the Senator from Texas and the Senator from West Virginia.

There is often a lot of criticism on the floor of the Senate to the effect that Senate conferees do not undertake to fight for the Senate position as ardently as they should. I can think of no better example of the leadership taken in this matter, and the manner in which Senate conferees should act, than that to which I have referred. I compliment the two Senators and publicly express my appreciation for their support and hard work.

They will address themselves to the details of the conference report, as they should. I simply rise to give my support to them in part as repayment for the support they gave me in our effort to reach a compromise in the conference.

Mr. STAFFORD. Mr. President, I yield to the Senator from Illinois.

Mr. PERCY. Mr. President, I thank the distinguished Senator. I have a few comments to make and a few questions to ask.

Mr. President, the conference committee report on the Federal-aid highway bill is by and large a good bill. I commend the distinguished Senator from Texas and the distinguished Senator from Vermont and our distinguished chairman, the senior Senator from West Virginia for their excellent work on this matter. I know the great obstacles which the Senate committee confronted.

Mr. President, as a Senator from a State that has been very distressed in dealing with the problems of financing mass transit, I would have liked more assistance and help in connection with the mass transit problems of our State and other large urban areas. However, I recognize the limitations that had to be placed in the compromise measure reached.

I intend to vote for the conference report. I compliment the Senate conferees for the long and hard fight they put up to bring forth a bill that we can live with. It is the product of many, many sessions of hard bargaining, and in it there are some compromises. There is, however, one section in particular with which I am quite disturbed—section 110(b). Section 110(b) is a pretty transparent attempt to do one thing and one thing only—build the Crosstown Expressway in Chicago, despite the fact that the Governor of the State and thousands of effected citizens of Chicago do not want it to be built.

For one thing, I know that the National Governors' Conference is opposed to this section, because in their policy and position paper for 1973 and 1974, it is stated:

> The governor, as elected chief executive, is best able to determine the transportation needs and priorities of his state . . . He should have the ability to transfer funds among various programs to meet his own state's priority transportation needs.

It then goes on to say—

> With the governor being best able to determine the transportation needs and priorities of his state, the distribution of the National Transportation Trust Fund should be allocated through the governor.

So, there is no doubt in my mind how the Governors would feel about this section. And if any Member of Congress has any doubts, he could contact his Governor and see how he feels about this attempt to take the responsibility of building highways in their State away from the Governors.

But I do not think that this attempt was successful. Whatever the proponents of this section may have intended, I think they have actually come up with something quite different. The language is unclear, even if their motives are not.

In order to set the record straight on this matter, I would like to ask the distinguished chairman of the Transportation Subcommittee (Mr. BENTSEN) and the ranking minority member of the subcommittee (Mr. STAFFORD), who are floor managers of the bill, some questions, and by this procedure clearly establish legislative history. First, let me read the language of section 110 (b):

> Section 103 of Title 23, United States Code, is amended by adding at the end thereof the following new subsection:
>
> "(h) Notwithstanding subsections (e)(2) and (g) of this section, in any case where a segment of the Interstate System was a designated part of such System on June 1, 1973, and is entirely within the boundaries of an incorporated city and such city enters into an agreement with the Secretary to pay all non-federal costs of construction of such segment, such segment shall be constructed."

Now I understand this language to be very narrowly drawn. I interpret it as meaning only that a State would be prevented from dedesignating a previously designated segment of interstate highway and from transferring the mileage elsewhere when the city follows the procedures under section 110(b). However, I think that we should make absolutely clear that all of the State's responsibilities under title 23 still hold, and the ultimate construction of any road is still

subject to the agreement of the Secretary. Is that correct?

Mr. BENTSEN. Mr. President, I will say to the distinguished Senator from Illinois that the only provisions of the law that are affected by this particular section refer to the transfer of the interstate mileage or to the removal of the interstate segments. All State and Federal provisions otherwise still remain. All the environmental protections still remain.

Mr. PERCY. Mr. President, does the distinguished Senator from Vermont concur?

Mr. STAFFORD. Mr. President, I would say to the distinguished Senator from Illinois that I concur in that understanding.

Mr. PERCY. Mr. President, I would also like to clear up some misapprehensions that have been created in the minds of certain citizens of Chicago. This language does not mandate the building of the Chicago Crosstown Expressway or of any other highway. Is that correct?

Mr. BENTSEN. The Senator from Illinois is correct. It is not a requirement that this be constructed. It would still require an agreement of the Secretary.

Mr. STAFFORD. Mr. President, I would say to the distinguished Senator from Illinois, that I agree with that interpretation.

Mr. BENTSEN. Mr. President, let me make the further point that I think as a practical matter where a State has to come in and do the supervision and assist in the plans, it would be very difficult and I do not see how a highway could be constructed unless there were State cooperation in the matter.

Mr. PERCY. That is a very important element in the matter.

Mr. STAFFORD. Mr. President, I concur in what the distinguished Senator from Texas said. I also note that all environmental protections must be complied with before the construction of a highway can be undertaken. Also all the problems involving people dispossessed and displaced by the highway must be taken care of. It does not seem to me that a highway could be built without taking care of all matters and without the planning and designing and without the agreement of the Secretary.

Mr. PERCY. Mr. President, I am delighted that the Senator has raised this environmental matter. I have been deeply concerned about this in the past, as the distinguished Senator from West Virginia, who is one of the great environmentalists of the U.S. Senate, knows. We worked very closely together at a time when the bulldozers were going to go ahead and make corridors through the city and not carry out the requirements of the law.

Mr. BENTSEN. Mr. President, I would say that all requirements under title 23 are still there.

Mr. PERCY. Mr. President, as the Senator knows, the Secretary has some very important statutory duties with regard to the building of a highway. For instance, he has certain environmental responsibilities under 42 U.S.C. 4321 et seq.—the National Environmental Policy Act of 1969—and 49 U.S.C. 1653(f). He has the responsibility of making sure that there is adequate relocation housing available before a single house can be bulldozed under 42 U.S.C. 4601 et seq.—the Federal Relocation Assistance Act of 1970—and I know that section very well since I introduced S. 3992 in 1970 which became the basis for the present law. Now, just to be certain we understand, I ask once again, does this section vitiate any of these legal responsibilities of the Secretary? Is he mandated to enter into this agreement, or does he still retain discretion on this matter and must he still obey the laws?

Mr. BENTSEN. The Secretary loses absolutely none of his legal responsibilities under this section. The section does not say that he must enter into any agreement like this. For example, if the city came up with 10 percent of the funds, this does not mean that the Secretary then has to go ahead and agree to the project.

Mr. STAFFORD. Mr. President, I concur in that statement.

Mr. PERCY. I would just add that so many citizens were deeply concerned about Crosstown that not only did former Secretary Volpe meet with citizens of Illinois, but he also made a special trip to Chicago, met with a cross-section of citizens in my office, and affirmed without any equivocation that he intended to abide by the law. He agreed that no longer would people have to feel that they would be bulldozed right out of their homes without having every provision of the law maintained, by providing adequate housing for people adversely affected by the construction of highways. And this is what is embodied in the legislation we passed in 1970. I trust that Secretary Brinegar will also abide by that policy, as I am sure he will.

Finally, in examining the effect of this section on the State, each State has the responsibility of determining for itself its own priorities among the designated interstate routes within its borders. And the State has the authority to determine where within a designated corridor to build the highway. In addition, at least in Illinois, the State has to make certain environmental findings. So, these are just examples of some of the responsibilities of the States and the Governors, and some of the discretion which they retain.

As I understand, this section does not nullify any of those responsibilities.

Mr. BENTSEN. It does not negate any of that, nor nullify any of it. The State's responsibilities under title 23 are still there.

Mr. STAFFORD. Mr. President, I would certainly concur with the opinion of the Senator from Texas in answer to that question.

Mr. PERCY. There is one final section to which I would simply like to give my own interpretation, as I have carefully studied it and read it. The language of the section refers to situations—

where a segment of the interstate system was a designated part of such system on June 1, 1973, and is entirely within the boundaries of an incorporated city.

In the context of this section, I understand the word "segment" to mean the total section which has been designated as a part of the Interstate system. It also appears obvious to me that in order to make this section operative, the segment must lie entirely within the boundaries of a city. It does not say that a "segment of a segment" must be entirely within the city, because that would seem to be rather meaningless. I also do not think a segment is whatever anyone wants it to be. It must have a specific meaning. It is not 1 single foot, nor 1 single mile. Indeed, I would not think that anyone could argue that what this language really means is a "segment of a designated segment" which lies within the boundaries of a city.

In the case of Chicago, the designated segment of the Interstate System referred to as Crosstown does not lie entirely within the boundaries of the city. In fact, it spills over the city lines and continues into the city of Cicero. So it would seem to me that this language would not apply to the Crosstown because the segment which has been designated as a part of the Interstate System and known as Crosstown does not lie entirely within the boundaries of the city of Chicago.. Therefore, Chicago could not go to the Secretary to make an agreement on Crosstown pursuant to this section because Crosstown does not meet one of the essential requirements of this section.

Now, if someone wanted to argue that "segment" does not mean what it very obviously does mean, it seems he would still be in trouble, because why in the world would the Secretary or any mayor want to build that part of a designated highway which lies within the city when they know full well that the Governor of the State has absolutely no intention of building that part which is not within that city? Especially in the case of the Crosstown in Chicago, we would be liable to end up with the world's longest and most expensive parking lot, since it might not be connected with anything.

So, this part of the section which deals with the word "segment" seems to me to be crucial, because it refers to a "segment of the interstate highway system," not to a segment of a segment. It would be pretty foolish if someone tried to argue that, "Well, a segment is a foot or a mile or anything we want it to be." The plain meaning of that word, and its plain meaning as used in this section, indicates to me that when you talk about a designated segment, you are talking about the entire segment, and not a segment of a segment. If anything else were intended by those who drafted this section, I would have thought they would have made it clear. But, they did not, and so I am making clear the way it appears to me.

So, at the very least, it would seem to me that if one thing should be clear about this section it is that it does not apply to the Crosstown Expressway in Chicago. It may apply to other highways in other cities in other States, but not to Chicago's Crosstown. So, the people who tried to draft this section seem to have defeated their own purpose.

This language was not debated on the

floor of the House. It was not debated on the floor of the Senate. It was not studied by any congressional committee. It was not part of any bill which has passed the House or the Senate and no hearings were held on it. Indeed, it was only added to the bill in conference on the last day, when some members were not present, and with little or no discussion. This is no way to conduct the Nation's business. It sets a very bad precedent.

If one were reading through this bill, the language of section 110(b) would probably escape notice. It looks small and insignificant, buried as it is. However, it represents an attempt to change the entire history of our highway program by bypassing the Governor of a State, and trying to let the mayor of a city authorize highways. This is, indeed, a radical change. But even more than that, this language is an attempt to get around the serious objections which have been raised to building a highway in the third largest city in the Nation, at a cost of over $1 billion.

This highway would cost about $48 million per mile. The entire highway as proposed would be less than 20 miles in length. And with cost overruns and inflation, by the time this highway was actually built, the cost would, no doubt, be even higher than the projected $1 billion.

The effect on the people in the area of the proposed route of construction would be devastating. According to an industrial impact and relocation study—

> Approximately 130 firms employing between 8,190 and 11,675 workers will be displaced by the Expressway. This figure accounts for approximately 9.5% of the industrial jobs in the corridor and 1.2% of the industrial jobs in Chicago and Cicero.

A commercial impact and relocation study estimated that 1,332 commercial establishments employing an estimated 6,800 persons would be displaced if this highway were built. And of these, about one-half are small retail and service establishments. The potential for relocation is not very good since—

> a detailed analysis of vacant commercial spaces in adajacent neighborhoods shows that existing commercial vacancies could provide less than a third of the replacement space needed.

A housing impact and relocation study estimated that—

> The proposed route for the Crosstown Expressway will displace 3,470 dwelling units housing an estimated 10,400 persons.

Federal law requires that before people are removed from their homes, adequate housing must be provided which is decent, safe, and sanitary, which is accessible to the residents' places of employment, and which is located in areas that are generally not less desirable than those from which they were displaced and at rents or prices within the financial means of those being displaced (42 U.S.C. 4601 et seq.).

As I said, I introduced the legislation in 1970 which was the basis of the present law. We wanted to put an end to bulldozing people in cities without regard to what happens to them. Certainly the concerns which motivated me and the Congress at that time are not to be set aside by this very minor section of this bill. Yet this study points out that such replacement housing is not available. Thus, if the Federal laws could not be complied with, the highway could not be built.

Mr. President, these are just some of the problems which surround the Crosstown Expressway. I am not saying that a highway should not be built, or that Chicago does not face serious transportation problems, the solution for which will be costly. But, I am saying that we should not decide it in an executive Senate-House conference in Washington, D.C. The community and the State should decide whether to build this highway, where to build it, and how to build it.

So, what this section does is really nothing more than provide a scheme whereby a mayor of a city could try to get the Secretary to ignore the objections of the people of his city, the people of the State, and experts within the Department of Transportation. It does not say that the Secretary has to, or even should go along with such a scheme. It does not remove this matter from the discretion of the Secretary. And in the specific case of Crosstown in Chicago it does not remove the Governor from the picture as was intended by the authors of the section and was first presumed accomplished.

This section does not relieve a State of its responsibilities under the law. The responsibility continues to rest with the State, and no one else, including a city, to actually construct the highways. As a part of that responsibility the State has to use its judgment and its discretion in seeing that all of the applicable laws are met before construction can even begin.

Today we have shown very clearly what the legislative intent is not. It is not a mandate to build crosstown, or to break radically with the past and give the mayor of a city more power than the Secretary of Transportation or the Governor of a State in deciding whether to build a highway. This it does not do, and it should never be construed as being meant to do it.

Let a mayor of a city come up with his 10 percent. Fine, but the Secretary of Transportation is not thereby required to authorize construction, and the Governor of a State is not thereby required to ignore his legal duties.

I for one reiterate my position that we cannot just go ahead and bulldoze homes in the name of progress and the crosstown expressway without regard for present law that protects the need and wants of thousands of citizens. I thank the Senators for getting into the RECORD clarification of the meaning of this legislation.

I would close by indicating once again that I feel that this discussion demonstrates clearly and unequivocally that this particular section, section 110(b), not only is not going to build Crosstown, but it also sets a very bad precedent. As I say, it was not debated on the floor of the House; it was not debated on the floor of the Senate; it was not studied by any congressional committee; it was not a part of any bill which has passed the House or the Senate, and no hearings were held on it.

If hearings had been held, with full public discussion, the obvious defects of the section as now incorporated might have been brought to light.

I thank my distinguished colleagues for their extreme cooperation, and again commend them on the substance of the overall bill.

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

The PRESIDING OFFICER. The Senator has 21 minutes remaining.

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

Mr. BENTSEN. Mr. President, I yield the Senator from Illinois (Mr. STEVENSON) such time as he may require.

Mr. STEVENSON. Mr. President, I thank the chairman for his graciousness. I know he has an engagement, and I am grateful to him for suspending while I also address a few questions to the chairman of the Senate conferees.

I think the colloquy has been very helpful. It has resolved some of the questions; it has certainly made clear that the law cannot be abrogated with relation to complying with the provisions of the Relocation Assistance Act and the Environment Protection Act, and that the Secretary is not mandated by anything in this bill to go forward with the construction of the Crosstown.

My distinguished colleague from Illinois has said that section 110(b) was an attempt to build the Crosstown Expressway in Chicago despite the fact that the Governor of the State does not want it built. I think that statement deserves some clarification.

Is it not true that the amendment we are discussing only applies where the segment of the interstate system was designated as part of the system on or before June 1, 1973?

Mr. BENTSEN. The Senator from Illinois is correct. It reads specifically that—

> Notwithstanding subsections (e)(2) and (g) of this section, in any case where a segment of the Interstate System was a designated part of such System in June 1, 1973, and is entirely within the boundaries of an incorporated city and such city enters into an agreement with the Secretary to pay all non-Federal costs of construction of such segment, such segment shall be constructed.

Mr. STEVENSON. I thank the Senator. Is it not also true that no such designation could take effect without the State's participation in the planning process, and without its approval? It was the State, in the first instance, which sought the designation.

Mr. BENTSEN. That is correct. I would also say that although a State cannot dedesignate a section such as this, where the urban area is willing to pay for all the costs, the continuing responsibilities of the State are such, in the way of planning, supervision, and implementation, that it virtually makes it impossible for the project to be constructed without the cooperation of the State.

Mr. STEVENSON. I want to come to that. But the initial point is that this amendment, in substance, says that the State cannot change its mind if the city is willing to pay the cost. Perhaps it

should change its mind. Conditions can change. I do not want to argue that point, and I do not want to express any approval here of efforts to legislate in conference.

I simply want the record straight on this particular provision. The State of Illinois approved the original designation. Now it seeks to withdraw that approval. It seems to me that what we are really saying is that the amendment in question will not do away with the need for cooperation between the State and city authorities if the urban expressway is to be built under this amendment.

Mr. BENTSEN. That is correct. The Senator was correct, of course, again, in his statement that it would not be a part of the interstate without the designation of the State.

Mr. STEVENSON. Mr. President, if that cooperation is not forthcoming, and the State refuses to participate in the construction of such a highway while the city continues to profess its desire to move ahead, under this amendment there would be a stalemate—a stalemate which would tie up the expenditure of the tax moneys earmarked for that highway while the transportation needs of the urban area go unmet. Is that not possible?

Mr. BENTSEN. We have this kind of situation where the State could not de-designate, but on the other hand, the city could not proceed because of the planning.

Mr. STEVENSON. If that is the case, it would be a mistake for anyone to assume that this amendment settles the crosstown controversy in the city of Chicago. Nine hundred million dollars of taxpayers' money in the highway trust fund has been set aside for the construction of this highway and mass transit facility. Yet, the positions of the State house in Springfield and City Hall in Chicago with regard to how this $900 million ought to be spent have been uncompromising. It is not and should not be the business of the Congress to intervene and dictate a settlement in such local disputes. If that is what this amendment did, I, along with many of my colleagues, would be strongly opposed to it. As it is, the effect of the amendment is limited—certainly not enough to warrant upsetting the historic breakthrough of opening up urban funds in the highway trust fund for mass transit.

By itself, it appears this amendment would not allow the construction of anything. Thus, the central issue in the crosstown controversy is not the effect of this amendment. The issue continues to be whether the State of Illinois and the city of Chicago can reach some agreement that will preserve $900 million in sorely needed transportation funds for the Nation's second largest city. The Secretary of Transportation cannot be expected to keep these funds reserved indefinitely. Continued stalemate only increases the danger that the entire $900 million could be lost to a city with overwhelming transportation needs.

Furthermore, the rejection by the House of the Senate's provisions allowing transfer of highway trust fund moneys earmarked for projects like the crosstown to other urban transportation projects make it unlikely that funds for the crosstown could be transferred to some other project. In other words, it could come down to a choice of $900 million for the crosstown or nothing. Clearly, the decision on whether to build the crosstown should be based on an objective analysis of the project and this possibility that it is either the crosstown or an enormous loss of highway trust funds for Illinois. The stakes are very high.

I do not believe it is the job of the Congress to make that kind of analysis, and based on your helpful comments today, Mr. Chairman, I do not believe passage of this conference report dictates the outcome.

It would be a tragedy for Chicago and Illinois if a stalemate results in the loss of $900 million in sorely needed transportation funds.

I am not a highway engineer nor do I possess the kind of staff resources or qualifications to determine the merits of the various proposals set forth for utilizing this $900 million. But there are independent experts in Illinois who can.

I have, therefore, called upon Dr. John Bailey, director of the transportation center at Northwestern University and president of the Metropolitan Housing and Planning Council of Chicago to convene a special committee of experts to conduct just such an independent analysis. An earlier study by the metropolitan housing and planning council gave approval to the crosstown, provided that certain specified relocation and environmental problems could be overcome.

Because of new disclosures by opponents of the expressway, the new provisions of the Highway Act and continued controversy, I have asked Dr. Bailey to reopen and expand his study. He has assured me that his special committee will hear from all sides and attempt to make recommendations based on their assessment of both merits and the chances for actually constructing the various proposals.

I shall rely heavily on the recommendations of this independent committee of experts. I would hope that both the city of Chicago and the State of Illinois could do the same, and use this committee's findings as a basis for an agreement that will preserve $900 million for an improved transportation system in the city of Chicago.

Mr. President, I just want to thank the Senator from Texas and the Senator from West Virginia for facing up to the realities of this question. If facing up to the realities of what this amendment can and cannot do can lead to recommendations which break the current deadlock in Illinois over the Crosstown Expressway, the real beneficiaries will be the citizens of Chicago and Illinois. The Congress has preserved the responsibility of State and local decisionmakers, and it is now up to those decisionmakers to make their peace.

Mr. BENTSEN. Mr. President, no man in this body has a greater knowledge of highways and the transportation needs of this country than the man who will speak next, the distinguished chairman of the full committee, the Senator from West Virginia (Mr. RANDOLPH).

Mr. RANDOLPH. Mr. President, I am grateful for the gracious and generous remarks of the chairman of the Subcommittee on Transportation of the Committee on Public Works.

I think it is very important for the membership of the Senate to realize that there were crucial matters contained in the approaches in the Senate-passed bill and the House-passed bill as we went to conference. All of these differences were considered and not hurried in their consideration by our able chairman and floor manager, with the Senator from Vermont (Mr. STAFFORD) on this measure.

Mr. President, the conference report before the Senate today is the product of 29 meetings by Members of the Senate and House extending over a period of 2½ months. This was a difficult conference, in fact, one of the most difficult with which I have been involved in the nearly 29 years I have been in Congress.

The conference deliberations were arduous, but I consider them time well-spent. The end result of this effort is not only a bill that extends the Federal-aid highway program but also continues the process of refining this program that affects the lives of virtually every American.

This bill makes major changes in the highway program in keeping with the expressed wishes of the Senate and House of Representatives. When the two bodies voted on highway legislation earlier this year they adopted opposing positions on some of the key issues. These stances and the importance of the issues contributed to the difficulty of reaching agreement. I believe, however, that we successfully resolved these questions in a manner consistent with the positions adopted by both the Senate and House. This, of course, is the duty of any conference committee that approaches its work.

The primary obstacle to an agreement on this bill was the mass transit issue. The question of whether highway funds should be used to help finance mass transit development was extensively debated in the Senate both this year and last year. The Senate decided that urban areas should be given the opportunity to use trust funds for traditional highway construction or for public transportation. After equally thorough consideration, the House of Representatives took the opposite position.

This issue was not one that developed suddenly after the convening of the 93d Congress. It has been building for several years and has been the subject of intense public debate.

The difficulty of the conference committee in resolving the mass transit question was based to a substantial degree on the fact that it concerned matters of principle strongly held by Members of Congress. It also related to a major policy change affecting the transportation programs of the United States.

There were many important features in the Federal-Aid Highway Act of 1973, and each of them was thoroughly con-

sidered during our deliberations. It was, however, the mass transit problem that occupied the greatest amount of time, and it was this problem that more than once brought the conference to the brink of failure. Members, however, were determined not to fail. Through continued negotiations that exhibited a willingness to compromise, we did not fail. While the end result of our efforts was indeed a compromise, it was not one that impairs the effectiveness of either the highway or mass transit programs, nor was it a compromise outside the scope of the positions held by the Senate and House of Representatives.

The decisions reached provide what I believe to be a realistic approach adopting the highway program to assist cities in meeting both their highway and mass transit needs. Contained in the conference report are elements of both the Senate and House bills. During fiscal year 1974, urban areas may surrender interstate highway authorizations allocated to them in exchange for mass transit contract authority to be paid from general funds. The second year of the bill, fiscal year 1975, could best be described as a period of transition. During that year the transfer authority which I have just described would remain in effect for rail mass transit. In addition, urban areas would have the authority to use highway funds, if they so choose, for public transportation purposes that were highway-related, including the purchase of buses. In this year, such use of highway funds would be limited to a maximum of $200 million.

In fiscal year 1976, the third year covered by the bill, the provisions of S. 502 as passed by the Senate would take effect. This provides that urban areas can use their portions of the highway fund for either highways or any form of mass transit they deem necessary. The only restriction is that the provisions scheduled for the third year would not take effect if, in the meantime, the Congress has provided another trust fund or some other method of assured financing for all urban transportation. Such a source of financing would give urban areas the flexibility and freedom of choice, the principle underlying the Senate position on this issue.

I am sure there are individuals on both sides of the question who are dissatisfied with our answer to an extremely difficult and complex problem. The decisions of the conference committee relative to this point, however, are realistic and they are workable. From a practical standpoint, I believe them to be the only decisions we could reach to avoid a complete breakdown of the conference.

Had we failed to reach agreement it is extremely unlikely that there would have been a highway bill this year. Failure, furthermore, would have only postponed the resolution of problems which have been debated by the Congress.

Since the highway trust fund was established in 1956, transportation needs in the United States have changed. Through the years we have endeavored to modify the Federal-aid highway program to maintain its ability to respond to these changes. The bill before the Senate continues this process.

The Interstate highway system is now 82 percent completed, offering to Americans a degree of individual mobility that they have never before enjoyed. While we have concentrated on Interstate construction during the past 17 years, other segments of our national highway network were relatively neglected and will require increased emphasis in the future. At the same time, the trend to urbanization accelerated. There has been a growing concern about the environment and the part performed by automobiles in polluting the atmosphere. The energy shortage and the realization that there are practical limits to road building in cities have revived interest in mass transit. Many cities are now making heavy expenditures on new and improved mass transit systems. Consequently, the highway trust fund with its assured financing emerged as an attractive means to aid in mass transit development.

I have opposed the full commitment of trust fund resources to mass transit and believed utilization of the trust fund should be limited to highway related transit. The Senate adopted a broader approach and the conference report—which I fully support—embodies that approach.

Mr. President, I mentioned earlier that there were other extremely important features of this bill besides those relating to mass transit. The able Senator from Texas (Mr. BENTSEN) has fully described this legislation so I will not cover its provisions in detail. I will, however, add emphasis to what I believe are some of its key provisions.

Throughout the development of this bill we kept in mind the need for fiscal restraint. The result is legislation that is adequate to meet transportation needs but not excessive in its monetary authorizations.

Expenditures from the highway trust fund provided are within the financing capabilities projected for the fund. Trust fund receipts have grown steadily since its establishment and, in fact, have generally been higher than anticipated.

I call attention to the inclusion in this conference report of programs relating to highway safety. While the Senate considered and passed separate highway safety legislation (S. 893), the House included safety in its version of S. 502. Inclusion of highway safety programs in the general highway bill was one of the difficult questions to be resolved by the conferees. In the end, we adopted the general approach of the House but with changes in the program and in the funding levels.

Title II of the conference report contains highway safety provisions and includes further authorizations for the bridge reconstruction and replacement program. This aspect of the highway program is one in which I have a strong personal interest, since I sponsored the effort in the Senate. The bridge program was first authorized in the Federal-Aid Highway Act of 1970. It was the result of extensive studies which followed the collapse of the Silver Bridge into the Ohio River in late 1967 and which revealed that many thousands of highway bridges in this country are suffering from prolonged neglect.

Since enactment of the bridge replacement program, substantial progress has been made in identifying bridge problems throughout the country. We have also assisted States to begin replacing or repairing many deficient structures. This is a costly process and many years will be required to do the job that must be done. The legislation before the Senate authorizes a total of $175 million for the bridge replacement program. I recognize that this is insufficient when measured against our total bridge needs. The conference committee, however, operated under the need for stringent fiscal restrictions, and all highway programs—including that for bridges—had to be adjusted accordingly. The authorizations for bridge replacement for the next 3 years will permit this program to continue to progress on the base already established.

Although major public concern with this legislation has related to urban mass transit, the legislation also addresses the serious problem of public transportation in rural areas. Many lightly populated regions of our country are totally without any public transportation services. In others, these services are woefully inadequate. In our own State, for instance, the failure of a private company a few years ago left approximately one-third of West Virginia without bus service. Similar situations exist everywhere depriving millions of Americans of the mobility enjoyed by the majority of our citizens.

The conference report on S. 502 authorizes the Secretary of Transportation to conduct a demonstration program on rural highway public transportation. The bill authorizes $30 million for this program to explore ways in which effective and efficient public transportation can be made available in lightly populated areas. I sponsored this program in the Senate and I believe it was one that will have widespread impact throughout the country.

Mr. President, one provision of S. 502 which is of continuing interest to me authorizes the construction of the Highland Scenic Highway in West Virginia as a parkway. The Highland Scenic Highway is planned as a recreational roadway running north from the city of Richwood, the "gateway to the scenic highway," through the Monongahela National Forest. I have had two intentions with this provision: to authorize construction of this important recreational road opening one of the most beautiful mountain areas in America to the thousands of visitors who will be attracted to West Virginia by it, and to insure that any construction of the highway or other activity in this area does not damage the upper Shavers Fork watershed.

The original proposed route for the Highland Scenic Highway from U.S. 219 to U.S. 250 lies just below the ridge top in the upper Shavers Fork watershed. Presently this land is entirely in private ownership. Concern was voiced that siltation and runoff from the highly acid soil in that area from any road construction would jeopardize the fragile Shavers Fork. Of course, while the land is in private ownership there is no guarantee

that mining and timbering activities would not produce the same effect, regardless of road construction.

The 27-mile section from Thorny Flats to U.S. 250, which would be authorized by this bill, crosses privately owned land which has been recommended for National Forest acquisition. This acquisition has been prevented by the lack of funds in the past. It has been my hope that the funds and the additional scenic easement acquisition authority included in S. 502 in connection with the Highland Scenic Highway authorization, would allow the Forest Service finally to acquire enough of the private lands, mineral rights, and other interests to protect scenic and other public values in the upper Shavers Fork drainage, as well as to maintain a scenic highway corridor.

Therefore, to assure that the scenic highway would be built in the Shavers Fork watershed only if the Forest Service acquires sufficient land and interests to maintain an adequate scenic corridor and protect water quality, and to give the Forest Service authority and funds to acquire that land, I offered a number of amendments to this section which were adopted by the conferees.

The authority to acquire scenic easements and lands containing such easements is amended to include the acquisition of mineral rights and the reclamation of mined or clear-cut areas within the scenic corridor. As the language of the bill reads, highway trust funds will be available to acquire lands and interests in land such as mineral rights and scenic easements for a scenic corridor forest management unit which in the Shavers Fork drainage may be valley-wide.

Subsection (h) requires that before any construction can take place in the upper Shavers Fork watershed, the Forest Service must have utilized this authority and actually acquired this substantial scenic corridor. A narrow right-of-way screened by trees, with scenic easements only for selected vistas, will not be adequate. Enough control must be acquired in the watershed to manage this area of the Monongahela National Forest as a unit, protecting and improving the water quality of Shavers Fork, with the Scenic Highway an integral part of that unit.

Of course, no route for the scenic highway has been definitely chosen nor is any dictated by this bill. The route will be selected and a decision to construct the highway made after the preparation of an environmental impact statement considering all alternatives, as required by the National Environmental Policy Act. The Forest Service has committed itself to public involvement in this decision-making process, as well as consultation with concerned environmental groups. The study and consideration of alternatives should be undertaken in connection with the forest unit management plan for the upper Shavers Fork, for which the Forest Service is also required to prepare an environmental impact statement.

The portion of the Highland Scenic Highway authorized for construction in S. 502 does not include the part of the road originally proposed to be built from U.S. 250 to Cunningham Knob through the Cheat Mountain, Shavers Mountain, and Greenbrier River headwaters area. This section of the proposed road would have a great and unacceptable potential for environmental damage, and I am opposed to its construction. I took the opportunity in the conference on S. 502 to recommend amending the language of the bill to prohibit the construction of this section of the proposed route and to require that any connection with a more northerly section of the Highland Scenic Highway be by existing routes, such as U.S. 250, and West Virginia Route 28, and perhaps the proposed Spruce Knob Scenic Drive. This amendment was adopted by the conferees.

Other amendments included in the conference report at my request make the Secretary of Agriculture, acting through the Forest Service, the constructing agency for the parkway, and also make it clear that the road is a parkway limited to passenger car travel immediately on enactment of this law, not open to commercial logging or mining traffic even during the construction phase.

An amendment provides that the parkway shall be a route on the Federal-aid secondary system, to allow highway trust funds to be utilized for the Highland Scenic Highway. The conferees emphasize in the explanatory statement accompanying the report their intention that parkways be limited to noncommercial traffic regardless of the fact that parkway construction for the first time can be financed out of the highway trust fund.

A further amendment I offered requires the Highland Scenic Highway to be designed as a scenic highway, fit for lower speeds, sticking as close as possible to present topographic contours in this beautiful mountainous area, and minimizing any changes in natural drainage.

Mr. President, I have said that I doubted if the features of this bill would be totally acceptable to all of those individuals and organizations who have an interest in this legislation. Prior to the convening of this conference on May 9, I discussed in the Senate my conception of my role as a conferee and what I felt were the major issues to be resolved. At that time I told my colleagues that I would uphold the integrity of this body regarding this bill even though there were points with which I had personal disagreement. I believe the record of this conference will indicate that I followed such a course, and I appreciate the kind comments of the Senator from Texas (Mr. BENTSEN) in this regard.

I repeat that this was not an easy conference. Members from both houses were diligent in pursuit of their objectives and steadfast in resisting proposals which they considered at variance with their obligations.

I do not like to describe the results of any negotiations as a victory for one side or the other, for the conference procedure is essentially one of accommodation. With regard to the mass transit issue the resulting provisions certainly reflect considerable compromise by both sides. As part of the agreement, however, the House conferees accepted the key philosophical point in the Senate bill—specifically that highway trust funds can be used for all forms of mass transit development. This was an important concession on the part of the House and may well be considered a precedent in the future development of transportation legislation.

I am surprised, under the circumstances, at the reaction of some observers. I refer particularly to an editorial in the New York Times of July 29. This commentary describes the bill as a "disgrace" from the viewpoint of mass transit. That is the thrust of the opposition to the bill set forth in the editorial. The editorial is titled "Highway Lobby Triumph." I ask unanimous consent to have the editorial printed at this point in the RECORD.

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

[From the New York Times, July 29, 1973]

HIGHWAY LOBBY TRIUMPH

After more than two months of negotiations, House-Senate conferees have agreed upon a three-year extension of the Highway Trust Fund. Nominally a compromise, the bill constitutes a major victory for the highway lobby.

In originally approving renewal of the fund which generates $6 billion annually in revenue, the Senate had voted to permit the cities to use their portion of the fund—$850 million a year—for subways, buses, commuter railroads and other forms of mass transit if they so chose.

The House of Representatives, led by its Public Works Committee, refused to admit that anything had changed since Henry Ford first marketed the Model T. Under the terms of the House bill, the automobile was deemed sacrosanct and not one penny of that $6 billion could be used for mass transit.

To break the deadlock, the conferees agreed that $200-million of a reduced urban share of the trust fund could be spent next year for express buses (but not this year). Inasmuch as buses use oil and gas and run on highways, they are the only form of mass transit acceptable to the oil-gas-cement-automobile lobbies which hold the House in vassaldom.

Finally, in the third year of the bill, beginning July 1, 1975, the cities could use their share of the money for any form of mass transit instead of being required to build urban highways. It is this concession which enables the measure to be described as a compromise.

The bill can only be described as a disgrace. Are the cities of the nation not entitled to decide how they are to spend their own share of the trust fund? For Congress to make an inadequate sum of money available in 1975 means that Congress will be about twenty years behind the times in responding to an ever more critical problem. Moreover, the bill is loaded with objectionable features. Operating subsidies for mass transit have been stricken. Non-interstate superhighways outside the cities as well as extensions of those highways within the cities are authorized.

As a practical matter, advocates of mass transit have little elbow room in which to maneuver. Without strong leadership from the Administration, which has not been forthcoming, it is difficult to overcome the massed forces of the oil-gas-cement-automobile lobbies. If the "compromise" is not accepted, a one-year extension of the existing highway trust fund programs would be almost certain of approval.

Unhappily, the traffic jam will have to become more tangled, the gasoline shortage

more acute, and the polluted air even dirtier before Congress recognizes that additional billions for benefit of the private truck and automobile are not the total answer to the nation's transportation needs.

Mr. RANDOLPH. The editorial utilizes a reasoning with which I am in disagreement and which is incomprehensible. It is based primarily on the fact that the conference report does not provide full trust fund support for mass transit until fiscal year 1976. The editorial ignores completely the fact that there are two sides to this question, as we have indicated.

There is a differing viewpoint from another major newspaper, the Los Angeles Times. I ask unanimous consent to have printed at this point in the RECORD the editorial comment, which is titled "A Precedent for Transit Aid."

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

[From the Los Angeles Times, July 22, 1973]

A PRECEDENT FOR TRANSIT AID

The compromise reached by congressional conferees on the use of highway trust funds for urban mass transit falls well short of meeting the immediate needs of the cities, but it represents a start that can be built on in future years, and that start is real progress.

The main significance of the agreement in the joint House-Senate conference committee lies in the precedent it sets: for the first time a way has been cleared for a portion of trust fund revenues to be spent on urban rail and bus lines. It will be a tiny portion to begin with—little more than 3% of the $6 billion a year the fund accumulates—but that amount can and will increase.

The big break, after 11 weeks of deadlocked negotiations, came when a California congressman, Harold T. Johnson (D-Roseville), reversed his earlier opposition and voted to accept a key principle of the Senate version of the highway aid bill. This allows, but does not require, metropolitan areas to spend their trust fund allocations on public transit, instead of on more roads. This sensible and necessary approach will permit cities to determine for themselves just what their priority transportation needs are.

The House had rejected this approach. Under intense pressure from the highway lobby, it voted to keep the trust fund intact, not to allow any part of it to go to mass transit support. The highway lobby profits from the construction and heavy use of roads. It has feared, correctly we hope, that once the trust fund was broken open a steadily increasing share of it might go to nonhighway uses. Given the immense transportation needs of the cities, given the convergent problems of urban congestion, environmental pollution and energy shortages, that is exactly what should happen.

It won't happen right away, though. The compromise agreement will keep the trust fund intact for one more year. Then, beginning next July 1, up to $200 million can be spent on urban bus systems. A year later, the entire $800 million earmarked in the highway bill for urban roads may be spent on rail and bus systems. After that, as the highway aid law again comes up for review, the allocation to urban transit can be increased. And of course it should be, for that is where the need is.

The one-year delay before the trust fund is opened up will mean added hardship for cities where mass transit requirements have already been thoroughly surveyed, and where all that is lacking is adequate money to get started. For others, including Los Angeles, the year's delay can profitably be used for sound planning, with some greater assurance than ever before that a transit system aided with federal funds can become a reality.

Mr. RANDOLPH. The closing words in that editorial, an editorial believing in a greater thrust on rail transit, are as follows:

. . . the year's delay can profitably be used for sound planning, with some greater assurance than ever before that a transit system aided with Federal funds can become a reality.

I fully expect to read other analyses of the conference report which perhaps will, on the one side, speak of capitulation to the highway needs and, on the other, capitulation to the mass transit needs.

I am sure that the Senator from Texas and the Senator from New Hampshire and all the other conferees, both Senate and House, are concerned not that there be a difference of opinion—we welcome that—but there are times when there is unsupported and inaccurate appraisal of what we believe we have accomplished, such as the New York Times editorial.

Mr. President, early this year when Senator BENTSEN was named chairman of our Subcommittee on Transportation I expressed my belief that he would perform his duties with intelligence, with vigor, and with distinction.

Throughout the Senate development of the House bill he guided this legislation deftly. His performance as chairman of the Senate conferees was one to earn him the admiration of every member of this body.

The responsible completion of this legislation could not have taken place without the participation of other conferees. Senators MUSKIE, MONTOYA, BAKER, BUCKLEY, and STAFFORD all made major contributions to the conference procedure. They were faithful in their attention to this legislation and their actions reflected their keen awareness of its importance.

Representative JIM WRIGHT of Texas presided over the conference with reason and fairness and was an able representative of his house. The other House conferees, Representatives JOHN BLATNIK, JOHN KLUCZYNSKI, HAROLD JOHNSON of California, JAMES V. STANTON, WILLIAM HARSHA, JAMES CLEVELAND, DON H. CLAUSEN, and GENE SNYDER, were diligent in their duties and approached them with a seriousness of purpose that helped us to succeed.

Mr. President, the conference report in the final analysis embodies a sound, realistic, and a workable expansion of important Federal activity and I strongly urge the acceptance by Members of this body of the labors that have been wrought.

Mr. BENTSEN. Mr. President, I thank the distinguished chairman of the committee for his contribution to the debate which affords a better understanding of this legislation.

I yield 5 minutes to the Senator from New Jersey.

The ACTING PRESIDENT pro tempore. The Senator from New Jersey is recognized.

Mr. WILLIAMS. Mr. President, it is with great reluctance that I rise to oppose the conference report on S. 502, the Federal Highway Act.

My great concern runs to the other provisions of the report dealing with the treatment of our highway program, a program that I believe in, and I recognize fully this was one of the hardest conferences many of our colleagues have gone to with the House of Representatives, probably in all of this year. I know the long hours they worked in that conference, the demands upon them in time, as well as the emotional demands. So I reluctantly oppose the conference report. I do it, because it is my hope that this legislation could at long last deal realistically and comprehensively with urban transportation problems, the blending of highways together with mass transportation facilities.

I find the sections pertaining to urban mass transportation entirely unsatisfactory.

In deleting the provisions which would provide operating assistance to existing mass transit systems, the conferees refused to face up to the fact that efficient urban mass transportation is a matter of public responsibility providing benefits not just to the individual transit rider, but to our entire economy.

What good are all of the lofty pronouncements on a better environment, or on providing cleaner air by curtailing the use of the auto, when existing transit systems teeter on the brink of insolvency unable to provide the urban mobility necessary to achieve these worthy goals.

By deleting the $800 million for operating assistance provided for in the Senate bill—legislation which the Senate has now passed on four separate occasions—and at the same time authorizing many more miles of primary and secondary highways, the conferees have once again proven the old adage of dollars for highways, but tokens for transit.

I know we will be told that the bill agreed upon provides for $3 billion for the purchase of rail and bus equipment for fiscal years 1975 and 1976; and that small portions of the highway trust will be made available for similar purposes beginning in fiscal 1976—the year that the highway trust fund expires—but these pronouncements, as optimistic as they appear, completely miss the point.

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

Mr. WILLIAMS. I yield.

Mr. RANDOLPH. I believe I heard the able Senator from New Jersey say that the highway trust fund expires in 1976.

Mr. WILLIAMS. I did, under the original act.

Mr. RANDOLPH. October 1977.

Mr. WILLIAMS. The correction will be made. I appreciate the correction.

Mr. President, the real need is for an immediate transfusion of operating assistance so that our existing transit systems are operational when the fully funded capital grant program takes effect.

Today's situation has reached intolerable levels.

During the past 10 years the number of municipalities forced to initiate local programs of operating assistance has in-

creased by over 400 percent and deficits are now at a rate of over $400 million a year.

Carmack Cochman, chairman of the American Transit Association's Legislative Committee stated the problem clearly and succinctly when he testified as follows:

> There has been an acceleration of public takeover of private transit properties which cannot meet cost, pay taxes or make payments to pension programs.
>
> Consider that since 1970, when we first began making this case, there are now 53 fewer private transit systems in the country.
>
> We estimate that by the end of this fiscal year 25 or 30 more will either cease to exist or become public property.
>
> These private transit companies do not leave the business because they've made a killing and now want to retire.

They get out because finances, rising costs and more dependence on the automobile have forced them out.

There are now 160 public transit systems in the Nation, representing all but an insignificant fraction of the total transit ridership.

All of these face the same grim facts and prospects which we have detailed for you on three previous occasions.

Subsidy offers hope, stability and a promise of a truly balanced urban transportation system.

The man who said those words knows the situation inside and out and helped us immeasurably, which is one of the reasons why we have four times passed this bill in the Senate.

Mr. President, the case for revitalizing our Nation's mass transit systems has been made and operating assistance is an indispensable part of that case.

On March 14 of tnis year the Senate adopted my proposal and included it as part of S. 502 by a 59 to 36 vote.

At that time we recognized the need to halt the raising of fares to intolerable levels thus reducing ridership and curtailing existing transit services.

We realize that thep oor, the infirm, and the elderly should not be relegated to a life without transit services.

We realized that this was a national problem and not one for individual localities to solve on an ad hoc basis.

And foremost of all we realized that mass transit is the lifeblood of an urbanized society and that a program of capital grants meshed into one of operating assistance can go a long way toward alleviating the distress of both private transit operators and the increasing number of municipalities who own and operate these systems.

Yet despite the unchallenged need this essential program was dropped in conference.

And for what reason?

The only one which I have been able to ascertain was the threat of a Presidential veto.

Representatives of the executive branch reportedly told the conferees that if any operating assistance program for mass transit was included in the highway bill, the President would veto it.

I only wish that the President would exhibit such fiscal courage in the areas of defense spending and authorizations for additional mile upon mile of highways.

Like the President's 18-month moratorium on low-income housing, his threatened veto of S. 502 shows a total disregard for the problems of our Nation's cities and the citizens who inhabit them.

And, although the conferees labored long and hard to report a veto-proof bill, the absence of operating subsidies compels me to vote against the report.

However, the issue of operating assistance and better urban mass transportation is far too vital to brush under the rug.

I, for one, intend to bring this issue to the Senate floor for a fifth time as a separate bill.

And I have been informed that the sponsors on the House side will take similar action.

Only then will we in the Congress have fulfilled our responsibility to the American people.

Mr. President, the New York Times in its July 29, 1973, editorial entitled "Highway Lobby Triumph" clearly and concisely describes what the adoption of this conference report will mean to our cities when it states—

> Unhappily, the traffic jam will have to become more entangled, the gasoline shortage more acute, and the polluted air even dirtier before Congress recognizes that additional billions for benefit of the private truck and automobile are not the total answer to the nation's transportation needs.

I thank the floor manager, the distinguished Senator from Texas, and I fully appreciate all the work that he put into the measure before us. It is on this one proposition I have to take my stand.

Mr. BENTSEN. Mr. President, I have listened with a great deal of interest to the distinguished Senator from New Jersey. No man in the Senate has done more for mass transit than he. I am obviously concerned and disappointed that he has to oppose this measure. I supported the Senator's amendment on operating subsidies. I feel strongly about it. The Senate conferees tried very hard to accomplish that objective. We made several offers of compromise on the bill, which included operating subsidies. We explored the possibility with the White House, and we were told the administration was adamant on this proposal; that it would absolutely result in the veto of this bill if we included operating subsidies.

The House conferees were equally adamant in opposition to operating subsidies. However, as the Senator from New Jersey has noted, this bill provides $3 billion—the Senator's amendment—for mass transit. That has been left in virtually intact and we feel the Senator has made a major contribution to mass transit in that regard.

I might also say that the four Senate conferees who voted for the Muskie-Baker amendment would not be voting today for this conference report and would not have signed this conference report unless they thought that there was a substantial contribution and breakthrough for mass transit in this measure. I believe there are those who are concerned about mass transit who have said, as we went into conference, that there really was not a chance for the kind of breakthrough we have made in this area and in this conference report.

I would say to my other colleagues who share the concern of the distinguished Senator from New Jersey that we labored long and hard to bring this about. I think we have made a significant contribution for the transit needs of the country in this bill.

Too long have the people of this country been in doubt as to what was going to happen to our transportation programs. We lost this bill last year. We were not able to pass it, and so we have labored long and hard to do it this time. It does not satisfy in totality either side. There was give and take on both sides. It was a consensus. I think it was a good compromise and I think it was a worthwhile effort.

I yield now to the distinguished Senator from West Virginia (Mr. RANDOLPH).

Mr. RANDOLPH. Mr. President, I wish to reinforce, although I think it would be unnecessary, the tribute of the Senator from Texas (Mr. BENTSEN) to the able Senator from New Jersey (Mr. WILLIAMS). The Senate conferees supported the position of the Senator from New Jersey in the conference, but as has been stated, we had the larger responsibility of bringing to the Senate and to the House a measure that would embody the strengthening of the mobility of our country, including a substantial contribution to the furtherance of attention to the needs of urban transportation.

We regret the Senator's not being able to support the conference report. His leadership now and in the future will be something that I personally would want to follow, and will follow, except in a situation of this kind where I have a bigger responsibility than to one form of transportation. This is a measure which will express the thinking of the two bodies with reference to this important matter.

The PRESIDING OFFICER. The time of the Senator from Texas has expired.

The Senator from Vermont has 21 minutes remaining.

Mr. HARRY F. BYRD, JR. Mr. President, will the Senator yield me several minutes to ask some questions?

Mr. STAFFORD. Mr. President, I am glad to yield to the distinguished Senator from Virginia for up to 5 minutes.

Mr. HARRY F. BYRD, JR. I thank the Senator.

First, I invite the Senator's attention to page 70 of the conference report, where there is a section entitled "Special Urban High Density Traffic Program." The facilities authorized by this program are of a short-span or connection type, to connect with existing routes of the interstate system.

In the Portsmouth-Norfolk area of Virginia there are three spurs of the interstate system: I–264 from the east, I–464 from the south, and I–264 from the west. All three terminate practically at the river edge, less than a mile and a half apart. These interstate spurs urgently need to be connected by a facility apparently of the type authorized by the new section 147 of title 23.

Do you believe a facility such as I have

described in the Portsmouth-Norfolk area is within the purview of the new section 147?

My question to the distinguished Senator from Texas is: Does he believe that a facility such as I have described in the Portsmouth-Norfolk area is within the purview of section 147?

Mr. BENTSEN. I would say to the distinguished Senator from Virginia that we provided the Secretary with authority to develop certain guidelines; but within those that have been placed in this bill, from the cursory description given to me, yes, I would consider that project to be one that could be supported if funds were not available from other highway programs.

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

The PRESIDING OFFICER (Mr. HARRY F. BYRD, Jr.). Without objection, it is so ordered.

Mr. STAFFORD. Mr. President, I yield to the Senator from Idaho.

Mr. McCLURE. Mr. President, I wish to express my strong support for adoption of the conference report on S. 502.

Many important provisions in the bill have already been discussed by my colleagues. I would like to discuss briefly one aspect of the bill that has particular relevance to the West, and particularly my State of Idaho: Federal assistance for forest development roads and trails and forest highways. The conference report authorizes $140,000,000 yearly for forest development roads and trails, nearly double the $75,000,000 yearly that was authorized in the Senate version of the bill. The forest highway authorization of $33,000,000 yearly is identical to the Senate version.

Forest roads and trails are a vital part of management of our national forests. This is especially true in my State of Idaho where two-thirds of the land is owned by the Federal Government and 57 percent of this is in national forests.

The forest development road system exists for support of resource management activities. Road maintenance and construction activities support management of timber, wildlife, recreation, and range activities. The benefits of road access accrue for many years after construction.

Timber needs of the Nation to meet the housing goals continue to place pressure on developing and intensifying management of presently inaccessible and poorly accessible areas of national forests. Provision of an adequate road system is a prerequisite for increasing the timber available for sale and cutting.

But the benefits of these roads is not limited to the necessary harvesting of timber. There is a need to provide access to some areas not now served by roads to relieve pressures on existing campground and other recreation areas.

Roads also provide protection of our National Forests from natural disasters of fire, insects and disease. Efficient accomplishment of these jobs requires adequate forest road facilities.

Currently, the National Forest Development Road System consists of 197,000 miles of existing roads ranging from the single-lane limited service roads for special activities, to two-lane paved major access routes for full service to ongoing activities with large volumes of user traffic.

The Forest Service now estimates that more than 146,000 miles of these existing roads require some form of reconstruction ranging from simple widening of curves and adding turnouts for improved safety, to complete replacement with higher standard roads consistent with the traffic demands. The Pierce Superior Road on the Clearwater National Forest is an example of a 20-year-old primitive road in need of reconstruction to safely carry present traffic. Latest estimates show a need for approximately 150,000 miles of new road.

The need for improved forest highways is equally strong. These are segments of public highways, including State and county roads, and Federal railroads that cross National Forests. These routes can and have been selected as important contributors to the development and enhancement of the resources of the National Forest and of the Nation as a whole. Their construction and maintenance will be beneficial to all of our citizens. There is now a serious deficiency in financing that is causing a loss of resource value to the general public. Planned funding is not enough to meet the need. I can attest to the great need to improve the 1,200 miles of forest highways in Idaho. Much of our Idaho State and county highway system across the National Forests are designated as forest highways. Offhand, I would point to needs on the Trail Creek Forest Highway between U.S. 93 and U.S. 93 alternate near Sun Valley—a recreation route—or the Banks-Lowman Highway across the Boise National Forest, an extremely important timber route.

The operation, maintenance, and construction of the National Forest roads and trails system, and the construction of forest highways across the National Forests are important portions of the Federal Highway Act.

Adoption of this conference report will assure that this necessary work can go forward.

On the other hand, Mr. President, the conference report authorizes approval by the Secretary of Transportation of projects for the construction, reconstruction, and improvement of fixed rail facilities, including the purchase of rolling stock for fixed rail, beginning in fiscal year 1976. I believe that this is an unfortunate decision—a decision which could delay the necessary planning for a sound financial basis for urban rail transit systems. While the conference decision is an improvement over Senator MUSKIE's amendment to the Senate-passed version of S. 502, I believe that the same objections are valid. During the debate on Senator MUSKIE's amendment to allow the use of urban funds for rail transit, I spoke in opposition, based on my concern over this diversion of revenues from the highway trust fund to rail mass transit systems. My concern focuses on the apparent conflict between the stated intent of the amendment and what I believe to be the ultimate result of such an action. In a floor discussion between Senators MUSKIE and CHURCH on this point, Senator MUSKIE assured my colleague from Idaho that the amendment "will in no way result in any decrease in highway funds allocated to rural areas or any increase to highway funds allocated to urban areas." In my remarks, however, and in remarks by other opponents of this amendment, it was shown that the highway trust fund is totally inadequate to meet the mass transit needs of the urban areas. Can anyone actually believe that the Congress would authorize initial construction of rail transit systems with this amendment, and then in later years allow these systems to remain incomplete, or to fail for lack of operating subsidies? I do not. The political strength of the major urban areas would dictate the final result: Total commitment of the highway trust fund to the construction and operation of mass transit systems in the major urban areas.

In fact, Senator MUSKIE stated in the closing minutes of debate on his amendment just what the future holds. In discussing the $87 billion highway construction financing since 1956, he said:

> I am not proposing that at this point we direct these funds entirely to mass transit. We are not ready for it.

He went on to say, in support of his proposal:

> The Muskie amendment is a first step, not a total step in giving the people of our cities a choice as to the transportation system that makes the most sense to them, the people that delivered it.

If there be any doubt as to the meaning of these statements, the New York Times of March 15, 1973, specifically explains the intent of the amendment:

> The sponsors of the measure that was adopted acknowledged that $850 million would not be enough to solve the transportation problems of the cities. But they clearly hoped that in future years even more of the trust fund money could be diverted.

I feel certain that when given the choice between mass transit systems paid for by all American citizens, or transportation systems which they pay for, the people of our major cities will choose the former. I believe that urban transit systems should be paid for by the people who benefit from them, not by the people of Idaho or any other nonurban State.

This belief is further strengthened by the action of the Senate on July 28, 1973, in approving appropriations for the Federal share of the rapid rail transit system to serve the Washington, D.C., metropolitan area. This appropriation was for $97,745,000. In addition, the Senate by the same action approved $12,728,000 for a Federal interest subsidy, for the revenue bonds marketed by the Washington Metropolitan Area Transit Authority. It is wrong to tax all the citizens of the United States in order to build this system for the citizens of the District of Columbia area. Fortunately, the conference committee did include a possible so-

lution to this problem. During meetings of the Senate Committee on Public Works, the ranking minority member, Senator HOWARD BAKER, discussed the need for an evaluation of possible approaches to a trust fund for urban transportation. The conference committee wisely included the proviso that the Secretary shall not approve any project for buses and rail facilities in any fiscal year when there has been enacted an urban transportation trust fund or similar assured funding for both highways and public transportation. I urge, therefore, that immediate consideration be given to Senator BAKER'S suggestion, and that a trust fund be established for urban transportation needs, before the fiscal year 1976 deadline. In this fashion, an equitable formula for payment can be devised based on the principle that the beneficiaries of the urban transit system shall pay the costs.

Frankly, I had hoped that the Senate's earlier action would have been abandoned in conference. The compromise was an improvement but still commits us to a collision course. Despite this, however, the bill contains much good and essential legislation. It does, therefore, have my support.

Mr. STAFFORD. 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. 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. STAFFORD. Mr. President, I yield 3 minutes to the Senator from New York.

Mr. JAVITS. Mr. President, I have given long and deeply concerned consideration to this matter. It is a very close one as far as I am concerned. I come from both the State and the city of New York and deplore the failure of this Congress to acknowledge the realities of urban life and the adamant refusal to admit the urgent necessity confronting our own mass transit systems.

It is a proven and admitted fact that mass transit is the most efficient way to cut down on travel on the highways. Improvement of those systems would save not only millions, but billions of dollars on highway construction. People can be carried en masse by mass transit more quickly, comfortably, and economically. That fact is irrefutable in my judgment.

It is simply archaic as well as arcane to persist in the idea that we must be tied with ribbons of concrete; that the automobile is the only way to go from place to place; and that we must therefore spend billions and billions in that effort.

Mr. President, my statement is dictated by protest. It is a very sincere and highly justified protest brought about by a desire to vote against the conference report.

It is noteworthy that in my State of New York the Governor is now recommending a $3.5 billion bond issue precisely to make up for the deficiency which this bill now epitomizes. This casts a heavy burden on our people. Yet, if New York is to continue to be the national and the international crossroads, which it presently is, and which is critical to its and the Nation's future, that is the way we have to go.

However, Mr. President, if I were to vote against the report, it would negate the heroic efforts of my colleagues, one of whom is the junior Senator from New York (Mr. BUCKLEY), and the other of whom is my friend, the distinguished Senator from Vermont (Mr. STAFFORD), who stood up for the Senate position which, even though minimal in its terms, was still an effort to immediately begin what so necessarily must be done.

It would also deny my support—although that support is not needed because the matter would pass overwhelmingly—for the purpose of opening at long last the door to reality in respect to the urban transportation needs of the country. I cannot deny that support even to so minimal a crack.

In New York, we are accustomed to deep controversy and to taking unpopular positions. However, I believe that under these circumstances the people of my State would hope that I would show my appreciation for what has been done by joining in the support for this bill, even though it is so very inadequate and really terribly discriminatory toward the urgent needs of the cities of the country.

So, Mr. President, while protesting most strongly the inadequacies of what has been effected by the conference, I have decided that I must join in the collective responsibility, whatever it is and however inadequate, and reserve to myself the right to fight—as I will do—at any other time for our interests when the matter arises again.

The PRESIDING OFFICER. The Senator's time is expired.

Mr. STAFFORD. I yield the Senator 1 additional minute.

Mr. JAVITS. I know there are many in this Chamber who disagree with me and are deeply offended by an editorial appearing in the New York Times concerning the conference report which is headed "Highway Lobby Triumphs." Mr. President, there is a great deal of truth in that editorial. But I was sent here to represent, to the best of my ability, the hopes and interests of the people of my State for progress in the future. I believe that under those circumstances, having thought it through, I should join in approving this report, but at the same time express profound disappointment and protest, and pledge myself to engage in the continuation of this fight until reality and justice are realized in respect to city problems and, indeed, the national problem of urban transportation. By way of showing the appreciation which I think we owe, notwithstanding our disappointment, to the efforts of the conferees on the Senate side, who stood by us, I will support the conference report.

The PRESIDING OFFICER. Who yields time?

Mr. STAFFORD. Mr. President, I am very pleased, as one of the conferees, to learn that the distinguished Senator from New York will vote for the conference report. I am sure he knows that literally for months the conferees fought hard for the operating subsidies, and it was only when we were not able to get them, in the final analysis, that we yielded on that point.

Mr. President, I yield 1 minute to the distinguished Senator from West Virginia.

Mr. RANDOLPH. Mr. President, I commend the able Senator from New York (Mr. JAVITS). I would like for him to know that there were those in the conference who, like the Senator from West Virginia now speaking, had taken a different stand in this body than the Senator from New York and others. But we—all the conferees, not just the conferees who took the favorable position on the Muskie-Baker amendment—stood with the Senate in an attempt to support the Senate bill.

So I would remind the Senator from New York—and I thank him for his well-reasoned support—to read the editorial from the Los Angeles Times that I have placed in the RECORD, which indicates, in essence, that we have made a breakthrough for rapid rail transit support in this country.

I fully recognize the need for operating subsidies to help maintain properly functioning mass transit systems. The Senator from New York (Mr. JAVITS) should be aware that we tried very hard in the conference to retain the subsidy provisions of the Senate bill. On at least two or three occasions we offered compromise proposals that included operating subsidies. Each of these packages was rejected by the House conferees.

Mr. JAVITS. I thank my colleague. I have the editorial before me. I think the Senator knows me well enough to know the bona fides, the good faith, and the passionate conviction with which I have spoken.

Mr. STAFFORD. Mr. President, I yield the time remaining to the distinguished chairman of the subcommittee (Mr. BENTSEN).

Mr. BENTSEN. Mr. President, I thank the minority leader on the bill.

Now let me address a final word to the administration. Both the Senate and House conferees believe that they have walked an extra mile to gain administration approval of this measure. We have eliminated certain provisions, such as operating subsidies and anti-impoundment language which administration officials found objectionable. We have cut many of our programs substantially below the levels authorized in either the House or Senate bills. We have exercised care to prune our authorization requests to levels billions of dollars below those in the House bill. And most significantly, we have arrived at a solution on the mass transit issue which is very much in the interests of the administration. There is absolutely no guarantee we can reach that solution again if we are required to return to conference.

In light of these realities I renew my request in the strongest terms that this legislation be signed into law. The States and cities have lived with uncertainty too long over this highway bill.

Finally, I want to express my deep appreciation to all of the members of the Public Works Committee staff for their dedication over months of hard work on this measure. In particular, I want to

mention Barry Meyer, the chief counsel; Bailey Guard, minority staff director; Phil Cummings; John Yago; Clark Norton; Hal Brayman; Kathy Cudlipp; Rick Herod; Ron Katz; Vic Maerki; and Jackie Schafer. Without their assistance and their work behind the scenes, we could not have brought this bill to the floor.

Mr. DOLE. Mr. President, today's action marks the end of what must be the most lengthy consideration of a Federal highway program ever undertaken. As one who was a member of the Public Works Committee last year when the process began, I have a clear appreciation for the efforts which have gone into the passage of not one, but two, complete bills and another emergency bill authorizing partial apportionment of fiscal year 1974 funds to keep the National Highway Construction program moving.

This is an extremely important legislative item, for it sets the basic policies for the administration of the largest, best, and most expensive highway system in the world, and now it also moves into the area of nonhighway urban mass transit systems.

HIGHWAY TRUST FUND

In March, I discussed the conflicting interests and points of view revolving around the use of the highway trust fund for nonhighway purposes when the Senate debated S. 502. I believe the conferees have done an outstanding job of shaping a workable and constructive compromise, it preserves the trust fund for the first 2 years of the bill's 3-year authorization, and, beginning with the third year, it will allow urban system funds to be spent on rail mass transit if cities want to do so. I believe it is appropriate for cities to be able to decide on the uses for their transportation funds; and the conference agreement would give them this discretion without draining the funds available for other programs and other areas of the country.

INCREASED FEDERAL SHARE

Turning to the specifics of the bill, I am particularly pleased that, with the closing stages of the interstate highway program, greater recognition is being paid to other needs, especially the pressing requirement to upgrade and improve the millions of miles of primary and secondary highway routes. A great volume of traffic is carried on these routes, and our concentration on building the Interstate System may have distracted some public attention from the need to keep our other highways safe and modern. The change in the matching fund formula from a 70–30 basis to provide 90 percent Federal support should be a major help to State and county highway programs in the coming years.

The funding-levels for the State of Kansas are as follows:

Urban extensions:	
Fiscal year 1974	$2,577,000
Fiscal year 1975	2,666,000
Fiscal year 1976	2,666,000
Urban system:	
Fiscal year 1974	6,678,000
Fiscal year 1975	6,764,000
Fiscal year 1976	6,849,000
Primary highway system in rural areas:	
Fiscal year 1974	14,737,000
Fiscal year 1975	15,170,000
Fiscal year 1976	15,170,000
Secondary highway system in rural areas:	
Fiscal year 1974	8,452,000
Fiscal year 1975	8,669,000
Fiscal year 1976	8,669,000
Interstate system:	
Fiscal year 1974	30,104,000
Fiscal year 1975	34,735,000
Fiscal year 1976	34,735,000

FEASIBILITY STUDIES

I am pleased that the conferees agreed to the inclusion of two Senate amendments which I offered to meet the growing highway needs of the Nation and the State of Kansas. Both direct the Secretary of Transportation to undertake studies to determine the need and desirability of constructing new highways which would serve as major connecting links between several interstate routes.

One route would pick up at the northern terminus of I–35 W at Salina, Kans., at the intersection with I–70 and carry on north to cross I–80 in Nebraska and meet I–29 in southeastern South Dakota.

The other route would start at I–35 in Wichita, Kans., and run southwest through Kansas, Oklahoma, and Texas and into New Mexico where it would meet I–40 near Tucumcari.

I discussed the value of these routes—not only for Kansans but the entire American motoring public—when they were approved by the Senate in March. However, I would say that, looking at the nationwide interstate map, these two routes fit into the traffic flow patterns very clearly. They would round out one major east-west route and one major north-south pattern. I am hopeful the Department can proceed with these studies at the earliest possible date, and they can be assured of the utmost support and cooperation of the communities along these routes.

I would also point out that three other studies, all of routes serving Kansas City, are included in the bill. One would run northeast to provide a direct route to Chicago, another would head southeast to Brunswick, Ga., and the third would run south to Baton Rouge, La. With Kansas City located at the center of the Nation such routes would respond to the fact that Kansas City is the natural commercial and transportation hub of the Nation.

EISENHOWER HIGHWAY

Another important aspect of the bill concerning Kansas is the designation of the Dwight D. Eisenhower Highway. This action is an outstanding tribute to one of Kansas' and America's greatest men, who as President inaugurated the Interstate System, the first completed segment of which was on I–70 west of Topeka.

Appropriately, the Eisenhower Highway will run along I–70 from Washington, D.C., where Ike served two terms in the White House, across his home State of Kansas and through Abilene where he grew up and is now buried at the historical center which bears his name. From Kansas, the highway continues to run along I–70 to Denver where it jogs north along I–25 to Cheyenne, Wyo. And from there it continues along I–80 to San Francisco.

I can think of no more fitting tribute to General Eisenhower, for he was the guiding force behind the Interstate System. With its importance to national defense and to the peaceful pursuits of our people, it reflects his dual devotion to defending America from its enemies abroad and building on its strengths and freedoms at home. Reaching from ocean to ocean across the breadth of the land Ike so deeply loved and so unselfishly served, the Dwight D. Eisenhower Highway is a lasting and fitting memorial to this warm and great son of the Kansas prairie who left his country and the world a better place for having served it.

SAFETY PROGRAM

In addition, I would like to indicate my support for the bill's strong emphasis on highway safety. In an age when great attention is being paid to the safety of the vehicles we drive, it is important to match that emphasis in the design, construction, and improvement of our roads and highways. The total investment of some $2 billion over 3 years should pay dividends many times over in terms of lives saved, injuries prevented or reduced and lives spared the agony and tragedy of roadway accidents.

CONCLUSION

So, Mr. President, I would close by indicating my support for the conference report on S. 502. It represents a great deal of hard work and significant compromise on many points over a period of more than a year. I hope it will serve the needs of both urban and rural areas for balanced transportation systems while maintaining the necessary support for continuing efforts to build and improve the roads and highways of America.

Mr. PEARSON. Mr. President, I am pleased that the conference committee decided to retain the economic growth center highways provision in the Federal-Aid Highway Act of 1973. And, also, it seems to me, that converting the growth center program from one of demonstration that to permanent status is significant and important.

It is my judgment that this is an extremely valuable program. First adopted in the 1970 Federal Aid Highway Act, it recognizes the existence of the growing population imbalance in this country and the role that highway planning and development can play in the future in altering population and economic growth patterns to achieve a more rational balance between rural and urban America.

The economic growth center program has been popular and successful. Through its operation we have begun to accumulate valuable information and experience regarding the types of social and economic changes the highway improvements are as a necessary condition for future economic growth.

Mr. President, the need for strong, national commitment to the overall goal of rural development and balanced national

growth has been recognized in other acts by the Congress. Given the fact that highways have such a tremendous impact on growth patterns, it is wholly appropriate and, indeed necessary, it seems to me, that the Federal-Aid Highway Act contain provisions specifically focusing on the question of how highways can and should be used to encourage further development of viable economic growth centers in nonmetropolitan areas.

The Senate chose not to retain the economic growth center program at the time that it passed the 1973 act and I believe that this was unfortunate. Therefore, again I want to say that I was pleased that the conference committee agreed to the House language on this matter which retained and strengthened the language from the 1970 act.

Mr. RIBICOFF. Mr. President, I wish to thank the conferees on the highway bill for leaving in the final version of the basic Ribicoff amendment protecting the citizens of Connecticut from an unwanted bridge across Long Island Sound.

For years highway planners have schemed to bridge the sound. Possible sites have included bridges from the tip of Long Island to New London or Old Saybrook, from Bridgeport, Conn., to Port Jefferson, Long Island, and from Rye to Oyster Bay. Because a Rhode Island crossing was impractical and Connecticut officials opposed the entire concept, New York finally decided to go ahead on its own and in 1967 the State legislature authorized a bridge. Since then the initial enthusiasm in New York has waned and in 1971 and 1972 the legislature repealed the 1967 authorization. Each time, however, Governor Rockefeller vetoed the repeal.

Until a few weeks ago the New York Metropolitan Transportation Authority was going ahead with plans to construct a 16½-mile, $135 million bridge between Rye and Oyster Bay.

Fortunately because of strong opposition to the bridge both from New York and Connecticut citizens, Governor Rockefeller decided to drop the project.

While this particular proposal is dead, there is no guarantee that another New York Governor could not revive the idea of bridging the sound.

Any such structure would have a major and unknown impact on the way of life in southwestern Connecticut. Yet the citizens of Connecticut have had no voice in the matter.

For that reason on March 5 I offered and the Senate adopted an amendment giving Connecticut a voice in the use of Federal highway funds for a bridge across the sound. That language for the most part has been maintained in section 156 of the conference report.

While I hope that the idea of bridging the sound remains dead, this measure will insure that the people of Connecticut will be included in any future decisions.

Mr. GRAVEL. Mr. President, we have a very excellent bill in the 1973 Federal Aid to Highways Act and I would like to extend my appreciation to members of the conference committee, the chairmen of the Transportation Subcommittee and the full Public Works Committee, Senators BENTSEN and RANDOLPH. The legislation embraces some of the best features of the bills originally approved in the respective Houses and I would urge that it receive unanimous support here today.

The compromises attained by the Federal Aid to Highways Act, particularly those pertaining to mass transit, represent a reasoned and judicious approach to the use of Federal highway trust funds. The total expenditure to be made falls well within the level acceptable to the administration; in fact, more than $5 million has been trimmed from the House version. A number of features regarding Federal assistance for mass transit have been considerably modified so as to make the final bill agreeable on all sides.

As we prepare to make final congressional decision, there have been circulated reports of a Presidential veto. If these reports are factual, I can assure the Members that the action would have dire consequences for my State.

Alaska, with its 586,000 square miles covered by only 7,800 miles of roads and highways—one of the smallest such networks of any State—has a first-ranking need. Highway construction has not been extensive in my State, at least until recent years, and there remain many towns and villages, including our State capital, which are not accessible by road.

Unless highway construction can proceed as planned, the delays occurring at a time of great economic growth will be devastating, indeed.

The Federal Aid to Highways Act this year maintains several vital funding sources. The $20 million annual special Alaskan assistance is continued so that the State may catch up on major highway construction. Because my State was excluded from Federal assistance for highways until 1956 and from the Federal Interstate Highway System consistently, a great construction lag has occurred.

Also included is an important authorization for over $50 million for reconstruction and paving of a portion of the Alaska Highway and the Haines Cutoff Highway which stretch through some 322 miles of Canadian wilderness. This link is the sole means of land and marine transportation between the greater part of Alaska and its State capital.

In connection with this, clear authority for the Alaska Marine Highway System to retain eligibility for Federal funds is established. Because Alaskan ferries are required to intermittently ply international waters while moving between coastal points, there has been some question as to proper judisdiction.

A needed exception for the Alaska State Highway Commission to continue comprehensive planning for highways past 1980 and still retain eligibility has been gained by this legislation.

Mr. KENNEDY. Mr. President, I want to commend the distinguished floor manager, the Senator from Texas (Mr. BENTSEN) and the distinguished Chairman of the full Senate Public Works Committee, the Senator from West Virginia (Mr. RANDOLPH) for their long and steadfast support of the Senate position during the highway bill conference.

As a Senator who sat through the higher education conference a year ago, including an all-night session, I understand full well what it means to sit through 29 conference meetings.

I have no doubt that the conference managers have brought us what they view as the best possible compromise obtainable under the circumstances.

I shall support the adoption of the conference report for this reason—not because the conference report contains everything I would have wished, but because I believe that it represents a valiant effort to support the Senate position, particularly by those Members who did not personally endorse that position.

I fully and enthusiastically support one major advance over existing law. This bill does bust the trust for the first time for mass transit. It does not bust it wide open to give States and cities complete flexibility in deciding on how to meet their transportation needs but it does represent the first time they are not locked into using all of their trust fund moneys for building highways.

The key improvements over current law in the provision affecting mass transit are the adoption of the full Senate amendment to take effect in the third year, beginning I might note in January 1975.

The second year of the bill, $200 million of the urban system moneys would be available for the purchase of buses.

However, there is an alternative route provided by the conference for funding transit in the first 2 years. That is the so-called Wright shuffle in which a State may choose to substitute any of its urban system allotment from the trust fund with an equal amount of funds from general revenues.

The same provision was the compromise adopted in place of the interstate transfer provision of the Senate.

The conference report provides that upon the joint request of the affected local governments and the State Governor, the Secretary may delete a controversial urban link of the interstate system, provided that all the interstate highways coming into the area interconnect.

The State from which the controversial link would be withdrawn would receive, in turn, an amount out of general revenues equal to the Federal share of the cost of the deleted route for bus and rail mass transit in that State.

The obvious limitation of this approach is that the "transfered" money does not come out of the trust fund as in the Senate bill and the Secretary still must approve the transit projects.

However, it is my understanding that the conference intends this money to be automatically provided to the States.

Nonetheless, there is every reason to expect that Boston will be able to take full advantage of this provision and that the $900 million which would otherwise be spent on I–95 and the inner beltway, will now be spent largely on improving and expanding the BMTA.

I want to emphasize that in my State

the critical need is for mass transit and I can best demonstrate that by noting the action taken by the Governor a year ago or halting certain interstate construction. I ask unanimous consent that the New York Times article of December 1, 1972, be placed in the RECORD.

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

(See exhibit 1.)

Mr. KENNEDY. I also would emphasize that the conference indicates that these provisions are to be continued until there is an urban mass transit fund or a single transportation trust fund. I have introduced a single transportation fund in the past two Congresses, S. 295 in the last session and I intend to reintroduce that measure shortly together with the Senator from Connecticut (Mr. WEICKER).

With regard to other provisions of the conference report, I would emphasize there is another $3.1 billion authorized for additional urban mass transit capital grant funding and at a mandatory Federal share of 80 percent rather than the 50 to 66⅔ percent previously in the law.

While I continue to support the provision of mass transit operating subsidies and I am disappointed in their deletion from this report, I would hope that we could act on that matter separately in the near future.

Mr. President, there are several additional benefits in the bill before us as well as several features that I am opposed to. I would merely like to list for the RECORD some of these provisions.

The total dollar authorization is lowered but the urban system is not significantly cut down. The total now is $20 billion for 3 years as opposed to $27 billion in the House bill.

Projects on the urban system now will be selected "by local officials with the concurrence of the State Highway Department," rather than solely by the highway department.

Most Senate highway beautification provisions are in the bill and there is specifically no moratorium on removal of "directional signs" as in the House bill.

There is a workable compromise on transit and opening trust fund—"Wright shuffle" for remainder of this year and next—up to $200 million for buses in fiscal year 1975 and full Muskie-Baker in fiscal year 1976. Modified "Wright shuffle" applied to interstate transfers.

The new toll road system of the Senate bill is limited to Louisiana.

Urban areas of 200,000 or more are "ear-marked" funds which they did not have before, although, unfortunately, there is no pass through.

There is an additional $3.1 billion for UMTA capital grants and the Federal share is increased from present 50 percent to 66⅔ percent to flat 80 percent.

MINUS

The lack of operating subsidies for mass transit and the failure to provide full flexibility in the use of funds.

There are various new and questionable road programs of the House bill including priority primary highways and economic growth center highways.

The statement of policy from the House bill increases emphasis on other road programs as the Interstate winds down and thereby seems to fail to recognize the need for comprehensive transportation planning.

Various provisions aimed at facilitating construction of various controversial interstate highways in the District of Columbia.

A provision permitting construction of Crosstown Expressway in Chicago over Governor Walker's objections which was in neither bill.

Final approval of State's program of projects still rests with State highway department not with the Governor as in the Senate bill.

The provision from the House bill permitting construction of special truck lanes.

The special exemption from environmental statutes for the San Antonio highway from Senate bill.

The modification of the provision in the Senate bill permitting construction of a highway through Franconia Notch, N.H.

Senate provisions dealing with increased citizens participation in transportation planning which were deleted.

In the end, Mr. President, I believe that the steps taken toward opening the highway trust fund are more important than the minuses that I have listed above. Also, I believe that this is the best legislation we can obtain at the moment.

For this reason, I intend to vote for this measure. I ask unanimous consent also for a Time magazine article on the conference report to be inserted in the RECORD at this time.

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

(See exhibit 2).

EXHIBIT 1

MASS TRANSIT PLAN FOR MASSACHUSETTS

(By Bill Kovach)

BOSTON, November 30.—Gov. Francis W. Sargent announced tonight a major new transportation policy designed to turn away from highway construction in favor of mass transit and commuter rail service.

Describing the Boston expressway network as chains that imprison the city, the Republican Governor offered a plan to reverse the allocation of public transportation money that now runs 3 to 1 in favor of highway construction over mass transit.

In a statewide television address, the Governor said he had decided to make permanent a moratorium declared two years ago on construction of Interstate 695 and the part of Interstate 95 planned to cut through the heart of the Boston metropolitan area.

Instead, he said, I–95, which runs from Maine to Florida, would be rerouted around the city along the existing Route 128. The planned inner belt, I–695, would be scrapped completely.

Other elements of the long-range plan proposed by Governor Sargent tonight are:

A freeze on the number of parking spaces in downtown Boston and at Logan Airport, to encourage use of mass transit facilities. Mayor Kevin White of Boston has agreed in principle to the idea.

An $800-million program for construction of new public transit facilities to extend service from the central city to surrounding suburbs and the construction of parking lots at the outermost terminals.

A $400-million program of upgrading existing mass transit in the form of bus service, Penn Central and Boston & Maine commuter railways, and the Boston Rapid Transit system.

A two-lane expressway and tunnel exclusively for buses, taxis, airport limousines and truck traffic from downtown Boston to Logan Airport.

Governor Sargent said the program was necessary because 40 years of reliance on highway transportation had "defeated our own purpose, and we have been caught in a vicious cycle—more cars meant more highways, which meant more traffic jams, more traffic jams meant the need for more highways . . . worst of all (it has) failed to solve the problem that started it all, how best to get from one place to another."

M.I.T. EXPERT HELPED

The proposal, which will require some legislative action and the cooperation of local and Federal officials, is the result of study of the state's transportation needs presided over by the state's Secretary of Transportation, Allen Altshuler, a transportation specialist from the Massachusetts Institute of Technology brought into the administration for this purpose.

Mr. Altschuler headed up the Boston Transportation Planning Review—the first such program ever funded by the Federal Government—which held hearings and studied the state's transportation needs for nearly three years.

According to those who took part in the study, its most important achievement may have been to convert transportation decisions from technical ones to political ones.

"Until now," said one participant, "technicians controlled the decisions and they always opted for highways because it was the thing they knew best. Now we use their expertise, but the final decision has been taken out of their hands and some flexibility has resulted."

Governor Sargent's program faces major hurdles. It is expected to be strenuously opposed by highway lobbyists when the Legislature is asked to approve the bonding authority necessary to finance the bulk of the program.

However, public opposition to continued highway building has reached major proportions in the state and a large citizen lobby is expected to help put the program through. In addition, while highway construction would be drastically cut back in the Boston area, the Governor's proposal would continue highway construction in the less populous areas of the state to offset the heavy mass transit investment along the eastern shore. Most observers believe the bulk of the program will eventually be approved.

EXHIBIT 2

BUSTING THE TRUST

Since Congress established the Federal Highway Trust Fund in 1956, the Government has spent $40.1 billion to build the 34,000-mile network of interstate highways. Because the highway fund, now $5.5 billion, keeps accumulating new money from federal taxes on gas and tire sales, it can theoretically finance new highway building until the country is paved over. At least some of this money, urban experts argue, should be spent on financially hard-pressed railroads and mass-transit systems, but despite Administration approval of the idea, the highway builders vehemently oppose any diversion of funds. Last year the two forces fought each other to a standstill, so no highway bill was passed at all. That threatened to bring the building program to a halt.

NEW ATMOSPHERE

After two years of congressional debate, 3,460 legislative man-days of hearings, and a ten-week stalemate in House/Senate conference committee, the legislators have now worked out a compromise. It gives most of the money to the roads, but mass-transit forces have scored what they consider a significant breakthrough. The bill, which is expected to be approved by Congress this week, provides for spending $20 billion over the next three years and preserves the trust fund inviolate through fiscal 1974. But beginning the following year, a portion of the highway fund will be freed for mass transit. In fiscal 1975, $200 million will be available to metropolitan transit systems exclusively for the purchase of buses. In 1976 cities will have the option of spending $800 million on mass transit, including rail systems.

In a separate section of the bill, the legislators also decided that if a city, a state and the Secretary of Transportation all agree that a specific stretch of interstate highway need not be built, then funds equivalent to the road-construction costs will be made available for mass transit instead.

The funds released are not themselves very significant when compared either with the size of the highway program or with the need for mass transit. But the Highway Action Coalition, an *ad hoc* group of environmental organizations that fought to open up the Highway Trust Fund, is nonetheless delighted. "We got three-quarters of what we wanted," says the coalition's young director John Kramer. "We wanted to change the atmosphere in which urban transport decisions are made—to be sure public transportation alternatives are available to cities. That's happened. We also wanted to change the national transportation spending priorities. That's been accomplished too, at least for urban areas."

Mr. KENNEDY. The bill provides for a unique demonstration program for rural mass transit so that those communities located near roads—and I think it important to mention that only 10 percent of Alaska's Native villages are connected by roads—may benefit. Many persons, particularly those village residents, find no means of transportation available to nearby population centers. The family automobile, which everyone else takes for granted, is above the income capabilities of many Native Alaskans, so that vital needs go unmet. If implemented this unique demonstration project could serve dozens of small Alaskan communities along more than 1,500 miles of highway.

Finally, this legislation contains mass transit modifications which insure that smaller cities, regardless of their size, will be guaranteed funds for public transportation systems. For Alaska this means a great deal. Federal aid will be made available to those areas before population and transportation problems become impacted to a large degree.

Again, I urge that the bill be approved and signed into law so that the States may receive this long-needed assistance.

The PRESIDING OFFICER (Mr. HARRY F. BYRD, JR.). All time has expired. The question is on agreeing to the conference report. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from South Dakota (Mr. ABOUREZK) is absent on official business.

I also announce that the Senator from Mississippi (Mr. STENNIS) is absent because of illness.

Mr. GRIFFIN. I announce that the Senator from Arizona (Mr. GOLDWATER) is absent because of illness in his family.

The Senator from Tennessee (Mr. BAKER) is detained on official business, and if present and voting would vote "yea."

The result was announced—yeas 91, nays 5, as follows:

[No. 360 Leg.]

YEAS—91

Aiken	Fong	Metcalf
Allen	Fulbright	Mondale
Bartlett	Gravel	Montoya
Bayh	Griffin	Moss
Beall	Gurney	Muskie
Bellmon	Hansen	Nelson
Bennett	Hart	Nunn
Bentsen	Hartke	Packwood
Bible	Haskell	Pastore
Brock	Hatfield	Pearson
Brooke	Hathaway	Pell
Buckley	Helms	Percy
Burdick	Hollings	Randolph
Byrd, Harry F., Jr.	Hruska	Ribicoff
	Huddleston	Saxbe
Byrd, Robert C.	Hughes	Schweiker
Cannon	Humphrey	Scott, Pa.
Chiles	Inouye	Scott, Va.
Church	Jackson	Sparkman
Clark	Javits	Stafford
Cook	Johnston	Stevens
Cotton	Kennedy	Stevenson
Cranston	Long	Symington
Curtis	Magnuson	Taft
Dole	Mansfield	Talmadge
Domenici	Mathias	Thurmond
Dominick	McClellan	Tower
Eagleton	McClure	Tunney
Eastland	McGee	Weicker
Ervin	McGovern	Young
Fannin	McIntyre	

NAYS—5

Biden	Proxmire	Williams
Case	Roth	

NOT VOTING—4

Abourezk	Goldwater	Stennis
Baker		

So the conference report to S. 502 was agreed to.

Mr. BENTSEN. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

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

The motion to lay on the table was agreed to.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Berry, one of its reading clerks, announced that the House insisted upon its amendments to the bill (S. 426) to regulate interstate commerce by requiring premarket testing of new chemical substances and to provide for screening of the results of such testing prior to commercial production, to require testing of certain existing chemical substances, to authorize the regulation of the use and distribution of chemical substances, and for other purposes, disagreed to by the Senate; agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and that Mr. STAGGERS, Mr. MOSS, Mr. STUCKEY, Mr. ECKHARDT, Mr. BROYHILL of North Carolina, Mr. WARE, and Mr. MCCOLLISTER were appointed managers on the part of the House at the conference.

The message also 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 Senate to the bill (H.R. 8825) making appropriations for the Department of Housing and Urban Development; for space, science, veterans, and certain other independent executive agencies, boards, commissions, and corporations for the fiscal year ending June 30, 1974, and for other purposes; that the House receded from its disagreement to the amendment of the Senate numbered 3 to the bill and concurred therein, with an amendment, in which it requested the concurrence of the Senate, and that the House insisted on its disagreement to the amendments of the Senate numbered 44 and 45 to the bill.

FEDERAL RAILROAD SAFETY ACT OF 1970

Mr. MANSFIELD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 2120.

The PRESIDING OFFICER (Mr. BENNETT) laid before the Senate the amendment of the House of Representatives to the bill (S. 2120) to amend the Federal Railroad Safety Act of 1970 and other related Acts to authorize additional appropriations, and for other purposes, which was to strike out all after the enacting clause, and insert:

That this Act may be cited as the "Federal Railroad Safety Authorization Act of 1973".

SEC. 2. Section 212 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 441) is amended to read as follows:

"Sec. 212. Authorization for Appropriations.

"There is authorized to be appropriated to carry out the provisions of this title not to exceed $19,440,000 for the fiscal year ending June 30, 1974.".

SEC. 3. Section 303 of the Hazardous Materials Transportation Control Act of 1970 (49 U.S.C. 1762) is amended to read as follows:

"Sec. 303. Authorization for Appropriations.

"There is authorized to be appropriated to carry out the provisions of this title not to exceed $1,200,000 for the fiscal year ending June 30, 1974.".

SEC. 4. The Secretary of Transportation shall, within ninety days after the date of enactment of this Act, submit a report to the Congress which contains a complete evaluation of all programs conducted under the Hazardous Materials Transportation Control Act of 1970, and on proposed revised handling procedures and feasibility of alternative routing in order to avoid population centers.

Mr. MANSFIELD. Mr. President, I move that the Senate concur in the amendment of the House.

The motion was agreed to.

EXECUTIVE SESSION

The PRESIDING OFFICER. The Senate will now go into executive session to consider the nomination of Mr. William

E. Colby to be Director of the Central Intelligence Agency.

The legislative clerk read the nomination of William E. Colby, of Maryland, to be Director of Central Intelligence.

Mr. SYMINGTON. Mr. President, I ask unanimous consent that during the debate on the nomination of Mr. William E. Colby to be Director of Central Intelligence, Messrs. T. Edward Braswell, Jr., R. James Woolsey, and John A. Goldsmith, members of the staff of the Committee on Armed Services, be granted the privilege of the floor.

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

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

Mr. SYMINGTON. I yield.

Mr. HUGHES. Mr. President, I ask unanimous consent that Mr. Charles Stevenson, a member of my staff, be allowed the privilege of the floor.

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

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

Mr. SYMINGTON. I yield.

Mr. CRANSTON. Mr. President, I ask unanimous consent that during the consideration of this nomination, Ellen Frost, Murray Flander, and Roy Greenway have the privilege of the floor.

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

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

Mr. SYMINGTON. I yield.

Mr. JACKSON. Mr. President, I should just like to detain the Senate floor for 1 minute in behalf of the nomination of Mr. William E. Colby to be the head of the Central Intelligence Agency.

First, I commend the acting chairman of the Committee on Armed Services, the distinguished senior Senator from Missouri, for the able, the fair, and the impartial way in which he conducted the hearings in connection with the Colby nomination. A number of statements had been made regarding Mr. Colby. The Senator from Missouri saw to it that the committee probed all these areas very carefully. The Senator from Missouri went out of his way to run down all statements including rumors, that might bear on the qualifications of Mr. Colby. I commend the Senator, and I say to the Senate that this nomination has been thoroughly examined by the committee.

I want to observe that William Colby is an outstanding and able professional in the Central Intelligence Agency. I believe that he stands in the best tradition of the professionalism which some of us feel is so essential to the security of the United States of America. I have confidence in Mr. Colby. There were a number of situations—one in particular—in which his integrity was tested. He did not hesitate to be forthright and straightforward in his decision as to what he should do based on his oath and his obligation as a part of the Central Intelligence Agency.

I merely want to say to the Senate that I do believe that this is a good appointment, and I hope and trust that the Senate will give Mr. Colby the overwhelming vote of confidence that he so richly deserves.

Mr. SYMINGTON. Mr. President, I thank my good friend, the able Senator from Washington, for his kind remarks. For many years it has been well known in this body that he is a true expert in this field. I respect his opinion, as I am sure the Senate does also, on matters of this character. I am grateful for what he said.

Mr. President, I earnestly hope that the Senate confirms the nomination of William E. Colby to be Director of Central Intelligence.

The Committee on Armed Services overwhelmingly approved his nomination. I have known him personally for many years. He is a dedicated and competent professional in a difficult and troublesome field.

Because he is unusually able, Mr. Colby has been asked to take on some difficult responsibilities in recent years.

In 1968 President Johnson asked him to head the pacification program in the increasingly unpopular Vietnam war. More recently, as Executive Director of CIA, he has been assigned certain responsibilities for correlating and organizing information in the wake of the all-infecting Watergate break-in.

I am sure the Senate realizes that recent events—including Watergate and the Indochina war—have caused the Senate Armed Services Committee to give unprecedented attention to this nomination—not only because of the nominee himself, but also because of the importance of the assignment as head of CIA, top intelligence adviser to the President, at this point in history

As far as I can determine, Mr. President, no nominee for this important job has ever been questioned so intensively by the Senate Armed Services Committee. Three days of testimony were taken by the full committee. In addition, the Central Intelligence Subcommittee questioned Mr. Colby at a fourth meeting.

In addition to these nomination hearings, the committee held 6 days of hearings in May on the CIA relationship to Watergate. Witnesses included former CIA Directors Schlesinger and Helms, the former Deputy Director, General Cushman, and the current Deputy Director, General Walters, and other CIA officials, including Mr. Colby. In all, this year the committee has taken many hours of testimony on this nomination and other CIA matters.

In addition to testifying in extensive hearings, Mr. Colby has provided extensive responses and exhibits in reply to later questions from Senator KENNEDY, who was provided the opportunity of questioning Mr. Colby; and also Senator PROXMIRE, as well as members of the committee, submitted questions.

CIA, NSC, AND THE PRESIDENT

Let me say a preliminary word about the position of CIA with respect to the White House and other executive bodies.

The Senate should be under no illusions about the position of this Agency in the national command authority. By law, CIA is responsible to the National Security Council. However, the NSC is advisory to the President who is the NSC Chairman. As a former NSC member in two different positions, I know well that the National Security Council is one of those bodies where but one vote really counts—that of the President.

In other words, in point of fact the CIA is directly under the President and responsible to him.

MR. COLBY'S PUBLIC TESTIMONY

The record is available to all Senators. Mr. Colby, in his public testimony made some statements which are refreshing, coming as they do from a career official of CIA who has now been designated to be the Director of Central Intelligence.

As example, Mr. Colby stated, in response to a question, that he thought the war in Laos had "undoubtedly gone well beyond the scope of activities envisioned by Congress in 1947, when it authorized CIA to perform certain covert activities, and he questioned the feasibility of such large scale covert activities.

Later, I personally asked Mr. Colby if he would favor a policy of more open disclosure with respect to activities of the intelligence community. Here is his reply:

Mr. COLBY. I think it is probably essential in America today, Mr. Chairman, and I would favor a greater degree of exposure of what we are doing. We have already had some matters which we do expose. Some of the exposure that we have quite frankly gives us problems abroad in our relationships with other intelligence services, and even in our relationships with individuals who secretly agree to work with us, who are somewhat frightened at the prospect of their names coming into the public, and things happening to them as a result. But I think that there are ways in which the intelligence community and the CIA in particular can reassure the appropriate committees, and also the Senate as a whole, and also the people as a whole, as to the activities we are engaged in. I think we are going to have to draw that line. It is going to be a difficult one in many situations, but it is obvious that again we have to run an American intelligence service.

I also asked Mr. Colby about possible amendments to the 1947 law which governs CIA, since our committee is committed to a broad review of the CIA charter. He made it clear that he is not opposed to certain changes. In that connection, he later stated that he has been authorized to brief the committee on the basic directives issued to CIA by the National Security Council—NSCID's—under the 1947 act. This we plan to have him do at the earliest opportunity.

Finally, in his discussions of possible revision of the law, Mr. Colby said he thought it might be appropriate to limit CIA intelligence activities by specific references to "foreign" intelligence. I asked Mr. Colby to state the proper scope of CIA activities within the United States, and he responded as follows:

Mr. COLBY. We obviously have to run a headquarters here; we have to recruit people for our staffs, and so forth; we have to conduct investigations on those people; we have to protect our own intelligence sources and methods within the Agency; we have to contract with a large number of American firms for the various kinds of equipment that we might have need for abroad. We also, I believe quite properly, can collect foreign intelligence in the United States, including the requesting American citizens to share with their Government certain information they may know about foreign situations. We have a service that does this, and I am happy to say, a very large number of American citizens

have given us some very important information. We do not pay for that information. We can protect their proprietary interest and even protect their names if necessary, if they would rather not be exposed as the source of that information.

We also, I believe have certain support activities that we must conduct in the United States in order to conduct foreign intelligence operations abroad. Certain structures are necessary in this country to give our people abroad perhaps a reason for operating abroad in some respects so that they can appear not as CIA employees but as representatives of some other entity. Lastly, I think that there are a number of activities in the United States where foreign intelligence can be collected from foreigners, and as long as this is foreign intelligence, I think it quite proper that we do so. I can certainly go into more detail on this in executive session any time you would like, Mr. Chairman. . . .

And may I add that he did.

But I reiterate that the focus should and must be foreign intelligence only, and that all the other activities are only supportive of that major function.

Finally, I asked Mr. Colby what I believe is the most important question of all:

Senator SYMINGTON. If you should receive an order in the future which appears on its face to be illegal, what would you do?

Mr. COLBY. I would object to it and, if necessary, I am quite prepared to leave this responsibility if it came to that.

Senator SYMINGTON. I did not hear you.

Mr. COLBY. And I am quite prepared to leave this job if it comes to that.

THE OUTSIDE WITNESSES

Five outside witnesses testified in public sessions, July 20, on the Colby nomination. One of them, Paul Sakwa, a CIA officer in the 1960's, suggested that we obtain certain documents from CIA which show that Mr. Colby "slanted intelligence" and "submitted misinformation" as CIA station chief in Saigon from 1959 to 1962.

With the help of the CIA we were able to get almost all of the classified cables and reports suggested by Mr. Sakwa. The committee appreciates his interest, but it is fair to say that the committee was not impressed with the thesis which he advanced as it applied to Mr. Colby.

Another witness, Mr. Samuel A. Adams, was, until recently, a CIA analyst. He criticized the Phoenix program—which I shall discuss later—and he also complained of the treatment given him by CIA after he pressed his own appraisal of certain estimates of Communist strength in Cambodia. Mr. Adams did not specifically oppose Mr. Colby's nomination.

The other three witnesses were Representative ROBERT F. DRINAN, Democrat of Massachusetts; K. Barton Osborn, a sergeant assigned to Military Intelligence, who left Vietnam about a month after Mr. Colby took over the pacification program in 1968, and David S. Harrington, a former Marine officer who was assigned to the pacification program, and once, in early 1969, sat in on an I Corps briefing for Mr. Colby.

All these witnesses focused on the period from November 1968 to June 1971, when Mr. Colby headed the Vietnam pacification program as Deputy MACV for Civil Operations and Regional Development Support—CORDS. Each of these witnesses were especially critical of one CORDS program: Phoenix.

PROJECT PHOENIX

The Phoenix program has been covered in a number of congressional hearings—including the Senate Foreign Relations Committee and Senator KENNEDY'S Refugee Subcommittee. The program was one of Mr. Colby's responsibilities as the boss of CORDS, the head of the pacification program.

It is important to realize that Phoenix was a Vietnamese program. It had U.S. support, however, in funds and manpower. The program was aimed at the VCI—the Vietcong Infrastructure—members of the Vietcong apparatus who were working against the Government within the cities and hamlets of South Vietnam.

Unquestionably, there were abuses in the program. Mr. Colby has conceded that. He testified, however, that the great preponderence of Vietcong Infrastructure killed—some 85 percent—died in battles and skirmishes, were eventually identified as VCI, and were added to the casualty lists as VCI. Others were killed by police units.

By way of further explanation, Mr. Colby emphasized that despite this being a war, killing was to be minimized in Phoenix especially, because captured VCI were the best source of intelligence to help our own military units.

Mr. Colby told us he worked to provide protection for accused VCI, and bring a measure of due process into these paramilitary proceedings. He testified that Phoenix eventually required three accusers, required that province chiefs be notified of VCI charges; and finally, in 1971, that charges be presented to a suspect in writing.

At our request he has supplied a series of documents, some of them classified Vietnamese documents, to support his claim that reforms were instituted by Phoenix under his leadership.

Mr. President, my opposition to this whole Indochina war since 1967 has been well known to Members of the Senate. But I do not think we should lose the ability of an extraordinarily able man who was only carrying out orders, just because he was in a paramilitary job at the same time we were decorating thousands of Americans for carrying out their military assignments. He accepted a tough job under orders and did his best; and the record shows that he tried to eliminate any abuses he discovered when he took over the Phoenix program.

CONCLUSION

Mr. President, this has been a summary of the extensive record the committee took on this nomination. Much in the record is classified, but we have tried to accommodate Senators who wanted more information.

I believe the record justifies Mr. Colby's confirmation.

He is exceptionally well qualified. The way the world is, surely we need an effective intelligence agency.

It is for these reasons that again let me say I do hope the Senate will confirm him without delay so the intelligence community can get on with its important job.

I yield to the able ranking member of the Senate Armed Services Committee, the distinguished senior Senator from South Carolina (Mr. THURMOND).

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, I rise in support of the nomination of Mr. William E. Colby as Director of the Central Intelligence Agency.

The case for Mr. Colby has been well documented by the distinguished acting chairman of the Senate Armed Services Committee, the senior Senator from Missouri (Mr. SYMINGTON).

Simply stated this man is a professional in every sense of the word. For the most part he has spent his entire life in public service.

The son of an Army officer, he joined the Army himself in 1941 initially serving in the Parachute Field Artillery. When the Office of Strategic Services issued a call for French speakers in 1943, Mr. Colby volunteered and in 1944 parachuted behind enemy lines in north-central France to work with a resistance unit. Shortly before the end of the war in 1945, he led a team dropped in northern Norway to destroy a rail line used for transporting German reinforcements.

A graduate of Princeton prior to World War II, Mr. Colby completed his formal education by obtaining his law degree from Columbia Law School.

In 1949 he entered Government service as an attorney for the National Labor Relations Board in Washington. In 1951 he joined the staff of the American Embassy in Stockholm and from 1953 to 1958 served in the American Embassy in Rome, Italy.

Mr. President, the purpose of tracing this biography is to show the wide experience of Mr. Colby in foreign assignments. He not only spent time overseas as a youth when his father held overseas assignments but the vast majority of his life has been in U.S. positions abroad.

After serving as first secretary of the American Embassy in Saigon beginning in 1959, Mr. Colby returned to the United States to become Chief of the Far East Division of the CIA here in Washington.

In March of 1968 he joined the Agency for International Development and was sent to Saigon to assume the post of assistant chief of staff. In November of that year he became deputy to the commander of the Military Assistance Command in Vietnam with the rank of an Ambassador. In this capacity he directed the civil operation and regional development support program. This was better known as the pacification or Vietnamization program. As director of this program, Mr. Colby was the administrator for all regional and popular defense forces as well as aid programs in South Vietnam. The success of this program had a great deal to do with the safe withdrawal of American military forces last year.

In early 1972, Mr. Colby returned to Washington to assume the duties of Executive Director-Comptroller of the CIA. In March of 1973, under the directorship of Dr. James Schlesinger, he was named

to the No. 3 spot at CIA—that of Deputy Director for Operations.

Mr. President, few men are as well qualified for the post as Director of the CIA as Mr. Colby. He knows the agency well. He has worked for it many years. He has had experience in managing the CIA budget.

As we move into a period of negotiation the intelligence gathered by the CIA will be more important than ever. We need a professional at the helm.

Further, Congress will be taking a greater interest in the activities of the CIA in future years. This is as it should be. With a man of Mr. Colby's qualifications and background in the Director's office, I believe more congressional oversight can be accomplished in an effective and beneficial way.

Mr. President, in closing, I would like to stress the point made by our able chairman that Mr. Colby has had some tough jobs over the years, because he was the very man who could handle them. He has worked under four Presidents. He clearly recognizes the fact that the CIA never involves itself in policy, but merely presents the best information available for policy decisions by the President. He is a man who I believe will render our Nation a distinct service in this unique position and I urge the Senate to act favorably on his nomination.

I wish to thank the distinguished acting chairman.

Mr. SYMINGTON. I thank the able senior Senator from South Carolina, ranking minority member of Armed Services, for his constructive contribution.

I yield now to the distinguished senior Senator from Wisconsin (Mr. PROXMIRE).

Mr. PROXMIRE. I thank the distinguished acting chairman of the committee.

A BLIND CONFIRMATION VOTE

Mr. President, today the Senate will cast a blind vote on the confirmation of William E. Colby to be Director of Central Intelligence.

It will be a blind vote in many ways. We do not really know who Mr. Colby is. We are not allowed to go back into his personal employment history and judge his fitness. We do not know what jobs he has accomplished. We do not know whether or not he has succeeded or failed.

And we will be confirming him for a blind position. In my opinion the Director of Central Intelligence is one of the 8 or 10 most powerful positions in our Government.

So we will vote for or against a man in an immensely powerful office and we know very little about him or the job. Why is this?

Obviously, there are serious questions of national security involved. Intelligence operations can be compromised and lives put in danger. There is the ever-present possibility of embarrassing the Nation if caught in the middle of some particularly sensitive operation. Sources of information may dry up.

All these point to the necessity of secrecy.

But I would remind the Senate that failure to find out what is going on could be just as serious from a security standpoint. Do we turn a blind eye to the covert funding of clandestine armies and attempts to overthrow foreign governments?

No, we have lived in blindness too long in this body.

If we do not assert our constitutional responsibilities, the executive department will do it for us. That has been the pattern.

RECENT CHANGES

Today there are promising signs that we are snapping out of the slumber of acquiescence that has typified congressional oversight of the intelligence community.

The Armed Services Committee has held open hearings for the first time. Questions have been submitted for the record and other Senators have been allowed to pursue individual lines of questioning in committee hearings.

The distinguished acting chairman of the committee, Mr. SYMINGTON, deserves our commendation for the skill and openness of these meetings. He has begun the process of reviewing the intelligence community and he deserves the support of every Member.

Last week I submitted a series of questions to the acting chairman for presentation to Mr. Colby during his final confirmation hearing. The Director-designate promptly replied. Most of his answers are unclassified and I wish to share those unclassified answers today.

Mr. President, I ask unanimous consent that my questions and Mr. Colby's answers be placed in the RECORD.

I would like to go over several of these questions.

First is the issue of the CIA budget. Since Mr. Colby and his predecessor, Mr. Schlesinger, both testified that the release of the aggregate intelligence budget would not violate national security, I asked Mr. Colby just how far down the line this prudently could go.

He used this question as a platform to back off from his earlier position. Now he says that although the "disclosure of the total figure of the intelligence community budget would not present a security problem at this time, it is likely to stimulate requests for additional details." He goes on to note that he cannot positively recommend the publication of the total or any subdivision thereof.

Mr. President, I do not think that a new Director of Central Intelligence should be confirmed without public knowledge of the size of his budget.

In view of testimony by Mr. Colby and his predecessor James R. Schlesinger that release of the intelligence budget would not violate national security, there is no doubt that the Senate and the American people should be told the truth about the size of the CIA budget.

Mr. Colby has said that it is up to Congress to release these facts. Now is the time to do just that.

Mr. President, I would like to ask the distinguished manager of the nomination, the Senator from Missouri (Mr. SYMINGTON), if he could consider releasing those figures in view of the fact that the testimony from both Mr. Schlesinger and Mr. Colby is that it would not violate national security. Why should not the Senate and the American people know as much as we can disclose about this matter as long as national security is not endangered and why should we not have that information?

Mr. SYMINGTON. Mr. President, first may I say to the able Senator his statement this afternoon is in the interest of the security and the prosperity of our country. I commend him for it. It is the same type and character of interest he has displayed in other matters that are for the welfare of the United States.

When the question of the budget of the Central Intelligency Agency came up, inasmuch as I was a member of both Armed Services and Foreign Relations I found the latter committee was reaching decisions not in accordance with the facts presented by the Central Intelligence Agency. I then urged that the Central Intelligence Agency Subcommittee include members of the Committee on Foreign Relations, which at that time included only the top ranking members of the Appropriations Committee and the Armed Services Committee. For some reason, the late, great Senator Russell decided later to exclude the members of the Foreign Relations Committee, this after they were members by invitation for several years.

Then it is fair to say that most CIA interest and the budget still later came before the Appropriations Committee only, the five or seven senior members of the Appropriations Committee.

I believe that it was 2 years ago that our late beloved colleague, Senator Ellender, was asked on the floor of the Senate about this budget, and replied to the effect that he did not know much about it, and did not want to know. He was chairman of the one committee exercising any review of the status and functioning of the CIA.

This year the Senate Armed Services Committee took Mr. Colby and other members of the Central Intelligence Agency through the budget in detail. Questions were asked and explanations given.

As acting chairman of the Committee on Armed Services, I would welcome the opportunity of going over that budget with the distinguished senior Senator from Wisconsin, who is a member of the Committee on Appropriations. From there on, I would rather not commit myself further at this time as to just what can and should be done.

I may say, of interest to other Senators as well as to the Senator from Wisconsin, that the Central Intelligence Agency receives a relatively small percentage of the overall intelligence dollar. That was a great surprise to me when I first found it out.

I may say also that several staff members of the Committee on Foreign Relations sent around the world by Subcommittee on U.S. Commitments Abroad of the Committee on Foreign Relations, reported when they returned that probably the most wasteful, duplicating aspect of what they saw on their trip was in the intelligence field. We are trying to re-

lease more intelligence figures. I am sure the able Senator could obtain them as a member of the Committee on Appropriations.

Mr. PROXMIRE. I may say to the Senator from Missouri that I am interested in obtaining those intelligence figures, as he knows, but the important step is to declassify them. We have the word of Mr. Schlesinger and Mr. Colby that this would not affect national security if we knew how much it is. Mr. Colby said it is up to Congress to release those figures. Under the circumstances, I see no reason why we should not be able to get this information. The Senator said it is a small part of the total intelligence dollar. Is it a billion dollars? A half billion? How much is it? I think the attitude we have toward CIA, to some extent, has to be influenced by what resources we put into it. This can best be determined by knowing what the dollar spending is on the CIA.

Mr. SYMINGTON. Mr. President, on July 2, in an open hearing, I made this observation and asked Mr. Colby:

Several Members of Congress have called for the overall budget of the intelligence community to be made public, so the American people can see at least the general amount which is spent for intelligence functions. In past years, and despite the increasing desire of the American people to know what is going on in their Government, the furnishing of intelligence information has been further restricted.

Do you see any reason why overall budget information, or even a breakdown of the intelligence budget into its major categories, would endanger national security if it were made public?

Mr. Colby replied:

I would propose to leave that question, Mr. Chairman, in the hands of the Congress to decide. I think there are considerations pro and con on all sides of that question. But I have found that the Congress is at least as responsible on this as our friends elsewhere in Government, and we have, as you know, shared with the Congress some very sensitive material which has been successfully protected by the Congress.

On the other hand, there are situations in which an American intelligence service will have to be much more exposed than the intelligence services of other countries. We are not going to run the kind of intelligence service that other countries run. We are going to run one in the American society and the American constitutional structure, and I can see that there may be a requirement to expose to the American people a great deal more than might be convenient from the narrow intelligence point of view.

That appeared a constructive answer. Members of the Senate Armed Services Committee and I would hope the Appropriations Committee will do their best to release more information about this budget. I do not think his answer means, however, an unqualified endorsement that everyone in America ought to know the details of the intelligence business. That would be against the Nation's interest.

Mr. PROXMIRE. I think that is correct; but I do not understand why we cannot be told the total amount, so that we will have some basis for judging it.

Mr. SYMINGTON. Let me say to the able Senator, we would also give the total amount for the DIA, for the NSA, and the amounts for the various other intelligence services, including the Office of Naval Intelligence and the other services; and I would be glad to discuss this with the able Senator, or anyone else. I read that into the RECORD, because I did not think Mr. Colby's answer to the question was quite as broad as I was led to believe by what the able Senator said.

Mr. PROXMIRE. Can the Senator give any reason for not disclosing the overall amount?

Mr. SYMINGTON. Yes, but I would rather not discuss this on the floor, rather some other place at the convenience of the Senator from Wisconsin. There ought to be more public information. How it is given out, from the standpoint of national security, I would prefer to discuss further with the able Senator from Wisconsin at his convenience.

Then I would be glad to abide by his decision, because knowing him, I would either persuade him I was right, or he would me that he was right.

Mr. PROXMIRE. Just one further point on this. My resistance to handling this on a classified and confidential basis is that there is then no way in which it can be used in debate. There is no way in which it can be used in a report to other Senators. There is no way in which it can be made something on which we can secure outside expert opinion and judgments either as to the adequacy of the responses or how much should be put in.

Frankly, some of the most thoughtful and useful comment on spending policy comes from outside Congress. It comes from a variety of people; it comes from the interested experts in the universities, the business community, and elsewhere; and if we cannot discuss this publicly, so we can secure that opinion it seems to me we are very sharply handicapped.

I think the Senator will agree that the success of the operations of the CIA, at least in the covert field, have been mixed—in fact, mixed on the side of being a whole series of pretty disastrous failures, and I think one of the reasons is because so much of it has been done in secret.

Mr. SYMINGTON. I fully agree with the Senator.

Mr. PROXMIRE. I thank the Senator. Mr. President, I have just alluded to the fact that CIA operations have often failed. Let me run through very quickly some of the CIA operations that have been made public, and how they have operated:

1953: Overthrow of Premier Mossadegh and retention of Shah on throne in Iran. I think we can agree that one was successful.

Early 1950's: Attempted airdrop of men into Albania to overthrow Albanian Government. Ended in disaster—all caught.

1954: President Arbenz of Guatemala and his Communist cabinet overthrown by CIA team. That was a success.

1958: CIA support for invasion forces against President Sukarno of Indonesia. U.S. pilot, Allan Pope, captured, later released by intervention of Robert Kennedy. That was interpreted by most at that time as a failure.

1960: Reported bribe of Singapore Premier of $1 million. Another failure.

1960: U.S. U–2 pilot Francis Gary Powers shot down over U.S.S.R. Collapse of summit meeting. That was certainly a failure.

1961: Bay of Pigs. We all know what a failure that was.

1958–62: Support for Khamba tribesmen of Tibet against Chinese invasion. Training camp established at Camp Hale in Colorado. Tibet operation terminated with some loss of life among trained Tibetans. A failure.

1964–66: CIA involvement with emigree groups exposed in court case over United States and Canadian Estonian organizations. A failure.

1964: CIA supported U.S. Congo operation by assisting Tshombe. Anti-Castro Cubans used to fly U.S. aircraft. I think that was considered by most to be a mistake.

1964–65: CIA attempts to rig Chilean elections against Allende. Frei wins with CIA support. A temporary but certainly a pyrrhic victory, which has resulted since then in the view of many, as hurtful to American policy.

1966–67: National Student Association found funded by CIA. Elaborate front organizations in the United States exposed. That was certainly considered to be a failure.

Training and support of secret army in Laos at cost of over $300 million a year. I think that would be a failure.

Supply of red wig, miniature camera, credentials, and voice alternative device to E. Howard Hunt given by CIA. That would certainly be considered a disaster.

Operation of dummy and front organizations such as Air America and Southern Air Transport. Certainly doubtful.

Phoenix program to neutralize Vietcong infrastructure—20,587 people killed during Phoenix program led by William E. Colby. That certainly had mixed result at best, in the view, of most observers, on the basis of the hindsight we now have.

So, as I say, this is not an agency that has a long and distinguished record of achievement in the covert operations. They have done many useful things in intelligence gathering; we would have to acknowledge that. But the country would have been better served and the CIA would have done a better job if we could have had more congressional knowledge of these covert operations, and if in fact some of them, at least, had been made public at a time when they could have been discussed, and then influenced the policies that were formulated later.

I am not contending that all covert operations can be made public in advance, of course.

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

Mr. PROXMIRE. Yes.

Mr. SYMINGTON. The covert operations that have failed are the ones made public. Some covert operations that have cost many American lives have been outstandingly successful. Some such operations have cost the lives of friends in foreign countries, although outstandingly successful.

I believe it unfortunate and illegal that the CIA was instructed by the National Security Council, just another way of saying the President of the United States, to carry on a war in Laos. I do not believe that will happen again. Although the Director of the CIA does not report to Congress, he promised me he will do his best to see it does not happen again. He knows the damage that war has done to the good name of the Agency he has served loyally for many years.

I agree with the Senator from Wisconsin that many problems we are talking about today came about, because of lack of review on the part of the committees of Congress that should have been more interested in CIA operations.

Mr. PROXMIRE. I think we also ought to recognize that it is very possible that this whole notion of our playing God, of our determining that the head of a government in a foreign country is not the right one, that we should challenge whether to act by assassination or by military coup or in some other way to put our own national preferences in authority and power. The President for whom both of us have such reverence, Harry Truman, who was the man during whose administration the CIA was founded, said in 1963 that he had no idea, at the time the CIA was established, that it would get into covert operations. He was appalled at the so-called "dirty tricks" record.

So here is one area that, whatever we are spending—and we have no idea—considerable question could be raised, first, as to whether we should continue, in view of the fact that we can challenge whether it is serving our interests under any circumstances; second, whether covert operations represent a moral attitude and posture that we should take; and third, whether this kind of activity should be continued without the congressional oversight, congressional knowledge, and congressional decision that should be required.

Mr. SYMINGTON. May I say the great President the able Senator just mentioned brought me into Government; and The first Director of the Central Intelligence Agency was from my home town, and a close friend. I agree the agency began doing extraordinary things in later years, actions not justified under its charter. Let us hope that can be corrected. I would hope to see legislation, plan to suggest some myself, to correct this development. On the other hand, of all Senators who might be interested in it, I would say would be the distinguished Senator from Wisconsin (Mr. PROXMIRE) because I have never seen, with one exception, a CIA estimate of the Army, Navy, or Air Force capabilities of the possible enemy that was not less than the estimate of our own Armed Services. Without the CIA, we would be turning over decision as to what the enemy has to the Pentagon.

If we do that, I am sure it would increase even more our already very large military budget, because we build our own defenses against the best estimate of what the possible enemy has.

Mr. PROXMIRE. I would agree wholeheartedly, from what I have heard—and I know very little about it, as all of us know very little about it, unfortunately—the CIA may well have done a very good job in bringing quality to the intelligence community in the noncovert intelligence gathering area.

Mr. SYMINGTON. And separated from the military.

Mr. PROXMIRE. Yes.

Mr. CRANSTON. Mr. President, will the Senator from Missouri yield?

Mr. SYMINGTON. I yield to my able friend from California.

Mr. CRANSTON. I want to express my appreciation for the great work the Senator from Wisconsin has been doing in seeking to bring to public light—for the information of the Senate, the Congress, and the country—the total budget figure for the CIA. It is very important that that figure be made public. I think that the response the Senator got to his question submitted to Mr. Colby during the confirmation hearings indicates clearly that there is no security reason for keeping the figure secret. All that Mr. Colby said, according to the Senator's speech today, was that to disclose the total figure of the intelligence budget would not present a security problem at this time, but that disclosure was likely to stimulate requests for additional details. What he was saying there is that there are no security reasons, but they want to keep the figure secret because they want to keep some other things secret. To me, that makes no sense. If there are figures that should be kept secret, those figures need not be revealed. I agree that there are facts about the CIA's operation that are not properly available for public consumption, but making public the overall figure has nothing to do with concealing those facts.

But the chairman of the committee mentioned that if this figure was made public, then certain overall figures would have to be made public.

Mr. SYMINGTON. I find myself in a rather extraordinary position this afternoon. Perhaps more than any other Member of the Senate, over a period of years, I have been pleading, arguing, working for further information about the CIA to be released at least to the Congress if not the American people.

So I do not want to be in any box about what is or is not released.

What I said to the able Senator from Wisconsin was based on his being a member of the Appropriations Committee.

So far as I am concerned, it has been most unfortunate the way intelligence information has been so extensively masked in the overall budget.

Mr. CRANSTON. I am delighted that the Senator has made that statement, because that is what the Senator from Wisconsin and I have been looking for. The DIA figure is already in the public domain.

I would like to add to the point the Senator from Missouri made about the figures in the defense budget. Since we do not know what the overall figure for the CIA is, every other figure in the Defense budget is open to suspicion as to its accuracy. In order to conceal within the Defense budget the overall CIA figure, every other figure is susceptible to being padded, and certain figures are padded. As a result, we have no idea what the figures really are, whether for the C–5A, the B–1 bomber, the Trident, or for military housing. We do not know whether those figures are accurate or inaccurate.

Mr. SYMINGTON. The Senator from California mentioned the DIA figure as published. I am not sure all the DIA figures are published, or NSA, or ONI, or Army Intelligence, or Air Force Intelligence. We are getting into something that should be checked from the standpoint of national security. I am sure the Senator would agree.

Mr. CRANSTON. Absolutely. I am delighted that we seem to have come to a point of agreement among the three Senators in talking about this matter.

Mr. PROXMIRE. Mr. President, apropos of what the Senator from Missouri has been quoting, indicating in his judgment that the total size of the intelligence budget is in the neighborhood of something like $5 billion or $6 billion, it has been said by some that this is high, and by others that it is low. Does the Senator feel, or could he discuss the total amount of the intelligence budget, in view of the fact that the Senator from Missouri just said that this is one area where there is more waste and extravagance than in almost any?

Mr. SYMINGTON. May I say to the able Senator from Wisconsin that I came in here to recommend the confirmation of Mr. Colby——

Mr. PROXMIRE. All right.

Mr. SYMINGTON. I know the Senator's tremendous capacity for figures—therefore do not want to commit myself because I am not sure. I am quite confident in my own mind, however that the figure of $6 billion is high. As to what the exact figure is, let me check it, and I will tell the Senator before the end of the week as well as the relatively low percentage of that figure that goes to the CIA.

Mr. PROXMIRE. I thank the Senator very much.

Mr. CRANSTON. If the Senator will yield for just one brief question, I should like to ask him if I could also be advised of that figure. The Senator said the Senator from Wisconsin is a member of the Appropriations Committee. I am not contesting my right to the figure——

Mr. SYMINGTON. I would certainly desire to give the Senator from California any information he wants. He has me in a bit of a "crack"——

Mr. CRANSTON. That was deliberate.

Mr. SYMINGTON. Unusual for him, too. Let us see. In any case, one or two members of a committee should not be told about things other members of the committee are not told about. When that happens—and it has happened—I see the Senator from Iowa (Mr. HUGHES) in the Chamber, and he knows what I am talking about—then we do not have a majority of the committee voting money on the basis of the facts. It was easy for me to say to the Senator from Wisconsin that I would be glad to discuss it with him, because he is a member of the Appropriations Committee.

Would the Senator be good enough to give me 24 hours, then I will answer his question.

Mr. CRANSTON. Certainly. The diffi-

culty I have in voting on matters like this, not only in relation to the CIA, is that the concealment of the CIA figure distorts every other figure.

Mr. SYMINGTON. The Senator from California is right. I am sympathetic. But we do not want to be attacked for violating any rules on national security. I would hope we can do what the Senator from California desires and I appreciate his understanding.

Mr. CRANSTON. I thank the Senator from Missouri very much. I will be delighted to wait until tomorrow.

Mr. KENNEDY. Mr. President, I ask unanimous consent that Jerry Tinker and Dale deHaan be given the privilege of the floor during the course of this debate.

The PRESIDING OFFICER (Mr. DOMENICI). Without objection, it is so ordered.

The time of the Senator from Wisconsin has expired.

Mr. HUGHES. Mr. President, I yield 15 minutes of time under my control to the distinguished Senator from Wisconsin (Mr. PROXMIRE) to finish his statement. He has obviously been in discussion here and has been unable to finish it. So I will be more than happy to yield him that time.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized for 15 minutes.

Mr. PROXMIRE. Mr. President, I want to thank the distinguished Senator from Iowa for giving me this 15 minutes. I do not think I will use it all.

Mr. SYMINGTON. I participated in this colloquy, but did not start it. If the Senator needs more time I will be glad to yield him from my time.

Mr. PROXMIRE. I thank the Senator. On the issue of the National Security Council Intelligence Directives, which I first raised here on April 10 and again on June 4, I am pleased to note that for the first time the oversight committees will be briefed on their contents. It is simply unbelievable that the oversight committees were unaware of these—the primary operating directions to the intelligence community—for all these years. How could there be any oversight if Congress had no idea about what the executive department had directed the CIA to do? That is why the oversight committees did not know about the secret army in Laos or the tampering with the election in Chile. They did not even know where to look.

I urge the oversight committees to retain copies of these directives and require frequent briefings along the lines of the programs undertaken under each directive.

I ask the distinguished Senator from Missouri, the acting chairman of the Committee on Armed Services, if it would be possible to sanitize the NSCID's and release them publicly or have the National Security Council do so—that is, take out the classified information included in them, but release what can be released.

Mr. SYMINGTON. I am not sure, but have obtained approval to look at them myself. We have been so busy trying to get the procurement bill out under pressure from the leadership that I just have not yet had time. I would be glad to ascertain whether or not that would be possible. Those directives from the National Security Council, at least in the minds of some people, in effect go against the legislation which created the agency itself.

Mr. PROXMIRE. It is the kind of information we ought to have. Much of it is historical and dated and therefore could be disclosed.

Mr. SYMINGTON. I agree. The only person who could decide that would be the President or his agent, through the National Security Council. I will be glad to write them a letter about it.

Mr. PROXMIRE. When I get classified information and I ask that it be sanitized, 90 or 95 percent of the information is usually intact.

I might also add at this point that the CIA's reply to my question about the interpretation and extension of the National Security Act of 1947 was completely inadequate. The NSCID's flow from one clause in the 1947 act. The act also provides, as Mr. Colby states, that the National Security Council shall issue directives pursuant to the act.

But this does not give the National Security Council the right to change the intent or substance of the original act. It merely enables the National Security Council to carry out the expressed wishes of Congress as stated in the act. And nowhere in the act does Congress give the CIA authority to operate overseas with covert techniques.

In 1963, President Truman stated emphatically that he did not have this in mind when the CIA was formed during his administration.

DOMESTIC OPERATIONS

Finally, I wish to talk about the issue of domestic operations. Although Congress clearly did not want the CIA to become involved in domestic matters and placed specific language in the act to that effect, still the CIA maintains certain domestic operations. Some of these may be harmless, like the Domestic Contact Service, but others pose more serious problems.

Mr. President, the strictest kind of restraint must be placed on domestic activities of the intelligence community. The CIA has no place training police forces under the omnibus crime bill. It should not be forming dummy domestic corporations or active corporations, for that matter. CIA ties with the academic community, research institutes, aerospace companies, and Federal bureaucracies should be carefully controlled.

I am particularly disturbed that the Domestic Contact Service has been placed under the operational control of the clandestine services. Mr. Colby says that this is to improve the coordination of its collection activities with those of the Agency abroad. I find this disturbing because of the possibility that the DCS, which has a good reputation, may now become "tainted" by the covert side of the Agency. If the DCS is an open and aboveboard operation, then it should operate in an open and aboveboard manner. It should operate under the authority of the analytical side of the CIA.

I should like to ask the Senator from Missouri one other question: Does the chairman think the oversight committees should be told about the foreign and domestic operations?

Mr. SYMINGTON. I would put it this way: The oversight committees should be told everything that does not directly affect an operation.

During the years I spent in the Pentagon at the Secretary level, there was one subject I did not want to know about; namely, the details of war plans.

If we have agents in a foreign country, under cover, I do not want to know who they are, nor do I want to know the details of their actions.

Mr. PROXMIRE. I understand that. I think everyone would agree with that. What I have in mind is that when these operations have taken place, and without disclosing identities of individuals involved, does the Senator feel that the oversight committees should be informed, so that there could be a prompt evaluation and a policy determined on the basis of that experience?

Mr. SYMINGTON. One of the most unfortunate developments in the history of this country was the secret war in Laos run by the CIA out of the Embassy in Vientiane under instructions from the Embassy. It was run without knowledge on the part of members of the Armed Services Committee or the CIA Oversight Committee or the Committee on Foreign Relations.

It was only found out about when staff members of Foreign Relations went into Laos and found a war being run out of the Embassy in Vientiane.

That kind of secret operation is wrong. It all should have been reported to the proper committees. I believe the main reason it was not reported was because they knew if it was found out, it would have been stopped.

Mr. PROXMIRE. Are these foreign operations ever reported to the oversight committees?

Mr. SYMINGTON. They have not for some years.

Mr. PROXMIRE. Why should they not be reported to the oversight committees?

Mr. SYMINGTON. I think they should.

Mr. PROXMIRE. And they should exercise their authority.

Mr. SYMINGTON. Yes.

Mr. PROXMIRE. So far as the Senator is concerned, that is his position?

Mr. SYMINGTON. And to the best of my ability, I will see that such reporting of a war, a secret CIA war, is put into effect.

THE COLBY CONFIRMATION

Mr. PROXMIRE. In considering how to vote on the Colby confirmation I have weighed the available facts, as inadequate as they may be. On the negative side are his associations with the Phoenix program, his lifelong career in the covert side of intelligence, and the whole question of executive department use of the CIA. On the positive side is his willingness to answer all questions, his reputation as a good administrator, and some awareness of the propriety of close congressional oversight.

On balance, I have decided to support Mr. Colby. But I am giving notice that I

will closely monitor his leadership of the intelligence community. And I will not hesitate to object to any questionable use of the intelligence community in domestic affairs. Furthermore, I may offer certain amendments to the military procurement bill dealing with the CIA.

A NEW OVERSIGHT COMMITTEE

Mr. President, within the next few days I will introduce a resolution to create a standing committee of the Senate on the Central Intelligence Agency. There are many sound reasons for creating a full standing committee. Not the least of these is the need for continuing oversight of the multibillion-dollar intelligence community. This can only be done with a full-time staff unencumbered by other responsibilities.

I will recommend that this new committee be composed of members of the Senate Armed Services Committee, the Foreign Relations Committee, and others selected from the remaining Senators.

Mr. President, I welcome the statement by the distinguished chairman of the Senate Armed Services Committee (Mr. STENNIS) that the committee will undertake a reassessment of its oversight responsibilities. I hope that my bill S. 1935 will be considered at that time.

I thank the distinguished Senator from Iowa and the distinguished Senator from Missouri for yielding me time.

Mr. President, I yield back the remainder of my time to the Senator from Iowa, and I thank the Senator once again.

Mr. SYMINGTON. Mr. President, if the distinguished Senator from Iowa will yield, I am very glad to hear the able Senator from Wisconsin say he has decided to vote for Mr. Colby. Knowing him as I do, I know also that he would not do so unless he felt it was right and in the interest of the country.

His speech today on the Senate floor is constructive. This situation has been wrong; it has been wrong over a period of years; it should be corrected; and as a member of the Armed Services Committee, the Foreign Relations Committee, and a member of the Military Subcommittee on Appropriations, I will be glad to work with him to that end.

Mr. PROXMIRE. I thank the Senator.

The PRESIDING OFFICER. Who yields time?

Mr. HUGHES. Mr. President, I yield myself 15 minutes.

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

Mr. HUGHES. I yield.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the distinguished Senator from Iowa (Mr. HUGHES) and the distinguished Senator from Massachusetts (Mr. KENNEDY) have at least 20 minutes apiece of the remaining time and that the vote occur on the pending nomination at the hour of 4 p.m.

Mr. CRANSTON. Mr. President, reserving the right to object, I do wish to speak on the nomination and I am not certain as to the time I will need. I am waiting to hear the statements of the two Senators.

Mr. MANSFIELD. We are trying to accommodate several Senators who would like to vote at 4 o'clock.

Mr. CRANSTON. I do not want to object, but I would like to have 12 or 14 minutes.

Mr. MANSFIELD. Very well. I withdraw the request.

Mr. HUGHES. Mr. President, I have requested time to speak to clarify my opposition to this nomination. As I stated at the time of the vote by the Armed Services Committee, I wanted to review the evidence which had been presented before making a final judgment.

That review has reinforced my original inclination to oppose Mr. Colby's nomination.

At the outset, let me say that I do not question Mr. Colby's ability. He has an impressive background of Government service in intelligence and other areas as well as good academic and professional credentials.

Moreover, I am pleased with many of the statements and pledges made by Mr. Colby in his confirmation hearings.

He has offered to accede to Congress will in making public some information about the CIA budget.

He has promised to continue reducing unnecessary intelligence activities in order to hold down costs.

He has stated that he would respect the prohibitions on CIA activities within the United States and calls the Agency's assistance to E. Howard Hunt a mistake that will not be made again.

He has agreed to consider providing written materials as well as oral briefings to the appropriate congressional committees.

And he has declared his intention to resign if he is ever given an order to involve the Agency in an illegal act.

These are no small assurances and he is to be commended for them.

Despite those statements, Mr. President, I remain troubled about Mr. Colby's suitability for this particular important and sensitive position. After all, we are deciding who shall control what our intelligence agency does overseas and who should be the President's chief analyst of political and military developments in other countries that affect our national interest and security.

The decision as to who should have these far-reaching powers gets to basic consideration of a public official's loyalty to the Constitution of the United States when that loyalty seems contravened by other loyalties and disciplines. This, in turn, gets at the fundamental qualification for a CIA Director of an overriding commitment to civilian control of the Agency.

At a time when startling disclosures are being made of secret warfare being waged at the behest of a few individuals in command positions and of large scale falsification of official reports on such activities to the Congress and the American people, it seems imperative to me that we take a thorough, objective look at the temperament and background of the individual we select for this powerful, sensitive post.

In this context, I have serious doubts about the way in which Mr. Colby handled his previous assignments.

His optimistic assessments of the popularity and strength of President Diem in South Vietnam a dozen years ago may well have helped to cement American policy in support of a dictator who had lost touch with his own people. Better judgments in those years may well have avoided or mitigated the tragedy of Vietnam.

Mr. Colby's activities as head of the Far East Division of the Directorate of Plans may well have undermined the 1962 Laos accords and led to the start of the secret but deadly war in that troubled country.

Mr. Colby's direction of the Phoenix program, however well intentioned it may have been, clearly did not prevent abuses and excesses in that program which are now a matter of public record. I will leave to some of my colleagues a more detailed analysis of Mr. Colby's record as director of Phoenix which I believe requires the most careful scrutiny.

I am also frankly troubled about some of the attitudes Mr. Colby has shown toward the proper role of the CIA in the future.

Take, for example, his statements with regard to U.S. activities in Laos.

Mr. Colby told the distinguished acting chairman of the Armed Services Committee (Mr. SYMINGTON) that—

> The initiation of CIA's activity in Laos was a matter which did require the use of intelligence techniques because it was felt important at that time that the United States not be officially involved in that activity.

Regardless of whatever "intelligence techniques" were involved, the fact was that the CIA financed one military faction which overthrew the legitimate Government of Laos in 1960 and later sponsored a secret army responsive to American rather than Laotian policies. As the years passed, Americans became so deeply involved with this army—through advisers, pay, and air support—that the CIA was in effect running its own war in Laos rather than simply gathering intelligence.

Mr. Colby never told the committee that he would not engage in another secret, CIA-run war. Rather, he said:

> I will try to keep it out of the kind of exposure that some of these larger activities got us into.

His concern was with exposure rather than with impropriety or outright illegality of an intelligence-gathering agency's running a war.

In a written question for Mr. Colby, I tried to pin down this crucial difference. I asked him: Where should the line be drawn between CIA and Defense Department activities involving the use of armed force?

His answer was:

> In general, the line should be drawn between CIA and the Defense Department with respect to armed force at the point in which the United States acknowledges involvement in such activities. As a practical matter, however, the scale of the activity will, in many cases, also affect whether the United States is revealed as engaged in the activity.

Again, the point to be made is that Mr. Colby believes that CIA-run military operations are perfectly acceptable so long as they can be concealed. This is unacceptable to me.

When Americans are involved in combat, the Congress should be informed and congressional approval should be obtained.

Yet Mr. Colby stopped short of promising the openness which our system demands. When I asked him: Do you believe that it is proper under our Constitution for such military operations—as in Laos—to be conducted without the knowledge or approval of Congress, he replied:

> The appropriate committees of the Congress and a number of individual senators and congressmen were briefed on CIA's activities in Laos during the period covered. In addition, CIA's programs were described to the Appropriations Committees in our annual budget hearings.

Mr. President, in my judgment, the lines drawn by Mr. Colby in responding to these questions are too blurry to be acceptable.

Given the recent evidence of the failure of more than a handful of Members of Congress—if that many—to be informed of the secret B–52 raids in Cambodia, I am suspicious of such assertions. And I am sure that the distinguished Senator from Missouri (Mr. SYMINGTON), though we differ on this particular nomination, would agree that sufficient and timely information on Laos was not provided to the Congress.

Now we face the problem of Cambodia. Press reports suggest that the CIA has already placed personnel throughout the country who are providing radio equipment to Cambodian units and who then suggest where these units should operate. At least some of these people worked on paramilitary operations in Laos at an earlier time.

We have to be sure that these people are not the entering wedge of another clandestine cadre of American military advisers—which would be contrary to existing law and against the clear desire of the American people and the Congress to withdraw from military operations in Cambodia.

Mr. Colby's prior association with such operations and his testimony make me fear that he might acquiesce in another secret war, at least so long as it can be kept secret.

I have no objection to an intelligence man as director of the CIA. In some cases, it might be positively beneficial, since he would be better able to control the vast bureaucracy beneath him because he knows the ins and outs of the process.

But the intelligence apparatus should be under command and control of proper constitutional authority; its operation must not be permitted to become an end in itself.

I am fearful of a man whose experience has been so largely devoted to clandestine operations involving the use of force and the manipulation of factions in foreign governments. Such a man may become so enamored with these techniques that he loses sight of the higher purposes and moral constraints which should guide our country's activities abroad.

We need as Director of the CIA a man who will unflinchingly act on those purposes and subject to those constraints, a man who will unfailingly show the independence necessary to resist pressures from his operatives below and from his superiors above to try some dirty trick which promises some clever success at the expense of our principles.

Take the example of CIA involvement in domestic activities in the United States. We know that the CIA provided assistance to Howard Hunt's burglary of Daniel Ellsberg's psychiatrist's office; that it prepared a personality study of Dr. Ellsberg, an American citizen; that it provided probably illegal training to local police forces in our country.

When questioned about taking firm steps to prevent recurrences, Mr. Colby answered me that—

> With respect to the training of local police personnel—any further such action will be taken only in the most exceptional circumstances and with the Director's personal approval.

Instead of outright repudiation of such practices, Mr. Colby left open the door for his own personal decision.

Bluntly, there were too many qualifications, too many hedges in such answers to convince me of Mr. Colby's suitability for this particular command post.

We cannot accept such loopholes unless we are willing to tolerate abuses and, ultimately, risk loss of control.

Mr. President, in confirming a director of the far-flung CIA, there should be no questions whatever in our minds as to his responsiveness to civilian control and his respect for the basic political processes of this republic.

The discipline of the secret operative is necessary, often admirable, but it is not necessarily conducive of the kind of perspective and judgment required for the head of a vast governmental agency which has the capability of either protecting or compromising our national interest and our moral purpose as a people.

Mr. President, we must recognize today more clearly than ever before that the Congress has awesome responsibilities in voting on this immensely important appointment. The selection of head of the CIA is too crucial to our future to be made with a routine stamp of approval.

This brings us to the larger context of congressional responsibility for oversight of the CIA. In the last 20 years more than 200 bills designed to make the CIA more accountable to Congress have been introduced and have gone absolutely nowhere. The least we can at this time do is to review and live up to our responsibilities under the existing imprecise laws governing that agency.

Mr. President, my opposition to Mr. Colby has no personal overtones. Nor do I have cause to question either his loyalty or ability. The question is whether or not this man in the light of his background and attitudes is qualified for the CIA directorship with all of its sensitive bearing on national security, national purpose, and constitutional liberties.

For me the answer is No.

I yield the floor.

Mr. KENNEDY obtained the floor.

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

Mr. KENNEDY. I yield.

Mr. MANSFIELD. Mr. President, I would like to repeat my request: Twenty minutes to the distinguished Senator from Massachusetts (Mr. KENNEDY), and 10 minutes to the distinguished Senator from California (Mr. CRANSTON), and then a vote on the nomination.

The PRESIDING OFFICER. Is there objection?

Mr. TOWER. Mr. President, reserving the right to object and I shall not object—I simply did not hear the request.

Mr. MANSFIELD. Twenty minutes and 10 minutes and then the vote.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Montana? Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I, first of all, want to express my very sincere appreciation to the acting chairman of the Armed Services Committee, and the person that is bringing the nomination to the floor of the U.S. Senate (Mr. SYMINGTON). I want to express my very deep sense of appreciation for all the courtesies he has extended to a Member of the Senate, which in this case is myself, and for cooperating in every possible way to assist this Member to gain information from the nominee and also from the committee itself on a number of different matters which I was deeply troubled by and very much concerned about.

After listening to the colloquy of the Senator from Wisconsin, the Senator from California, and the Senator from Missouri, and hearing the Senator from Missouri indicate that he was going to respond in every positive way he could to work with Members of the Senate, I would like to say publicly that, as a person who has worked with him closely on this particular matter, as well as other matters, I think my colleagues can be very much assured of his cooperation and willingness to extend every degree of information that he possibly can to the Members of the Senate.

Mr. SYMINGTON. Mr. President, I cannot let those very kind remarks go without expressing my gratitude. Having served for many years with the able Senator from Massachusetts, and having had increasing respect for his ability and his intelligence on these and other matters, it was a privilege to cooperate with him in this case. It will always be a privilege to cooperate with him.

Mr. KENNEDY. I thank the Senator.

Mr. President, although I respect Mr. William Colby's proven ability and the high regard in which he is held by the intelligence community of the United States, I intend to cast my vote against his confirmation as Director of Central Intelligence.

In part, the reservations I have about his nomination are matters of personal conscience, arising out of Mr. Colby's close relationship with the Phoenix program in South Vietnam and my own longstanding humanitarian concern about the effects of the war on Vietnamese civilians.

In part, my reservations also involve larger questions about the changing role of the CIA in American policy and the philosophy of the person the country

should have to guide the Agency in the years ahead.

As chairman of the Senate Refugee Subcommittee, as a Senator concerned about civilians in Vietnam, as one who has been to Vietnam and seen their plight firsthand. I have long been troubled by the continuing serious allegations surrounding the Phoenix program.

From the fall of 1968 through the spring of 1971, Mr. Colby was in charge of the U.S. pacification program in South Vietnam. As such, he was one of the principal architects and masterminds of Phoenix, a program designed to "neutralize"—in one of the more notorious euphemisms of the Vietnam war—the so-called Vietcong infrastructure, that is, South Vietnamese civilians providing assistance to the Vietcong.

The following statistics on Phoenix, furnished by Mr. Colby in House hearings in 1971, represent one of the few accepted measures of the program:

PHOENIX—NEUTRALIZATION OF VIETCONG INFRASTRUCTURE

	Captured	Rallied	Killed	Percent killed	Total neutralized
1968	11,288	2,229	2,559	16	15,766
1969	8,515	4,832	6,187	31	19,534
Sentenced:					
1970	6,405	7,745	8,191	36	22,341
1971 (May)	2,770	2,911	3,650	39	9,331
Total	28,978	17,717	20,587	30	66,972

As Ambassador Colby stated in his public confirmation hearing before the Senate Armed Services Committee on July 2, during his tenure as head of pacification:

Most of the developments of the Phoenix program were my own.

Yet, the record of Phoenix and related public safety programs under Mr. Colby is marked not only by a shocking dearth of information on the operations and results of the programs—but it is also riddled with unanswered charges and allegations of assassinations, of indiscriminate killing of civilians, of targeting suspects without adequate intelligence, of false arrests and unknown persons "neutralized," of torture and brutality in the interrogation centers and prisons of jailing non-Communist political opponents of President Thieu, of reclassifying political prisoners as common criminals, and of inexcusably poor training and field control of a program of such lethal scope. And we see the results of this program continuing today in the prisons of South Vietnam.

In addition to a private conversation with Mr. Colby earlier this month, I had the opportunity, at the invitation of the Armed Services Committee to question Mr. Colby last week in executive session, and to submit a series of written questions on Phoenix and related programs. Mr. Colby's replies still leave many questions unanswered—and, in fact, raise some troubling new ones.

In terms of the past record, Mr. Colby has provided no additional information on the Phoenix and related programs, and declined to submit documentation in support of his views.

In terms of the present, it is clear from Mr. Colby's replies that the United States has not fully disengaged from Phoenix and related functions, and that Mr. Colby supports our present posture.

One of the questions I submitted read as follows:

What is the current status of the Phoenix (Phung Hoang) Program? Assuming it continues, does the United States have a supportive, advisory or any other kind of role? Are any American or American sponsored personnel, from the CIA or elsewhere, involved in any way? Are any American commodities or funds, directly or indirectly, from the CIA or elsewhere, supporting any aspect of the Phoenix Program?

This is Mr. Colby's response:

Aside from a GVN national level coordinating committee, the Phung Hoang program has been incorporated within the national police of Vietnam and is no longer a separate program. The United States does not have a support, advisory or other role with respect to the Phung Hoang program, although CIA maintains liaison and assists the Special Police Branch of the National Police in its intelligence functions. The United States advisory effort with the Phung Hoang program was terminated in December 1972, and U.S. assistance to the Phung Hoang program through the Department of Defense ended at the same time. Aside from this relationship with CIA, I am not informed about the uses made of other assistance which might be supplied by the United States.

This comment is distressing. Clearly a continuing American involvement along the lines suggested by Mr. Colby is not only unconscionable—but, I feel, it is also in violation of the spirit, if not the letter, of the ceasefire agreement for Vietnam.

Finally, in terms of the future and his potential direction of the CIA, Mr. Colby clearly feels that Phoenix-type functions, organizations and programs—what he calls "internal counter-subversive or counter-terrorist activities"—are a proper function of the CIA, and serve a useful purpose in U.S. foreign policy.

Again, one of the questions I submitted reads as follows:

Are there plans, anticipations, or personal convictions on your part, that Phoenix programs should be supported by the United States in the Philippines or Thailand or elsewhere?

This was Mr. Colby's response:

Under the Nixon doctrine I do not envisage a large-scale U.S. involvement in internal counter-subversive or counter-terrorist activities on the scale of experience in Vietnam.

Frankly, this is a surprising reply—for the Nixon doctrine has been in force for the greater share of Phoenix history.

As a matter of fact, this morning, in our Refugee Subcommittee, we inquired into the matter with AID and Department of Defense officials. I asked Mr. Dennis Doolin about the Department of Defense's contribution of nearly $12 million, under fiscal year 1974, for police support activities. Under Mr. Colby's earlier response, he recognizes that the Phoenix program continues in Vietnam and recognizes that the program is now incorporated into the national police. However, he was unable to give us any information. We know that we are contributing in excess of $12 million to the police forces of South Vietnam, out of AID and DOD funds. But the Defense Department personnel whom we had before our committee were unable to give any assurance to us this morning that no part of these funds are being used for Phoenix functions.

Also, Mr. Colby indicated when I asked if such a program could start in the Philippines, Thailand, or elsewhere: "Under the Nixon doctrine, I do not envision a large-scale U.S. involvement in internal countersubversive or counter-terrorist activities on the scale of experience in Vietnam."

The Vietnam experience is the one that gave us Phoenix. I cannot say that I was assured by his answers to those questions.

Finally, during his tenure in Phoenix, Mr. Colby found it necessary to issue a directive to all U.S. military personnel participating in the program. One passage in the directive states that:

U.S. personnel . . . are specifically unauthorized to engage in assassination.

Another passage states:

If an individual finds the police type activities of the Phoenix program repugnant to him . . . he can be reassigned from the program without prejudice.

In sum, the essence of Mr. Colby's defense against the charges that Phoenix was a program of indiscriminate murder, assassination, and torture, is that war is dirty business, that the program was an essential part of the American war effort in South Vietnam, that he was aware of the abuses, that, as the military directive indicates, he made efforts to reduce them, that the abuses were isolated events, and that, in any event, he was simply carrying out a program ordered by the U.S. high command.

But no rationalization of Phoenix, no minimization of its abuses, no antiseptic label can conceal the fact that although Phoenix is the mythical bird of life and resurrection, Phoenix under Mr. Colby's tenue was a bird of death for 20,587 civilians of South Vietnam.

This Nation should never have been involved in Phoenix. Never again should a program like that be part of America's role in world affairs.

The other reservation I have about Mr. Colby involves the sort of leadership America wants for its CIA in the years ahead.

In recent years, the activities of the CIA, especially its secret operations, have come under increasing challenge at home and overseas. The gulf between the Agency's intelligence arm and its clandestine arm is well known. Especially in recent months, as highlighted by the unfolding disclosures of CIA involvement in the Watergate affair, the reputation of the Agency has been further diminished, because of its apparent involvement in domestic activities in violation of its charter.

I share the serious and growing doubts of many other Senators about the role of the CIA as it is presently constituted Already, under the leadership of Senator STENNIS and Senator SYMINGTON, the Armed Services Committee has begun an extensive review of the CIA Act. There are many other signs as well that both

the Senate and the House intend to exercise a far greater degree of oversight over the CIA in the future than has existed in the past.

But Congress cannot do the job alone. If the CIA is to fulfill its proper role in the decade of the seventies, it must have a director who is responsive and sympathetic to the need. As a man who has risen through the ranks of the Agency on its clandestine side, Mr. Colby symbolizes the side of the CIA that has become deeply embroiled in the present controversy over the Agency's foreign and domestic activities.

Perhaps the CIA continues to need this covert side to its operations—unquestionably, Mr. Colby is an outstanding choice to lead such a role as the CIA's Deputy Director for Operations, the position he now holds.

But, looking to the future of the country and the future of the CIA, I believe the United States has had enough secrecy and covert ideas and covert men. At the very least, the CIA needs a greater balance between its clandestine and its intelligence functions.

But William Colby is the epitome of the covert man. And so, although my opposition to him on this ground is in no sense a personal reflection on him, I do not believe that he should be the choice to strike that balance or to shape the Agency in the transitions that lie ahead.

One other point should be mentioned. In recent weeks, I have been troubled by a number of questions arising out of Mr. Colby's role as Executive Director of the CIA in certain aspects of the Watergate affair in 1972 and early 1973.

Although this aspect is not yet entirely free from doubt, the issue continues to be investigated by the Senate Select Committee and the special prosecutor.

I do, however, want to make clear that my vote against Mr. Colby's confirmation is not based on his relationship to Watergate.

In closing, let me say again that I respect the very high regard in which Mr. Colby is held by those who have known and worked with him. In many respects, he symbolizes the finest qualities of intellectual ability and personal sacrifice demonstrated by legions of able and unheralded American officials who have unselfishly dedicated their careers to the Nation's public service.

But, for the reasons stated, I am unable to approve his nomination.

Mr. MANSFIELD. Mr. President, I ask for the yeas and nays on the nomination.

The yeas and nays were ordered.

Mr. CRANSTON. Mr. President, to me there is one basic problem looming behind the vote on the nomination of Mr. William Colby to be the new Director of the Central Intelligence Agency. That problem is the vase power wielded by the Central Intelligence Agency itself.

When I reviewed the National Security Act of 1947, I was reminded once again that the CIA's power has largely developed within the statutory authority layed down by that act.

The bulk of the CIA's duties as defined by the National Security Act as related to advising the National Security Council and correlating and evaluating intelligence. The authority for the "dirty tricks" is contained in one short clause stating that it shall be the duty of the Agency, under the direction of the National Security Council—

> . . . to perform such other functions and duties related to intelligence affecting the national security as the National Security Council may from time to time direct. (50 USC 403(d)(5).)

This means that the law gives the CIA, subject only to the approval of the National Security Council, a virtually free hand in conducting clandestine operations overseas, overthrowing foreign governments, training mercenaries, and even sponsoring assassination programs such as Phoenix—all in the name of national security.

Today it seems strange that Congress should have signed away such power. Knowing what we know now, we would probably have placed far more restrictions on the CIA's mandate. Perhaps a brief look at the cold war setting in which the National Security Act was drafted will help to show how badly change is needed.

The cold war spawned an increasing tendency to see overseas political developments in military terms and hence to let defense policy determine foreign policy, rather than the other way around. Prior to World War II, military officers had not been prominent decisionmakers in matters of foreign policy, but the cold war saw a dramatic reversal. Diplomats yielded their influence to professional soldiers and to civilians, whose concern for military might, surpassed even that of the generals.

In this framework, the political system adopted by another country was automatically part of a worldwide contest between capitalism and communism, and thus either a threat or a boost to our national security. As President Truman said before a joint session of Congress on March 12, 1947:

> . . . totalitarian regimes imposed upon free people, by direct or indirect aggression, undermine the foundations of international peace and hence the security of the United States.

National security had become a national mania. Accordingly, the powers of oversight and review were given to the two Armed Services Committees of House and Senate and to the Appropriations Committees, but not to the Foreign Relations Committees.

Today we know that what the CIA does has explosive foreign policy implication. In many countries of the world, American foreign policy has become closely associated with the CIA.

Today we know, too, that a radical movement somewhere in the world is not automatically a threat to our security. We know that economic strength and political leadership are as important, in their own way, as our arsenal of bombs and missiles.

Today the mood and atmosphere have changed, but the law has not.

And I think that is the most fundamental challenge facing the Congress on the question of the CIA—to bring the law into line with a democratic society and to place further restrictions on the CIA, its Director, and its activities.

Accordingly, I am introducing today a measure to set up a 1-year, ad hoc Select Committee on Foreign Intelligence, whose duties shall include recommendations on revising the National Security Act and taking other appropriate steps to bring the CIA under firmer supervision. This committee should address the basic questions of the CIA's mandate and the degree of power that is appropriate to that mandate. It should consider that power in the context of a democratic society. It should seek to lay down guidelines for the CIA's activities.

More broadly, however, the ad hoc committee that I am proposing should take a broad look at all our overseas intelligence activities, not just those of the CIA. It would be directed to study the implications of these activities for U.S. foreign policy, foreign economic policy, and defense policy, and to report its general findings to the full Senate.

Mr. President, I think we need a study committee of this kind even if an authorizing committee is set up relating to the CIA. I am delighted that the distinguished Senator from Wisconsin (Mr. PROXMIRE), who has provided such creative and constructive leadership in this field, plans to introduce a resolution to create a standing committee of the Senate on the CIA. I am delighted, too, that our wise and effective majority leader, Senator MANSFIELD, is particularly interested in this move, and is devoting a considerable measure of his talents to the effort to bring the CIA under proper control.

I believe we also need a study committee because—too often—this country does one thing with the right hand and another with the left. There should be some group in the Senate that can stand back and look at the whole, briefly, without a permanent assignment, and thus without developing a domain of its own—in other words, without developing a constituent interest.

I also have some modest suggestions relating to curbing the power of the CIA short of a fundamental review and overhaul. I am offering these suggestions in the form of amendments to the National Security Act, and I will explain them in a moment. But first I want to make clear that I would prefer to have these suggestions acted upon by some sort of oversight committee or authorizing committee. But if the Senate does not establish either of these committees, I will push ahead with these amendments on my own.

My first proposal is to place a time limitation on the terms of the Director and Deputy Director of the CIA. As the law stands (50 U.S.C. 403(a)), the Director and Deputy Director shall be appointed by the President, by and with the advice and consent of the Senate. But there is no time limitation to that appointment. I propose a term of not to exceed 8 years. I do not feel that 8 years is a magic number. But I do think it important to place a time limitation on these positions so as to prevent the per-

petuation of an "independent kingdom." I understand that the distinguished Senator from West Virginia (Mr. BYRD) has introduced similar legislation to place a time limitation on the term of the Director of the Federal Bureau of Investigation.

My second proposal would prevent the posts of Director and Deputy Director from being occupied by two "insiders" at the same time. According to existing law, at no time shall the two positions be occupied simultaneously by commissioned officers of the armed services. I suggest extending that restriction to individuals employed by the CIA within the last 5 years prior to their appointment.

By requiring that the posts of Director and Deputy Director shall not both be filled by "insiders" at the same time, my intention is to prevent the Agency from being run by "professionals' professionals" and subject it to some form of supervision from the outside. Just as a general should not be appointed Secretary of Defense, so the leadership of the CIA should not be drawn solely from within.

My third proposal is directed at the broad power granted to the CIA by the National Security Act to perform functions other than those related to the collection and analysis of information—the so-called "dirty tricks". I have already quoted that part of the National Security Act that conveys the authority for these operations.

My amendment would change that power in a very modest way by requiring not only the approval of the National Security Council, but the specific, written approval of the President as well. This is a small but important first step toward curbing the misuse of power.

Let me emphasize again that these are not final solutions but only modest first steps. And again, they should ideally be debated by an authorizing committee or by a committee specifically set up to study foreign intelligence activities in general and the CIA in particular.

I also want to make it clear that my motive in introducing this legislation is not punitive. I have considerable respect for the CIA. Nor is it directed at Mr. Colby personally. I recognize that he is a capable man who has won the respect of his colleagues and of many people outside of the Agency as well.

I have endeavored to find out all I could about Mr. Colby but, like Senator PROXMIRE, I have found that a difficult task. I concur with him that today the Senate will cast a blind vote on the Colby nomination.

I came on the floor today not knowing how I would vote. I have listened carefully to the debate. Primarily for some of the reasons advanced by two distinguished Senators, Senator HUGHES and Senator KENNEDY, I shall vote against him.

I shall vote against him also because William Colby is a symbol of the abuse of power.

We do not need to break the law to have effective intelligence operations. I believe in order, justice, and law.

My aim in the legislation I am proposing is simply to place limitations on the extraordinary power wielded by the Director of the CIA in the belief that such power is incompatible with our democratic system.

The legislation that I am introducing today is only a partial check on the virtually unfettered power enjoyed by the CIA. A crucial step not covered by my proposals, for example, is making public the budgets of the various intelligence agencies, including the CIA. I have already pursued this suggestion through letters to other Senators and through discussion in the Democratic Caucus, and I want to reiterate this concern today.

I have noted two encouraging developments in particular. First, during his confirmation hearing for his appointment as Secretary of Defense, Dr. James Schlesinger stated that publishing a gross figure for national intelligence programs would have a "minimal" effect on security concerns. In answer to determined questioning on a public budget figure by the distinguished Senator from Virginia (Mr. HARRY F. BYRD, JR.), he added:

. . . for the gross national intelligence program figures, I think we could live with that on a security basis, yes.

And William Colby, the Director-designate of the CIA, stated that while budget totals have traditionally been classified, he would "defer to the appropriate congressional authorities" for any change. I read that as a message for us to go ahead with changing this unnecessarily supersecret tradition.

Mr. President, General Marshall used to say that political problems, if thought about in military terms, become military problems. Now the word "paramilitary"—from "para," meaning "alongside of" or "related to"—has come into common use even though most standard dictionaries do not list it. I am afraid that without legislation to curb the CIA, political problems—already woefully militarized—will increasingly become paramilitary ones.

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

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

S. 2321

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 102(a) of the National Security Act of 1947 (50 U.S.C. 403(a)) is amended by striking out the proviso at the end of such section and inserting in lieu thereof the following: "*Provided, however,* That at no time shall the two positions of the Director and Deputy Director be occupied simultaneously (1) by commissioned officers of the armed services, whether in an active or retired status, or (2) by individuals who have been in the employ of the Agency for any period of time during the five year period immediately preceding the time they are considered for appointment. No person may serve as Director for more than a total of eight years."

(b) The eight year limitation prescribed for the Director of the Central Intelligence Agency by the amendment made by subsection (a) of this section shall begin to run on the date of enactment of this Act in the case of any person holding such office on such date of enactment.

Sec. 2. Paragraph (5) of section 102(d) of the National Security Act of 1947 (50 U.S.C. 403(d)(5)) is amended by striking out the period at the end of such paragraph and inserting in lieu thereof a comma and the following: "but only if the President specifically authorizes any such function or duty and notifies the Director in writing of his approval and includes in his notice a description of the function or duty authorized to be performed by the Agency."

S. RES. 152

A resolution to create a Select Committee of the Senate on Foreign Intelligence

Resolved, That Rule XXV, paragraph 1, of the Standing Rules of the Senate is amended by inserting a new subparagraph (f) and relettering the subsequent paragraphs accordingly. The new subparagraph (f) reads:

"(f) Select Committee on Foreign Intelligence, which shall be charged with

(1) conducing oversight and review of all foreign intelligence activities carried out by

(a) the Central Intelligence Agency

(b) the Defense Intelligence Agency

(c) the National Security Agency

(d) the U.S. Army, the U.S. Navy, the U.S. Marine Corps, and the U.S. Air Force

(e) the Department of State

(f) the Atomic Energy Commission

(g) the Federal Bureau of Investigation

(h) any other U.S. Government department or agency which the Chairman of the Select Committee determines is carrying out foreign intelligence activities;

(2) to study the implications of such activities for United States foreign policy, foreign economic policy, and defense policy;

(3) to review the provisions of the National Security Act of 1947 with a view toward recommending further restrictions on the duties, functions, and powers of the Central Intelligence Agency; and

(4) to report to the full Senate at the end of one year following the passage of this Resolution concerning its general findings.

SEC. 2. Rule XXV of the Standing Rules of the Senate is amended by inserting a new paragraph (4) and renumbering the subsequent paragraphs accordingly. The new paragraph reads:

"4. Without regard to paragraph 7 of this rule, the Select Committee on Foreign Intelligence shall have a term of one year and shall consist of seven members of the Senate, four from the majority party and three from the minority party. Two members shall be Senators who are concurrently serving on the Committee on Armed Services, and two shall be Senators who are concurrently serving on the Committee on Foreign Relations. The remaining three members shall be appointed by the President of the Senate upon the recommendation of the policy committees of the majority and the minority. The Select Committee shall select a Chairman and a Vice Chairman from among its members."

SEC. 3. The Select Committee is hereby authorized, for a period of one year following the passage of this Resolution,

(a) to adopt rules concerning its procedure,

(b) to hold hearings,

(c) to procure printing and binding,

(d) to make expenditures,

(e) to employ personnel, and

(f) to receive and deposit such written information as it may request from the various Departments and Agencies listed in Section 1, and to take all appropriate steps to safeguard, where necessary, the confidentiality of such information.

SEC. 4. For purposes of this Resolution—

"foreign intelligence activities" means all activities conducted in, or directed toward, areas other than the United States and its territories and possessions, and relating to,

(a) the gathering of information, and

(b) the planning, conduct, and execution of political, economic, or military activities whose existence is not generally or publicly

acknowledged by the United States Government.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senator from Illinois may be yielded 3 minutes.

The PRESIDING OFFICER. Without objection, the Senator from Illinois is recognized for 3 minutes.

Mr. PERCY. Mr. President, at an executive session of the Committee on Foreign Relations on February 7, 1973, I expressed to Mr. Richard Helms my feeling that the CIA should have no direct relationship with the briefing or training of domestic police, law enforcement, or internal security personnel. I said that I believed those functions should be carried out by the FBI.

I was aghast to learn that the CIA had engaged in a training program or in training sessions at the request of the Chicago Police Department, among other police departments of the United States, with techniques that were described to us in executive session. I said that I felt this action simply had no place in the CIA and contravened the authority granted by Congress to the CIA, which was suppose to engage in activities outside the United States. I said that the FBI had adequate resources to carry on this assistance, but that if the CIA had information that could be used, it should be transmitted to the FBI, because the FBI had direct responsibility for domestic activities, and that the CIA should stay totally and completely away from that area.

I described also my concern because I had just recently visited South Korea, where there is an agency known as the CIA, which then engaged in international activities besides also engaging in domestic activities. That is a most distrusted agency, and I wanted no implication that our CIA could ever become involved in domestic affairs right here in the United States.

Mr. Helms responded that he would convey this information to the new Director and said he was sure that he would abide by it.

On May 21, 1973, at an open session with Mr. Helms, I asked him if he had in fact conveyed this position to his successor as Director of Central Intelligence, Mr. James Schlesinger. He responded:

I did not talk to Dr. Schlesinger directly about this. I conveyed the sense of the Committee's statement and the Senator's statement of the General Counsel of the Agency, which was conveyed to Dr. Schlesinger. And a few days before I left to go to my post in Iran, I was informed that Senator Fulbright had written a letter to the Director embodying in his letter these strictures. So I assume that, therefore, the messages had not only gotten through but the new Director would abide by it.

The letter from Senator FULBRIGHT to Mr. Schlesinger was dated February 8, 1973, and said that members of the committee present at the executive session the day before had reached a consensus "that the FBI was the proper agency to carry on such activities—involving assistance to local police departments—and that they should be discontinued by the CIA." Senator FULBRIGHT said he wanted to underscore the point and to request Mr. Schlesinger's comments after he had familiarized himself with the matter.

Mr. Schlesinger responded by letter to Senator FULBRIGHT on March 1, 1973, stating:

I have given this matter careful attention, and am satisfied that the Agency's activities in this connection have been consistent with the letter and spirit of existing legislation. However, in keeping with the sensitivity of this matter I have directed that such activities be undertaken in the future only in the most compelling circumstances and with my personal approval. We will, of course, comply with applicable laws and regulations regarding coordination with other Federal agencies.

Before voting on Mr. Colby's nomination, I wanted to assure myself that he was acquainted with the discussion and correspondence between members of the Committee on Foreign Relations and Messrs. Helms and Schlesinger on this matter.

I was particularly concerned to have Mr. Colby's own views, since Mr. Schlesinger—in his letter to Senator FULBRIGHT—had left the door ajar on this question by indicating that such activities would be undertaken in the future "only in the most compelling circumstances and with my personal approval."

Therefore, I have raised this issue with Mr. Colby, who has responded that he would undertake such activities only in the most extraordinary circumstances and that—if the circumstances appeared to him to be that extraordinary—he would consult with the congressional oversight committee before acting. This reply is satisfactory to me, and I believe it indicates rather clearly Mr. Colby's intention to be responsive to Congress.

One of the difficulties which has caused problems for the CIA in its relations with the Congress has been CIA's reluctance to seek congressional guidance on sensitive matters. While one can appreciate that a concern for security may often stifle any inclination toward candor, it is important now that the Agency be completely forthcoming with Congress.

I shall vote for Mr. Colby's confirmation because he is a man demonstrating competence, integrity, and ability. I feel that he will always consult with the Congress when desirable and will keep us advised of CIA activities which have a bearing on our own constitutional responsibilities in the fields of national security and foreign affairs.

Speaking personally, I have had 6 years of extremely fine experience with one of Mr. Colby's predecessors—Mr. Helms. I have always found the briefings I have had, not only concerning this country but also countries abroad, among the most intelligent and penetrating which has helped me immensely in my work as a U.S. Senator. I might say that I received great help, indeed, in working with the floor leader today in the matter of the ABM. I could not have had more assistance and help in reaching a conclusion than I did from finding who would know the policy decisions best based on objective facts, enabling me to come to my conclusion, one which I feel sure is ultimately shared by the administration as well.

Mr. SYMINGTON. I thank the Senator from Illinois for his kind remarks, am very grateful.

Mr. NUNN. Mr. President, first, let me say to the Senators from Iowa. Massachusetts, Wisconsin, California, and Illinois that they have made a real contribution in outlining some of the things most needed to be done to supervise the CIA and which definitely should be done.

I should also like to commend the acting chairman of the Armed Services Committee, the distinguished Senator from Missouri (Mr. SYMINGTON), for the manner in which he held the hearings on the confirmation of Mr. Colby.

This is a very important confirmation to a very important post. I would also like to agree and take the position the Senator from Missouri took so far as the need for creating a real supervisory committee is concerned.

I commend the Senator from Missouri for his ideas on investigating not only the charter of the CIA but also the possibility of letting the total budget figures be known so far as the intelligence community is concerned.

I have had numerous conversations with Senators and, at the present time, the total figure, if we were given that total figure, and if it were made known, would not only eliminate any doubts about the Intelligence Agency, but would also eliminate any doubt about the overall Defense Department budget figures.

I can only agree with the Senator from Wisconsin (Mr. PROXMIRE) when he said, in effect, that it taints the entire defense budget when it is put into different items so that we have no way of segregating out what is for intelligence and what is not.

Mr. President, it is important to realize that certain subdivisions and certain breakdowns will have to be looked at carefully, even if we get the budget figures made public. But the Senator from Missouri, the acting chairman, who has said that he will go into the matter, is to be commended, because it is one of great importance.

The Senator from Mississippi (Mr. STENNIS) has also stated that he is going into the matter of the charter and I should like to commend him for that.

In closing, I should like to say that I have attended the hearings on the Colby confirmation. Mr. Colby has integrity. He has experience to do the job. It is one of the most important jobs in Government. I believe that the CIA now needs leadership perhaps more than any other branch or agency in the Government. It is awfully important.

I am therefore going to cast my vote for his confirmation.

Mr. FULBRIGHT. Mr. President, although I intend to vote for the confirmation of Mr. Colby, I will do so with some misgivings. My concern does not go to Mr. Colby's integrity or to his professional competence because I have no grounds for doubt in either of these areas. I am, however, troubled by the practice of placing the vast responsibilities exercised by the Director of Central Intelligence in the hands of someone whose experience has been devoted almost exclusively to clandestine intelligence operations.

In my view there is a real need to insulate the analytic process from the operational side of the intelligence business and I am not certain that a Director who is operationally oriented will be sufficiently sensitive to this problem. Perhaps Mr. Colby is aware of this problem but we cannot feel any assurance on this score precisely because his background is so little known to us. Substantial reorganization of the Agency's structure apparently began under the last Director and presumably will continue under Mr. Colby. I have serious questions whether the overt operations—which we have judged the most valuable, especially in the estimates field—might not suffer and might not be disrupted by undue emphasis on clandestine operations.

I am also concerned over the possibility that the intelligence community is coming under increasing pressure from political, policymaking officials. In recent years White House and NSC officials are reported to have brought great pressure on the intelligence evaluation process and to have co-opted many functions previously entrusted to career professionals. This trend has become pronounced under this administration and again we know very little about Mr. Colby's attitude in this regard.

Finally, I am disturbed by Mr. Colby's connection with the Phoenix program in South Vietnam. I cannot condone a U.S.-financed program of political intimidation and assassination—even though the Vietcong engaged in the same practices—and I am far from confident that Mr. Colby was sufficiently sensitive to the abuses which were attributed to the Phoenix program while it was under his direction.

Thus although I will vote for Mr. Colby, I would hope that the Senate will give careful attention to the manner in which he exercises his responsibilities and to the questions which I have raised regarding the operation of the intelligence community.

Finally, I wish to add, that the endorsement of Mr. Colby by Senator SYMINGTON, acting chairman of the Armed Services Committee and a valued member of the Committee on Foreign Relations, carries great weight with me. Senator SYMINGTON has assured me that Mr. Colby will report to the committees of the Senate and that he is confident that Mr. Colby recognizes that Congress has a responsibility and a right to know what the Intelligence Agency is doing.

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

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

The PRESIDING OFFICER (Mr. DOMENICI). All time has now been yielded back.

The question is, Shall the Senate advise and consent to the nomination of William E. Colby, of Maryland, to be Director of Central Intelligence?

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Nevada (Mr. CANNON) is necessarily absent.

I further announce that the Senator from South Dakota (Mr. ABOUREZK) 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 South Dakota (Mr. ABOUREZK) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Arizona (Mr. GOLDWATER) is absent because of illness in his family.

The result was announced—yeas 83, nays 13, as follows:

[No. 361 Ex.]

YEAS—83

Aiken	Fannin	Muskie
Allen	Fong	Nunn
Baker	Fulbright	Packwood
Bartlett	Griffin	Pastore
Bayh	Gurney	Pearson
Beall	Hansen	Pell
Bellmon	Hartke	Percy
Bennett	Hatfield	Proxmire
Bentsen	Helms	Randolph
Bible	Hollings	Ribicoff
Brock	Hruska	Roth
Brooke	Huddleston	Saxbe
Buckley	Humphrey	Schweiker
Burdick	Inouye	Scott, Pa.
Byrd, Harry F., Jr.	Jackson	Scott, Va.
	Javits	Sparkman
Byrd, Robert C.	Johnston	Stafford
Case	Long	Stevens
Chiles	Magnuson	Stevenson
Cook	Mathias	Symington
Cotton	McClellan	Taft
Curtis	McClure	Talmadge
Dole	McGee	Thurmond
Domenici	McIntyre	Tower
Dominick	Metcalf	Tunney
Eagleton	Mondale	Weicker
Eastland	Montoya	Williams
Ervin	Moss	Young

NAYS—13

Biden	Hart	Mansfield
Church	Haskell	McGovern
Clark	Hathaway	Nelson
Cranston	Hughes	
Gravel	Kennedy	

NOT VOTING—4

Abourezk	Goldwater	Stennis
Cannon		

So Mr. Colby's nomination was confirmed.

Mr. SYMINGTON. Mr. President, I ask unanimous consent that the President be notified.

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

FARMERS HOME ADMINISTRATION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the nomination of Mr. Elliott to be Administrator of the Farmers Home Administration be stated.

The PRESIDING OFFICER. Is there objection? Without objection, the nomination, reported earlier today, will be stated.

The second assistant legislative clerk read the nomination of Frank B. Elliott, of Virginia, to be the Administrator of the Farmers Home Administration.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the President be notified.

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

LEGISLATIVE SESSION

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

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

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Hackney, one of its reading clerks, announced that the House had passed a bill (H.R. 9286) to authorize appropriations during the fiscal year 1974 for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons, and research, development, test and evaluation for the Armed Forces, and to prescribe the authorized personnel strength for each active duty component and of the Selected Reserve of each Reserve component of the Armed Forces, and the military training student loads, and for other purposes, in which it requested the concurrence of the Senate.

HOUSE BILL REFERRED

The bill (H.R. 9286) to authorize appropriations during the fiscal year 1974 for procurement of aircraft missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons, and research, development, test and evaluation for the Armed Forces, and to prescribe the authorized personnel strength for each active duty component and of the Selected Reserve of each Reserve component of the Armed Forces, and the military training student loads, and for other purposes, in which it requested the concurrence of the Senate, was read twice by its title and referred to the Committee on Armed Services.

PROGRAM

Mr. GRIFFIN. Mr. President, while the distinguished majority leader is available and a number of Senators are in the Chamber, I wonder if I could inquire of the Senator about the schedule for the remainder of the day, and hopefully for the remainder of the week.

Mr. CURTIS. Mr. President, may we have order?

Mr. MANSFIELD. I can give the schedule for the remainder of the day, at least; the rest of the week depends on conference reports from committees, and so forth.

HOBBY PROTECTION ACT

Mr. MANSFIELD. Mr. President, first, I ask unanimous consent that the Senate return to the consideration of Calendar No. 338, H.R. 5777.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 5777) to require that reproductions and imitations of coins and political items be marked as copies or with date of manufacture.

The PRESIDING OFFICER. Without objection, the Senate will resume the consideration of the bill.

Mr. MANSFIELD. Mr. President, the amendment pending is the Fannin amendment to the Jackson amendment. It is my understanding there is some contact between the two Senators. Perhaps something can be worked out. If not, perhaps we will be able to reach a reasonable time limitation.

Following that, it is my understanding that the distinguished Senator from Oklahoma (Mr. BARTLETT), perhaps joined by the Senator from Wyoming, will have an amendment on which there will be a reasonable agreement. That will be the extent of business tonight, as far as I can tell at the moment.

Mr. GRIFFIN. Is it possible there will be a vote on the Bartlett amendment?

Mr. MANSFIELD. Yes.

Mr. GRIFFIN. So there will be one and perhaps two votes.

Mr. MANSFIELD. Yes, unless an agreement is reached. At the present time the leadership on both sides is trying to work out an agreement on the conference report on the minimum wage bill for tomorrow at approximately 10:10 a.m. I do not know what progress has been made. Perhaps the distinguished Senator from New York could give us some information in that respect.

Mr. JAVITS. Not yet, but shortly.

Mr. MANSFIELD. Anyway, If we can work out a reasonable arrangement we will take up the minimum wage bill very early tomorrow morning. If we cannot work out an agreement we cannot take it up.

Mr. GRIFFIN. Hopefully we will finish our work in order to get out at a reasonable hour on Friday.

Mr. MANSFIELD. On Friday, yes; not before.

The PRESIDING OFFICER. The Chair wishes to call attention to the fact that the Fannin amendment cannot be received at this time. It has not been submitted.

Mr. FANNIN. 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.

TIME LIMITATION ON TREASURY-POST OFFICE APPROPRIATIONS BILL

Mr. ROBERT C. BYRD. Mr. President, this request has been cleared on both sides. I ask unanimous consent that at such time as H.R. 9590, the Treasury-Post Office appropriation bill is called up and made the pending business, there be a time limitation thereon of 2 hours, with 1 hour on amendments, one-half hour on amendments to amendments, debatable motions, and appeals, and that the agreement be in the usual form with respect to the division and control of time.

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

The text of the unanimous consent agreement is as follows:

Ordered, That, during the consideration of H.R. 9590, the Treasury-Post Office Appropriation Bill, 1974, debate on any amendment in the first degree shall be limited to 1 hour, to be equally divided and controlled by the mover of such and the manager of the bill, and that debate on any amendment to an amendment, debatable motion or appeal shall be limited to ½ hour, to be equally divided and controlled by the mover of such and the manager of the bill: *Provided,* That in the event the manager of the bill is in favor of any such amendment or motion, the time in opposition thereto shall be controlled by the minority leader or his designee.

Ordered further, That on the question of the final passage of the said bill, debate shall be limited to 2 hours, to be equally divided and controlled, respectively, by the majority and minority leaders, or their designees: *Provided,* That the said leaders, or either of them, may, from the time under their control on the passage of the said bill, allot additional time to any Senator during the consideration of any amendment, debatable motion or appeal.

AUTHORITY FOR COMMITTEE ON COMMERCE TO FILE REPORTS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Commerce be permitted to have until midnight tonight to file reports.

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

ORDER FOR RECOGNITION OF SENATOR THURMOND AND SENATOR BROCK TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that after the two leaders or their designess have been recognized tomorrow the following Senators be recognized, each for 15 minutes, in the order stated: Mr. THURMOND and Mr. BROCK.

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

AUTHORITY FOR COMMITTEES TO FILE REPORTS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that all committees may be permitted to file reports on the following days during the August recess: August 6, August 21, and September 4.

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

QUORUM CALL

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

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

TIME LIMITATION AGREEMENT ON BARTLETT AMENDMENT TO H.R. 5777

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that upon the disposition today of the amendment by the Senator from Arizona, the distinguished Senator from Oklahoma (Mr. BARTLETT) be recognized to call up an amendment, and that there be a time limitation thereon of 30 minutes, the time to be equally divided between Mr. BARTLETT and Mr. JACKSON.

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

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

The PRESIDING OFFICER. The Clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

Mr. JACKSON. Mr. President, I send to the desk a modification to my amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will read the modification.

The assistant legislative clerk read the modification as follows:

On page 7, delete line 5 and subsections (b), (c), and (d) of Section 107 in their entirety. On page 7, line 5, add the following language: "impact of the mandatory allocation program on competition, and whether such encourages anti-competitive practices."

The PRESIDING OFFICER. The Senator has the right to modify his amendment, by unanimous consent. Does he desire to so modify it?

Mr. JACKSON. Yes, Mr. President.

The PRESIDING OFFICER. Without objection, the amendment is so modified.

Mr. JACKSON. Mr. President, through my staff, I have had discussions today with Members of the House Interstate and Foreign Commerce Committee concerning House action on H.R. 5777, as amended by the adoption of Amendment No. 451, an amendment to provide for the establishment of a mandatory petroleum allocation program. I am pleased to report that action by the House on this measure on Friday, before the August recess, looks very favorable.

I have been informed that a modification of section 107 would remove the only issue of any substance which could result in delay in placing this measure before the House for final passage. The proposed modification would be to strike subsections (b), (c), and (d) of section 107; and to strike line 5 at page 7 and insert in lieu thereof the following language: "impact of the mandatory allocation program on competition, and whether such program encourages anti-competitive practices."

Mr. President, I would have preferred, as a matter of principle, that these provisions be maintained as a part of the amendment. They provide for effective oversight and for an objective review of the total administration of the act.

I am, however, a realist; and in view

of the critical need for a mandatory program and in view of the delay that the opposition of some Members of both the Senate and the House to section 107 could cause in acting on the bill, I am prepared to modify the amendment to insure favorable House action before the August 3, 1973, recess.

This modification is, however, contingent upon securing an agreement that the Senate vote final passage on H.R. 5777 this evening. Action today will give the House an additional day in which to obtain a rule and act on the bill, should there be an objection in the House to concurring by unanimous consent in the Senate amendments to H.R. 5777.

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

Mr. JACKSON. I yield.

Mr. KENNEDY. Mr. President, I am pleased to join with Senators JACKSON, MAGNUSON, MOSS, and MCCLURE in the introduction of a floor amendment to direct the President to announce within 10 days a mandatory oil allocation system for crude oil, gasoline, heating oil, and other fuels.

This emergency measure is designed to bypass the logjam which has developed in the House of Representatives in its consideration of S. 1570, which the Senate passed on June 5 by an 85–10 vote.

We can no longer await final action on that bill but must immediately order the President to establish regulations to provide for an equitable distribution of fuel to prevent the destruction of the independent segment of the oil industry. The administration has testified to a host of committees in both the House and the Senate that it would be acting soon.

Yet, the failure to do anything more than make promises has permitted the majors to freeze more independent gasoline stations out of existence in the past month and has increased the probability that we will face the worst winter home heating oil crisis in New England in recent times.

Even the administration's own reports on the voluntary system demonstrate that the system is failing.

Last week, during hearings of the Senate Antitrust Subcommittee which I chaired, the Director of the Office of Oil and Gas confirmed that week by week there has been an increase in the number of complaints about the voluntary system. The rate of resolution at the national office of complaints is only 34-percent according to the administration's own statistics.

In testimony on Friday, Deputy Assistant Secretary of the Treasury William E. Simon, who also has been chairman of the President's Oil Policy Committee, acknowledged that he, too, favors a mandatory system. And, in his prepared testimony, he stated:

> The final decision on this program now rests with Governor Love.

Yet, Governor Love, while admitting the effects of the current voluntary program, including the mounting destruction of the independent sector of the oil industry, would only state that sometime this week he expected to make an announcement dealing with this crisis.

Unfortunately, that is the same assurance that was given a day earlier to Senator JACKSON'S committee, and it was the same assurance given the House Interstate and Foreign Commerce Committee a few weeks ago.

But the reality is that we still are enduring the effects of the failure of the voluntary system and we still are witnessing the closing down of gasoline stations and we still are hearing administration spokesman make excuses for the major oil companies. And we still are waiting for Governor Love to act.

In June, Exxon announced that it was providing its branded dealers with 105 percent of their 1972 allocations. Two weeks later, it changed that supply to 110 percent of their 1972 allocation. On July 5 that figure went up to 120 percent of the 1972 allocation, and 10 days ago, it removed its allocations and began delivering to its branded stations any amount they wanted.

At the same time, independent stations are without supply. At the same time, Exxon is announcing spectacular increases in profits of 54 percent in the past 3 months, and Exxon is not alone. This has been the most profitable period ever for the oil industry.

The only ones suffering are the Nation's consumers and the Nation's independent refiners, marketers, and distributors. We act 2 weeks after the Federal Trade Commission filed antitrust complaints against the eight largest oil companies, complaints alleging a host of anticompetitive practices to assure them effective control over the production, refining, marketing, and transportation segments of the industry.

We act after months of hearing the complaints, of testimony, of pleas for help from independent dealers who are being wiped out by major oil companies taking advantage of the current shortage.

We act after the administration has failed totally in recognizing the seriousness of the problem. At the highest policymaking levels, there seems to be a lack of an awareness of the need for immediate comprehensive action to prevent the current shortage from being borne solely by the independent segments of the industry and by certain regions of the country.

What concerns me most is the failure of anyone in the administration to recognize that every indicator points to a disaster for New England homeowners this winter if the independent home heating oil dealers go out of business at the same rate that independent service station owners have gone out of business this summer.

In New England that means a major crisis because 75 percent of our homes rely on No. 2 oil for heat. The independent retail dealers who supply 85 percent of the home heating oil in New England have testified before the Antitrust Subcommittee that they do not know where 70 percent of their expected winter fuel needs are coming from.

The independent fuel terminal operators who are the major wholesale distributors to New England, providing 40 percent of the fuel oil, today are 86 percent below their levels of a year ago. Across the Nation, the stocks of home heating oil are 21 percent below their levels of 1971.

These statistics are a direct result of the major companies' refusal to sell domestic heating oil as they traditionally have done in the past to the independents. The contracts that have existed for 20, 30, and 40 years between majors and independent home heating oil dealers have not been renewed.

Unlike the gasoline industry, it is extremely doubtful that the majors would be able to take the place of independent wholesalers and retailers in the space of a year.

The result would be a critical shortage this winter and then monopoly control over the home heating oil industry by the majors in succeeding years—with the consumer paying the cost.

The FTC study said bluntly what the implications of the destruction of the independents would be. The study said, "The consumer will pay dearly."

By this action today, the Senate is telling the President once again that a mandatory system of allocation is an absolute necessity and that we will not accept the destruction of the independent sector of the oil industry nor the dislocations in the supply of fuel affecting our farms and our public services today and which inevitably will affect our homes and our hospitals and our schools next winter.

As I understand the purposes of this action, it would indicate to the administration that the Congress of the United States is going on record a second time for mandatory allocation and that it is an essential amendment, because the voluntary system has failed to meet the requirements of the consuming public and of the independent fuel providers in this country.

Mr. JACKSON. The Senator is absolutely correct on that. There is substantial, virtually unanimous agreement in the country, especially among those who bear the responsibility for energy policy, as well as in the independent business sector of our economy, that the voluntary allocation system will not work, and that it has not worked effectively. The purpose of my amendment is to see if we cannot get the House to agree, before we leave for the August recess, to a bill which will provide for a mandatory petroleum allocation program.

Mr. KENNEDY. Mr. President, furthermore is it the understanding of the distinguished Senator from Washington that we are making as clear as possible our intention to protect the historic relationship by which all independents, including both the gasoline dealers and the home heating oil dealers, have received their supplies?

As the Senator knows, we in New England depend upon the independent dealers to the extent of approximately 33 percent for our ability to get gasoline and an estimated 85 percent for our ability to get home heating oil.

Over 100 gasoline stations in the New England area have been closed recently. We have seen the reserves of home heating oil independent wholesalers and

dealer operators diminish to about 16 percent of what it was a year ago.

We find that the independents, who have been a most important source in providing both gasoline and home heating oil, have been very seriously damaged.

I am hopeful that the language included in section 103(a) shows that it is the intention of the sponsors of the amendment that the historic relationships of supply will be preserved to the greatest extent possible.

We have had to work out the language carefully. However, is it not the intention of the prime sponsors of the amendment to preserve the historic supply of both the gasoline and independent home heating oil dealers so that their existence will be preserved?

Mr. JACKSON. The Senator is correct. As a matter of fact, in preparing the amendment, I included the language which appears on line 22 of page 3 of the amendment. The language is as follows:

Refined petroleum products in amounts based upon historic supply relationships to the extent practicable and equitable and at prices determined under such order.

Basically, that language stems from a suggestion made by the distinguished senior Senator from Massachusetts.

The Senator is correct in his understanding. To make the proper legislative history, I will simply confirm the understanding he has given in his statement on this point.

Mr. KENNEDY. Mr. President, I thank the Senator for those assurances. I think it makes a great deal of sense for the consumer to preserve the independent operators in the home heating oil or gasoline industry.

We have seen, for example, in the Senate Antitrust Subcommittee, of which I am a member, statements in our hearings that many of the majors, including the Exxon Co., which have actually increased their allotments to their outlets. Exxon in June set the allocation to their outlets at 105 percent, then to 110 percent, then to 120 percent of what it was a year ago. This month they have now removed any limitation upon those outlets. Still we are seeing the closing of independents in our part of the country. Those independents that have been doing business with the majors—some of them for more than 30 or 40 years—are being forced out of business. Therefore, their ability to acquire these supplies as outlined in the amendment is extremely important to our part of the country and to other parts of the country as well.

Another element concerning which many of the independents are concerned is that they share the preferences which are recognized within the Senator's amendment, the priority items. We want to make sure that the independents are to be considered among the priority recipients. Many, for example, have served hospitals and other vital public services which have been outlined in the legislation in the past. We do not want to create a situation, I am sure, where the majors are able to undercut the independents by trying to sign up these vital public services when these independents have served these vital public services well and effectively in the past.

Mr. President, I want to make sure that their ability to contract with these various priority recipients is defined within the bill so that they will be able to go out and contract with these recipients as they have done in the past and that the mandatory allocation system should insure that they are protected in providing those vital services in the future.

Mr. JACKSON. I completely agree with the statement of the Senator.

Mr. KENNEDY. That is included in section 103(a)(4.)

Mr. JACKSON. The Senator is correct. That is on page 4, line 13, in subsection (4). We state there as follows:

(4) preservation of an economically sound and competitive petroleum industry, including the priority need to restore and foster competition in the producing, refining, distribution, and marketing sectors of such industry, and to preserve the competitive viability of independent refiners, marketers, and distributors;

Mr. President, I believe that addresses itself precisely to the very proper questions raised by the able Senator from Massachusetts. I am in complete agreement with his statement in this regard.

Mr. KENNEDY. Mr. President, I thank the Senator from Washington. Would the Senator find that there is anything in the bill which would preclude an individual independent from going to court to seek a civil remedy in the event he were discriminated against by a supplier?

Mr. JACKSON. There is no limitation in the bill. The bill does not create a cause of action or limit any existing cause of action. The amendment is silent on that matter. Therefore, a cause of action could be undertaken by any aggrieved party. My amendment does not add to or detract from any litigable right that exists at the present time on the part of any party or parties.

Mr. KENNEDY. Mr. President, I thank the Senator for those assurances. Let me say finally that this action is entirely timely. I do not know whether the Senator is familiar with the Voluntary Petroleum Allocation Report of July 23. That is the most recent one. It is a report of the Department of the Interior. On page 13 it discusses the number of complaints they have received over the period of the past week. It states that among its complaints have been 156 complaints in the case of gasoline, 138 complaints in the case of diesel, and 8 complaints in the case of propane.

This represents a moderate increase over the number of instances reported in the previous week.

The report goes into detail as to the number of complaints that they have actually been able to resolve. They have now resolved only about 34 percent of those complaints. What we find is that the number of complaints have been continuing to rise and the number that have been resolved is a relatively small number.

This report is perhaps one of the clearest justifications for the action of the Senator from Washington. It reviews in detail each section of the country that is being affected and impacted at the present time. It is a document prepared for the Department itself. It is a current document. I think that it presents a compelling case for the amendment of the Senator from Washington. I commend him for bringing this matter to the attention of the Senate and I am pleased to be able to join him in seeking this legislative remedy.

This is absolutely essential for New England, and I know it is essential in other parts of the country as well. I want to indicate my full, complete, and wholehearted support for the action the Senator has taken, and to thank him for his responses to these questions.

Mr. JACKSON. Mr. President, I want to express my appreciation to the senior Senator from Massachusetts for his help in this regard. New England has been one of the real trouble spots, and the report that he refers to from the Department of the Interior is a weekly chronology of trouble. Each week as the report comes out, as the Senator points out, there have been more and more complaints and less and less in the way of solutions.

What concerns the junior Senator from Washington is the fact that, as we face the fall and winter, there is no doubt that we will have severe shortages in connection with heating oil and other fuels, particularly for the people in New England, unless there is indeed some kind of mandatory system of allocations whereby fuel oil will be available geographically on an equitable basis.

I believe, based on present information, that we are going to face what will indeed be a most serious fuel shortage.

Mr. KENNEDY. I thank the Senator. I come from a part of the country, New England, that has 6 percent of the population and that consumes in excess of 22 percent of the home heating oil. It is as vital and important to us as housing, clothes, or food.

The consumers of our part of the country have been adversely affected by an oil import program for many years, since 1958, that required them to purchase domestic oil when it was available at a considerably higher cost than they could have purchased oversea oil. Now we find that we are able to get out from under the oil import program and allowed to buy foreign oil up to 50,000 barrels of oil a day license-free. Beyond that, we will have to pay an additional tariff, at a time when the oil in the international market is higher than the domestic. Yet now we are closed out of the domestic market by the majors' refusal to sell domestic products to independents.

So New England has been paying for the high-priced oil under both systems, and we are not assured of an adequate supply even by paying the additional cost, unless we get the mandatory program that has been included in the amendment of the Senator from Washington. So, speaking for all of us in New England, I want to tell him how much we appreciate the leadership he has provided.

Mr. JACKSON. Mr. President, I thank the distinguished Senator from Massachusetts for his special leadership in

connection with New England's fuel problems. This is the toughest problem we face in the distribution of gasoline and particularly fuel oil in the country. I think his aid in this area will be extremely helpful when the legislation is finally enacted into law, in trying to bring about proper distribution.

PUBLICATION OF THE BANNS OF PATRICK B HYNES

Mr. BIBLE. Mr. President, will the Senator yield to me?

Mr. JACKSON. I yield.

Mr. BIBLE. I have a very serious problem to bring up for consideration by the Senator from Washington. It has been called to my attention that on Saturday of this week, one of our favorite helpers, who normally sits at the front of the President's desk, is about to take unto himself a wife.

I think with this serious discussion that we are having today about oil shortages and gasoline shortages, it is well that we pause in our consideration of the seriousness of today's severe problems to wish Patrick Hynes the best as he goes forward.

He came here from Minnesota, under the great tutelage of Senator McCarthy and Senator HUMPHREY. He tells me that he is one of 10, that his father was one of 10, and his mother is one of 10. I asked him just one little question, and that was whether or not he had advised his intended of this 10, 10, and 10. He told me that he had.

I hope that you are able, as you plow along in this field, to do something about the oil shortage at a reasonably early date. Seriously, though, we wish Patrick well. He is that handsome red-haired fellow who has been running around this floor for years. I just want to wish him the best of everything as he goes into the uncertainties of matrimony.

Mr. JACKSON. Mr. President, I join the able Senator from Nevada in extending to Patrick, in behalf of all of us, our felicitations. I would observe, based on the revelations of the able Senator from Nevada, that there will be no shortage in the Patrick Hynes family. He apparently has a serious progenital advantage, and we can almost presume the results in the years to come. I join my colleague, and I know I speak in behalf of all of our colleagues in the Senate, in extending to him and his bride-to-be our very best wishes.

Mr. BIBLE. I appreciate that. I would add only one little addendum, and that is that it has just been brought to my attention that actually the bill we are working on is the Hobby Protection Act, and I think it is fitting that we congratulate Patrick Hynes as we consider that particular legislation.

HOBBY PROTECTION ACT

The Senate continued with the consideration of the bill (H.R. 5777) to require that reproductions and imitations of coins and political items be marked as copies or with date of manufacture.

Mr. HANSEN. Mr. President, will the distinguished Senator from Washington yield for a question

Mr. JACKSON. I yield.

Mr. HANSEN. I was very much interested in the colloquy between the distinguished Senator from Washington and the distinguished Senator from Massachusetts, and I was just wondering if the Senator from Massachusetts, who was delineating the problems of living in New England, was aware that there are now and have been for several years no restrictions on residual oil imports.

Mr. JACKSON. Mr. President, the able Senator from Massachusetts is not now in the Chamber, and I would not want to comment on this particular point.

I do know that fuel has been in short supply from time to time in New England. I do know that the early projections that we received in the committee—and I think the Senator may have had a chance to observe the early comments of the New England group that are involved in the distribution of fuel oil—pointed out that their stocks are one-third of what they were a year ago. That is all I can say.

Mr. HANSEN. I know——

Mr. JACKSON. I am not personally familiar with the facts regarding residual fuel oil. I know very little has been obtained previously. As to the extent to which and how much has been available, I do not have those facts.

Mr. President, I have discussed the pending amendment with the able Senator from Arizona, the ranking minority member on the committee. He is in agreement with this amendment. I have offered the amendment for the purpose of trying to work out an amendment here that will be acceptable both to the Senator from Arizona and to those on the House side.

I do not see the Senator from Arizona. I would not want to vote on this amendment until he is present. Therefore, Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator from Arizona is now present.

Mr. JACKSON. As I understand, the amendment has previously been modified, so there is no need to vote.

The PRESIDING OFFICER. And the Senator from Arizona was on the floor when that event occurred.

Mr. JACKSON. I just wanted the Senator from Arizona to understand that I have obtained unanimous consent for the modification of my original amendment to the pending bill, and I assume that the Senator from Arizona has no further comment on it.

Mr. FANNIN. Mr. President, I shall have further comment, but I commend the distinguished Senator from Washington for so amending his amendment.

Mr. President, I rise in support of the revision of Amendment No. 451 to H.R. 5777. The revision would amend Senator Jackson's amendment No. 451 by modifying section 107(a) as follows:

Restrict the scope of the Federal Trade Commission's analysis of the mandatory allocation program by limiting the subject matter of its report to the President and to the Congress to the specific impact of the mandatory allocation program on competition and whether such program encourages anticompetitive practices.

I commend the distinguished Senator from Washington for agreeing to this change. I am in total agreement with the revision. I feel that this will be of great benefit in strengthening amendment No. 451.

I would like to suggest in conclusion that the revision to amendment No. 451 now being proposed by Senator JACKSON would cure the defects I alluded to yesterday and therefore I support the revision.

The PRESIDING OFFICER. The Senate will receive a message from the President of the United States.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the Senate by Mr. Leonard, one of his secretaries.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Presidential message on the veto of the Emergency Medical Assistance Act be held temporarily at the desk.

The PRESIDING OFFICER (Mr. NUNN). Without objection, it is so ordered.

HOBBY PROTECTION ACT

The Senate continued with the consideration of the bill (H.R. 5777) to require that reproductions and imitations of coins and political items be marked as copies or with date of manufacture.

Mr. BARTLETT. Mr. President, I have an amendment at the desk which I ask to be called up and stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 5, line 9, insert the following: delete the word "section", and insert the following: "section, provided however, that notwithstanding any other provision of this Act, the President is authorized to decide whether a mandatory fuels allocation program is in the national interest and based upon such a decision when, if ever, he shall implement and terminate such a program."

Mr. BARTLETT. Mr. President, the purpose of the amendment is to provide to the President of the United States the option of starting a mandatory program and deciding when to start it and also when to end it. The program we have now is a program that mandates mandatory controls from now until March 1, 1975, which means that we will be proceeding blindly and, I believe in a very risky fashion between the time that this would become law and March 1, 1975.

In my opinion, the recent actions by the administration which have taken place over the past 2 years on price controls show that they work with indifferent success, and that conditions are very changeable. For this body to estimate what the economic conditions will be in the future not only in our country but around the globe is impossible. I do not underestimate the wisdom of the Members of the Senate but I do not be-

lieve that anyone can tell just what we will be facing in the future, when a program should be started or when a program or part of it should be stopped.

It seems to me that we are confronted with a whole new ball game with the economy, that historically we have not had much influence from foreign countries and we set up various safeguards to take care of our historical large surpluses of oil and food, and those items, and we also have paid close attention, with our legislation, to the fact that prices were higher than prices in foreign lands. So we had various kinds of protection for prices. But now we are in a different situation where even though prices are higher relatively to what they were, they are lower than comparative prices in foreign countries and, also, instead of having the usual surpluses, we find ourselves now faced with shortages.

Thus, I believe it is impossible for us to adopt this kind of program with the assurance that it will fit the situation in 2 months or in 20 months. I do not believe that we would be well advised to require the President to adopt a mandatory program and to continue that mandatory program provided in this bill until March 1, 1975. I am sure that is just an arbitrary date, that it could not have been precisely selected by estimating what future economic conditions would be. It is therefore important that the President have this discretion and that he have this authority.

Mr. President, I hope that this amendment will be agreed to.

Mr. JACKSON. Mr. President, I shall take only 1 minute. I oppose the amendment of the Senator from Oklahoma. The purpose of my amendment, No. 451, is to establish a mandatory allocation program. The purpose of the amendment of the Senator from Oklahoma is to repudiate and negate the purpose of my amendment.

If adopted, the amendment of the Senator from Oklahoma would insure the status quo. The status quo is a serious shortage of petroleum products. This is the problem—shortages of gasoline and fuel oil; with no ability to require a fair and equitable sharing of the shortages.

The Senate has a clearcut choice now, to decide whether it wants to maintain a situation in which farmers cannot get petroleum, they cannot get fuel; the independents are being driven to bankruptcy; and people are standing in line trying to get gas.

We have tried a voluntary program. Even the oil companies cannot administer a voluntary program. They are unable, because of contractual obligations and antitrust problems, to move petroleum from areas of surplus to areas of shortage. It is a very simple problem. The administration has failed to adopt a mandatory program. My guess is that they are not going to go for a mandatory program unless Congress requires it.

If the Senate wants more of the myth of voluntary allocation to occur with all its inequities, it has a golden opportunity to make its position clear. Members can vote for the Bartlett amendment. If the Senate wants to do something equitable, to provide for the kind of distribution that is fair to the consumer and will help the independent, then I submit that the Senate should reject the amendment.

I ask for the yeas and nays.

The yeas and nays were ordered.

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

Mr. JACKSON. I yield.

Mr. McCLURE. Mr. President, yesterday I commented on the floor that shortages, were indeed occurring within my State, and that there are farmers who are unable to get enough gasoline to harvest their crops. I have since that time had occasion to transmit to the administration a list of individual farmers who are unable to get gasoline or diesel supplies to harvest their crops.

Today I had a call, as recently as 3 hours ago, from a farmer who has been unable to get gasoline, and the Government of the United States cannot do anything about it. It is not required to. I think it is high time we recognized that there is a problem of supplies at present.

Mr. JACKSON. I appreciate the support of the Senator from Idaho. It is obvious that oil is not being allocated as it should be and that farmers are being hurt.

Mr. McCLURE. We earlier said that the Department of Agriculture ought to have the job of prorating, and that has been said by a number of Senators.

Mr. JACKSON. It has been restated in the marketing instructions.

Mr. McCLURE. It seems to me that allocations are going where the profits are, because they are not going where the shortages are now occurring.

Mr. JACKSON. I thank the Senator from Idaho.

Mr. President, I reserve the remainder of my time, although I am prepared to yield it back if the Senator from Oklahoma is willing.

Mr. HANSEN. Mr. President, will the Senator from Oklahoma yield me some time?

Mr. BARTLETT. I yield whatever time the Senator from Wyoming believes is necessary.

Mr. HANSEN. I am happy and proud to be a cosponsor of the amendment of the junior Senator from Oklahoma. I agree 100 percent with the Senator from Washington that we do have shortages in the country. They are becoming less significant than they were.

The Senator speaks about shortages. Actually, what Americans would not like to have is an allocation of shortages, which is what amendment No. 451 would provide for. It is just that simple.

I have to say this: We tried to adjust the allocation to accommodate the problem of the stripper well. I know that the distinguished Senator from Washington is inclined to minimize the significance of the stripper well. The fact remains, nevertheless, that one out of every eight barrels of oil in this country comes from a stripper well, and that is important. Yet nothing in the amendment by the distinguished Senator from Washington addresses that problem at all. As a matter of fact, the reason for the Bartlett-Hansen amendment arises because we believe it is important to squeeze the very last drop of oil from stripper wells. Some 15,000 to 20,000 are being closed every year. They are being plugged because they have become uneconomic.

It is true that oil that is brought in from the Middle East costs more, and, therefore, we would like to see more oil produced in this country—one out of every eight barrels coming from stripper wells—continue to satisfy the demands of farmers and everybody else. It is for that precise reason that we think the President of the United States ought to have the authority to implement rationing at his discretion, good judgment and to terminate it at his discretion and good judgment. If he is able—as I believe and hope he can and will be—to give encouragement to this industry, to maximize the contribution that American wells can make, then I suggest that we will be striking at the basic problem. Then we would not be trying to share shortages all over the United States but, rather, to add to the supply so as to be able to satisfy all reasonable demands. That is what this country needs.

Mr. President, I reserve such time as the Senator from Oklahoma may have.

Mr. BARTLETT. Mr. President, I appreciate the knowledgeable remarks of the Senator from Washington.

I point out that section 103 of the amendment of the Senator from Washington requires the President to promulgate a regulation providing for the mandatory allocation of crude oil and refined petroleum products in certain amounts and under certain conditions. In paragraph (b) of section 103 he will do this, so long as the regulation as amended meets the requirements of that subsection. This means that this will go on blindly until March 1. There is no opportunity for the President of the United States to make the decision that controls are no longer necessary.

I think it is buying a pig in a poke to have regulations that will continue for nearly 2 years, with no way to terminate them other than for Congress to pass another bill.

My amendment would permit a mandatory program to be started by the President and to be stopped by the President as he would see fit. I believe that this would be a very good addition to the program designed by the Senator from Washington. It would be a good addition to the fuels allocation program.

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

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

Mr. JACKSON. I yield to the able Senator from Idaho.

Mr. McCLURE. I thank the Senator for yielding.

Mr. President, I have heard the arguments with respect to stripper wells, and I should like to state publicly and for the record, not only to the Senators from Wyoming and Oklahoma, that I agree totally with them about the importance of stripper well production.

I point out that the President has already exempted stripper well production from the Economic Stabilization Act, under existing authority, under other laws. We have also made provision for it in proposed legislation which has already passed this body and is pending before the other body, as the Senator from Ok-

lahoma knows, because his amendment took care of that problem.

I do not see anything in the amendment we have cosponsored here that will allow a mandatory allocation program that in any way necessarily requires an action adverse to the continued production from stripper wells. If I thought it were so, I would be raising the same objection that is being raised here, and I would not be a cosponsor of the amendment with the Senator from Washington.

I believe that the President of the United States has the authority, under this and other laws, to be flexible in the approach to fuel allocations and the pricing of fuel, so that he does not have to take the action that is alluded to here as necessarily closing down stripper well production. I want to be understood that I am fully aware of the importance of the production from stripper wells, but I believe that this legislation without the amendment now pending would not result in closing down that production.

Mr. HANSEN. Mr. President, I think the point needs to be made—and I hope it will be clearly understood by everyone—that, so far as I know, nothing contained in the amendment proposed by the distinguished Senator from Washington (Mr. JACKSON) and the distinguished Senator from Idaho (Mr. MCCLURE) exempts stripper wells from the mandatory allocation provisions of this bill. Am I right or wrong about that?

Mr. MCCLURE. The Senator is partially right and partially wrong.

The language does not specifically exempt them, but it gives the authority to the President to make the flexible regulations that are required; and under the terms of this proposal, he can exempt them.

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

Mr. HANSEN. I yield, on the time of the Senator from Washington.

Mr. JACKSON. Yes.

Mr. President, we made legislative history on this point yesterday, and I strongly suggested that the President exercise the authority he now has. The Senator from Wyoming and the Senator from Oklahoma seem to be saying that they are unable to get President Nixon to do something about the stripper wells. He has that authority right now. What we did in connection with the Bartlett amendment and the Alaska pipeline was to direct the President to do it.

I want to emphasize that perhaps the Senator from Wyoming and the Senator from Oklahoma might go down to the White House and ask the President to exercise that discretion and specifically provide for that exemption—and I say that in the best of spirit. I said that yesterday.

Mr. HANSEN. Mr. President, the fact remains that, despite whether the Senator from Oklahoma and I go down to the White House or not, such a visit cannot alter the present situation. That is to say we are talking about legislation on the floor this minute to require the imposition of mandatory allocation controls. Despite what may have been said with reference to legislative history and despite what arrangements may have been worked out between the distinguished Senator from Washington (Mr. JACKSON) and the leadership in the House—I do not yet know with whom he spoke over there yesterday, but I have no doubt that he went up to the throne itself, because he told me that it would be embarrassing if he had to delineate the names of the persons with whom he spoke, so I will take his word on that.

Nevertheless I think it is important that we do not give unnecessary authority to the President that may not be requested, may not be necessary, and may be counterproductive to increasing the supply of energy in this country. Instead, we must take those steps that this country now should take in order to augment supply, rather than to worry about how we are going to spread the shortages around.

It is precisely for that reason that I think we need to give the authority to the President to impose allocation controls if he believes it needs to be done and to terminate it, on the other hand, if he thinks it should be done. That is why I feel that there can be no doubt that with the provisions contained in the Bartlett-Hansen amendment efforts may more effectively be made to augment supply rather than spread shortages around.

The fact that it is argued that there are other authorities under which the President may operate does not for one moment suggest what would happen in a confrontation between those laws and the Jackson amendment, if it does become law.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to proceed for not to exceed 3 minutes, with the time not to be charged against either side on the pending amendment.

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

ORDER FOR THE PRESIDENT'S VETO MESSAGE ON S. 504, EMERGENCY MEDICAL SYSTEMS ACT OF 1973, TO BE PRINTED IN THE RECORD AND HELD AT THE DESK—(S. DOC. NO. 93-31)

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the President's veto message at the desk on S. 504 be spread upon the Journal, printed in the RECORD, and held at the desk for later consideration.

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

The message from the President is as follows:

To the Senate of the United States:

I am returning today without my approval S. 504, the "Emergency Medical Services Systems Act of 1973."

At my direction, this Administration has been engaged for the past two years in an effort to demonstrate the effectiveness of various types of emergency medical services which can be utilized by local communities. Some $8 million was budgeted for this purpose last fiscal year, and $15 million should be spent in the current fiscal year. I strongly believe the Federal role should be limited to such a demonstration effort, leaving States and communities free to establish the full range of emergency medical services systems that best suit their varying local needs.

By contrast, S. 504 would establish a new Federal grant program which would provide Federal dollars to State and local governments for emergency medical services. The program would be a narrow, categorical one, thrusting the Federal Government into an area which is traditionally a concern of State and local governments and should remain under their jurisdiction.

Instead of providing flexibility for local decisionmaking, a new Federal categorical program of this sort would encourage State and local governments to commit limited funds to federally-defined objectives when their funds might otherwise be spent for local purposes of higher priority.

The bill would authorize appropriations of $185 million for this program over the next three years. This is far in excess of the amounts that can be prudently spent, and S. 504 therefore represents a promise of Federal financial assistance that cannot be kept. I believe all of us must avoid actions of this kind which tend to mislead and therefore disappoint the public.

My second objection to this bill is that it requires the continued operation of the inpatient facilities of the eight general hospitals presently maintained by the Public Health Service. These hospitals have a record of service to this Nation, and especially to its merchant seamen, which is long and distinguished. Nevertheless, it is clear that their inpatient facilities have now outlived their usefulness to the Federal Government. The number of individuals they serve is declining and many of the facilities have become old and outmoded.

Accordingly, the Department of Health, Education and Welfare has embarked upon a program of contracting with community hospitals for the care of those now served by Public Health Service hospitals. The patients now cared for in Public Health Service hospitals are entitled to receive the best medical treatment available. The fact is that many of our community hospitals are more modern, better equipped and more conveniently located than the Public Health facilities and thus would provide better medical care. I cannot agree to legislation that would deny these patients that opportunity.

RICHARD NIXON.

THE WHITE HOUSE, *August 1, 1973.*

ORDER FOR THE SENATE TO CONSIDER THE CONFERENCE REPORT ON THE MINIMUM WAGE BILL TOMORROW—UNANIMOUS-CONSENT AGREEMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that following the transaction of routine morning business on tomorrow, the Senate proceed to the consideration of the conference re-

port on the minimum wage bill; that there be a time limitation thereon of 80 minutes, to be equally divided between Mr. JAVITS and Mr. WILLIAMS; that there be a time limitation on any debatable motion in connection with that conference report of 20 minutes, to be equally divided, and the same time limitation with respect to appeals, with the agreement in the usual form regarding the control of time.

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

Mr. ROBERT C. BYRD. I yield.

Mr. JAVITS. I must make adequate provision for Senators DOMINICK and TAFT who may wish to be heard on the matter; and I wish the RECORD to show I will yield from the time allotted to me to any Senators any amount of time that is required by those two Senators or any other Senator who may find himself in opposition, so that the case may be made.

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

Mr. ROBERT C. BYRD. That will be a yea-and-nay vote.

Mr. JAVITS. Yes.

Mr. ROBERT C. BYRD. There could be an order for the yeas and nays now.

Mr. JAVITS. Mr. President, I ask unanimous consent that it may be in order to order the yeas and nays.

The PRESIDING OFFICER. Without objection, it is so ordered. There is a sufficient second.

The yeas and nays were ordered.

HOBBY PROTECTION ACT

The Senate continued with the consideration of the bill (H. R. 5777) to require that reproductions and imitations of coins and political items be marked as copies or with date of manufacture.

Mr. JACKSON. Mr. President, I am prepared to yield back the remainder of my time. I understand the Senator from Oklahoma had yielded back his time.

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

Mr. JACKSON. Certainly. I yield.

Mr. DOMENICI. It seems to me that the Senator from Wyoming and the Senator from Oklahoma are confusing some kind of price controls with the allocation plan. I wonder if anyone really thinks there will be an adequate supply of the product the Senator's amendment is going to cause to be allocated, by March 1975. From what I have heard there will be a shortage well beyond March 1975. If that is the case I fail to see the relevancy of the argument of the Senator from Wyoming and the Senator from Oklahoma in stating that we ought to start it or stop it in terms of enhancing the supply. It is obvious we are going to be short. If we are going to allocate it would depend on the adequacy of the supply. I have no evidence of there being an adequacy of supply. Am I correct?

Mr. JACKSON. The junior Senator from New Mexico is correct. I know of no authority in the petroleum field who claims that over the next 2 or 3 years the shortage problem we are now into will improve. On the contrary, it is anticipated over the Nation that 3 years of shortages will increase both as related to fuel oil and gasoline. The central point is that it will take 3 years to build new refineries that have been announced this year. We are short of refining capacity. We can import all the petroleum in the world but unless we can refine it we cannot get it to the consumer.

The Senator did put his finger right on it. It already has been stated that the fuel oil situation this winter will be severe as far as shortages are concerned. Governor Love testified the other day before our committee on this point.

What we are doing in this bill has nothing to do with stripper wells; it has nothing to do with the price problem. The problem is how to equitably allocate shortages. It is not a very happy task. Anyone familiar with the law knows that the main impediment today in the movement of oil from surplus areas, so to speak, to areas of shortage relates to the right of the contractor and unless they preempt the right of the contractor it cannot be accomplished.

Mr. DOMENICI. I have one last question. During the mandatory allocation, am I correct in assuming that if the sources of supply change the allocation plan can change, but it will nonetheless be mandatory. Am I correct?

Mr. JACKSON. The Senator is correct.

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

The PRESIDING OFFICER. The Senator has 2 minutes remaining.

Mr. BARTLETT. I would like to mention to the distinguished Senator from Washington that he talks about the measure on stripper wells that he modified, and which was adopted, to the pipeline bill. It was stated today that the point of that amendment in part was to direct the President to make an exemption for stripper wells. The amendment that was offered yesterday in this Chamber was the precise amendment and it certainly was most germane to this bill. This would provide a mechanism on the free market so that there would be the opportunity to do what the Senator said is necessary to provide an opportunity to do away with some of the shortages, to find new oil, to strengthen domestic energy industry in this country; but it seems to me if it was a good amendment then, it would be a good amendment yesterday, too. But it seems also it is not an intelligent way to approach this problem to put blinders on the President, where he must adopt a mandatory program and must continue it, even if it should be discontinued. There should be the opportunity for him not only to modify it but to terminate it.

I urge the adoption of the amendment. I yield back the remainder of my time.

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

The PRESIDING OFFICER. All time is yielded back. The question is on agreeing to the amendment. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Montana (Mr. MANSFIELD), the Senator from Maine (Mr. MUSKIE), the Senator from Alabama (Mr. SPARKMAN) are necessarily absent.

I further announce that the Senator from South Dakota (Mr. ABOUREZK) 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 Indiana (Mr. BAYH) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Arizona (Mr. GOLDWATER) is absent because of illness in his family.

The Senator from Pennsylvania (Mr. SCOTT) is necessarily absent.

Also the Senator from Maryland (Mr. MATHIAS) and the Senator from Kansas (Mr. PEARSON) are necessarily absent.

The result was announced—yeas 20, nays 70, as follows:

[No. 362 Leg.]

YEAS—20

Baker	Dominick	Percy
Bartlett	Fannin	Scott, Va.
Bellmon	Fulbright	Taft
Bennett	Gurney	Thurmond
Brock	Hansen	Tower
Buckley	Helms	Young
Cotton	Hruska	

NAYS—70

Aiken	Fong	Metcalf
Allen	Gravel	Mondale
Beall	Griffin	Montoya
Bentsen	Hart	Moss
Bible	Hartke	Nelson
Biden	Haskell	Nunn
Brooke	Hatfield	Packwood
Burdick	Hathaway	Pastore
Byrd, Harry F., Jr.	Hollings	Pell
Byrd, Robert C.	Huddleston	Proxmire
Cannon	Hughes	Randolph
Case	Humphrey	Ribicoff
Chiles	Inouye	Roth
Church	Jackson	Saxbe
Clark	Javits	Schweiker
Cook	Johnston	Stafford
Cranston	Kennedy	Stevens
Curtis	Long	Stevenson
Dole	Magnuson	Symington
Domenici	McClellan	Talmadge
Eagleton	McClure	Tunney
Eastland	McGee	Weicker
Ervin	McGovern	Williams
	McIntyre	

NOT VOTING—10

Abourezk	Mathias	Sparkman
Bayh	Muskie	Stennis
Goldwater	Pearson	
Mansfield	Scott, Pa.	

So Mr. BARTLETT's amendment to Mr. JACKSON's amendment, as modified, was rejected.

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

Mr. ROBERT C. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER REVISING TIME FOR VOTE ON JACKSON AMENDMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the previous order calling for a vote on the Jackson amendment tomorrow at 12 o'clock noon be vacated and that the vote occur 2 minutes from now.

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

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

The yeas and nays were ordered.

ORDER FOR VOTE AND LIMITATION OF TIME ON TOWER AMENDMENT AND PASSAGE OF H.R. 5777

Mr. ROBERT C. BYRD. Mr. President, so that all Senators may be apprised of the program for tomorrow, I ask unanimous consent that at the close of business today, the Tower amendment to the pending bill be laid before the Senate and made the pending question with respect to this bill; that upon the disposition of the vote on the conference report on the minimum wage bill tomorrow, time begin running on the Tower amendment to the pending bill; that there be a 1-hour limitation on the Tower amendment to be equally divided between the Senator from Texas (Mr. TOWER) and the Senator from Washington (Mr. JACKSON); and that upon the disposition of the Tower amendment on tomorrow, there be a vote on the final passage of the bill.

Mr. TOWER. Mr. President, would the distinguished acting majority leader amend his unanimous consent request to read "after the disposition of the conference report on the minimum wage bill and in no case earlier than 12 o'clock noon."

Mr. ROBERT C. BYRD. Mr. President, I so amend my request.

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

Does the Senator also include in that request that we lay before the Senate the bill at that time?

Mr. ROBERT C. BYRD. That is correct.

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

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that Rule XXII be waived.

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

ORDER FOR CONSIDERATION OF PRESIDENT'S VETO MESSAGE ON EMERGENCY MEDICAL SERVICES ACT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that upon the disposition of the pending business tomorrow, the Senate proceed to the consideration of the President's veto message on the Emergency Medical Services Act; that there be a time limitation thereon of 30 minutes to be equally divided between the Senator from California (Mr. CRANSTON) and the distinguished Republican leader or his designee; and that a vote occur on the override of the Presidential veto at the hour of 3:30 p.m. tomorrow.

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

Mr. ROBERT C. BYRD. Mr. President, does the distinguished Senator from Texas wish to get the yeas and nays on his amendment?

Mr. TOWER. Mr. President, I ask unanimous consent that it be in order for me to ask for the yeas and nays on my amendment No. 450 to H.R. 5777.

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.

Mr. ROBERT C. BYRD. Mr. President, I announce that after the vote on the Jackson amendment, there will be no further votes tonight.

HOBBY PROTECTION ACT

The Senate continued with the consideration of the bill (H.R. 5777) to require that reproductions and imitations of coins and political items be marked as copies or with date of manufacture.

The PRESIDING OFFICER. The question is on agreeing to the Jackson amendment 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 Indiana (Mr. BAYH), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Maine (Mr. MUSKIE), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

I further announce that the Senator from South Dakota (Mr. ABOUREZK) 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 New Hampshire (Mr. MCINTYRE), and the Senator from Indiana (Mr. BAYH) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Arizona (Mr. GOLDWATER) is absent because of illness in his family.

The Senator from Pennsylvania (Mr. SCOTT) is necessarily absent.

Also, the Senator from New York (Mr. JAVITS), the Senator from Maryland (Mr. MATHIAS), and the Senator from Kansas (Mr. PEARSON), are necessarily absent.

The result was announced—yeas 80, nays 9, as follows:

[No. 363 Leg.]

YEAS—80

Aiken	Fannin	Mondale
Allen	Fong	Montoya
Baker	Gravel	Moss
Bartlett	Griffin	Nelson
Beall	Gurney	Nunn
Bellmon	Hart	Packwood
Bentsen	Hartke	Pastore
Bible	Haskell	Pell
Biden	Hatfield	Percy
Brooke	Hathaway	Proxmire
Burdick	Hollings	Randolph
Byrd, Harry F., Jr.	Hruska	Ribicoff
	Huddleston	Roth
Byrd, Robert C.	Hughes	Saxbe
Cannon	Humphrey	Schweiker
Case	Inouye	Scott, Va.
Chiles	Jackson	Sparkman
Church	Johnston	Stafford
Clark	Kennedy	Stevens
Cook	Long	Stevenson
Cranston	Magnuson	Symington
Curtis	Mansfield	Taft
Dole	McClellan	Thurmond
Domenici	McClure	Tunney
Eagleton	McGee	Weicker
Eastland	McGovern	Williams
Ervin	Metcalf	Young

NAYS—9

Bennett	Cotton	Hansen
Brock	Dominick	Helms
Buckley	Fulbright	Tower

NOT VOTING—11

Abourezk	Mathias	Scott, Pa.
Bayh	McIntyre	Stennis
Goldwater	Muskie	Talmadge
Javits	Pearson	

So Mr. JACKSON's amendment, as modified, was agreed to.

AMENDMENT NO. 450

Mr. TOWER. Mr. President, I call up my amendment No. 450 and ask that it be stated.

The PRESIDING OFFICER (Mr. JOHNSTON). The amendment will be stated.

The assistant legislative clerk read as follows:

H.R. 5777

ECONOMIC STABILIZATION

SEC. 15. Section 203 of the Economic Stabilization Act of 1970 is amended by adding at the end thereof the following new subsection:

"(k) In exercising the authority conferred by this section prior to September 12, 1973, with respect to the price level of beef, the President or his delegate shall permit the passthrough of increases in raw agricultural product costs incurred since June 8, 1973, on a dollar-for-dollar basis in the same manner and to the same extent as a passthrough of such increases is permitted in the case of meat and food products other than beef.".

Mr. TOWER. Mr. President, I ask unanimous consent that the names of Senators CURTIS, DOLE, HRUSKA, and HATFIELD be added as cosponsors of this amendment.

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

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the pending business be temporarily laid aside and that the Senate return momentarily to the consideration of routine morning business, not to exceed 5 minutes.

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

SENATE JOINT RESOLUTION 144—TEMPORARY EXTENSION OF AUTHORITY OF SECRETARY OF HOUSING AND URBAN DEVELOPMENT

Mr. SPARKMAN. Mr. President, I send a joint resolution to the desk and ask unanimous consent for its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered, and the resolution will be stated.

The assistant legislative clerk read as follows:

To provide for the temporary extension of the authority of the Secretary of Housing and Urban Development with respect to the insurance of loans and mortgages, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the joint resolution?

There being no objection, the Senate proceeded to consider the resolution which was read the first time by title and the second time at length.

Mr. SPARKMAN. Mr. President, this is simply a short-term joint resolution for a short-term extension of FHA, until October 1, 1973.

I have consulted with the Senator from Texas (Mr. TOWER) who is the ranking minority member of the committee, as well as the Senator from Wisconsin (Mr. PROXMIRE), and we are all in agreement on the October 1 date.

Mr. TOWER. Mr. President, may I say

that I agree, and I hope that the Senate will proceed to the immediate consideration of this joint resolution and its disposition.

The Senate-House conferees have acted on House Joint Resolution 512, which would extend authority, but there are other matters in the bill that make it highly likely it will be vetoed. We do not want this vital program to lapse—although it has already lapsed, as a matter of fact, as of June 30—but we want to try to get it back into operation. This is a temporary expediency, so I hope the Senate will act on it.

The joint resolution was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S.J. RES. 144

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

EXTENSION OF FHA INSURANCE PROGRAMS

SECTION 1. (a) Section 2(a) of the National Housing Act is amended by striking out "June 30, 1973" in the first sentence and inserting in lieu thereof "October 1, 1973".

(b) Section 217 of such Act is amended by striking out "June 30, 1973" and inserting in lieu thereof "October 1, 1973".

(c) Section 221(f) of such Act is amended by striking out "June 30, 1973" in the fifth sentence and inserting in lieu thereof "October 1, 1973".

(d) Section 235(m) of such Act is amended by striking out "June 30, 1973" and inserting in lieu thereof "October 1, 1973".

(e) Section 236(n) of such Act is amended by striking out "June 30, 1973" and inserting in lieu thereof "October 1, 1973".

(f) Section 809(f) of such Act is amended by striking out "June 30, 1973" in the second sentence and inserting in lieu thereof "October 1, 1973".

(g) Section 810(k) of such Act is amended by striking out "June 30, 1973" in the second sentence and inserting in lieu thereof "October 1, 1973".

(h) Section 1002(a) of such Act is amended by striking out "June 30, 1973" in the second sentence and inserting in lieu thereof "October 1, 1973".

(i) Section 1101(a) of such Act is amended by striking out "June 30, 1973" in the second sentence and inserting in lieu thereof "October 1, 1973".

FLEXIBLE INTEREST RATE AUTHORITY

SEC. 2. Section 3(a) of the Act entitled "An Act to amend chapter 37 of title 38 of the United States Code with respect to the veterans' home loan program, to amend the National Housing Act with respect to interest rates on insured mortgages, and for other purposes," is amended by striking out "June 30, 1973" and inserting in lieu thereof "October 1, 1973".

TEMPORARY WAIVER OF CERTAIN LIMITATIONS APPLICABLE TO GNMA

SEC. 3. Section 3 of the joint resolution entitled "Joint resolution to extend the authority of the Secretary of Housing and Urban Development with respect to interest rates on insured mortgages, to extend and modify certain provisions of the National Flood Insurance Act of 1968, and for other purposes," approved December 22, 1971, as amended, is amended by striking out "June 30, 1973" and inserting in lieu thereof "October 1, 1973".

REHABILITATION LOAN AUTHORIZATION

SEC. 4. Section 312(h) of Housing Act of 1964 is amended by striking out "June 30, 1973" and inserting in lieu thereof "October 1, 1973".

Mr. SPARKMAN. Mr. President, I move that the vote by which the joint resolution was passed be reconsidered.

Mr. TOWER and Mr. PROXMIRE moved to lay the motion on the table.

The motion to lay on the table was agreed to.

RESOLUTION OF DISAPPROVAL OF THE PROPOSED DISCONTINUATION OF CERTAIN COMMITTEES TO AID THE HANDICAPPED

Mr. RANDOLPH. Mr. President, I send to the desk a resolution for myself and the Senator from Vermont (Mr. STAFFORD), the Senator from New Jersey (Mr. WILLIAMS), and the Senator from California (Mr. CRANSTON) and I ask unanimous consent that the resolution be printed in the RECORD and held at the desk for later consideration by the Senate.

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

Mr. GRIFFIN. Mr. President, reserving the right to object, of course I do not know what this is, I say to the distinguished Senator from West Virginia (Mr. RANDOLPH) I do not particularly know that I object to what he is trying to do other than, ordinarily, that such matters would be referred to a committee. I do not know which committee would have jurisdiction of this matter and why it would not be going to a committee.

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.

Mr. GRIFFIN. It is my understanding that there will be no attempt to bring this up until there has been an opportunity to check it with the Senator from New York (Mr. JAVITS) and others who will be interested in this particular matter.

With that understanding, I withdraw my reservation.

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object—and my senior colleague knows that I am not going to object—but I was distracted at the time he made his request. What was the request?

The PRESIDING OFFICER. The request was to print the resolution in the RECORD and hold it at the desk for later consideration.

Mr. ROBERT C. BYRD. Until what date?

The PRESIDING OFFICER. No date was specified.

Mr. ROBERT C. BYRD. I think we should have some kind of time limit. Could we say that the amendment would remain at the desk until no later than Friday of this week, without its being referred to a committee?

Mr. GRIFFIN. Then, if it is not acted on, it could be referred?

Mr. ROBERT C. BYRD. It could be.

Mr. GRIFFIN. That would be satisfactory to me.

Mr. ROBERT C. BYRD. Otherwise, without some termination date, it could, conceivably, just lie there for days without any action. It is my understanding, in talking with my colleague from West Virginia, that he hopes on tomorrow that the resolution can be called up by unanimous consent for immediate consideration. He is first awaiting a discussion, however, with the Senator from New York (Mr. JAVITS) and, following that discussion on tomorrow, my colleague feels that the way may be cleared for immediate consideration.

Mr. GRIFFIN. I want to make it clear that this is a matter that most Senators and perhaps some Senators with some interest in this are not aware of. I do not want to waive anyone's rights in a way which might ordinarily be handled. So I do not want to agree to anything that would jeopardize or waive any Senator's rights.

Mr. RANDOLPH. Mr. President, I think I should say that the action of Congress created two advisory committees, one on the education of the deaf and one on the handicapped. As of May 12, the recommendation has been received from the Commissioner of Education that these two committees be dismantled.

Frankly, they were created by Congress and we believe they should be continued. They are necessary. I will address myself to the subject matter in more detail at a later time. But the point is that action must be taken by either the Senate or House within a period of 90 days after May 17. The two advisory committees are important, as I have said in the area of the handicapped and the deaf. They should be continued. That is the reason this resolution is brought before the Senate at this time.

The resolution would continue these two statutory advisory committees designed to serve the welfare of handicapped people and their families. The U.S. Commissioner of Education has proposed terminating these committees and replacing them with one committee which will have standing only as long as he deems it necessary.

The committees in question, the National Advisory Committee on Education for the Deaf, and the National Advisory Committee on Handicapped Children were specifically designed, however, not just to serve at the pleasure of the Commissioner of Education, or the Secretary of HEW, but to provide information to the Congress and to the field of persons concerned with the handicapped about the effectiveness of Federal programs.

These advisory committees have also played a role in the development of legislation serving handicapped children. In recent years the advisory committees have recommended the development of programing for preschool children, the construction of model school facilities for the deaf, and so forth.

The committees' analysis of these problems is sometimes quite separate from that of the executive branch and so provides the Congress with an additional point of view which is very desirable in legislative consideration.

It is my feeling that it would weaken our program emphasis on the handicapped to make the advisory committees totally subject to the Commissioner or the Secretary. A recent communication from the National Advisory Committee

on Handicapped Children makes that case. At present, the committee is strongly dissatisfied with proposals by the Commissioner of Education to weaken the status of the BEH, which was created specifically by the Congress to provide a strong, comprehensive, leadership-oriented administrative unit within that office to develop additional programs for handicapped children.

At present, approximately half of the handicapped children in the United States are being denied equal educational opportunity, and it is essential that our Government make every effort to fulfill our responsibility to these children. Despite the fact that this advisory committee was carefully picked by the current administration, it has carefully examined the facts and finds itself opposed in several instances with OE and DHEW policy about programing for handicapped children.

I personally feel this kind of citizen input to be so essential that it must be protected from the vagaries of changes in the executive branch and it is for that reason that I propose extending the life of these advisory committees, statutorally, for 3 additional years.

Mr. GRIFFIN. It would be my guess that the position of the distinguished Senator from West Virginia (Mr. RANDOLPH) will certainly prevail in the Senate. I think the action taken is one which will put him in a position to have the resolution called up and acted on. I do not anticipate any particular problem.

Mr. RANDOLPH. I sincerely thank my colleague from Michigan and I am appreciative of the cooperation of my colleague from West Virginia (Mr. ROBERT C. BYRD), the assistant majority leader, for calling attention to the period of time rather than the expression I used, "at a later date."

Mr. ROBERT C. BYRD. Mr. President, this is a request, I think, which is a little beyond the ordinary. Let me state this for the RECORD, to be sure that we have a clear understanding of it.

As I understand my colleague's request, he has submitted a resolution and has asked unanimous consent that it be printed in the RECORD, and that it remain at the desk, let's say, for not to exceed 48 hours without its being referred to the appropriate committee. Am I correct?

Mr. GRIFFIN. If the Senator will yield, would he agree with me that if the Senator from West Virginia were to ask for immediate consideration and objection were entered, it would automatically come up for consideration tomorrow if there is a period for morning business?

Mr. ROBERT C. BYRD. Yes. If he were to do that now, it would automatically come up, by going over, under the rule.

The way I phrased this, I think the Senator is protected, in that his resolution is printed in the RECORD, it will lie at the desk, and the Senate is not yet committed to take it up for immediate consideration.

I think we can have this understanding: Under the request I have suggested, the Senator will have his resolution printed in the RECORD, and it will lie at the desk pending further disposition for not to exceed 48 hours, which gives him ample time, before the Senate adjourns for the August recess, to call it up for immediate consideration by unanimous consent, if it is cleared on both sides of the aisle; and barring that, at the expiration of the 48 hours it would, otherwise, be automatically referred to the appropriate committee.

Mr. GRIFFIN. I think that is satisfactory.

Mr. RANDOLPH. That is eminently satisfactory. Again, I express genuine appreciation to the Senator from West Virginia (Mr. ROBERT C. BYRD) and the Senator from Michigan (Mr. GRIFFIN) for their cooperation and understanding in this vital matter.

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

The resolution submitted by Mr. RANDOLPH, for himself, Mr. STAFFORD, Mr. WILLIAMS, and Mr. CRANSTON is as follows:

Resolution disapproving the recommendations of the Commissioner of Education with respect to the abolition of certain advisory committees

Resolved, That the Senate does not favor the recommendations with respect to the abolition of the National Advisory Committee on the Education of the Deaf established by section 5 of the Act of October 19, 1965 (Public Law 258, 89th Congress) and the abolition of the National Advisory Committee on Handicapped Children established by section 604 of the Education and Handicapped Act transmitted to the Congress on 17 May, 1973 in the Annual Report of the United States Commissioner of Education for the Fiscal Year 1972.

QUORUM CALL

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

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

ORDER FOR ADJOURNMENT TO 11 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 11 o'clock tomorrow morning.

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

ORDER FOR ADJOURNMENT UNTIL 10 A.M. FRIDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business tomorrow, it stand in adjournment until the hour of 10 o'clock a.m. on Friday.

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

ORDER FOR TRANSACTION OF ROUTINE BUSINESS TOMORROW

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

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. 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, tomorrow the Senate will convene at the hour of 11 a.m.

After the two leaders or their designees have been recognized under the standing order, the able Senator from South Carolina (Mr. THURMOND) will be recognized for not to exceed 15 minutes, following which the able Senator from Tennessee (Mr. BROCK) will be recognized for not to exceed 15 minutes.

At the conclusion of the aforementioned orders for the recognition of Senators, there will be a period for the transaction of routine morning business of not to exceed 15 minutes, with statements therein limited to 3 minutes each.

At the conclusion of routine morning business, the Senate will proceed to debate the conference report on H.R. 7935, the minimum wage bill, under a time limitation of 80 minutes. At the conclusion of the debate, there will be a yea-and-nay vote on the adoption of the conference report, the yeas and nays having already been ordered.

After the disposition of the conference report, but not earlier than 12 noon—under the arrangement, it will probably not be earlier than 1 p.m.—the Senate will resume the consideration of H.R. 5777, the so-called hobby protection bill, with a time limitation of 1 hour on an amendment by Mr. TOWER, which will be the pending question when the Senate resumes consideration of that bill. There will be a yea-and-nay vote on the Tower amendment, the yeas and nays having already been ordered.

Upon disposition of the amendment by Mr. TOWER a vote will occur immediately on the final passage, following its advancement to third reading, of course, of H.R. 5777.

Upon the disposition of H.R. 5777 the Senate will proceed to debate the President's veto message, with a time limitation of 30 minutes, and with a yea-and-nay vote automatically under the Constitution to occur at the hour of 3:30 p.m.

Mr. President, following the vote on the override of the Presidential veto the leadership is not presently sure as to what will be taken up, but I assume the Senate will at that time revert to the consideration of the unfinished business, which is S. 5, the so-called Public Service Employment Act. Yea-and-nay votes

may occur on amendments thereto and possibly on final passage of that bill tomorrow.

As to Friday, I cannot say what the situation will be. Of course, there are controversial conference reports that may be called up, thus necessitating yea-and-nay votes. There may be other measures on the calendar that have been cleared by Friday. In any event, Senators should be prepared for yea-and-nay votes on Friday, that being the final day before the August recess.

ADJOURNMENT UNTIL 11 A.M.

Mr. ROBERT C. BYRD. Mr. President, if there be no further business before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 11 a.m. tomorrow.

The motion was agreed to; and at 6:21 p.m. the Senate adjourned until tomorrow, Thursday, August 2, 1973, at 11 a.m.

NOMINATIONS

Executive nominations received by the Senate August 1, 1973:

DEPARTMENT OF STATE

Theodore L. Eliot, Jr., of California, a Foreign Service Officer of Class One, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Afghanistan.

DEPARTMENT OF JUSTICE

John W. Stokes, Jr., of Georgia, to be U.S. attorney for the northern district of Georgia for the term of 4 years, reappointment.

IN THE AIR FORCE

The following Air National Guard of the United States officers for promotion in the Reserve of the Air Force under the provisions of Section 593(a), Title 10 of the United States Code, as amended:

To be lieutenant colonel

LINE OF THE AIR FORCE

Maj. Harold C. L. Beardsley, [redacted] FG.
Maj. Frederick A. Blahus, [redacted] FG.
Maj. Robert L. Bordwine, Jr., [redacted] FG.
Maj. Ernest R. Bosetti, [redacted] FG.
Maj. Peter G. Brambir, [redacted] FG.
Maj. Norbert W. Brandt, [redacted] FG.
Maj. Robert J. Collins, [redacted] FG.
Maj. Kincheon V. Combs, [redacted] FG.
Maj. William R. Custer, [redacted] FG.
Maj. Roy E. Degan, Jr., [redacted] FG.
Maj. Jack D. Dobler, [redacted] FG.
Maj. John C. Druke, [redacted] FG.
Maj. Earl A. Ehrenberg, [redacted] FG.
Maj. Rudolf F. Gehrmann, [redacted] FG.
Maj. Arthur B. Haesche, Jr., [redacted] FG.
Maj. Francis L. Hales, [redacted] FG.
Maj. Alfred R. Hanson, Jr., [redacted] FG.
Maj. Roger L. Harrison, [redacted] FG.
Maj. John A. Henke, [redacted] FG.
Maj. Claude A. Holland, [redacted] FG.
Maj. Lewis A. Jones, [redacted] FG.
Maj. Michael C. Jordan, [redacted] FG.
Maj. Donald E. Joy, Jr., [redacted] FG.
Maj. Merlin S. Keely, [redacted] FG.
Maj. Willard E. Kline, Jr., [redacted] FG.
Maj. Richard D. Lang, [redacted] FG.
Maj. Ulay W. Littleton, [redacted] FG.
Maj. Clarence W. Long, [redacted] FG.
Maj. Vincent L. Looby, [redacted] FG.
Maj. Harrie B. Markham, Jr., [redacted] FG.
Maj. William H. Orr, [redacted] FG.
Maj. Boris Ortiz, [redacted] FG.
Maj. Jose A. Parodi, [redacted] FG.
Maj. David J. Pendergast, Jr., [redacted] FG.
Maj. Gilbert E. Petrina, [redacted] FG.
Maj. Carl C. Poythress, Jr., [redacted] FG.
Maj. Paul R. Rouillard, Jr., [redacted] FG.
Maj. Lawrence H. Shelton, [redacted] FG.
Maj. Richard H. Slemmer, [redacted] FG.
Maj. Arthur P. Tesner, [redacted] FG.
Maj. James L. Walters, Jr., [redacted] FG.
Maj. William A. Wilson, [redacted] FG.
Maj. Paul L. Wright, [redacted] FG.
Maj. Robert T. Yoshizumi, [redacted] FG.

U.S. ARMY

The United States Army Reserve officer named herein for promotion as a Reserve Commissioned officer of the Army under the provisions of title 10, United States Code, Section 593a and 3384.

To be brigadier general

Col. Charles J. West, Jr., [redacted] Infantry.

CONFIRMATIONS

Executive nominations confirmed by the Senate, August 1, 1973:

CENTRAL INTELLIGENCE

William Egan Colby, of Maryland, to be Director of Central Intelligence.

DISTRICT OF COLUMBIA COUNCIL

The following-named persons to be members of the District of Columbia Council for terms expiring February 1, 1976:

Henry S. Robinson, Jr., of the District of Columbia.

Marguerite C. Selden, of the District of Columbia.

W. Antoinette Ford, of the District of Columbia.

FARMERS HOME ADMINISTRATION

Frank B. Elliott, of Virginia, to be Administrator of the Farmers Home Administration.

(The above nominations were approved subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

Orman W. Ketcham, of Maryland, to be an associate judge, Superior Court of the District of Columbia, for the term of 15 years.

Edmond T. Daly, of the District of Columbia, to be an associate judge, Superior Court of the District of Columbia, for the term of 15 years.

U.S. AIR FORCE

The following officer under the provisions of title 10, United States Code, section 8066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 8066, in grade as follows:

To be general

Lt. Gen. Samuel C. Phillips, [redacted] FR (major general, Regular Air Force), U.S. Air Force.

HOUSE OF REPRESENTATIVES—*Wednesday, August 1, 1973*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

Brethren, be of one mind, live in peace; and the God of love and peace shall be with you.—II Corinthians 13: 11.

In the spirit and words of Saint Francis let us offer our morning prayer.

"Lord, make me an instrument of Thy peace:
Where there is hatred, let me sow love;
Where there is injury, pardon;
Where there is doubt, faith;
Where there is despair, hope;
Where there is darkness, light;
Where there is sadness, joy.

"O Divine Master, grant that I may not so much seek
To be consoled as to console;
To be understood as to understand;
To be loved as to love;
For it is in giving that we receive,
It is in pardoning that we are pardoned,
And it is in dying that we are born to eternal life."

Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate insists upon its amendments to the joint resolution (H.J. Res. 542) entitled "Joint resolution concerning the war powers of Congress and the President," disagreed to by the House; agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. FULBRIGHT, Mr. MANSFIELD, Mr. SYMINGTON, Mr. MUSKIE, Mr. AIKEN, Mr. CASE, and Mr. JAVITS to be the conferees on the part of the Senate.

The message also announced that the Senate disagrees to the amendments of the House to the bill (S. 373) entitled "An act to insure the separation of Federal powers and to protect the legislative function by requiring the President to notify the Congress whenever he, the Director of the Office of Management and Budget, the head of any department or agency of the United States, or any officer or employee of the United States, impounds, orders the impounding, or permits the impounding of budget authority, and to provide a procedure under which the Senate and the House of Representatives may approve the impounding action, in whole or in part, or require the President, the Director of the Office of Management and Budget, the department or agency of the United States, or the officer or employee of the United States, to cease such action, in whole or in part, as directed by Congress, and to establish a ceiling on fiscal year 1974 expenditures," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. ERVIN, Mr. MUSKIE, Mr. RIBICOFF, Mr. CHILES, Mr. PERCY, Mr. JAVITS, and Mr.